

OHR calls on state and entity authorities to protect rights of returnees

The OHR is concerned that the right of refugees and displaced persons to return freely to their pre-war homes in Bosnia and Herzegovina, a right guaranteed under Annex 7 of the Dayton Peace Agreement, has been undermined in recent court decisions.

In the case of Mr. Faik Zulcic, a returnee to Bijeljina, the courts have awarded an extraordinarily high amount in compensation to the temporary occupant for works carried out during the temporary occupancy. As a result of his inability to pay the compensation award, Mr. Zulcic's home has been auctioned off to partially satisfy the compensation claim, and he now faces possible eviction on 10 April 2012.

The OHR recalls that amendments to the property repossession laws enacted by the High Representative and subsequently adopted by domestic legislatures were aimed at accelerating the return process by ensuring that these laws are swiftly implemented in a non-discriminatory manner.

The provisions enacted by the High Representative cover compensation for 'necessary expenses' essential to preserve the property in habitable condition. However, the right of the temporary occupant to receive compensation for necessary expenses should not undermine or prevail over the rights of refugees and displaced persons to exercise their right to return under Annex 7.

The relevant legislation also provides that where the Court has awarded compensation to a temporary occupant, the returnee may recover that sum from the competent authority or

allocation right holder under the Law on Obligations.

The OHR calls upon on the competent authorities, at the state and entity level, to address this situation as a matter of priority to ensure that the rights of returnees are protected against unreasonable compensation claims.

The OHR is consulting with other international organizations and domestic institutions with a view to identifying a long-term solution to the potential threat that disproportionate compensation claims pose to the right of returnees to the peacefully enjoy their prewar homes.