



**UNHCR**

United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

## THIRD PROGRESS REPORT

### **Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91 – 95 conflict, including cessation of refugee status**

#### **A) Introduction**

In April 2014, UNHCR issued its Advisory on the *Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91 – 95 conflict, including cessation of refugee status* (hereinafter Advisory).<sup>1</sup> The Advisory contained UNHCR's recommendation for the cessation of refugee status of refugees from Croatia displaced by the 1991 – 1995 conflict pursuant to the “ceased circumstances” cessation clauses contained in paragraph 6(A)(e) and (f) of the UNHCR Statute and Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees. UNHCR recommended that States ensure that all aspects of cessation be implemented in 2014, with cessation to take effect by the end of 2017 at the latest. In tandem, UNHCR provided recommendations on how to resolve remaining displacement challenges and further advance the Regional Durable Solutions Process.

This is the Third Progress Report issued in line with UNHCR's commitment to monitor its cessation recommendation and States' commitments under the Regional Durable Solutions process. The report covers the period from 1 July 2015 to 31 May 2016,<sup>2</sup> and should be read in conjunction with the initial Advisory.

#### **B) Update on the refugee situation**

Although the majority of persons from Croatia displaced by the conflict in the 1990s had either returned to their country of origin or acquired the nationality of their country of asylum when the Advisory was initially issued, there were still 49,055 persons from Croatia registered as refugees in the region, of which 41,724 were in Serbia; 6,726 in Bosnia and

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<sup>1</sup> See: UN High Commissioner for Refugees (UNHCR), *Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91-95 conflict, including cessation of refugee status*, April 2014, available at: <http://www.refworld.org/docid/533d813f4.html>, *Progress Report on the Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91 – 95 conflict including cessation of refugee status*, November 2014, available at: <http://www.refworld.org/docid/547c1e524.html>; and UN High Commissioner for Refugees (UNHCR), and *Second Progress Report on the Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91 – 95 conflict, including cessation of refugee status*, September 2015, available at: <http://www.refworld.org/docid/560eb5104.html>.

<sup>2</sup> Due to the impact of the refugee and migration crisis on the countries in the Western Balkans, the period covered has been extended.

Herzegovina; 567 in Montenegro; and 38<sup>3</sup> in Kosovo (S/RES/1244 (1999)).<sup>4</sup> In addition, at the end of 2015, there were 726 persons from Croatia still registered as refugees in other countries outside the region.<sup>5</sup>

Between the issuance of UNHCR's Advisory in April 2014 and the first Progress Report in November 2014, the number of registered refugees from Croatia in the region decreased to 39,228, of which 32,234 were in Serbia; 6,706 in Bosnia and Herzegovina; 251 in Montenegro; and 37 in Kosovo (S/RES/1244 (1999)).

Between the first and second Progress Report (as of 30 June 2015), the number of registered refugees from Croatia in the region decreased to 32,895, of which 25,962 were in Serbia; 6,703 in Bosnia and Herzegovina; 194 in Montenegro; and 36 in Kosovo (S/RES/1244 (1999)).

As of 31 May 2016, some 27,070 refugees from Croatia remained registered in the region, of which 20,334 were in Serbia; 6,677 in Bosnia and Herzegovina; 33 in Montenegro; and 26 in Kosovo (S/RES/1244 (1999)). Overall, this represents a decrease by 5,823 persons compared to 30 June 2015.<sup>6</sup> It should be noted that this decrease is largely due to cessation of refugee status of persons from Croatia on the basis of re-acquisition of the national protection of the country of origin or acquisition of the nationality of the host countries pursuant to Article 1C(1) or (3) of the 1951 Convention.<sup>7</sup> Cessation on this ground, initiated in Serbia and in Montenegro well before UNHCR issued its Advisory in April 2014, continues and accounted for 5,638 cessations in Serbia alone between July 2015 and 31 May 2016. The Serbian Commissariat for Refugees and Migration (SCRM) trustees, who are also operational in Kosovo (S/RES/1244 (1999)), have applied cessation of refugee status to those who acquired Serbian nationality there, reducing the number of refugees from Croatia still registered in Kosovo (S/RES/1244 (1999)) to 26.<sup>8</sup>

Although Bosnia and Herzegovina has not initiated or implemented any procedure to verify or cease the status of the re-registered refugees since the Advisory was issued, approximately 76 per cent of the registered refugee families from Croatia have acquired citizenship of Bosnia and Herzegovina.<sup>9</sup>

In Montenegro, in general, persons displaced from the former Yugoslavia in the 1990s were granted the status of "displaced persons," which no longer exists under the 2009 Law on Foreigners. Under the 2009 Law on Foreigners, displaced persons from the former Yugoslavia were granted privileged access to the status of foreigner with a simplified

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<sup>3</sup> This is a correction of the figure of 39 contained in the advisory.

<sup>4</sup> All mentions of Kosovo in this Progress Report are to be understood in the context of S/RES/1244 (1999). This designation is without prejudice to positions on status.

<sup>5</sup> UNHCR Field Information and Coordination Section.

<sup>6</sup> As reported in the Second Progress Report.

<sup>7</sup> According to Article 1C(1) of the 1951 Convention, a person's refugee status shall cease if s/he has re-availed himself / herself of the protection of his / her country of nationality, while according to Article 1C(3) a person's refugee status shall cease if s/he has acquired a new nationality and enjoys the protection of the country of his / her new nationality.

<sup>8</sup> Representing a decrease of 11 since the Second Progress Report.

<sup>9</sup> Database of the RS Ministry of Refugees and Displaced Persons.

application procedure to facilitate local integration. Following several years of extending the deadline for submitting applications to obtain status as foreigners under the privileged regime, the Government decided to cease the status of “displaced persons” of all persons who had not applied by 31 December 2014. Persons who acquire status as foreigners are required to obtain documents from Croatia and are also no longer recognized as displaced. As of 30 May 2016, there were 33 refugees from Croatia still holding “displaced person” status in Montenegro as their applications for the status of foreigner were still pending. Additionally, concerns remain in particular with respect to the temporary residence status granted to 27 persons.

The number of returns to Croatia has declined considerably, and progress in achieving returns remains very slow. During the reporting period, UNHCR Croatia registered 147 minority returnees. Of these, 49 persons were assisted with voluntary repatriation from Bosnia and Herzegovina and 20 persons<sup>10</sup> returned from Serbia, supported through a Government-sponsored return programme in Serbia. Three persons were provided logistical assistance and organized transport from Montenegro. An additional 75 persons returned spontaneously upon allocation of housing units in Croatia<sup>11</sup> under the Regional Housing Programme (RHP).<sup>12</sup> The majority of them came back from Serbia (72), while three came from Bosnia and Herzegovina.

Serbia and Croatia, together with the respective national Red Cross Societies, continue to support voluntary repatriation from Serbia to Croatia, mainly through transport of personal belongings. Convoys were organized from Serbia in May 2015 and June 2016. From Bosnia and Herzegovina, convoys are organized starting in March every year.

Repatriation from Serbia generally functions well and the transportation of most personal belongings is processed in an expedited manner in keeping with the humanitarian character of the operation. The transfer of personal belongings and household items from Bosnia and Herzegovina, although facilitated by UNHCR’s partners, is on the other hand treated as common commercial cargo subject to standard customs clearance procedures, without any priority being accorded. The standard procedures are considerably more time-consuming and cumbersome. UNHCR brought this matter to the attention of the authorities concerned, stressing the humanitarian character of the shipments and suggested simplification of existing procedures, but the practice continues.

Information available to UNHCR indicates that refugee returns to Croatia will continue to slow down. Given that persons from Croatia displaced by the conflicts in the 1990s have

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<sup>10</sup> The Serbian Commissariat for Refugees and Migration was not in a position to confirm this number of returnees to Croatia. The number of returnees was verified by a voluntary repatriation monitoring programme by UNHCR Croatia.

<sup>11</sup> There were 35 persons who returned to the town of Korenica as part of the first RHP sub-project and 40 who received apartments as part of the fourth RHP sub-project-purchase of 101 apartments.

<sup>12</sup> The RHP is a joint initiative of Bosnia and Herzegovina, Croatia, Montenegro, and Serbia (“the Partner Countries”) to implement the regional durable solutions strategy set out in the 2005 Sarajevo Declaration and confirmed in the 2011 Joint Declaration on Ending Displacement and Ensuring Durable Solutions for Vulnerable Refugees and Internally Displaced Persons and is complemented with national reconstruction/housing programmes.

lived more than two decades in exile, it is expected that most of the remaining persons registered as refugees from Croatia will strive to integrate locally. Only a relatively small number of individuals – primarily RHP applicants – still hope to return to their pre-war places of origin. Although numerous achievements have been made by the Government of Croatia to ensure conditions for return, a number of obstacles remain. These impediments and any progress made in removing them are reviewed in detail in Section D.2 of this Progress Report.

In the meantime, prospects and opportunities for local integration in the place of displacement are improving in the region and are outlined further below. A number of concerns remain, however, which are described further in Section D.3 of this Progress Report.

### **C) Comments on progress on UNHCR’s recommendation regarding application of the “ceased circumstances” cessation clauses to refugees from Croatia**

While cessation on an individual basis on grounds of acquisition of nationality has been ongoing in Serbia, Montenegro, and Kosovo (S/RES/1244 (1999)) as outlined above, cessation for refugees from Croatia on the basis of ceased circumstances pursuant to Article 1C(5) and (6) of the 1951 Convention and in line with the recommendation contained in UNHCR’s Advisory has not been initiated anywhere in the region. Equally, no host States outside the region<sup>13</sup> have indicated an intention to implement cessation on this basis.<sup>14</sup>

The Government of Serbia remains in disagreement with the cessation recommendation made by UNHCR in the Advisory.<sup>15</sup>

In Bosnia and Herzegovina, refugees from Croatia were never registered or formally recognized as refugees at State level, but rather at Entity level in Republika Srpska. Based on extrapolation from the figures of the re-registration exercises of 2000 and 2005, the total number of refugees was estimated to be 6,677 at the end of May 2016. The re-registration exercise in 2005 was intended to provide a basis to confirm or cease refugee status by the Sector for Asylum of the Ministry of Security of Bosnia and Herzegovina, but this was never implemented. The Ministry for Refugees and Displaced Persons of Republika Srpska has, however, expressed willingness to de-register persons who have repatriated voluntarily to Croatia or who have integrated locally and do not need further assistance. The State Ministry for Human Rights and Refugees (MHRR) of Bosnia and Herzegovina has separately agreed with UNHCR to convene a meeting with all relevant actors at State and Entity levels in the second half of 2016. The aim would be to agree on necessary steps to review refugee status

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<sup>13</sup> Information obtained for the November 2014 Progress report included the following host States outside of the region: Austria, Belgium, Canada, Czech Republic, France, Germany, Hungary, Ireland, Italy, the Netherlands, Switzerland, and the United Kingdom.

<sup>14</sup> The exception is Switzerland, where cessation for refugees from Croatia pursuant to Article 1C(5) and (6) was implemented prior to the issuance of UNHCR’s advisory between the period of June 2010 and August 2013.

<sup>15</sup> Immediately after the issuance of the Advisory, the Government of Serbia sent two *note verbales* to UNHCR, expressing its disagreement with UNHCR’s recommendations. In February 2015, in response to the First Progress Report, the Government of Serbia sent a letter to UNHCR to reiterate its objection that cessation on the ground of the ceased circumstances had been prematurely applied.

and to explore ways to cease status for persons who either hold nationality of Bosnia and Herzegovina or have benefitted from assistance to return to Croatia. The stakeholders would also seek to identify vulnerable refugees in need of further assistance in Bosnia and Herzegovina (including legal assistance for naturalization). A thematic working group is to be established to analyse and review such needs until the end of 2017.

In Montenegro, as noted above, “displaced person” status is being discontinued, albeit not due to ceased circumstances.

## **D) Recommendations relating to the implementation of the Regional Durable Solutions Process**

### **1. Update on the Regional Durable Solutions Process**

In UNHCR’s view, there has been limited, but continuous and tangible progress made under the Regional Durable Solutions Process since its Advisory in April 2014. The most positive developments observed have come about as a result of the Regional Housing Programme (RHP). Selection of RHP beneficiaries for the approved sub-projects in all four Partner Countries, namely Bosnia and Herzegovina, Croatia, Montenegro, and Serbia, is progressing well despite some delays. Still, concerns remain, especially with respect to delays and challenges in ensuring that the most vulnerable are identified.

The first half of 2016 saw an increased number of concrete housing solutions delivered to the most vulnerable beneficiaries in all Partner Countries, amongst whom were a number of refugees from Croatia. It is expected that this trend will continue in the entire region through the remainder of 2016 and 2017. Despite delays in some areas, the RHP beneficiary selection process is being implemented within the timeframes set by the respective Country Feasibility Reports. This, along with growing efficiency in the preparatory process for all approved RHP sub-projects, gives rise to some optimism.

Donors have approved 20 sub-projects within the framework of the RHP since the beginning of the programme implementation, providing for 7,144 housing solutions for vulnerable refugee and internally displaced families across the region. Of the 1,890 families selected as beneficiaries by the government Lead Institutions and endorsed by UNHCR and OSCE to date, a significant number are refugees from Croatia.

UNHCR welcomes the considerable advances in the implementation of the RHP by the Partner Countries, as outlined above. UNHCR also welcomes the commitment by donors to maintain their funding pledges for the RHP in full, as presented at the Donor Conference in Sarajevo in April 2012, and encourages them to continue lending support until the RHP fully meets its declared objectives.

The implementation of the above-mentioned RHP projects is currently not expected to be completed until the end of 2018. UNHCR therefore invites all involved countries, partners in the Regional Durable Solutions Process and in the RHP, as well as all other stakeholders, to further intensify efforts to expedite delivery of long-awaited housing solutions to this

vulnerable population, while at the same time applying all necessary safeguards for the selection of the most vulnerable beneficiaries and ensuring that the housing solutions offered suit their choice of a durable solution. The Partner Countries are currently in the process of amending and expanding their respective Country Feasibility Reports in accordance with outstanding needs.

In order to avoid possible duplication of assistance and ensure that the most vulnerable are selected, particular emphasis has been placed on cross-border verification for persons pre-selected as RHP beneficiaries. The pace of implementation is, however, affecting the pace of selection of beneficiaries. UNHCR is therefore pleased to note that additional capacities to perform cross-border data verification have been established in all four Partner Countries.

Cross-border verification is particularly important with respect to refugees from Croatia in Bosnia and Herzegovina. The Government of Croatia is currently conducting 3,559 field verifications for applicants to the RHP in Bosnia and Herzegovina, of which 83 per cent are completed. Croatia is also verifying the status of 468 cases at the request of Serbia, of which 57.5 per cent are completed. Croatia in turn requested a total of 3,350 administrative and 261 field verifications from three Partner Countries, the majority in Serbia. The requests are based on applications for housing assistance submitted by potential beneficiaries.

Ensuring the sustainability of housing as a key element of a solution has been shown to be a challenge in all four Partner Countries, and requires a more comprehensive approach, whereby the issues are addressed more holistically through existing institutions, including social welfare systems. UNHCR has therefore called upon all four Partner Countries to develop efficient sustainability management and monitoring mechanisms and to design projects with a solutions-oriented perspective, focused on ensuring the sustainability of return or local integration. UNHCR stands ready to support and assist the Governments in designing such tools and monitoring mechanisms. Additionally, more efforts are needed to remove other barriers to voluntary repatriation (see Section D.2 below).

UNHCR remains concerned that the Regional Durable Solutions Process may be delayed and additional barriers to voluntary repatriation and sustainable reintegration in Croatia (as outlined in Section D.2) persist. Additionally, concerns relating to the effective possibility of local integration continue (as outlined in Section D.3).

*UNHCR therefore encourages Croatia and the host countries in the region to do their utmost to ensure that persons of concern are able to achieve a durable solution before the end of 2017, or that the solution has been clearly identified and is under implementation by then, and to work closely with their UNHCR Office counterparts to ensure that the durable solutions process continues to progress and is not adversely impacted or curtailed by the cessation of refugee status. UNHCR continues to stand ready to work closely with Governments in this respect.*

UNHCR further notes that there may be refugees from Croatia who continue to be in need of a solution, but have not yet been identified, due to the extent of their vulnerabilities and isolation. Consequently, UNHCR in the region, in close consultation with the Governments

concerned, aim to continue their efforts to identify cases of particular concern and to review the residual problems they and other refugees from Croatia may face, in line with the recommendations of UNHCR's Advisory.

## **2. Comments on the progress of UNHCR's recommendation to remove barriers to voluntary repatriation and sustainable reintegration in the country of origin**

### **a) Difficulties to regularize stay for refugees from Croatia without Croatian citizenship**

The majority of refugees from Croatia in Bosnia and Herzegovina never obtained Croatian citizenship and are required to regularize their stay in Croatia upon return.<sup>16</sup> UNHCR notes that there have been no significant improvements as to the challenges faced by former habitual residents of Croatia in this regard.

Despite favourable provisions for regularization of stay for former habitual residents introduced in Croatia's 2013 Act on Foreigners, the process remains complex and time consuming, and procedures to obtain relevant documentation are costly. Complying with complex administrative requirements to return or to naturalize continues to be problematic for many, as they find it difficult to navigate existing procedures. Additionally, the payment of numerous administrative fees remains an insurmountable obstacle for a number of concerned individuals, especially if they are socially vulnerable and have limited or no access to free legal aid provided by the State. It should be noted that apart from the fact that the system for free legal aid is far from meeting the needs due to serious budget constraints, in principle, former habitual residents only become eligible once their stay has been regularized.

Only a small number of persons have been exempted from fees; of 236 status-related cases supported by UNHCR legal aid partners, only 13 cases were granted this exemption. UNHCR has therefore found it necessary to continue to assist the most vulnerable persons with free legal aid and partial coverage of applicable administrative fees.

*UNHCR recommends that the Government of Croatia extend free legal aid to all former habitual residents wishing to regularize their stay; further simplify the regularization process; and consistently and systematically take in consideration requests for exemptions from administrative fees.*

Any person who had a registered residence in Croatia on 8 October 1991 and who returns to Croatia in an organized or spontaneous manner can be granted returnee status.<sup>17</sup> This entitles the recipient to six months of financial aid from the State, free medical insurance and access to humanitarian assistance, and is in principle available for all newly-arrived returnees,

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<sup>16</sup> Article 94, para 2 of the Croatian Law on Foreigners stipulates: "Permanent residence could be approved to foreigners who had permanent residence in Croatia on 8 October 1991 and who are beneficiaries of the Return Programme or Reconstruction Programme or Housing Care Programme, which has to be proved by a certificate of the competent state body for refugees, and who are assessed as having returned with intention to permanently live in Croatia."

<sup>17</sup> Article 2 of the Law on Amendments to the Law on Status of Refugees and IDPs (Official Gazette No51A <http://narodne-novine.nn.hr/default.aspx>).

including former habitual residents. Nevertheless, delays in payments of returnee grants of up to three months have been reported.

*UNHCR recommends that the Government of Croatia accelerate the payment of returnee grants.*

## **b) Need for adequate housing**

In the context of the Regional Durable Solutions Process, housing remains the most pressing issue. UNHCR notes that there has been limited progress towards meeting the need for adequate housing for (potential) returnees to Croatia. This is particularly concerning as accommodation is one of the preconditions to obtaining permanent residence in Croatia. Potential returnees are largely dependent on being selected as beneficiaries of housing reconstruction projects for returnees, namely the national Housing Care Programme (HCP) or the RHP. UNHCR remains concerned about the large number of cases still awaiting housing assistance in Croatia. A total of 10,563 households have submitted requests for assistance, including requests for reconstruction; the number of persons who had been displaced from Croatia and are in need of housing support is estimated to be about 10,000 persons.<sup>18</sup>

The continuing backlog in the implementation of Croatia's national HCP is of particular concern. Croatia has a total of 2,945 pending family requests for housing care submitted by former occupancy/tenancy right holders (OTR), 1,442 pending requests for reconstruction, and 6,176 pending requests for housing care.<sup>19</sup>

The State Attorney Office did not approve a draft Government Decision to enable former OTR to purchase allocated housing units under a preferential regime, despite UNHCR's recommendations to do so. Conditions for purchase in urban areas thus remain very unfavourable for Serb national minority returnees, and only five per cent of the requests for purchase were successful.

*UNHCR recommends that the Government of Croatia introduce favourable conditions for former OTR to purchase allocated housing units in urban areas; accelerate purchasing procedures; and harmonize the purchasing procedures in urban areas with those that apply in other parts of the country (e.g. in the Areas of Special State Concern, Croatian Danube Region).*

UNHCR welcomed the amendments to the Act on Areas of Special State Concern, the main legal framework for the provision of housing assistance, adopted in January 2015. The Act incorporates a number of comments and suggestions made previously by UNHCR, including a simplified application procedure for housing assistance and a reduction in the number of supporting documents required for an application. Beneficiaries, moreover, do not need to re-apply for a period of three years from the date of application. For urgent cases, a form of

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<sup>18</sup> The number of former OTR and pending requests for reconstruction relate specifically to the Serb national minority population, whilst the number of housing care requests concerns all population groups in Croatia. Thus, the estimate provided is thus based mainly on the two first groups mentioned.

<sup>19</sup> Data provided by the Croatian State Office for Reconstruction and Housing Care, May 2016.



temporary housing care was introduced, although this had limited impact. To date, UNHCR is aware of only seven returnee cases who were assisted through this modality.

Further efforts to increase the State-allocated funds to finalize the remaining pending cases are urgently required. However, State budget allocations for the purchase of apartments for former OTR in urban areas were decreased from EUR 5.2 million in 2015 to EUR 3.4 million in 2016. UNHCR is concerned that reduced funding will further delay the provision of the housing care needed to resolve the remaining problems of displacement.

The decrease in funding is coupled with a slow decision-making process. The Government reported that 113 former OTR had received housing solutions through the national HCP in 2015. However, UNHCR to date has not received a final list of beneficiaries, nor did the authorities communicate the number of housing solutions provided under the HCP, despite numerous requests from UNHCR. The implementation of the State-run reconstruction programme also needs to be accelerated. UNHCR was unable to obtain data on reconstruction support provided during the reporting period.

*UNHCR recommends that the rate of issuance of decisions on housing care by County Offices of the State administration be accelerated,*

As for implementation of the RHP in Croatia, UNHCR has established good modalities of cooperation with the Croatian Lead Institution, the State Office for Reconstruction and Housing Care (SORHC). The RHP budget for Croatia stands at 13.4 million EUR, and Croatia, in close cooperation with UNHCR, has completed the beneficiary selection process for 43.6 per cent of the planned RHP beneficiaries.<sup>20</sup>

The vast majority of the 328 housing solutions currently planned are designated for Serb national minority returnees to Croatia. To date, 75 families have received housing solutions under the RHP in Croatia.

The first RHP sub-project was finalized in September 2015. Construction on the second sub-project (apartments in Knin for 40 families) started in November 2015; the third sub-project (Home for Elderly and Infirm Persons in Glina) in September 2015; and the fifth sub-project (Benkovac-apartments for 21 families) in April 2016. However, progress on the Home for

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<sup>20</sup> A Joint Working Group (JWG) led by the State Office for Reconstruction and Housing Care (SORHC) selects RHP beneficiaries. UNHCR is represented in the JWG by two staff members who provide advice on the eligibility of applicants based on RHP vulnerability criteria; they do not have voting rights. Only beneficiaries who have already obtained the right to housing care are eligible. SORHC provides UNHCR with a list of potential beneficiaries; preliminary field visits to establish their current situation are carried out jointly. If concerned beneficiaries are displaced outside the country, SORHC requests cross-border verifications in the respective countries. UNHCR may identify eligible candidates who have not applied or received a positive decision on housing care. In such cases, UNHCR assists them in the application process, both directly and through a network of legal implementing partners. When eligibility under RHP vulnerability criteria is established, UNHCR and SORHC jointly assess pending and necessary actions required for beneficiaries to receive housing assistance. If and when status-related issues, social integration, and other humanitarian requirements are identified, UNHCR activates a referral system with its implementing partners. During the reporting period, the JWG met ten times and assessed 488 families; positive recommendations were made for 86 families.

Elderly in Glina is delayed, as is the public procurement of 101 apartments under the fourth sub-project (by more than six months). The other two sub-projects are progressing according to plan. In spring 2016, donors approved a further RHP sub-project relating to the reconstruction of houses for 62 beneficiaries.

Although the selection process for the RHP continues, the slow process of examining applications for housing care, as described above, also significantly delays the selection process for the RHP, since in principle only persons who have been approved for housing care are potentially eligible for RHP assistance.

The SORHC engaged eight local Serbian National Council coordinators in February 2016 to speed up the process.<sup>21</sup> However, progress is modest, with 301 decisions on housing care issued by the County State Administrative Offices between January and May 2016, of which 46 were positive and 255 were negative. On the other hand, 970 former OTR received positive decisions and are awaiting the provision of housing units.

The trend of issuing a large percentage of negative decisions on the right to housing care is of concern.

*UNHCR recommends that the SORHC utilize the coordinators to speed up the issuance of decisions, while ensuring that they are taken fully in line with the criteria specified.*

*In view of the need for complementarity of the national and regional housing programmes, as well as the backlog of pending applications, UNHCR encourages Croatia to pursue other funding opportunities to continue implementation of housing assistance and to ensure greater synergies between the national and the regional housing programmes.*

### **c) Access to basic public infrastructure**

UNHCR notes that there has been very modest improvement in access to public infrastructure since the issuance of its Advisory. In late 2015, the SORHC provided 2.5 M HKN (333,000 EUR) for small infrastructure projects in eight return areas. The 2016 budget for this purpose has been decreased by 80 per cent. The Areas of Special State Concern, where most Serb refugees return to, still lack adequate infrastructure.

Serb returnees are, *inter alia*, particularly affected by the lack of (re)connection to the electrical grid in 126 villages and hamlets, and over 500 houses and households remain without electricity, although all had electricity prior to the conflict. The main reason is reportedly the low return rate combined with the heavy damage to the electricity infrastructure, which increases the final cost for reconstruction per house. Croatia's national electricity supplier (HEP) estimates the costs for a grid connection of these villages to amount to 50 million HKN (6.7 million EUR). The result is that, while houses have been reconstructed either by the State or individually, more than 50 per cent of the reconstructed

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<sup>21</sup> Funding was ensured through an RHP Operational Grant to assist County State Administration Offices in contacting the applicants and speeding up the administrative procedure.

houses are empty, with the owners remaining in Serbia or Bosnia and Herzegovina.<sup>22</sup> UNHCR joined a UNDP-led initiative three years ago to provide solar panels to families in four counties identified as most in need, so that they could benefit from electricity in a way that is cost-effective, environmentally friendly, and sustainable; to date, 14 returnee households received solar panels.

*UNHCR recommends that the Government of Croatia prioritize returnee areas for access to electricity.*

#### **d) Employment and basic means of subsistence**

Following the adoption of the Constitutional Act on the Rights of National Minorities,<sup>23</sup> more members of national minorities have been employed in local self-administration bodies. There are Croatian Serb Deputy Prefects in counties where the Croatian Serb population represents more than five per cent of the population, and in some municipalities Croatian Serbs hold the position of head of the municipality.

However, refugees continue to be discouraged from returning by economic considerations and the poor prospects for sustainability of a potential reintegration in Croatia. Employment opportunities in the areas of return are very limited and there has been no progress observed in terms of economic initiatives. Although the general economic situation affects employment throughout the country, it is concerning that the overall level of employment of national minorities in the public sector has decreased (even with the increased employment in local self-administration bodies as outlined above). UNHCR is not aware of any measures to facilitate the employment of national minorities, nor has UNHCR received reports of the implementation of measures set out in the 2015 Action Plan to implement the Constitutional Law on the Rights of National Minorities, which included measures for “positive discrimination” (see Section D.2(g) below for further information).

*UNHCR recommends that Croatia take steps to increase the level of employment of returnees through initiatives to foster employment and non-discrimination and by prioritizing returnee communities for economic development activities.*

#### **e) Difficulties related to private property repossession**

As noted, UNHCR welcomed the amendments made to the Act on Areas of Special State Concern, adopted in January 2015, which also regulated the resolution of so-called unauthorized (or unsolicited) investment cases.<sup>24</sup> UNHCR also welcomes the out-of-court

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<sup>22</sup> None of the houses were built by the RHP. To avoid such problems, additional assurances were requested from the Lead Institution for the latest RHP sub-project in Croatia (reconstruction of 62 houses), to ensure that all houses provided under the RHP will be immediately reconnected to the electrical grid.

<sup>23</sup> Constitutional Act on the Rights of National Minorities, Official Gazette 55/02, 47/10, 80/10, 93/11.

<sup>24</sup> The issue of “unsolicited investment” cases has been on the UNHCR - Government of Croatia agenda for the last 16 years. It affects a limited number of Serb returnees - rightful owners of houses/flats/business properties that the State assigned for usage to third persons while the owners were in refuge. Upon their return and subsequent repossession of their private properties, the owners - returnees - were faced with private law suits, lodged by the former occupants who claimed compensation for the investments made into these objects. These investments were unsolicited. The local courts in all these cases have issued verdicts in favour of former

settlements that have been reached and fully concluded in nine (out of 18) of the most pressing cases.

However, a stakeholder group led by the Government to manage resolution of cases, which includes UNHCR, has not met since the appointment of a new SORHC Head in March 2016.

*UNHCR urges the Government of Croatia to move forward in resolving all pending cases.*

#### **f) Access to legal aid**

The legislative framework in Croatia for free legal aid provides a comprehensive basis for vulnerable beneficiaries in need. The major obstacle is the lack of available funds. The Ministry of Justice has reduced by half the funding allocation for primary legal aid to be provided by civil society for 2016 (750,000 HRK or 100,000 EUR) as compared to 2015, despite the fact that already in 2015, funding was far from sufficient. While the UNHCR legal aid partner Civil Rights Project (which is registered within the State system for free legal aid) assisted 6,008 persons in 2015, State funds had been provided for only 559 persons (or 9 per cent of their overall number of beneficiaries). This significant decrease of funds has a detrimental effect on the reintegration of returnees (see Section D.2 (a) above). Moreover, the foreseen funding for 2016 has yet to be transferred to civil society actors. UNHCR has therefore continued to fund three non-governmental organizations (NGOs) that provide free legal aid. They assisted 7,120 beneficiaries (Civil Rights Project Sisak assisted 5,030 beneficiaries; Serbian National Council 790; and Hocu Kuci Knin 1,300).

*UNHCR recommends that the Government of Croatia ensure free legal aid for vulnerable returning refugees to assist them in enjoying their rights, in line with existing legislation and without discrimination.*

*UNHCR recommends that the Government of Croatia increase the State budget for free legal aid.*

#### **g) Representation of minorities**

The number of members of national minorities employed in State administration bodies is low. By the end of 2015, only 3.4 per cent of the total number of employees in the state administration were members of national minorities; 2.23 per cent were Croatian Serbs.<sup>25</sup> As noted above, the progress report on the Action Plan for Implementation of the Constitutional Act on the Rights of National Minorities for 2015 is not yet published.

UNHCR appreciates the various initiatives to strengthen the work of local national minority councils. They are visible and well accepted in return areas. Primary and secondary education

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occupants. As a result, the returnees are ordered to pay significantly high amounts of money aimed at compensating the “investors”. The returning refugees are not in position to pay these expenses (including the court fees), so their houses are put on public auctions.

<sup>25</sup> As per official 2011 Croatian census data, at the time, 4.36 per cent of the overall population were belonging to Serb national minority.

in return areas for the Serb minority also appears to be implemented in line with the Constitutional Act on the Right of National Minorities.

However, the issue of bilingual signs in Vukovar and other minority areas has not been resolved. Despite a Constitutional Court Decision of June 2015 ordering that bilingual signs be installed, the town of Vukovar subsequently changed its Statute to prevent their replacement; this resulted in the removal of all bilingual signs in Vukovar.

*UNHCR recommends that the Government promote awareness of the importance of national minority languages and the use of the Cyrillic script in accordance with the Constitutional Act on the Rights of National Minorities. Such policies would contribute to the building of a tolerant society and encourage sustainable reintegration of returnees.*

#### **h) Remaining security issues**

UNHCR has received information from various sources that intolerance towards members of the Serb national minority is on the rise, as reflected in threats, hate speech and destruction of property. Amongst others, the Serbian National Council (SNC), a UNHCR implementing partner, in its annual report on hate speech and violence against Serbs, highlighted a number of ethnically motivated incidents, predominantly hate speech and a few security incidents that took place in 2015.<sup>26</sup>

The Ombudsman Report for 2015<sup>27</sup> (which the Croatian Parliament considered in May 2016 but refused to accept) noted that 47 cases of hate incidents were in various stages of criminal proceedings, of which 31 related to events in 2015. Of 22 offences examined, 17 (or 77 per cent) included incidents of animosity towards Croatian Serbs. The Ombudsman also highlighted the discrepancy between official data provided by the Office for the Protection of Human Rights and the Rights of National Minorities and the Ministry of Justice, in comparison to data provided by the SNC.

An increase in the number of incidents was noted especially in the aftermath of the November 2015 parliamentary elections in Croatia, and this worrying trend continued in the first half of 2016. In a *Non-Paper on Ethnically Motivated Incidents and Hate Messages against Serbs and Serbian People in the Republic of Croatia, from 1 January to 6 June 2016*, shared with UNHCR by the Government of Serbia,<sup>28</sup> 20 ethnically motivated incidents were reported, out of which 13 were alleged to be incidents of hate speech. Such incidents have been widely reported in Serb media, and thus have a strong impact on potential returnees' sense of security.

UNHCR acknowledges efforts to combat hate crimes by various Croatian institutions. However, tensions between Serbia and Croatia, and the increased number of inter-ethnic incidents and hate speech directed against the Serb national minority in Croatia do not

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<sup>26</sup> SNC 2015 Report on Hate Speech and Violence towards Serbs, available at:

<http://snv.hr/file/attachment/file/bilten6-compressed.pdf>.

<sup>27</sup> <http://ombudsman.hr/hr/9-uncategorised/849-izvjesce-pucke-pravobraniteljice-za-2015-godinu-slideshow>, 2015 Report of the Ombudswoman, of 31 March 2016. English version available through UNHCR Croatia.

<sup>28</sup> On file with UNHCR.

contribute to creating appropriate conditions for return or the process of reconciliation in the region.

*UNHCR recommends that the Government of Croatia take steps to address the increase of instances of intolerance towards the Serb national minority. The authorities are encouraged to adopt appropriate measures and activities focused on prevention, sanctioning, and public condemnation of hate speech and intolerance towards national minorities. A campaign to promote the rights of national minorities and to sensitize the media and the public on this issue should be initiated.*

With respect to landmines, UNHCR welcomes the Government's plans to remove them fully. According to the Croatian Demining Center,<sup>29</sup> an area of 467.4 km<sup>2</sup> covering 69 settlements in nine counties is believed to be contaminated by mines. Vukovar-Srijem County was declared officially free of mines in February 2016. Unfortunately, the objective to fully remove mines from Osijek-Baranja, Pozega- Slavonia and Karlovac counties by the end of 2015 was not achieved.

The Government of Croatia did not report on progress concerning the prosecution of war crimes. The State Attorney's Report for 2015 indicates that 48 criminal charges were filed for war crimes in 2015, of which only eight remain pending; of 31 persons charged for war crimes, seven were discharged while 23 were convicted. The State Attorney's Office highlighted the difficulty of securing evidence because of the time that has elapsed since the war crimes were committed; in some cases, the State Attorney reported a total inability to procure evidence.<sup>30</sup> A cluster of NGOs led by Documenta, in their 2015 Report on Monitoring of War Crimes Trials, noted that "of a total of 490 recorded crimes, 171 have been processed, against unknown perpetrators."<sup>31</sup> There thus appears to be limited progress.

UNHCR welcomes the adoption of the Act on the Rights of Victims of Sexual Violence during the war in Croatia,<sup>32</sup> which provides for a single monthly allowance along with medical, legal, and psychosocial aid for survivors of sexual violence committed during the war in Croatia.

The Government did not report on witness protection in Croatia. It introduced a National Strategy for Developing a System of Support to Victims and Witnesses for 2016 - 2020<sup>33</sup> but the Action Plan to implement the Strategy is yet to be adopted. While the Strategy provides that departments for victim and witness support be established in all county courts, to date they have been set up only in seven courts.

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<sup>29</sup> See: [https://www.hcr.hr/pdf/Plan\\_2016\\_potpisan.pdf](https://www.hcr.hr/pdf/Plan_2016_potpisan.pdf).

<sup>30</sup> State Attorney Report for 2015, pp. 55-56, available at: [file:///C:/Users/Acer/Desktop/2016/cessation/Izvjescje\\_DORH\\_2015\\_Hrv.sabor.pdf](file:///C:/Users/Acer/Desktop/2016/cessation/Izvjescje_DORH_2015_Hrv.sabor.pdf).

<sup>31</sup> Documenta, 2015 Report on War Crimes Trials, p.10, available at: <http://www.documenta.hr/assets/files/Godisnji%20izvjestaji/Dokumenta-godisnji-izvjestaj-2015-mail.pdf>.

<sup>32</sup> The Act on the Rights of Victims of Sexual Violence during the Military Aggression on Republic of Croatia during the Homeland War, Official Gazette 64/15 – in force since 18 June 2015.

<sup>33</sup> National Strategy for Developing System of Support to Victims and Witnesses for 2016 - 2020, (Official Gazette 75/15), available at: [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_07\\_75\\_1437.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html).

### **i) Discrimination against Roma returnees**

In principle, the National Strategy for Roma Inclusion 2013 - 2020<sup>34</sup> and its Action Plan<sup>35</sup> provide a sound basis for the regularization of undocumented Roma. The Government Office for Human Rights and Rights of Ethnic Minorities is currently preparing the Action Plan for the period 2016 - 2018 and has invited UNHCR to provide inputs in the areas of status issues, anti-discrimination, and access to rights. As per recommendations in the Strategy, the Act on Foreigners in 2013 introduced certain exemptions to facilitate the approval of residence permits for foreigners in the following ways: the ownership certificate (title deeds) of the property where the applicant is residing is no longer required as one of the conditions for temporary and permanent residence; proof of medical insurance is no longer a prerequisite for residency; any debt incurred with the State Tax Administration Office regarding health insurance fees is no longer an obstacle in resolving status issues of beneficiaries; and there are more grounds for approval of residency based on humanitarian reasons.

*UNHCR recommends that the Government of Croatia address and resolve remaining obstacles facing Roma returnees, such as limited access to free legal aid, lack of registration of children's births or residence, non-possession of identity documents, and high administrative fees.*

Although the precise number of stateless Roma and Roma at risk of statelessness in Croatia is unknown, there are a number of Roma returnees requiring legal support. UNHCR continues to support two legal aid partners, which provide mobile team services to Roma in remote areas and settlements to facilitate regularization of their status.

*UNHCR recommends that the Government conduct a comprehensive mapping exercise to obtain reliable data on stateless Roma and Roma at risk of statelessness and to assist persons in need.*

*UNHCR further recommends that the Government establish a statelessness determination procedure to identify persons who are stateless and to ensure protection of their rights, and, in parallel, adopt further measures to ensure that citizenship is confirmed for those at risk of statelessness.*

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<sup>34</sup> National Strategy for Roma Inclusion, 2013-2020, available at:

<https://pravamanjina.gov.hr/UserDocsImages/arhiva/23102013/National%20Roma%20inclusion%20strategy%202013-2020.eng.pdf>.

<sup>35</sup> Action Plan for Implementation of National Strategy for Roma Inclusion 2013-2015, available at:

<https://pravamanjina.gov.hr/UserDocsImages/arhiva/15012016/Akcijski%20plan%20za%20provedbu%20NSUR%20za%20razdoblje%202013-2015.pdf>.

### **3. Comments on progress in respect of UNHCR's recommendation to pursue opportunities for local integration or alternative legal status in countries of asylum in the region**

#### **a) Regularization of stay**

**Bosnia and Herzegovina:** As noted under Section C of this Progress Report, UNHCR estimates that some 76 per cent of the Croatian Serbs who fled to Bosnia and Herzegovina during the 1990s have acquired citizenship of Bosnia and Herzegovina. Refugee status should thus have ceased for those cases, although this was never implemented.

UNHCR is currently working with the authorities of Bosnia and Herzegovina at the State and entity level to ascertain the remaining number of refugees. Following an outreach and information campaign conducted in 2015/2016, which UNHCR organized in coordination with the MHRR and the competent RS Ministry, 233 persons were identified during the past year, of whom 34 have in the meantime obtained citizenship. Of the remaining 199 who have not yet obtained nationality, it appears that only 30 individuals meet the conditions to apply for citizenship based upon facilitated naturalization. They are expected to be able to naturalize before the end of 2017. Another 135 persons must still meet the criteria of five years of temporary residence<sup>36</sup> in order to qualify for permanent residence and another three years of permanent residence in order to qualify for citizenship. Thirty-four refugees have no legal grounds to apply for temporary residence in Bosnia and Herzegovina. For persons with temporary residence only, as well as persons not eligible for temporary residence, it would be useful to establish a mechanism to ensure access to local integration and subsequently to citizenship of Bosnia and Herzegovina before cessation of refugee status is applied.

UNHCR welcomed the 2013 amendments to the Citizenship Law of Bosnia and Herzegovina which eased requirements for refugees to naturalize and helped some individuals. However, the procedure to obtain citizenship of Bosnia and Herzegovina remains complex, costly, and time consuming, in part due to the need to travel to Croatia to obtain documents related to birth, etc.

The exact number of refugees from Croatia who still lack proper identity documents and who may continue to require assistance to obtain them in future remains unknown. The profiles of persons identified through the above-mentioned outreach campaign indicate that many are socially very isolated and often have limited or no financial means. Many reside in remote areas. In these circumstances, loss of refugee status through cessation without acquisition of nationality would further increase their vulnerability.

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<sup>36</sup> The refugee status for these persons has not been confirmed by the State level authority (Ministry of Security). Subsequently, they are unable to apply for naturalization based on the refugee status since they do not hold a refugee card issued by the Ministry of Security. Furthermore, the Ministry of Security does not issue an attestation confirming their refugee status, which is a prerequisite of the RS entity Ministry in charge of citizenship.



*UNHCR recommends that the authorities of Bosnia and Herzegovina better identify the extent of the residual impediments to acquisition of nationality by refugees from Croatia by jointly mapping problem areas and vulnerable cases with a view to further simplifying the naturalization process. In this regard, UNHCR continues to advocate facilitated naturalization for all remaining refugees who wish to naturalize.*

**Montenegro:** As noted above, the Ministry of Interior of the Government of Montenegro continues to process pending applications for foreigner status. Persons wishing to obtain the status of foreigner are obliged to re-avail themselves of the protection of their country of origin, i.e. nationality, in order to obtain valid Croatian documents, including national passports. These documents are required in order to apply for the status of foreigner with temporary or permanent stay residence in Montenegro, and will subsequently be necessary in order to naturalize. Following a request from the Government of Montenegro and UNHCR, Croatian diplomatic-consular services have shown flexibility in extending services to this category of (former) refugees. As of 31 May 2016, there were 33 refugees from Croatia holding the status of displaced persons, as their applications are still pending, while 975 have been granted the status of foreigner with permanent residence, and 27 the status of foreigner with temporary residence (valid for three years).

Of concern is that the applications of the 33 persons have remained pending for more than a year and a half. Furthermore, 27 former displaced persons have been granted the status of foreigner with temporary residence only (valid for three years). Under the new Law on Foreigners that entered in force in April 2015, there are no provisions that would ensure their privileged acquisition of permanent residence as had been defined in the 2009 Law on Foreigners. Consequently, the Ministry of Interior could require holders of temporary residence permits to submit documents or meet conditions such as stable income, accommodation, and health insurance, which a number of former refugees would not be able to meet.

*It remains UNHCR's position that long-staying recognized refugees from Croatia and/or those on a pathway to citizenship should retain their refugee status pending their transition to a permanent residency status or citizenship.*

*UNHCR recommends that Montenegro grant facilitated access to permanent residence to all former refugees from Croatia.*

*UNHCR recommends that Montenegro provide further support for socially vulnerable persons among former refugees to help resolve their housing needs and to ensure effective access to health and social protection.*

*Montenegro is also encouraged to ensure that children born to parents who obtained Foreigner Status similarly obtain a facilitated permanent residence status in Montenegro.*

On 31 December 2015, the *Strategy for Durable Solutions of Issues regarding Displaced and Internally Displaced Persons in Montenegro, with Special Emphasis on the Konik Area* expired. The Government of Montenegro and UNHCR had agreed that a number of goals

contained in the Strategy were not achieved, and the Ministry of Labour and Social Welfare had been tasked to draft a new Strategy for the period 2016-2018. The Strategy and the 2016 Action Plan for its implementation were drafted in close cooperation with UNHCR and were pending adoption by the Government as of the end of May 2016.

**Serbia:** As noted, refugee de-registration on the basis of acquisition of Serbian nationality is ongoing and accounts for the greatest decline in the number of refugees from Croatia. It should be noted that the number of refugees is likely to be lower still, as there are refugees from Croatia who have acquired a Serbian citizenship certificate, but who have yet to acquire an identity card as citizens. The refugee identity card is withdrawn and refugee status formally ceased only once the individual concerned acquires or seeks to acquire an identity card as a citizen.

In order to provide conditions for local integration for all who opt for this solution, the Government has adopted a comprehensive policy and legal framework for providing support to refugees. As part of this, the Serbian authorities grant citizenship and access to political, social, economic, and civil rights to all refugees and former refugees.<sup>37</sup> In addition, the Serbian Commissariat for Refugees and Migration (SCRM) is providing housing support (see below) as well as support for the economic empowerment of refugees. Funds are planned and allocated on an annual basis in the State budget. In 2015, 79,840,000 RSD (some 650,000 Euro) was spent for economic empowerment through grants for local self-government. Implementation of 2016 projects is ongoing.

While Serbia adopted the National Strategy for Resolving Issues of Refugees and IDPs for the period from 2015 – 2020, its Action Plan, aimed at setting up concrete action points and corresponding time lines, still needs to be adopted.

*UNHCR recommends that Serbia adopt the Action Plan for the implementation of the Strategy without further delay.*

**Kosovo (S/RES/1244 (1999)):** All 26 remaining refugees from Croatia have expressed the wish to integrate locally. Most of the refugees have acquired multiple personal documents from different institutions and governments (e.g. Serbia, Croatia, the United Nations Interim Administration Mission in Kosovo (UNMIK), Kosovo (S/RES/1244 (1999))). According to legislation in force in Kosovo (S/RES/1244 (1999)), from 1999 to 2008, refugees have gained the right to register with UNMIK (as habitual residents) and receive UNMIK ID cards and travel documents. By doing so, they formally gain full rights as citizens and have access to public services. Further to this and based on post-2008 legislation, refugees have gained the right to acquire Kosovo (S/RES/1244 (1999)) “citizenship” and formally obtain full rights for access to public services, while retaining refugee status with the Serbian Commissariat for Refugees and Migration.

## **b) Adequate housing**

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<sup>37</sup> Stipulated in Article 1 of the Law on Refugees in Serbia.

The prospects and opportunities for local integration in the place of displacement are improving in the region, especially due to the advancing implementation of the RHP.

In Bosnia and Herzegovina, more than 5,000<sup>38</sup> refugees from Croatia have applied for housing within the RHP scheme. A total of 151 families from Croatia should benefit from RHP sub-projects that have been approved. To date, 20 refugee families from Croatia have received construction material to build a house. Given their vulnerability, the competent Ministry in the Republika Srpska provided additional financial means to cover the cost of installation of those materials. Additional complementary sustainability measures have been provided through a project funded by the Bureau for Population, Refugees and Migration of the United States of America. A further 30 families have been selected to benefit from RHP sub-projects, and the selection of an additional 100 beneficiary families is ongoing.<sup>39</sup>

In Montenegro, refugees from Croatia stand to benefit from three out of four approved RHP sub-projects.

The largest group of RHP beneficiaries is in Serbia, where the provision of housing is an important part of a programme to support sustainable local integration. Refugees from Croatia are expected to constitute between 70 and 75 per cent of the beneficiaries for the 4,666 planned housing solutions under the RHP Country Housing Programme for Serbia. Six sub-projects were approved and their implementation started. So far, 21 per cent of the planned beneficiaries have been selected; the vast majority of the 1,016 RHP beneficiaries so far selected in Serbia originate from Croatia.

In Kosovo (S/RES/1244 (1999)), a lack of housing solutions, as elsewhere, represents a major obstacle to the sustainable integration of refugees from Croatia. They have been included in projects under the national IPA (Instrument for Pre-Accession) projects.<sup>40</sup>

### **c) Employment**

Economic and employment prospects in the region have not improved in the reporting period. It is not known how many refugees from Croatia secured jobs during this period and no data is available regarding State programmes for employment for this category of persons.

UNHCR notes ongoing challenges with respect to access to employment for refugees from Croatia in host countries in the region, whether due to existing restrictions based in law or a lack of implementation of more favourable provisions where these exist.

Within the context of the RHP, UNHCR has continuously reiterated to Partner Countries the commitment they made in the Belgrade Declaration of 7 November 2011 (Joint Declaration on Ending Displacement and Ensuring Durable Solutions for Vulnerable Refugees and

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<sup>38</sup> Total 1,550 families/5,208 persons originating from Croatia have applied for housing within the RHP.

<sup>39</sup> The selection process has been ongoing since March 2016 and involves the respective entity authorities, municipal representatives, centres for social welfare, UNHCR, and OSCE.

<sup>40</sup> In Gjilan/Gnjilane region, 2 families/5 individuals from Croatia will benefit from an IPA housing project designed for internally displaced persons in collective centres. In total, 22 families/35 persons residing in 11 collective centres in northern Kosovo (S/RES/1244 (1999)) are in need of adequate housing.

Internally Displaced Persons) to ensure that a comprehensive solutions-oriented approach is taken to ensure sustainability. This should include measures to provide for better employment opportunities. UNHCR has, *inter alia*, requested RHP Partner Countries to provide more detailed plans for economic and socio-cultural sustainability for any new sub-projects, including examination of social integration and employment programme opportunities, and has encouraged good practices from nationally or externally-funded programmes in the region to be integrated into RHP sub-projects with financial resources identified for this purpose.

*UNHCR continues to advocate improved employment opportunities through income generation programmes as part of projects undertaken to support the Regional Durable Solutions Process.*

#### **d) Access to acquired pension rights**

There was no progress on resolving the issue of outstanding pension payments between Croatia and Serbia. There have been no bilateral meetings on the issue and a new draft bilateral agreement on social insurance remains pending. In discussions with the competent Ministry in Croatia in 2015, UNHCR was informed that the issue of unpaid pensions might be resolved under this agreement. In May 2016, the main advisor to the Minister of the Croatian Ministry of Labour and Pension System informed UNHCR that Croatia is still in the process of revising a draft bilateral agreement on social insurance with Serbia. In this respect, the line ministry in Serbia was informed about the establishment of a new expert commission on the Croatian side that would work with Serbia on finalization of a new Agreement on Social Insurance.

The competent Croatian ministry has in the meantime stated that the new bilateral agreement should not address issues that had not been included already in the existing Agreement on Social Insurance. This includes the issue of outstanding pensions.

According to the Government of Serbia, issues to be resolved include: establishment of lists of affected beneficiaries; agreement that full compensation will be provided; resolution of all requests; and obtainment of funding for the compensation. In May 2016, UNHCR learned from the Croatian Ministry of Labour and Pension System that the Union of Pensioners from Croatia based in Serbia filed a complaint against Croatia with the International Labour Organization (ILO). The case was declared admissible by the ILO. Reportedly, Croatia is not acquainted with the content of the complaint, but confirmed to UNHCR that it would attend the hearing scheduled for September 2016.

*UNHCR continues to stress the need to urgently resolve this longstanding issue, which hinders the enjoyment of acquired rights for a significant number of Croatian pensioners, including considering to implement the proposals provided by TAIEX experts.<sup>41</sup>*

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<sup>41</sup> In February 2012, the EC (Technical Assistance and Information Exchange instrument using the TAIEX instrument) engaged two independent pension experts, who conducted a mission in order to analyse Croatian legislation on pension and disability insurance and its application. The experts subsequently issued an evaluation

### **e) Social assistance and health care**

In January 2016, a new Law on Health Insurance came into force in Montenegro, stipulating among other provisions that all foreign citizens must submit a certificate from their country of origin to prove that they are not beneficiaries of health insurance in that country in order to enjoy health insurance provided by Montenegro. It is unclear how often such a certificate must be submitted, whether once, or each time health care services are sought. There is a need to renew a health booklet, of which the validity is three months for adults and one year for children.

Access to social assistance or health care is generally granted to refugees from Croatia in other countries in the region with an exception to those in Bosnia and Herzegovina without registered residency.

*UNHCR recommends that Montenegro simplify the procedure to allow refugees from the former Yugoslavia to benefit from health insurance.*

### **E) Conclusion**

There has been no implementation to date of UNHCR's recommendation to declare the cessation of refugee status for refugees from Croatia displaced by the 1991-1995 conflict, pursuant to the "ceased circumstances" cessation clauses contained in paragraph 6(A)(e) and (f) of the UNHCR Statute and Article 1C(5) and (6) of the 1951 Convention by the principal host States. UNHCR welcomes, however, the continuing reduction in the numbers of registered refugees from Croatia, primarily due to acquisition of nationality in the host country in line with Article 1C(1) or (3) of the 1951 Convention.

UNHCR acknowledges the ongoing efforts in the region to ensure access to durable solutions for returnees to Croatia and refugees from Croatia. In light of the above, however, the recommendations contained in the April 2014 Advisory remain relevant.

UNHCR remains concerned that the Regional Durable Solutions Process may be delayed and that further barriers to voluntary repatriation and sustainable reintegration in Croatia persist. Additionally, concerns relating to the effective opportunity for local integration continue. UNHCR therefore urges Croatia and the host countries in the region to do their utmost to ensure that persons of concern are able to achieve a durable solution before the end of 2017, or that a solution has been clearly identified and is under implementation by then, and to work closely with their UNHCR counterparts to ensure that the durable solutions process

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report from the mission containing a non-binding recommendation on how to resolve the contested issue. The report recognized legitimacy of claims and invited parties to: 1) agree on the straightforward definition of the problem and 2) find a compromise solution, either through bilateral agreement or a unilateral legal instrument addressing specific cases. The experts have also advised that both administrations should try to come up with their own solutions which fit their needs rather than leaving the matter for the courts to resolve. The experts also referred to the emphasis that the European Court of Justice places on the protection of social security rights which represent the counterpart of contributions paid by beneficiaries. Thus, the experts stressed that if there are pensioners who are left without any income and for certain periods of time have not received any form of pension payments, these persons should be compensated for what they have lost.

continues to progress and is not adversely impacted or curtailed by the cessation of refugee status. UNHCR continues to stand ready to work closely with Governments in this respect.

UNHCR calls on the Government of Croatia to take further measures to ensure effective implementation at all levels (national, municipal) of laws, policies, and programmes aimed at improving housing assistance, resolving pending unsolicited investment cases, and facilitating access to free legal aid. UNHCR also invites the Government of Croatia to do its utmost to promote and create an atmosphere of tolerance, trust, coexistence, and reconciliation through prevention mechanisms and timely and efficient law enforcement in cases of hate crimes, speech, and incidents.

UNHCR calls upon all Governments to remove unnecessary administrative hurdles that affect refugees and returnees, including obstacles to regularizing status; obtaining nationality; enjoying rights, including housing, acquired pension rights and entitlements; and accessing basic services, including water, electricity, and healthcare. In this respect, UNHCR calls upon the Governments of Croatia and Serbia to reach a just solution for all affected by the unpaid pension entitlements.

UNHCR further believes that there may be refugees from Croatia who continue to be in need of a solution, but have not yet been identified due to the extent of their vulnerabilities and isolation. Consequently, UNHCR in the region, in close consultation with the Governments concerned, aim to continue their efforts to identify cases of particular concern and to review the residual problems that they and other refugees from Croatia may face, in line with the recommendations of UNHCR's Advisory.

UNHCR proposes further that, following the publication of this report, UNHCR discuss with their Government counterparts the preparation of an action plan for the coming period up to the end of 2016, so that relevant measures can be identified that would further enhance the implementation of UNHCR's recommendations in the Advisory and the progress achieved towards durable solutions for refugees from Croatia.

UNHCR remains committed to exploring pragmatic solutions and continuing active dialogue with the concerned States in the context of the letter and the spirit of the Joint Declaration on Ending Displacement and Ensuring Durable Solutions for Vulnerable Refugees and Internally Displaced Persons of 7 November 2011.

In order to facilitate solutions and close the displacement chapter, UNHCR will continue to analyze remaining challenges and to work closely with partners to identify vulnerable persons without a durable solution who may still be in need of basic assistance. UNHCR stands ready to develop additional responses and elaborate timeframes to implement recommendations in close consultation with the Governments concerned.

**UNHCR**  
**August 2016**