

# Law On The Cessation Of Application Of The Law On The Use Of Abandoned Property

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Includes HR's Decision, 27 October 1999.

## I. GENERAL PROVISIONS

### Article 1

The Law on Use of Abandoned Property (Official Gazette of RS, Nos. 3/96 and 21/96) shall cease to be in force, as well as the regulations passed thereunder and other regulations regulating the issues of abandoned property and apartments passed between 30 April 1991 and the entry into force of this Law.

The provisions of this Law shall apply to all real property, including privately-owned business premises, privately-owned houses and privately-owned apartments, and apartments with occupancy right ('apartments') which were vacated since 30 April 1991, whether or not the real property or apartment was declared abandoned: provided that the owner, possessor or user lost possession of the real property or the occupancy right holder lost possession of the apartment before 19 December 1998.

For the purpose of this Law, temporary user shall be

understood to mean the person who is using real property or an apartment with a valid legal basis; an illegal user shall be understood to mean the person who is using the real property or an apartment without a valid legal basis. If a provision refers to both categories of users, the term current user is used.

For the purpose of this Law, alternative accommodation shall be understood to mean either emergency accommodation, as defined in Article 8 of the Law on Housing Relations ('ZOS0') or appropriate accommodation, as defined in Article 7 of the ZOS0.

## Article 2

All administrative, judicial, and any other decisions enacted on the basis of the regulations referred to in Article 1 of this Law in which rights of temporary occupancy have been created shall remain effective until cancelled in accordance with this Law.

Any occupancy right or contract on use made between 1 April 1992 and 19 December 1998 is cancelled (prestaje). A person who occupies an apartment on the basis of an occupancy right which is cancelled under this Article shall be considered a temporary user for the purposes of this Law.

A temporary user referred to in the previous paragraph who does not have other accommodation available to him/her has a right to a new contract on use to the apartment, if the occupancy right of the former occupant terminates under Article 16 of this Law or if a claim of the former occupant to repossess the apartment is rejected by the competent authority

in accordance with this Law.

An occupancy right holder to an apartment as at 1 April 1992, who agreed to the cancellation of his/her occupancy right and who subsequently received another occupancy right which is cancelled under this Article, is entitled to make a claim for repossession of his/her former apartment in accordance with this Law.

## II. RETURN OF PROPERTY TO PRIVATE OWNERS, POSSESSORS OR USERS

### Article 3

The owner, possessor or user of the real property who abandoned the property shall have the right to repossess the real property with all the rights which s/he had before 30 April 1991 or before the real property became abandoned.

### Article 4

For the purpose of this Law, the owner, possessor or user shall be understood to mean the person who was the owner, possessor or user of the real property under the applicable legislation at the time when the real property became abandoned or at the time when the owner, possessor or user first lost possession of the real property, in cases where the real property was not declared as abandoned.

### Article 5

A user to whom the real property was allocated for temporary use pursuant to the Law on the Use of Abandoned Property

(hereinafter referred as: the temporary user) may continue to use the real property under the conditions and in the manner as provided by the Law on the Use of Abandoned Property until a decision referred to in Article 11 of this Law has been issued.

## Article 6

If a temporary user is required to vacate the real property pursuant to the provisions of this Law, the responsible body of the Ministry of Refugees and Displaced Persons shall determine within the deadline of 30 days for making the decision under Articles 9 and 11 of this Law whether s/he is entitled to alternative accommodation in accordance with Article 34 of this Law. In case that the temporary user is entitled to alternative accommodation, the responsible body shall provide alternative accommodation within the time limit in which the temporary user is required to vacate the property under Article 11 of this Law.

**In no event shall failure of the responsible body to meet its obligations under paragraph 1 of this Article operate to delay the ability of the owner, possessor or user to enter into possession of his/her property. Article 7**

The owner, possessor or user of abandoned real property, as referred to in Article 4, or his/her authorised representative, shall have the right to file a claim at any time for the repossession or disposal in another way of his/her abandoned

property.

The right of the owner to file a claim shall not become obsolete.

All past final and binding court decisions which order the return of real property to the possession of the owner, possessor or user shall be enforced by the competent court. Any initiated court proceedings concerning the return of real property to the possession of the owner, possessor or user will continue unless withdrawn by the owner, possessor or user, while new claims for the repossession of property shall be submitted to the responsible body under Article 8 of this Law.

## Article 8

A claim under Article 7 of this Law may be filed by the owner, possessor or user of abandoned real property with the responsible body of the Ministry of Refugees and Displaced Persons in the municipality on the territory of which the real property is located.

An owner, possessor or user shall be entitled to file a claim for repossession of real property, including privately-owned business premises, privately-owned houses and privately-owned apartments, including any real property which is or was at any time used partly or wholly for business purposes. The

responsible body of the Ministry of Refugees and Displaced Persons shall be competent to receive and decide the claim in accordance with this Law.

Claims may be made in writing signed by the claimant or an authorised representative, or orally by the claimant or an authorised representative. Claims made in writing may be submitted in person, by mail or by any other person. No power of attorney is required for another person to submit a claim signed by the claimant.

A claim should include:

1. information on the owner, possessor or user;
2. all necessary information on the real property;
3. any evidence possessed by the claimant indicating that the claimant is the owner, possessor or user of the real property;
4. the date when the claimant intends to repossess the real property.

The responsible body shall accept claims regardless of whether or not supporting documentation is supplied by the claimant. In the event that the claimant cannot provide the necessary supporting documentation, the responsible body shall check the records of the relevant court or administrative body and any other available documentation to confirm the rights of the claimant. The responsible body shall accept any identification document issued by the state of Bosnia and Herzegovina or any administrative body in either Entity, and any other document

which shows the claimant's identity, and shall use any options provided in the Law on General Administrative Procedures (SFRY Official Gazette, No 47/86; taken over by Article 12 of the Constitutional Law on Implementation of the Constitution of the Republika Srpska, RS Official Gazette, No. 21/92) in the identification process.

The claimant shall be fully released from taxation, as well as from other expenses of the proceedings as provided in Articles 113 through 119 of the Law on General Administrative Procedures

#### Article 9

The responsible body of the Ministry of Refugees and Displaced Persons shall be obliged to issue a decision to the claimant within 30 days from the date of receipt of the claim for repossession of real property.

#### Article 10

The proceedings to return the real property to the owner, possessor or user shall be carried out in accordance with the provisions of the Law on General Administrative Procedures, unless this Law provides otherwise. The procedure until the issuance of the decision shall be carried out as an expedited procedure.

#### Article 11

The decision on return of the real property to the owner, possessor or user shall contain the following:

1. information on the owner, possessor or user to whom the

real property is returned,

2. information on the real property subject to return,
3. the time limit within which the real property will be returned or put at disposal of the owner, possessor or user,
4. in cases where there is a current user, a decision on whether the current user is using the real property without legal basis ('illegal user') or is a legal temporary user,
5. a decision whether the temporary user is entitled to alternative accommodation under this Law,
6. a decision terminating the right of the temporary user
7. the time limit for the current user to vacate the property, or for handing over of the land.

The decision under Paragraph 1 of this Article may not set a time limit for the temporary user to vacate the property shorter than 90 days from the date of the issuance of the decision, nor longer than the date of the intended return of the owner, possessor or user, but the day of the intended return may not be earlier than 90 days from the date of submitting the claim, unless a shorter time limit applies under this Law.

The owner, possessor or user may immediately reoccupy real property that is vacant.

In exceptional circumstances, the deadline referred to above may be extended by up to one year if the body responsible for providing another accommodation in accordance with this Law provides detailed documentation regarding the lack of available accommodation to the Ministry of Refugees and Displaced Persons, which shall be agreed upon by the Office of the High Representative.

In each individual case, the requirements of the European Convention on Human Rights and its Protocols must be met, and the occupancy right holder [mistake – should read: owner, possessor or user] shall be notified of the decision to extend the deadline and the basis for the decision 30 days before the deadline has expired.

In case of the return of arable land into possession, the time limit for its handing over may be extended, as an exception, until the harvest is collected.

## Article 12

The responsible body of the Ministry of Refugees and Displaced Persons shall submit its decision to the claimant requesting the repossession of the property and the current user of the property.

Any appeal against a decision may be submitted to the responsible second instance body in accordance with the Law on General Administrative Procedures within 15 days of receipt of the decision. Any appeal shall not suspend the execution of the decision.

## Article 13

The owner, possessor or user of real property as referred to in Article 3 of this Law may at any time initiate proceedings before the Commission for Real Property Claims of Displaced Persons and Refugees (Annex 7 to the General Framework Agreement of Peace in Bosnia and Herzegovina, hereinafter referred to as the Commission).

In case that the proceedings under Paragraph 1 of this Article have been initiated, all other proceedings carried out before the competent bodies, including the procedure to enforce the decision referred to in Article 11 of this Law, shall be stayed pending the final decision of the Commission, but only in cases where the responsible body has rejected the request of the claimant on formal or material grounds, and where suspension is requested by the Commission.

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A decision of the Commission shall be final and binding.

In the light of specifying the rights and obligations of the party referred to in Paragraph 1 of this Article, the decision of the Commission shall have the same legal force as the decision of any other responsible body issued in accordance with this Law.

A decision of the Commission shall be enforced by the competent bodies of the Republika Srpska.

## III. RETURN OF APARTMENTS TO THE HOLDERS OF OCCUPANCY RIGHT

## Article 14

The occupancy right holder of an abandoned apartment shall have the right to return to the apartment in accordance with Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina. The provisions of this Law shall apply to all apartments vacated between 30 April 1991 and 19 December 1998, whether or not the apartment was registered as abandoned, and regardless of whether the apartment was used for business purposes after 30 April 1991.

A person who left his/her apartment between 30 April 1991 and 19 December 1998 shall be presumed to be a refugee or displaced person under Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina with a right to return to that apartment irrespective of the circumstances under which s/he left the apartment..

All past final and binding court decisions which order the return of an apartment to the occupancy right holder as defined in this Law shall be enforced by the competent court. Any initiated court proceedings concerning the return of an apartment to the occupancy right holder will continue unless withdrawn by the occupancy right holder, while new claims for the repossession of occupancy rights shall be submitted to the responsible body under Article 15 of this Law.

## Article 15

The occupancy right holder referred to in Article 14 of this Law shall be entitled to file a claim for repossession of the apartment, as well as a member of his or her family household, as defined in Article 6 of the Law on Housing Relations ('ZOSO').

A claim for repossession of the apartment shall be filed with

the responsible body of the Ministry of Refugees and Displaced Persons in the municipality in which the apartment is located.

A claim for repossession of the apartment should include:

1. information on the claimant;
2. information on the apartment;
3. evidence that the claimant is the occupancy right holder or a member of the latter's family household;
4. the date when the claimant intends to reoccupy the apartment, but not later than one year from the date of submitting the claim;
5. information on the residence of the occupancy right holder and members of his/her household at the time when the claim is submitted.

The responsible body shall accept all claims with or without the appropriate documents enclosed by the claimant. In cases when the claimant is not able to provide the necessary relevant documents, the responsible body shall verify the evidence, as well as other available documents, with the allocation right holder, the appropriate court or administrative body in order to have the rights of the claimant confirmed.

The responsible body shall accept any identification document issued by the state of Bosnia and Herzegovina or any legal body in either Entity, as well as any other document confirming the identity of the claimant.

The claimant shall be fully exempted from taxation as well as from other expenses of the proceedings, as provided in Articles 113 through 119 of the Law on General Administrative Procedures.

## Article 16

A claim for repossession of the apartment may be filed within 12 months from the date of entry into force of this Law.

If the occupancy right holder does not file a claim within the time limit referred to in the previous paragraph, his/her occupancy right shall be cancelled.

## Article 17

The responsible body of the Ministry of Refugees and Displaced Persons shall decide on the claim for the repossession of the apartment by the occupancy right holder within 30 days from the date of receipt of the claim. **Article 18**

The decision on repossession of the apartment by the occupancy right holder shall contain:

1. a decision confirming that the claimant is the occupancy right holder;
2. a decision on repossession of the apartment by the occupancy right holder if there is a temporary user in the apartment, or if the apartment is vacant or occupied without legal basis;
3. in cases where there is a current user, a decision on whether the current user is using the real property

without legal basis ('illegal user') or is a legal temporary user;

4. a decision on termination of the right of temporary use of the apartment if there is a temporary user of the apartment;
5. a time limit for vacating the apartment by a current user or another person in possession of the apartment;
6. a decision concerning whether the temporary user is entitled to alternative accommodation in accordance with this law.

The time limit for vacating the apartment referred to in Paragraph 1(5) of this Article may not be shorter than 90 days from the date of the issuance of the decision, nor longer than the day of the intended return of the holder of the occupancy right, but the day of the intended return may not be earlier than 90 days from the date of submitting the claim, unless a shorter time limit applies under this Law.

The occupancy right holder may immediately reoccupy an apartment that is vacant.

In exceptional circumstances, the deadline referred to in Paragraph 2 of this Article may be extended by up to one year if the body responsible for providing alternative accommodation on the territory of which the temporary user of the apartment had the last domicile or residence provides detailed documentation regarding the lack of available housing for provision of appropriate accommodation the Ministry for Refugees and Displaced Persons; which shall be agreed upon by

the Office of the High Representative.

In each individual case, the requirements of the European Convention on Human Rights and its Protocols must be met, and the occupancy right holder shall be notified of the decision to extend the deadline and the basis for the decision 30 days before the deadline has expired.

In no event shall failure of the responsible body to meet its obligations to provide alternative accommodation operate to delay the ability of the occupancy right holder to enter into possession of the apartment.

## Article 19

The responsible body shall deliver the decision referred to in Article 18 of this Law within 8 days from the date of issuance of the decision to:

1. the occupancy right holder;
2. the user of the apartment;
3. the allocation right holder.

Any appeal against a decision may be submitted to the responsible second instance body in accordance with the Law on General Administrative Procedures within 15 days of receipt of the decision. Any appeal shall not suspend the execution of the decision.

## Article 20

The proceedings to return the apartment to the occupancy right holder shall be carried out in accordance with the provisions of the Law on General Administrative Procedures, unless this Law provides otherwise.

## Article 21

The responsible body may *ex officio* or upon the request of the allocation right holder initiate the procedure for cancelling the occupancy right before the competent court in cases where a decision has been issued under Article 18 and delivered to the occupancy right holder in accordance with law, and where:

1. the current user voluntarily vacates the apartment within the deadline stated in the Decision and the occupancy right holder fails, without good cause, to reoccupy the apartment within 90 days from the day on which s/he receives written notification from the competent body that the apartment is vacant; or
2. the current user does not vacate the apartment within the deadline stated in the Decision and the occupancy right holder fails, without good cause, to initiate enforcement proceedings within 90 days after expiration of the deadline for the current user to vacate; or
3. the current user vacated the apartment following compulsory enforcement and the occupancy right holder fails, without good cause, to reoccupy the vacated apartment within 90 days from the day on which s/he receives written notification from the competent body that the apartment is vacant; or
4. the occupancy right holder has received written notification that the apartment is vacant, and fails to reoccupy the apartment within 90 days after circumstances constituting a good cause under this Article ceased to exist.

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

1. if s/he has requested the commencement of enforcement proceedings, but the apartment continues to be occupied by another party;
2. if s/he has been unable to return to the municipality in which the apartment is located due to a well-founded fear of persecution;
3. if the occupancy right holder was called up for military service;
4. if the occupancy right holder has been receiving medical treatment to the extent that reoccupying the apartment may pose significant health risks to him or her;
5. if the occupancy right holder has been convicted and is serving a prison sentence for this period;
6. if security measures are being applied to the occupancy right holder;
7. 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;
8. 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;
9. if the apartment is damaged or destroyed so as to make the apartment uninhabitable.

The competent body shall inform the claimant in the Decisions issued under Article 18 of the Law of her/his obligations

under this Article in the Decision. In cases referred to in the previous paragraph of this Article, as long as these reasons last, the right of the occupancy right holder shall not be cancelled.

## Article 22

Upon the cancellation of the occupancy right under Articles 16 and 21 of this Law, the allocation right holder may allocate the apartment for use to the temporary user or another person in accordance with the provisions of the ZOSO, unless the apartment falls within the scope of Article 31 of this Law.

## Article 23

The occupancy right holder as referred to in Article 14 and Article 15, paragraph 1 of this Law may initiate at any time proceedings before the Commission for Real Property Claims of Displaced Persons and Refugees (Annex 7 to the General Framework Agreement for Peace in Bosnia and Herzegovina, hereafter: the Commission).

In case that such proceedings have been initiated, all other proceedings carried out before the competent bodies, including the procedure to enforce the decision, shall be stayed pending the final decision of the Commission, but only in cases where the responsible body has rejected the request of the claimant on formal or material grounds, and where suspension is requested by the Commission.

A decision of the Commission shall be final and binding.

In the light of specifying the rights and obligations of the party referred to in Paragraph 1 of this Article, the decision of the Commission shall have the same legal force as the decision of any other responsible body issued in accordance

with this Law.

A decision of the Commission shall be enforced by the competent body of Republika Srpska.

#### IV – SPECIAL PROVISIONS

##### Article 24

The repossession of abandoned real property or the apartment by the owner, user or occupancy right holder shall be witnessed by an official and interested parties.

A report shall be made on the return of the real property or apartment and on the reinstatement of the owner or user into possession of the property or apartment. The report shall contain a detailed description of the real property under the process of return.

##### Article 24a

If the person occupying the real property or apartment fails to voluntarily comply with the decision ordering him/her to vacate the real property or apartment, the responsible body shall employ compulsory enforcement, in accordance with the law.

The enforcement shall be carried out at the request of the owner, possessor or user for real property, or occupancy right holder for an apartment and/or a member of his family household.

Exceptionally, the responsible body shall ex officio or upon the request of a person who has a legal interest in the procedure pass a decision to vacate a real property or apartment immediately in cases where the current user is a multiple occupant. The affected person has the right to file an appeal (*zalba*) against the decision, but the appeal does not suspend the eviction.

A multiple occupant includes, among others, a current user who uses a real property or an apartment and who:

1. holds an occupancy right to or is using more than one apartment; or
2. has a family house or a privately-owned apartment in the same city, municipality or place as the real property or apartment which s/he is using, in cases where the family house or privately-owned apartment is sufficiently intact to provide for basic living conditions (protection against weather; water installations and sanitary fittings to an appropriate level; electricity; heating; privacy; and security of belongings); or
3. is in possession of the house or apartment in which s/he lived on 30 April 1991 ('1991 home'); or where a member of his/her family household is in possession of his/her 1991 home; in cases where his/her 1991 home is sufficiently intact to provide for basic living conditions; or
4. has already been provided with alternative accommodation by a responsible body; or
5. has a member of his/her family household of 30 April 1991 who has accommodation in the same city, municipality or place; or
6. has a legal right to return into possession of his/her 1991 home; and his/her 1991 home is sufficiently intact to provide for basic living conditions, as explained in this paragraph;

and it is possible for him/her to return into possession of his/her 1991 home in safety and dignity.

In cases where a claim has been filed under this Law for a real property or apartment which is vacated by a multiple occupant, and no decision has been issued at the date of vacation, the competent body shall immediately issue a decision on the claim.

## Article 25

The provisions of this Law shall also apply to the abandoned real property, the ownership of which has been acquired after 30 April 1991 under any title on sale of real property (contracts on exchange, purchase, gift, etc.)

In case of a dispute as the lawfulness of the transferred real property right, the responsible body shall refer the matter to the competent court according to the provision of the Law on General Administrative Procedures regulating preliminary issues, in order to rule on the allegation.

## Article 26

The provisions of this Law regulating the manner of repossession of the real property or apartment by the owner, possessor or user shall also apply regarding repossession of the real property allocated to temporary users on the basis of rationalisation (excess housing space).

A claim may also be filed under this Law for real property and apartments which were re-allocated pursuant to provisions, laws, instruments and decrees adopted or applied after 30

April 1991 which regulated the rational use of space, including but not limited to all of the laws and regulations referred to in Article 1 of this Law, and including among others Article 17 of the Law on the Use of Abandoned Property (RS Official Gazette, Nos. 3/96, 21/96); the Decree on the Accommodation of Refugees (RS Official Gazette, No. 19/95); the Decree on the Accommodation of Refugees and other Persons in the Territory of the Republika Srpska (RS Official Gazette, No. 27/93); and the Law on Amendments to the Law on Housing Relations (RS Official Gazette, Nos. 19/93, 22/93). Claims may also be filed by occupancy right holders whose occupancy rights were cancelled under the Law on Housing Relations (Law on Housing Relations, SRBH Official Gazette, Nos. 13/74, 23/76, 34/83, 12/87, 36/89; RS Official Gazette, No. 12/99).

## Article 27

### Article 27a

A person whose occupancy right was cancelled under Article 2 of this Law, who spent his/her personal funds on necessary expenses for the apartment, shall be entitled to recover those funds from the previous occupancy right holder under the Law on Obligations (Official Gazette SFRJ, 29/78 and 39/85; Official Gazette RS 17/93 and 3/96). Proceedings under the Law on Obligations may be commenced from the date when the previous occupancy right holder regains possession of the apartment.

## Article 28

The conditions for and the manner of the purchase of an apartment for the occupancy right holders to whom the apartments have been returned in accordance with this Law shall be regulated by a separate law.

## Article 29

The Minister of Refugees and Displaced Persons shall pass an instruction on the application of Articles 8 through 11 and Articles 15 through 18 of this Law within 30 days from the date of the entry into force of this Law.

## Article 30

All proceedings commenced under the Law on the Use of Abandoned Property (RS Official Gazette, Nos. 3/96, 21/96) before the Law was repealed shall be terminated *ex lege*, regardless of the stage of the proceedings, with the exception of repossession claims to apartments which shall be processed in accordance with this Law.

## Article 31

Where an occupancy right is cancelled in accordance with Article 16 or Article 21 of this Law, and the temporary occupant does not have the right to a new or revalidated contract on use of the apartment under Article 2, paragraph 3 of this Law, the apartment shall be administered by the responsible body of the Ministry for Refugees and Displaced Persons until 19 December 2001. This paragraph shall apply to all apartments, whether or not they were declared abandoned.

In the case mentioned in the previous paragraph, the responsible body of the Ministry for Refugees shall issue a temporary decision on use of the apartment for a period that does not exceed six months.

The right to a temporary use of an apartment in terms of the previous paragraph shall be given to a temporary user who is required to vacate a real property or apartment under a

decision under Article 11 or Article 18 of this Law, and who is entitled to alternative accommodation.

The temporary occupant referred to in Paragraph 3 of this Article may request extension of the time limit for the use of apartment.

The temporary permit shall be cancelled immediately if the temporary user ceases to meet the conditions for the right to alternative accommodation.

While processing the requests for extension of the time limit, the responsible body shall determine whether the temporary occupant still has the right to use the apartment and, if not, it shall order his/her eviction within 15 days.

## Article 32

A claim must also be filed under this Law for an apartment, which was damaged or destroyed, provided that the occupancy right holder of the apartment lost possession of the claimed apartment before 19 December 1998. If a claimed apartment is reconstructed, the claimant shall return into possession of the apartment without limitation or restriction.

## V. ENTITLEMENTS TO ALTERNATIVE ACCOMMODATION

### Article 33

#### Illegal users

A person using a real property or an apartment without legal

basis shall be evicted, at the latest within 15 days of the day of issuance of the decision, and the owner, possessor or user of the real property or the occupancy right holder of the apartment and/or any member of his/her household shall be entitled to repossess the real property or apartment without any restriction or limitation. The body responsible for providing alternative accommodation shall not be obliged to provide alternative accommodation under this Law to an illegal user.

In a case of eviction an illegal user of a real property or apartment, relevant laws on displaced persons and refugees shall be applied to determine if s/he is entitled to alternative accommodation. If the person is not entitled to alternative accommodation under a law on displaced persons and refugees, the responsible body for social protection in the municipality where the real property or apartment is located shall determine whether such a person is entitled to any form of assistance. The failure of the responsible body to determine the entitlement of a temporary user or other user of a real property or an apartment to or provide alternative accommodation or assistance shall not delay eviction.

## Article 34

### Temporary users

When a temporary user is required to vacate a real property or an apartment in accordance with the Law, the responsible body of the Ministry for Refugees and Displaced Persons shall determine whether the temporary user has the right to alternative accommodation under this Law.

In determining whether a temporary user is entitled to

alternative accommodation, the responsible body shall determine in the procedure and within the deadlines for making a decision under Articles 9 and 11, and Articles 17 and 18 of this Law:

- i) where the temporary user lived on 30 April 1991;
- ii) in what capacity the temporary user occupied the apartment or real property where s/he lived on 30 April 1991;
- (iii) whether it is possible to live in the apartment or real property;
- iv) whether the temporary user or a member of his/her family household from 30 April 1991 currently possesses that apartment or real property;
- v) whether s/he voluntarily exchanged or sold the apartment in question or real estate in his/her possession;
- vi) or any other relevant facts which show that the temporary user's housing needs are otherwise met.

In accordance with the previous paragraph, the following categories of users among others shall not be entitled to alternative accommodation, on the grounds that their housing needs are otherwise met:

1. i) Access to pre-conflict homea temporary user who has a legal right to return into possession of the real property or apartment in which s/he lived on 30 April 1991 (hereinafter '1991 home'); and his/her 1991 home is sufficiently intact to provide for basic living conditions (protection against weather; water installations and sanitary fittings to an appropriate level; electricity; heating; privacy; and security of belongings); and

it is possible for him/her to return into possession of the real property or apartment in safety and dignity; or

2. a temporary user who is in possession of his/her 1991 home; or where a member of his/her family household is in possession of the 1991 home; and in cases where it is possible for him/her to live in that real property or apartment; or

#### 1. Access to other accommodation

1. a temporary user who has already been provided with alternative accommodation by a responsible body; or
2. a temporary user who has a parent or a member of his/her family household of 30 April 1991 has accommodation in the same city, municipality or place; or

#### 1. Means to secure other accommodation

1. a temporary user, other than a displaced person or refugee, who has sufficient disposable income to provide for his/her own accommodation; or
2. a temporary user who voluntarily exchanged or sold the real property or apartment in question, in cases where the contract on exchange or sale has been fully realised; or

3. a temporary user in a case where the occupancy right holder provides him/her with accommodation as a tenant and agrees to pay the rent for at least two years; or

#### iv) Refusal to accept assistance offered

1. a temporary user who refuses alternative accommodation offered by the responsible authority, or refuses assistance in the reconstruction of his/her 30 April 1991 home. At the time of the offer, the temporary user shall be informed of the consequences of the refusal of alternative accommodation or reconstruction assistance.

### Article 35

A temporary user of a real property or an apartment who is required to vacate the real property or apartment in accordance with this Law and whose housing needs *are* otherwise met in accordance with Article 34 of this Law shall be obliged to vacate the real property or apartment within 15 days of the date of issuance of the decision confirming the rights of the owner, possessor or user under Article 11 or the occupancy right holder under Article 18. This deadline shall apply to all temporary users whose housing needs are otherwise met, regardless of Article 11 paragraph 4 or Article 18 paragraph 4.

A temporary user of a real property or an apartment who is required to vacate the real property or an apartment in accordance with this Law and whose housing needs are *not*

otherwise met, shall be provided with alternative accommodation in accordance with this Law by the responsible body on the territory of which she/he had his/her latest domicile or residence. The temporary user shall be obliged to vacate the real property within the deadline set under Article 11 of this Law; or vacate the apartment within the deadline set under Article 18 of this Law.

## Article 36

In case that the Ministry for Refugees and Displaced Persons is unable to provide alternative accommodation, other responsible bodies including the Ministry for Urban Planning, the Ministry for Social Welfare, the Ministry of Defence, companies, firms and Municipalities shall be obliged to make available accommodation which is at their disposal for the purposes of providing alternative accommodation under this Law.

## VI. PENALTY PROVISIONS

## Article 37

The competent body shall be fined 1000 to 5000 KM for the following minor offences:

1. if it violates Article 1 of this Law and continues to apply the Law on Use of Abandoned Property;
2. if it fails to accept claims as set out in Article 8, paragraphs 1, 3, 5, 6 and 7, or Article 15, paragraphs 1, 5, 6, 7 of this Law;

3. if it fails to take into account the presumption that persons who have left their apartments between 30 April 1991 and 19 December 1998 shall be considered to be refugees and displaced persons under Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina, as set out in Article 14, paragraphs 1 and 2 of the Law;
4. if it fails to order in the Decision (Article 11, paragraph 1 or Article 18, paragraph 1 of the Law) the vacating of the real property or apartment within 15 days in accordance with Article 33 , paragraph 1 and Article 35 , paragraph 1 of the Law;
5. if it fails to allow immediate repossession by an owner, possessor, or user of a vacant real property, as set out in Article 11, paragraph 2, or Article 18, paragraph 3 of the Law;
6. if it fails to process an eviction request according to this Law and the Law on General Administrative Procedures;
7. if it fails to hand over the real property or apartment in accordance with Article 24 of the Law;
8. if it fails to take the required action against a multiple occupant, as set out in Article 24a, paragraph 3, or if it fails to issue a decision according to Article 24a, paragraph 5 of the Law.

The responsible person in the responsible body shall also be fined 200 to 1000 KM for a violation of paragraph 1 of this

## Article.

In addition to the above, a person who is a multiple occupant, as defined

1. in Article 24a, paragraph 4, Items 1 to 3 of the Law and who fails to comply with the eviction order shall be fined 100 to 500 KM;
2. in Article 24a, paragraph 4, Items 4 to 6 of the Law and who fails to comply with the eviction order shall be fined 50 to 200 KM.

Penalty proceedings according to paragraphs 1 to 3 of this Article shall be carried out in accordance with the Law on Minor Offences. The local competency (*mjesna*) of the Court shall be determined according to the location of the seat of the competent body which violated the provisions of this Article or the seat of the competent body where the responsible person is carrying out his/her official duties, or the permanent residence of the multiple occupant.

## Article 38

This Law shall enter into force on the 8<sup>th</sup> day after its publication in the Official Gazette of the Republika Srpska.

(President of the National Assembly:

(signature)(seal)

Number: 02-1481/98

Date: December 2, 1998)

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New paragraphs 2, 3 and 4 were introduced by HR's Decision, 27 October 1999;

Amended by HR's Decision, 27 October 1999. Previous wordings: "...in exchange for...".

New paras 2,3 and 4 inserted by Art 1 of the Law on Amendments (RS OG 12/99); previous paragraphs 2 and 3 deleted by Art 2 of the Law on Amendments (RS OG 12/99). Former text: 'All administrative, judicial, and any other decisions enacted on the basis of the regulations referred to in Article 1 of this Law in which new occupancy rights have been created shall be treated as acts granting rights of temporary occupancy until cancelled in accordance with this Law./All administrative, judicial and any other acts and any other disposals of real estate and apartments, enacted on the basis of the regulations referred to in Article 1 of this Law shall cease to be effective after a claim has been filed by the authorised claimant.'

Amended by HR's Decision, 27 October 1999.

Amended by HR's decision, 27 October 1999.

New para. 3 was introduced by HR's decision, 27 October 1999.

New para. 2 was introduced by HR's Decision, 27 October 1999.

Inserted by HR's Decision, 27 October 1999.

Deleted by HR's Decision, 27 October 1999.

New bullet item was introduced by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Deleted by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Deleted by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

New para. was introduced by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

New para. was introduced by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

New sentence at the end of Art 14, para 1 inserted by art 2 of the Law on Amendments (RS OG 12/99);

Former Art 14 paras 1 and 2 replaced; para 3 newly introduced by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Deleted by HR's Decision, 27 October 1999.

In Art 16, the word '12' was inserted in place of '6' by HR's decision, 15 June 1999.

In Article 17, former paras 2 and 3 were deleted under Art 3 of the Law on Amendments (RS OG 12/99). Former text provided:

'The allocation right holder shall refer the case to the responsible municipal or city administrative body within 30 days from the issuance of the decision referred to in the Article above which relates to the apartment occupied by the new occupancy right holder based on an act issued by the allocation right holder, i.e. contract (hereinafter: the current user). The responsible municipal or city administrative body shall then pass a decision on the allocation of another apartment to the current user or occupancy right

holder within a deadline which cannot be longer than the deadlines referred to in Article 18 of this Law./If the responsible municipal body has decided to allocate another apartment to the occupancy right holder, this Decision shall have to be passed in accordance with the criteria which must be harmonised with Article 1 Annex 7 of the General Framework Agreement in line with the European Convention on Human Rights and with other regulations of the Republika Srpska.'

New item introduced by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

New paragraph was introduced by HR's Decision, 27 October 1999.

Article 19 para 2 was introduced by HR's Decision, 27 October 1999.

The whole Article was replaced by HR's Decision, 27 October 1999.

Article 22 was amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Amended by HR's Decision, 27 October 1999.

Para 2 inserted by HR's Decision, 27 October 1999.

Para 2 introduced by HR's Decision, 27 October 1999.

Article 27 deleted by HR's Decision, 27 October 1999.

New Article 27a inserted under article 4 of the Law on

## Amendments (RS OG 12/99)

Previous Article 30 is renumbered as Article 38 by HR's Decision, 27 October 1999. By HR's Decision of 27 October 1999, Articles 30, 31, 32, 33, 34, 35 and 36 were inserted.

The amendments introduced by HR's Decision of 27 October 1999 were applicable as of 28 October 1999.