

Decision On the Use of Collective/Transit Centre Space in Bosnia and Herzegovina to Promote the Phased and Orderly Return of Refugees and Displaced Persons

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on Civilian Implementation of the Peace Settlement; and considering in particular Article II.1.(d) of said Agreement, according to the terms of which the High Representative shall “[f]acilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation”;

Recalling paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative’s intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid “by making binding decisions, as he judges necessary” on certain issues including (under sub-paragraph (c) thereof) “measures to ensure implementation of the Peace Agreement throughout

Bosnia and Herzegovina and its Entities”;

Considering the emphasis placed by the Peace Implementation Council on accelerating the return of refugees and displaced persons;

Recalling further Article I:1 of the said Annex 10, referring explicitly to the promotion of respect for human rights and the return of displaced persons and refugees;

Recalling further Article I: 5 and Article II:1 of Annex 7 (Agreement on Refugees and Displaced Persons) referring explicitly to a repatriation plan to be developed by the United Nations High Commissioner for Refugees (UNHCR) in close consultation with asylum countries and the Parties, that will allow for an early, peaceful, orderly and phased return of refugees and displaced persons;

Considering further the emphasis placed by the Peace Implementation Council on accelerating the return of refugees and displaced persons and on ensuring full and non-discriminatory implementation of the property laws of Bosnia and Herzegovina;

Bearing in mind that facilitation of the return of refugees and displaced persons may in no way disrupt implementation of Article 6(1) of the Law on Cessation of the Application of the Law on Abandoned Apartments, (FBiH Official Gazette nos 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, and 56/01), Article 12 (1) of the Law on Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens (FBiH Official Gazette nos 11/98, 29/98, 27/99, 43/99, 37/01 and 56/01) and Articles 9 and 17 of the Law on Cessation of the Application of the Law on the Use of Abandoned Property (RS Official Gazette nos 38/98, 12/99, 31/99 and 65/01), hereinafter called the property laws, which seek to ensure orderly and non-discriminatory implementation, in prescribing that the competent body shall solve each property claim in the

order in which it was received, unless specified otherwise in law;

Having considered and borne in mind all the matters aforesaid, the High Representative hereby issues with binding effect upon all courts, judges and officials of the Federation of Bosnia and Herzegovina and of the Republika Srpska as a measure in the exercise of his said powers under the said Annex 10 (and not by way of substitution for the legislative authorities of the Federation of Bosnia and Herzegovina and of Republika Srpska respectively), the following:

DECISION

On the Use of Collective/Transit Centre Space in Bosnia and Herzegovina to Promote the Phased and Orderly Return of Refugees and Displaced Persons

Article 1

The Ministries responsible for the management of all habitable facilities meeting the minimum standards for temporary accommodation and currently in use as Collective/Transit Centres as of the date of the issuance of this Decision, that are located on the territory of Bosnia and Herzegovina (hereinafter called the competent Ministries), must maintain these facilities at their current operational level until the date this Decision expires.

All space in these facilities shall from the date of this Decision be designated as alternative accommodation, as well as continue to be used for persons in need of emergency accommodation.

Article 2

To promote the return of refugees and displaced persons resident in Collective/Transit Centres in BiH and neighbouring countries to their original place of residence, the

competent ministries shall, under the guidance of the UNHCR, create a phased and orderly Plan for the allocation and use of space in these facilities in BiH, currently occupied by persons who are registered with the authorities and/or the UNHCR as residents of these facilities, and who are refugees or displaced persons, who have claimed property in BiH under the (Property Laws) prior to the date of this Decision, and who have registered their intention to return with the authorities and/or the UNHCR. In all cases, such persons in order to qualify must have been resident in a transit or collective centre for a period of at least thirty (30) days prior to the date of this Decision.

Article 3

Under this Plan, the competent ministries are required to offer collective centre space in BiH occupied at the date of this Decision by persons described under Article 2 of this Decision, to the current occupants of the property claimed by persons described under Article 2, in such a way as to ensure that the current occupants are offered space in a facility as close as is feasible to their municipality of current residence, and in their Canton or region of current residence; or, where the current occupant so chooses, in a facility as close as is feasible to his or her municipality of original residence as of 30 April 1991.

Article 4

The Plan, including a complete and final list of the persons described under Article 2 of this Decision, shall be made available prior to its implementation to the members of the State Commission for Refugees and Displaced Persons and of the Reconstruction and Return Task Force. The lists shall include details of the space these persons occupy in their current facility of residence, the location of their claimed property, available details concerning the current occupants of the claimed property, and any other information necessary to the

implementation of the Plan. Periodic progress reports on the implementation of the plan shall be made available to the members of the State Commission for Refugees and Displaced Persons and of the Reconstruction and Return Task Force.

Article 5

Upon receipt of notification, from the competent ministry, that an occupant of claimed property in the municipality has been offered accommodation in a facility described under Article 1. of this Decision, and that therefore his/her accommodation needs have been met, the competent administrative body for property claims in that municipality shall act upon this information in accordance with the property laws.

Article 6

This Decision shall be valid until 31 December 2002.

Article 7

This Decision shall come into force forthwith, and shall be published as soon as possible in the official gazette of the Federation of Bosnia and Herzegovina and the official gazette of the Republika Srpska.

Sarajevo, 1 August 2002

*Paddy Ashdown,
High Representative*