

I want to reposses my property – Leaflet

Part 1: I WOULD LIKE TO REPOSSESS MY PROPERTY

If you are an owner of **private property** which you abandoned, you should file a claim for repossession of your property at any time with the office in charge of housing where the property is located (Federation: municipal housing body; Republika Srpska: Department of the Republika Srpska Ministry for Refugees and Displaced Persons – OMI). There is no deadline for claiming private property. Once you have submitted a claim, the competent body has 30 days to issue and 5 days to deliver the decision.

Be aware: Even if you have not yet received a decision that you need to vacate the property you are currently living in, at some point you will get such a decision. Even if you already received a decision but you have not yet been forced to move out of the property, this will happen at some point. Therefore, be prepared! File a claim to repossess your private property.

If you are an occupancy right holder or a member of your family household, you must file/must have filed a claim for repossession of your **socially-owned apartment** within the deadlines stipulated in the laws.

Note: the deadline in the Republika Srpska is 19 April 2000; in the Federation, the deadlines already expired (4 July 1999 for apartments declared abandoned; 4 October 1999 for apartments not declared abandoned, including damaged and destroyed apartments).

If you as an owner or occupancy right holder have received a

CRPC decision confirming your right to property,

- you should submit a request for the enforcement of the CRPC decision to the competent body where your property is located within a year from the day of issuance of the decision or the day the Law on Implementation of the CRPC Decisions entered into force (28 October 1999).

It is necessary to enclose 2 certified copies of the CRPC Decision for **real property** owned by citizens, or 3 certified copies of the decision for the **occupancy right**.

Advice:

You should make a list (date it!) about all major items, which you left in the property. This list can be compared to the ones the authorities make at the time they issue a decision on your case and at the time when you repossess your property. Don't go too much into details. List the major items only.

Part 2: I HAVE RECEIVED A NEGATIVE DECISION

If you are not satisfied with the negative decision, then you must file an appeal to the following second instance bodies, within **15 days** upon receiving the decision:

- Federation of BH: Ministry for Urbanism;
- Republika Srpska: Ministry of Refugees and DPs.

Part 3: I HAVE RECEIVED A POSITIVE DECISION

The person occupying my property needs to leave within :

- 15 days because s/he is a multiple occupant or an illegal user
- 90 days because s/he is entitled to alternative accommodation

Advice

If you know that the person occupying your property has

another place to live, you should inform the local authorities about that.

Part 4: WHEN THE DEADLINE WITHIN WHICH THE TEMPORARY USER NEEDS TO VACATE MY PROPERTY EXPIRES, I NEED TO ASK FOR THE ENFORCEMENT OF THE DECISION

Advice

The current user is given a period of time during which s/he must vacate your home voluntarily (look at your decision). If this deadline has expired and the person is still occupying your home and you want to return, you **must** submit a *Request for the Enforcement of the Decision* to the same authorities that issued your decision (first instance).

What do I have to state in my *Request for the Enforcement of the Decision*?

Please note that **there is no particular form** for a *Request for the Enforcement of the Decision*. The following elements should be included:

1. name of the authority to which the request is sent;
2. number of the **Decision** of which you are requesting Enforcement
3. name of representative or proxy (if any);
4. name, surname and address of the applicant;
5. signature of the applicant and date.

You might want to include other requests such as requesting the authorities to take records/notes of the repossession. This is not absolutely necessary but might be useful for any further follow-up action. Municipal Housing bodies are legally obliged to issue minutes on repossession that might be necessary/ useful for you at a later stage.

The first instance body must then issue a *Conclusion on Enforcement* containing a deadline within which the current

occupant must vacate. If the current occupant fails to vacate voluntarily, s/he will be evicted.

For occupancy right holders only:

- If you hold an occupancy right, you must file your *Request for the Enforcement of the Decision* within 90 days from the expiry date the current user should have left the apartment. Otherwise, the authorities can initiate the cancellation of your occupancy right before the Court and you are in danger of losing your occupancy right!

Part 5: ONLY FOR OCCUPANCY RIGHT HOLDERS: I HAVE TO RETURN TO MY APARTMENT WITHIN 90 DAYS AFTER THE DATE OF REPOSSESSION.

The housing authority must notify you in writing that your apartment has been vacated. Upon receipt of this written notification, you must commence using the apartment within 90 days unless you have a 'good cause' for not returning.

Advice

- Return to the apartment within 90 days after the notification.
- If you do not return within the period mentioned, the authorities can initiate the cancellation of your occupancy right before the Court (unless you can show 'good cause' for not returning).
- **Note** that there are no such concerns of losing your private property rights as these rights cannot be taken away from you.

The occupancy right holder is considered to have good cause not to reoccupy the apartment:

- if s/he has requested the commencement of enforcement proceedings, but the apartment continues to be occupied by another party;

- if the occupancy right holder was called up for military service;
- if the occupancy right holder has been receiving medical treatment to the extent that reoccupying the apartment may pose significant health risks to him/her;
- if the occupancy right holder has been convicted and is serving a prison sentence for this period;
- if security measures are being applied to the occupancy right holder;
- if the occupancy right holder and the members of his/her household are temporarily staying in an other place in the country or abroad on the bases stated in paragraph 1 of Article 48 of the ZOSO; or
- if the occupancy right holder's claim was rejected by the responsible body on formal or material grounds and s/he has submitted a claim to the Commission for Real Property Claims of Displaced Persons and Refugees which has not been resolved;
- if the apartment is damaged or destroyed so as to make the apartment uninhabitable.

What do I have to do if I have a 'good cause' for not returning?

If you fall into one of the categories of having a 'good cause' not to return, you should inform the competent administrative authority about your good cause and its duration. Once the good cause has ceased to exist, the authorities must first ensure that the apartment becomes vacant; once vacant, the authority must notify you in writing and you must return within 90 days upon receipt of the notification.

Advice

I can return to my private property whenever I want to but I may not occupy other people's property anymore.

Part 6: I MUST SIGN A STATEMENT BEFORE BEING REINSTATED IN MY HOME THAT I WILL FULLY VACATE THE PROPERTY I LIVED IN DURING/AFTER THE CONFLICT

Before you are being reinstated in your house or apartment, you must sign a statement before the housing authority. In this statement you confirm that you will, together with all members of your family household, unconditionally vacate your current accommodation after being reinstated in your house or apartment. This statement has to contain the correct address of your current accommodation. **Note** that you can be held responsible if you do not vacate your current accommodation.

Advice

- **Please remember** that if you have repossessed your property and you still occupy property belonging to somebody else, you are considered as a multiple occupant. You should vacate that property immediately.
- You may live wherever you want but are not entitled to continue to occupy other people's property anymore.

This leaflet is produced by the OSCE, UNHCR and OHR.