

Amending the Law on Sale of Apartments with Occupancy Rights

In the exercise of the powers vested in me 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 the last said Agreement, according to the terms of which the High Representative shall “Facilitate, 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 throughout Bosnia and Herzegovina and its Entities”;

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;

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

Considering further the need to implement in the most efficient and equitable manner legislation concerning property privatisation throughout Bosnia and Herzegovina, and to ensure that the same is undertaken in a harmonised manner in each Entity, subject only to such variations as may be necessitated by the differing models of privatisation in each;

Conscious of the vital need to ensure that such harmonisation is undertaken so as not to disadvantage returning Refugees and Displaced Persons, and so as to be in keeping with the spirit of Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina, and with the conclusions of the Bosnia and Herzegovina Commission on Refugees and Displaced Persons;

Further conscious that the Entity officials responsible for refugee and housing issues have been unable to reach agreement on the specific provisions necessary for harmonise harmonisation as aforesaid, notwithstanding the request of the Bosnia and Herzegovina Commission on Refugees and Displaced Persons;

Noting that the Ministry for Human Rights and Refugees of Bosnia and Herzegovina has requested action by the Office of the High Representative to harmonise Entity legislation on privatisation in order to safeguard basic human rights and expedite refugee return.

Having considered and borne in mind all the matters aforesaid, I hereby issue the following

DECISION

Amending the Law on Sale of Apartments with Occupancy Rights (“Official Gazette of the Federation of Bosnia and Herzegovina” nos. 27/97, 11/98, 22/99, 27/99 and 7/00)

Article 1

Article 7, paragraph 2 of the Law on Sale of Apartments with Occupancy Rights, (“Official Gazette of the Federation of Bosnia and Herzegovina” nos. 27/97, 11/98, 22/99, 27/99 and 7/00), shall be amended and read as follows: “A request under paragraph 1 of this Article shall be submitted within two years from the date of entry into force of this Law, or within three months from the date finalizing any court dispute, whichever date is later, and the contract of sale of the apartment (hereinafter; the contract) must be concluded within three months from the date the request to purchase the apartmentrchase the apartment is submitted.”

Article 2

Article 8(a) of the Law on Sale of Apartments with Occupancy Rights ("Official Gazette of BH Federation" 27/97, 11/98, 27/99 and 7/00) shall be amended to read as follows:

"An occupancy right holder over an apartment which has been declared abandoned in accordance with the Law on Abandoned Apartments and other regulations dealing with the issue of abandoned apartments, or an occupancy right holder who left the apartment between 30 April 1991 and 4 April 1998 in cases where the apartment was not officially declared abandoned, shall have the right under the conditions provided for by this Law, to purchase his/her apartment immediately after entering into possession of his/her apartment and at the latest within either one year of the date of his/her reinstatement in the apartment, or within one year following the publication of this provision in the Official Gazette of the Federation of Bosnia and Herzegovina, whichever date is the later".

Article 3

After Article 8(a) a new Article 8(b) shall be added:

Article 8(b).

"An occupancy right holder referred to in Article 8(a) of this Law is only entitled to submit a written request to purchase his/her apartment in accordance with Article 7 of this Law once he/she provides proof that he/she and all e/she and all members of his/her family household, as defined in the Law on Housing Relations, has/have vacated any accommodation where they were residing as legal or illegal users.

In order to meet this requirement, the occupancy right holder shall furnish signed minutes from the competent administrative body evidencing his/her/their departure, hand-over of keys, and sealing of the premises or reinstatement of the pre-war occupancy right holder to the vacated premises, or evidence that the current accommodation does not need to be vacated in accordance with the Law. Where applicable, the competent administrative body shall be obliged to provide the occupancy right holder with this evidence.

The competent authority shall, within one month of entry into force of this law, define by instruction, legally valid evidence for the purposes of this article where the minutes are not available or where the current accommodation does not need to be vacated in accordance with the Law.

This evidence must be attached to the written request for buying an apartment. The evidence is an integral part of the written request for buying the apartment and the request cannot proceed in its absence."

Article 4

A new Article 46(a) shall be added:

Article 46(a).

"On receipt of a written request for purchasing an apartment in apartment in accordance with Articles 7, 8, 8(a), and 8(b) of this Law, Article 44, Paragraph 1(6), and Articles 47 and 49 of the Law on Housing Relations shall be suspended until the purchase contract is concluded.

Purchasers subject to Articles 8(a) and 8(b) of this Law shall be fully released from liability for any administrative or other expenses that might otherwise accrue pursuant to the Law on Administrative Procedures and the Law on Housing Relations."

Article 5

This Decision shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina and shall come into force on the date of such publication.

Sarajevo, 17 July 2001

Wolfgang Petritsch
High Representative

Office of the High Representative