

Decision On the Use of Collective/Transit Centre Space in Bosnia and Herzegovina to Promote the Phased and Orderly Return of Refugees and Displaced Persons

In the exercise of the powers vested in the High Representative 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 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 Bosnia and Herzegovina and its Entities”;

Considering the emphasis placed by the Peace Implementation Council on accelerating the return of refugees and displaced persons;

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;

Recalling further Article I: 5 and Article II: 1 of Annex 7 (Agreement on Refugees and Displaced Persons) referring explicitly to a repatriation plan to be developed by the United Nations High Commissioner for Refugees (UNHCR) in close consultation with asylum countries and the Parties, that will allow for an early, peaceful, orderly and phased return of refugees and displaced persons;

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

Bearing in mind that facilitation of the return of refugees and displaced persons may in no way disrupt implementation of Article 6(1) of the Law on Cessation of the Application of the Law on Abandoned Apartments, (FBiH Official Gazette nos 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, 31/01 and 56/01), Article 12 (1) of the Law on Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens (FBiH Official Gazette nos 11/98, 29/98, 27/99, 43/99, 37/01 and 56/01) and Articles 9 and 17 of the Law on Cessation of the Application of the Law on the Use of Abandoned Property (RS Official Gazette nos 38/98, 12/99, 31/99 and 65/01), hereinafter called the property laws, which seek to ensure orderly and non-discriminatory implementation, in prescribing that the competent body shall solve each property claim in the order in which it was received, unless specified otherwise in law;

Bearing in mind the High Representative’s Decision on the Use of Collective/Transit Centre Space in Bosnia and Herzegovina to Promote the Phased and Orderly Return of Refugees and Displaced Persons of 1 August 2002 (FBiH Official Gazette 40/01 and the Republika Srpska Official Gazette 50/02) and which expired on 31 December 2002;

Having considered and borne in mind all the matters aforesaid, the High Representative hereby issues with binding effect upon all officials of the Federation of Bosnia and Herzegovina and of the Republika Srpska as a measure in the exercise of his said powers under the said Annex 10, the following:

DECISION

On the Use of Collective/Transit Centre Space in Bosnia and Herzegovina to Promote the Phased and

Orderly Return of Refugees and Displaced Persons

Article 1

The Ministries responsible for the management of all habitable facilities meeting the minimum standards for temporary accommodation and currently in official use as Collective/Transit Centres as of the date of the issuance of this Decision, that are located on the territory of Bosnia and Herzegovina (hereinafter called the competent Ministries), and which are listed in the phased and orderly Plan for the allocation and use of space in these facilities in BiH, adopted by the State Commission for Refugees and Displaced Persons on 11 September 2002, and as filed in the archives of this Commission, must maintain these facilities at their current operational level until the date this Decision expires.

All space in the facilities described under paragraph 1 of this Article, which is not used for the implementation of this Decision, shall be used as alternative accommodation to promote the chronological resolution of property claims, in accordance with the property laws, as well as continue to be used for persons in need of emergency accommodation, in accordance with the laws on displaced persons and refugees.

Article 2

To promote the return of refugees and displaced persons resident in Collective/Transit Centres in BiH and neighbouring countries to their original place of residence, the competent ministries shall, under the guidance of the UNHCR, implement the phased and orderly Plan for the allocation and use of space in these facilities in BiH, adopted by the State Commission for Refugees and Displaced Persons on 11 September 2002, whereby they shall assist resolution of the property claims filed by the persons named in the list submitted to this Commission on 11 September 2002 and on 29 October 2002 (hereinafter, the beneficiaries).

Article 3

Under this Plan, the competent ministries are required to offer collective centre space in BiH occupied at the date of this Decision by the beneficiaries to the temporary users of the property claimed by the beneficiaries, in such a way as to ensure that the temporary users are offered space in a facility as close as is feasible to their municipality of current residence, and in their Canton or region of current residence; or, where the temporary user so chooses, in a facility as close as is feasible to his or her municipality of original residence as of 30 April 1991.

Article 4

Monthly progress reports on the implementation of the Plan shall be made available by the competent ministries to the members of the State Commission for Refugees and Displaced Persons and of the Reconstruction and Return Task Force. The progress reports shall include:

- i. The names and number of beneficiaries who have repossessed their property,
- ii. The names and number of temporary users who have accepted space offered in facilities described under Article 1. of this Decision, and the location of these facilities,
- iii. The number of units of space offered, and the number remaining vacant,
- iv. Any other information which may be requested by any member of the State Commission for Refugees and Displaced Persons and the Reconstruction and Return Task Force as being necessary to the implementation of the Plan.'

Article 5

Upon receipt of notification, from the competent ministry, that a temporary user of property in the municipality claimed by a beneficiary has been offered accommodation in a facility described under Article 1. of this Decision, and that therefore his/her accommodation needs have been met, the competent administrative body for property claims in that municipality shall act upon this information in accordance with the property laws.

Article 6

This Decision shall be valid until 30 June 2003 or until the property claims of all beneficiaries are resolved, whichever date is the earlier.

Article 7

This Decision shall come into force forthwith, and shall be published as soon as possible in the Official Gazette of the Federation of Bosnia and Herzegovina and the Official Gazette of the Republika Srpska.

Sarajevo, 1 January, 2003

*Paddy Ashdown
High Representative*