

**OFFICE OF THE  
HIGH REPRESENTATIVE**

Emerika Bluma 1, 71000 Sarajevo  
Tel: 387 33 283500 Fax: 387 33 283501

26 November 2002

Ms. Emira Kapetanovic  
Staff Associate  
Municipality of Centar Sarajevo  
Sarajevo Canton  
Federation of Bosnia and Herzegovina  
Bosnia and Herzegovina

OHR-RRTF/LA/2002/610

Dear Ms. Kapetanovic,

I refer to your letter of 2 September 2002 requesting a written waiver from the High Representative's Decision of 27 April 2000 that bans the reallocation of state owned property, including former socially-owned property.

In particular, you request this office to allow the Municipality of Center Sarajevo to allocate one plot of land, registered as cadastral unit number 36, covering the area of 120 m<sup>2</sup>- cadastral municipality of Sarajevo, located at the Street Pehlivanusa 15 to the Company "Kurtagic inzinjering" for the purpose of building housing-business premises.

The land records that you enclose demonstrate that the above mentioned cadastral number refers to socially-owned and undeveloped construction land and that the right of the land disposal rests with the Municipality of Centar Sarajevo.

The Municipal Council of the Centar Municipality took over the land in question of the previously registered beneficiary Ms. Simha Kabiljo for the intended use by its Decision no: 05-31-531/01 of 31 May 2001, stating that the land allocation compensation will be paid to the user in a subsequent procedure. According to the enclosed documents the Municipality couldn't reach the above-mentioned registered user and therefore they appointed a temporary representative Ms. Enisa Masic for the process in question, by its Municipal Minutes of 24 April 2001. Further, according to the Municipal Minutes the temporary representative agrees with the process in question under the condition of reimbursement to the previous user, in accordance with the Law on Construction Land.

On the basis of Article 136 of the Law on Spatial Planning and Article 200 of the, Law on Administrative Procedure, the Municipal Mayor Mr. Ljubisa Markovic trough the Municipal Department for Spatial Planning, Urbanism and Communal Issues, on 9 October 2000 has issued the Decision no: 07/1-23-10372/00 on demolition of the housing unit at the street Pehlivanusa 15 Sarajevo, co-owned by Ms. Simha Kabiljo and located on

the parcel in question. In addition, the Decision states that the previous resident of the housing unit in question was the occupancy right holder Ms. Jovanka Smajevic. According to the Municipal Council's Decision of 12 July 2002 and the Municipal Conclusion of 29 October 2002, the Investor is obliged to provide replacement apartment to the occupancy right holder of the demolished building Ms. Jovanka Smajevic.

Based on Articles 47 and 48 of the Law on Construction Land and Article 68 of the Centar Sarajevo Statute, the land allocation in question was confirmed by the Municipal Council's Decisions number 05-31-717/02 of 12 July 2002 and its Conclusion of 12 July 2002. The land allocation in question was also approved by the Deputy Municipal Public Attorney Ms. Suanita Mulunovic, who states in her Opinion number: 14/U-08-238/02 of 15 August 2002, that the Regulation Plan of "Bjelave-Mejtas" foresees the housing-business construction on the given land, that the land allocation is in accordance with relevant laws and regulations, and that there are no obstacles to request an OHR's waiver. The beneficiaries request for and urban permit was approved on 6 June 2002.

According to the Sarajevo Cantonal Court's Confirmation no: R-383/01 of 12 November 2001, signed by the Expert Associate Ms. Dalida Burzic, there is no dispute before this court regarding the property in question.

According to the Municipal Council's Decision of 12 July 2002, the Investor is obliged to pay the land allocation compensation of 3,956.00 KM, while the land facilities compensation (rent) will be determined in a subsequent procedure. Further, based on the above-mentioned Decision and according to your letter of 12 September 2002, the land facilities compensation (rent) that the Investor will be obliged to pay amounts to 8 KM/m<sup>2</sup>.

In light of the information that you have provided, this office authorizes the Municipality of Centar Sarajevo to allocate the aforesaid land for the purpose described above.

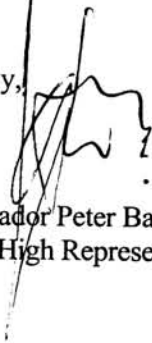
This waiver is granted under the following understandings and conditions:

- 1) The documentation you have provided is authentic and accurate. Such will not be the case if a court of competent jurisdiction, under a final and binding decision, brings into question the authenticity or accuracy of this documentation and/or the information that it contains.
- 2) The municipality of Centar Sarajevo is obliged to compensate the previously registered user in accordance with the Law on Construction Land
- 3) As stated in the Municipal Council's Decision of 12 July 2002 and its Conclusion of 29 October 2002 the Investor is obliged to provide replacement apartment to the occupancy right holder of the demolished building.
- 4) The beneficiary named above, inasmuch as he himself or his immediate family members are users of abandoned/claimed property, he and/or his immediate family members will, in a period of not more than 60 days from the date of your receipt of this decision, fully vacate this property. In addition, within the period stated, he

must provide to your office correct documentary evidence, approved by the relevant housing body, that he himself and/or immediate family members have fully vacated all such property, and that the property remains in a habitable condition. Inasmuch as these conditions are not met, this waiver ceases to be valid immediately upon the expiry of the period stated.

If any of the above stated understandings and conditions are not satisfied, this waiver will cease to be valid with immediate effect, and the appropriate steps will be taken to treat this action as an illegal allocation of socially-owned land.

Sincerely,

A handwritten signature in black ink, appearing to be 'Peter Bas-Backer', written over a vertical line that extends from the 'Sincerely,' text.

Ambassador Peter Bas-Backer  
Deputy High Representative for Return and Reconstruction

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HIGH REPRESENTATIVE**

Emerika Bluma 1, 71000 Sarajevo  
Tel: 387 33 283500 Fax: 387 33 283501

26 novembar 2002. godine

Gđa Emira Kapetanović  
Stručni saradnik  
Općina Centar Sarajevo  
Kanton Sarajevo  
Federacija Bosne i Hercegovine  
Bosna i Hercegovina

OHR-RRTF/LA/2002/610

Poštovana gospođo Kapetanović,

Obraćam Vam se u vezi sa pismom od 2. septembra 2002. godine u kome zahtijevate pismeno izuzeće od Odluke Visokog predstavnika od 27. aprila 2000. godine kojom se zabranjuje dodjela imovine u državnom vlasništvu, uključujući imovinu u bivšem društvenom vlasništvu.

Konkretno, tražite od ovog Ureda da dozvoli Općini Centar Sarajevo da dodijeli jednu zemljišnu parcelu, uknjiženu kao katastarska čestica broj 36 površine 120 m<sup>2</sup>, katastarska općina Sarajevo, koja se nalazi u Ulici Pehlivanuša 15, preduzeću "Kurtagić inženjering" u svrhu izgradnje stambeno-poslovnog objekta.

Zemljišno knjižni izvaci koje prilažete ukazuju da se navedena katastarska čestica odnosi na neizgrađeno građevinsko zemljište u društvenom vlasništvu te da je nosilac prava raspolaganja Općina Centar Sarajevo.

Općinsko vijeće Općine Centar Sarajevo je preuzelo predmetno zemljište od prethodno uknjiženog korisnika gđe Simhe Kabiljo za namjensko korišćenje svojim rješenjem broj 05-31-531/01 od 31. maja 2001. godine u kojem stoji da će naknada za dodijeljeno zemljište biti plaćena korisniku u naknadnom postupku. Prema priloženoj dokumentaciji, Općina nije uspjela kontaktirati gore pomenutog uknjiženog korisnika te je zato u skladu sa općinskim zapisnikom od 24. aprila 2001. godine imenovala gđu Enisu Mašić privremenim zastupnikom za predmetni postupak. Nadalje, prema općinskom zapisniku, privremeni zastupnik se slaže sa predmetnim postupkom pod uslovom da prethodnom korisniku bude plaćena naknada u skladu sa Zakonom o građevinskom zemljištu.

Na osnovu Člana 136 Zakona o prostornom planiranju i Člana 200 Zakona o upravnom postupku, općinski načelnik, g. Ljubiša Marković je, putem općinske Službe za prostorno planiranje, urbanizam i komunalne poslove, 9. oktobra 2000. godine donio Rješenje broj: 07/1-23-10372/00 o rušenju stambenog objekta u Ulici Pehlivanuša 15 Sarajevo kojoj je gđa Simha Kabiljo suvlasnica i koja se nalazi na predmetnoj parceli. Pored toga, u Odluci

stoji da je prethodni stanar predmetne stambene jedinice bila nositeljica stanarskog prava gđa Jovanka Smajević. Prema Rješenju Općinskog vijeća od 12. jula 2002. g. i općinskom zaključku od 29. oktobra 2002. g., Investitor je obavezan obezbijediti zamjenski stan nositeljici stanarskog prava na srušenom objektu, gđi Jovanki Smajević.

Na osnovu članova 47. i 48. Zakona o građevinskom zemljištu i člana 68. Statuta Općine Centar Sarajevo, Općinsko vijeće Centar Sarajevo je potvrdilo predmetnu dodjelu svojim rješenjem broj 05-31-717/02 od 12. jula 2002. godine. Predmetnu dodjelu zemljišta je takođe odobrila zamjenica javnog pravobranioca Općine Centar Sarajevo, gospođa Suanita Mulunović, koja navodi u svom mišljenju broj 14/U-08-238/02 od 15. augusta 2002. godine da je Regulacionim planom "Bjelave-Mejtaš" predviđena izgradnja stambeno-poslovnog objekta na datom zemljištu, da je dodjela zemljišta u skladu sa relevantnim zakonima i odredbama, te da nema prepreka podnošenju zahtjeva za izuzeće OHR-a. Zahtjev korisnika za urbanističku saglasnost je odobren 6. juna 2002. godine.

Prema Potvrdi Kantonalnog suda Sarajevo broj: R-383/01 od 12. novembra 2001. g., koju je potpisala stručna saradnica gđa Dalida Burzić, pred ovim sudom se ne vodi spor oko predmetnog zemljišta.

Prema Rješenju Općinskog vijeća od 12. jula 2002. godine, Investitor je obavezan platiti naknadu za dodijeljeno zemljište u iznosu od 3.956,00 KM, dok će naknada za zemljišne pogodnosti (rentu) biti utvrđena u naknadnom postupku. Nadalje, na osnovu gore pomenutog rješenja i Vašeg pisma od 12. septembra 2002. g., naknada za zemljišne pogodnosti (renta) koju je Investitor obavezan platiti iznosi 8 KM/m<sup>2</sup>.

U svjetlu informacija koje ste dostavili, ovaj Ured ovlašćuje Općinu Centar Sarajevo da dodijeli ranije pomenuto zemljište u gore opisanu svrhu.

Ovo izuzeće je dodijeljeno pod sljedećim uslovima i pretpostavkama:

- 1) Dokumentacija koju ste dostavili je autentična i tačna. To neće biti slučaj ako nadležni sud, konačnom i obavezujućom odlukom, dovede u pitanje vjerodostojnost ili tačnost ove dokumentacije i/ili informacija koje ona sadrži.
- 2) Općina Centar Sarajevo je obavezna platiti naknadu prethodno uknjiženom korisniku u skladu sa Zakonom o građevinskom zemljištu.
- 3) Kako se kaže u Rješenju Općinskog vijeća od 12. jula 2002. godine, i njihovom zaključku od 29. oktobra 2002. g., Investitor je obavezan obezbijediti zamjenski stan nositeljici stanarskog prava na srušenom objektu.
- 4) Korisnici, ako su oni lično ili članovi njihove najuže porodice korisnici napuštene/potraživane imovine, oni i/ili članovi njihove najuže porodice će, u roku ne dužem od 60 dana od datuma Vašeg prijema ove odluke, potpuno napustiti ovu imovinu. Pored toga, u navedenom roku, oni moraju dostaviti Vašem uredu tačnu dokaznu dokumentaciju, koju je odobrio nadležni stambeni organ, da su oni lično i/ili članovi njihove najuže porodice potpuno napustili svu takvu imovinu, te da imovina ostaje u useljivom stanju. Ako ovi uslovi nisu ispunjeni, ovo izuzeće prestaje važiti neposredno po isteku navedenog roka.

Ukoliko bilo koja od gore navedenih pretpostavki ili uslova ne budu ispunjeni, ovo izuzeće će prestati važiti bez odlaganja, a poduzeće se odgovarajući koraci kako bi se ovaj čin tretirao kao nezakonita dodjela zemljišta u društvenom vlasništvu.

S poštovanjem,

*(potpisao)*

Ambasador Peter Bas-Backer

Zamjenik Visokog predstavnika za povratak i obnovu