

Decision on the recognition and Implementation of CRPC Decisions in the RS

In accordance with my authority under **Annex 10** of the General Framework Agreement for Peace in Bosnia and Herzegovina, and Article XI of the Conclusions of the Peace Implementation Council held in Bonn on 10 December 1997, I hereby

DECIDE

The Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees, as hereby attached as an integral part of this Decision, shall enter into force as a law of the Republika Srpska on 28 October 1999.

27 October 1999

Wolfgang Petritsch
High Representative
Sarajevo

LAW ON IMPLEMENTATION OF THE DECISIONS OF THE COMMISSION FOR REAL PROPERTY CLAIMS OF DISPLACED PERSONS AND REFUGEES REPUBLIKA SRPSKA

Article 1

This Law shall regulate the administrative enforcement, by way of return into possession, on the territory of the Republika Srpska, of decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (hereinafter referred to as the "Commission"), created under Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina.

Article 2

Decisions of the Commission are final and binding from the day of their adoption.

Decisions of the Commission confirm the rights to real properties of the person(s) named in the decision, and require the responsible enforcement organs to take measures as set out in this Law.

Decisions of the Commission also carry the force of legal evidence that may be used in administrative, judicial or other legal proceedings.

Article 3

The enforcement of a decision of the Commission shall be conducted administratively, if the persons referred to in Article 4, Paragraphs 1 or 2 (requestor for enforcement) request so.

The responsible body of the Ministry of Refugees and Displaced Persons in the municipality where the property is located shall enforce decisions of the Commission relating to real property owned by citizens or to apartments for which there is an occupancy right upon the request of a requestor for enforcement.

Article 4

The following persons are entitled to file a request for enforcement of a decision of the Commission relating to real property owned by citizens:

- the right holder specified in the decision of the Commission
- the heirs of the right holder specified in the decision of the Commission

The following persons are entitled to file a request for enforcement of a decision of the Commission relating to an apartment for which there is an occupancy right:

- the occupancy right holder referred to in a decision of the Commission
- the persons who, in compliance with the Law on Housing Relations, are considered to be the members of the family household of the occupancy right holder referred to in the decision of the Commission, as of the date specified in the dispositive of the Commission decision.

Other persons, including those to whom these rights were transferred after the date specified in the dispositive of the Commission decision, are entitled to submit the decision of the Commission in administrative or court proceedings as legal evidence, in accordance with Article 2, paragraph 3 of this Law.

Article 5

The right to file a request for enforcement of a decision of the Commission confirming a right to private property is not subject to any statute of limitation.

The request for enforcement of a decision of the Commission confirming occupancy rights must be submitted within one year from the date when the Commission decision was issued, or for decisions issued before this Law entered into force, within one year from the entry into force of this Law.

Article 6

The request for enforcement of a Commission decision relating to real property owned by citizens shall include two certified photocopies of the decision of the Commission. The request for enforcement of a Commission decision relating to occupancy rights shall include three certified copies of the decision of the Commission.

Article 7

The administrative organ responsible for enforcement of a Commission decision is obliged to issue a conclusion on the permission of enforcement, within a period of 30 days from the date when the request for enforcement was submitted.

The administrative organ which is responsible for enforcement of decisions of the Commission shall not require any confirmation of the enforceability of the decision from the Commission or from any other body.

The administrative organ which is responsible for enforcement of a decision of the Commission shall obtain all necessary information about the identity of the enforcee (as defined in Article 9 of this Law), together with details of the legal basis, if any, on which the enforcee is inhabiting the property or apartment.

The conclusion referred to in paragraph 1 of this Article shall contain:

- a decision on repossession of the property or apartment by the right holder or other requestor

for enforcement;

- a decision terminating the right of the temporary user (where there is one) to use the property or apartment;
- a time limit for the enforcee to vacate the property;
- a decision on whether the enforcee is entitled to accommodation in accordance with applicable laws;
- a requirement that the premises shall be vacated of all persons and possessions, other than those belonging to the person authorised to return into possession.

The time limit for vacating the property shall be the minimum time limit applicable under the Law on Cessation of the Application of the Law on the Use of Abandoned Property. No extension of this time limit shall be permitted.

In case a requestor for enforcement has commenced proceedings for enforcement of a decision issued by the responsible administrative organ in relation to the same property or apartment under the Law on Cessation of the Application of the Law on the Use of Abandoned Property, and this person subsequently submits the decision of the Commission for enforcement, the responsible administrative organ shall join the proceedings for enforcement of both decisions. The date on which the person commenced enforcement proceedings for the first decision shall be considered, for the purposes of this Law, the date of submission of the request for enforcement.

Article 8

The administrative organ which is responsible for enforcement of a decision of the Commission is obliged to deliver one certified copy of the decision of the Commission together with the conclusion on permission of enforcement, within 5 days from the date of the issuance of the conclusion on permission of enforcement, to any person who is in possession of the property or apartment referred to in the decision and, in case of occupancy rights, also to the allocation right holder of the apartment.

Article 9

The enforcement of a decision of the Commission shall be conducted against the person who is in possession of the property or apartment designated in the decision, with or without legal basis ("enforcee").

The enforcement shall also be conducted against any third person using the property or apartment, even in the case where an enforcee from paragraph 1 of this Article voluntarily vacated the property or apartment at issue.

The enforcement of a decision shall be conducted regardless of whether the property or apartment referred to in the decision was declared abandoned or not and irrespective of any other decisions or regulations relating to its legal status.

The administrative body competent for enforcement shall suspend the commenced enforcement if it is established that the enforcee has voluntarily complied with the decision of the Commission.

Article 10

The right holder referred to in the Commission decision and/or any other person who held a legal interest in the property or apartment at issue on the date referred to in the dispositive of the Commission decision, is entitled to submit a request for reconsideration to the Commission, in accordance with Commission regulations.

A person with a legal interest in the property or apartment at issue which was acquired after the date referred to in

the dispositive of the Commission decision, may lodge an appeal against the conclusion on permission of enforcement issued by the competent administrative organ, only as permitted by the provisions of this Law. The appeal procedure mentioned in this paragraph may not refute the regularity of the Commission decision. The regularity of the Commission decision may be reviewed only through the reconsideration procedures referred to in Article 11 of this Law.

Article 11

On receipt of a request for reconsideration, the Commission may notify the competent administrative organs responsible for the enforcement of the Commission decision of the pending request for reconsideration.

Once notified of the pending request for reconsideration by the Commission, the competent administrative organ shall suspend the enforcement of the Commission decision, until such time as it receives notification from the Commission of the outcome of the reconsideration.

In reference to the previous paragraph, the competent administrative organ shall not suspend the enforcement of the Commission decision, unless it has received official notification of the request for reconsideration from the Commission.

After examining the request for reconsideration, the Commission may:

- a. refuse to admit the request as being inadmissible, not submitted within due time or as submitted by an unauthorised person;
- b. reject the request as being unfounded;
- c. accept the request, revoke its previous decision and issue a new decision.

The decision of the Commission refusing or rejecting the reconsideration request shall be delivered to the person who requested the reconsideration. The decision of the Commission accepting the reconsideration request and revoking its previous decision shall be delivered to the person who requested the reconsideration and all other persons who received the original decision, and to the administrative organ responsible for enforcement.

Article 12

The appeal against the conclusion on permission of enforcement of the decision of the Commission, referred to in paragraph 2 of Article 10 of the Law, must be lodged before the competent administrative body that issued the conclusion on permission of enforcement, within 8 days from the date of delivery of the conclusion on permission of enforcement.

The responsible administrative body shall direct the appellant to initiate proceedings before the competent court within 30 days, to prove that the right holder named in the Commission's decision voluntarily and lawfully transferred his/her rights to the appellant since the date referred to in the dispositive of the Commission's decision.

Enforcement proceedings before the responsible administrative organ shall not be suspended pending the court's decision.

As an exception to the previous paragraph, the competent court may make a specific order to suspend the enforcement proceedings before the responsible administrative organ if a verified contract on the transfer of rights was made after 14 December 1995.

Article 13

The competent court shall determine whether the transfer of rights to the appellant was conducted voluntarily and in accordance with the law.

If the transfer of rights was conducted between 1 April 1992 and 14 December 1995, and its validity is disputed by the respondent, the burden of proof shall lie on the party claiming to have acquired rights to the property under the transaction to establish that the transaction was conducted voluntarily and in accordance with the law.

If the validity of the transfer has been determined in previous proceedings which took place prior to the entry into force of this Law, the decision taken in the previous proceedings shall be null and void.

The court may make whatever orders are necessary to give effect to its decision, including orders setting aside legal transactions, orders for making or erasing entries in the appropriate public books/registers, and orders lifting any order for suspension of the administrative proceedings.

The relevant parties to the appeal shall notify the competent administrative body of the court's decision.

The responsible administrative body shall resume enforcement proceedings as required, or discontinue proceedings in accordance with the court's decisions.

Article 14

In the procedure of the enforcement of decisions of the Commission, the provisions of the Law on General Administrative Proceedings (Official Gazette of SFRY No. 47/86, Official Gazette of RS No. 21/92, 1/94 - Special Edition 10/95) shall apply unless otherwise provided by this Law.

Article 15

This Law shall enter into force on 28 October 1999.

Office of the High Representative