

BH FEDERATION PARLIAMENT HOUSE OF PEOPLES ENDORSES THE LAW PROPOSAL ON AMENDMENTS TO THE LAW ON EXPROPRIATION

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At its 3rd session, held on 08 October 2015, the House of Peoples of the Federation of BH adopted the Law Proposal on Amendments to the Law on Expropriation, with two amendments.

In line with a conclusion of the Cabinet of the Federation of BH and in cooperation with the Federal Ministry of Justice of FBH, the Federal Administration for Geodetic and Real Property Affairs of FBH prepared the text of the Law Proposal on Amendments to the Law on Expropriation, which was fully endorsed by the Cabinet of the Federation of BH and submitted in July 2015 to the Parliament for adoption in urgent proceedings.

What is the most important is that, under the law proposal adopted by the House of Peoples of the Parliament of the Federation of BH, the Cabinet of the Federation of BH will again be able to allow the expropriation beneficiaries in exceptional situations to take possession of the expropriated properties before validity of a decision on expropriation, i.e., before final payment of the fee for the expropriated properties, resulting in restoration of the powers of the Cabinet of the Federation of BH that are required for implementation of the most important public infrastructure projects and prevention of potential blockades in this process, while having full regard to the decisions and positions of the Constitutional Court of the Federation of BH and the Constitutional Court of BH, which ruled a portion of the provisions of Article 31 of the Law on Expropriation unconstitutional under their decisions. Unlike the previous solutions that were ruled unconstitutional by the Constitutional Courts, the new legal solutions provide for a duty of expropriation beneficiary to, in the case of implementation of important infrastructure projects, notify the owner of the property in an appropriate manner of the need to urgently take possession of the expropriated property, inform him about the reasons warranting such action, and try to amicably settle the issue of taking possession with the owner of the property. Also, unlike the previous legal solution, which was deemed unacceptable by both Constitutional Courts, the proposed draft of the Law on Amendments to the Law on Expropriation provides for an option to conduct administrative dispute proceedings against a

decision of the Cabinet of the Federation of BH to allow expropriation beneficiary to take possession before validity of the decision on expropriation, i.e., before payment of the fee for the expropriated properties, ensuring direct judicial protection of the owner of the property in this phase of the expropriation proceedings too.

Additionally, the adopted law proposal specifies the provisions of Article 6(1) of the current Law on Expropriation in the sense that it explicitly provides that a dependent company, which is wholly owned by state owned enterprise, shall also have the capacity of expropriation beneficiary, resulting in avoiding specific issues of implementing the law in practice.

An amendment put forward by Admir Hadžipašić, Member of Parliament, which the Cabinet of the Federation of BH ultimately adopted after discussions in the caucuses of peoples and parliamentary committees, became an integral part of the law proposal. Under this amendment, the provisions of Article 3 of the Law on Expropriation are amended in the sense that it is explicitly provided that a property may be expropriated

when this is required for development of business and industrial zones, specifying the current legal provision, without infringing the basic principles of expropriation proceedings.

The adopted law proposal regulates somewhat differently the issue of a fee for illegally built residential buildings, in such a manner that the principle of equality of the members of the public and other legal entities before the law is promoted, entitling under the new solution illegal builders of the buildings that are the only housing unit of the builder and the members of his immediate family to a fee in the amount of construction value, save for those buildings for which the competent authority issued a valid decision on their removal. At the proposal of the Caucus of Representatives of Croat People, the provisions of the law in this part were amended by an amendment, entitling to a fee only illegal builders of those residential buildings that were captured by the official orthophoto of the territory of the Federation of BH, which was done by the Federal Administration for Geodetic and Real Property Affairs of FBH. As a result, eligibility criteria for the fee were further objectified.

Given that the law proposal was submitted to the Parliament for adoption in urgent proceedings, as its sponsor we expect it to be included very soon in the agenda of the House of Representatives of the Parliament of the Federation of BH and adopted in the same text as in the House of Peoples, and, upon its entry into force, we expect it to facilitate the proceedings of the competent authorities in all phases of the expropriation proceedings.