



PROFILE OF INTERNAL DISPLACEMENT : BOSNIA AND HERZEGOVINA

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PROFILE SUMMARY

The determination of the international community in implementing the right to return of the displaced persons and refugees in Bosnia and Herzegovina has paid off. The constant pressure on the local actors has finally opened the door to the return of displaced persons to areas dominated by hostile nationalist forces, particularly since 2000. The restitution of property to the displaced households is also going ahead, suggesting that the whole caseload of property claims might be settled towards the end of 2003. However, these positive developments should not overshadow the persistent obstacles to the return of the remaining 375,000 internally displaced and 173,000 refugees (UNHCR December 2002). The involvement of the international community is still needed to ensure the sustainability of the returnees' situation.

Return momentum

Bosnia and Herzegovina has made a considerable progress in implementing return. Official records maintained by UNHCR show that about 500,000 IDP and 420,000 refugees have returned to their pre-war homes since the entry into force of the Dayton Agreement which ended the conflict in December 1995. The total figure for return movements may be higher, as returnees do not always register with authorities. More than 378,000 displaced persons and refugees have gone back to areas where they do not belong to the dominant ethnic group. These "minority return" movements have been the most difficult challenge faced by the international community in its efforts to reverse the ethnic partition of the country. It is only since 2000 that minority return has taken up, with 67,000 such movements recorded. This trend has been confirmed in the following years, with more than 90,000 minority returns (refugees and displaced persons alike) in 2001 and again in 2002. About 95 percent of the 63,000 displaced persons who returned between January and November 2002 were "minority returnees" (UNHCR 30 November 2002).

Property restitution is going ahead

The positive return records have been mainly attributed to the determination of the international community to overcome the political obstruction from nationalist forces, particularly with regard to property restitution. The international community pushed for the adoption of property repossession legislation by entities in 1998. Necessary amendments were imposed in 1999 on both Entities in the country, the Federation of Bosnia and Herzegovina and the Republika Srpska, by the High Representative, who oversees the implementation of civilian aspects of the Dayton agreement on behalf of the international community. The High Representative has also made use of his power to remove local officials obstructing the implementation of the property legislation. In 1999, all relevant international organizations also agreed to coordinate their efforts to ensure a more systematic monitoring of the property repossession process (The Property Law Implementation Plan - PLIP). As a result, 67 percent of the property claims lodged by pre-war owners have been followed by repossession as of November 2002. This rate was only of 21 percent as of end of 2000 (OHR/OSCE/etc. 30 November 2002).

However, obstacles to the repossession of properties by displaced persons and refugees remain in place, leaving more than 80,000 property claimants still unable to recover their pre-war properties, seven years after the end of the conflict. Local authorities continue to delay the eviction of temporary occupants by failing to provide them with alternative accommodation. Decisions released by the High Representative in December 2001 impose measures to limit the discretion of local authorities when processing property claims. Also the right to alternative accommodation has been limited to persons who have no other means to house themselves (OHR/OSCE/etc. 12 September 2002). Property rights of the Roma community have also raised concerns among international agencies. Before the war, people of this community usually lived on socially-owned land without any official recognition. Therefore, Roma lack any legal entitlement to their pre-war residence and are thus unable to make claims for their losses (UNHCR August 2001, OSCE 7 April 2002).

A more favourable constitutional framework

It is also expected that recent constitutional developments will contribute further to the creation of a political environment conducive to the return of minorities. A decision of the Constitutional Court of Bosnia and Herzegovina in 2000 obliged both Entities, to give equal status to all “constituent peoples” (Serbs, Croats, Bosniacs and others) in their constitutions. Constitutional reforms imposed on Entities by the High Representative in April and October 2002 also provided for a minimum representation of all ethnic groups in executive, legislative and judicial institutions at the entity and cantonal level. They also instituted mechanisms to ensure that any ethnic group can effectively oppose legislation violating its own “vital national interests” at the Entity and canton level. These reforms should help strengthen the participation of returning communities in public affairs at the local level and enable even more displaced families to return (ICG 13 December 2002).

Remaining obstacles to return

Despite positive property restitution statistics and a more favourable constitutional framework, the return process continues to face serious obstacles. Many returnees have gone back to houses which are still in great need of rehabilitation or reconstruction work. Entities and local authorities have been very reluctant to devote sufficient budget resources to reconstruction projects for minority returnees, while the international community has decreased its financial support in the housing support. In December 2002, the International Crisis Group estimated that between 4,000 and 7,000 returnee families in need of reconstruction assistance would not receive any help before winter (ICG 13 December 2002). Many returnees live in temporary structure or even tents next to their destroyed property. In January 2002, the High Representative issued a decision obliging entities to more transparency on the allocation of budget funds for reconstruction in support to return (OHR 25 January 2002).

Returnees also face a difficult social and economical environment, particularly in areas where they do not belong to the ethnic majority. As unemployment reaches 40 percent of the working-age population country wide, returning displaced persons face major problems in sustaining their own life. Limited employment opportunities are compounded by widespread discrimination based on ethnicity, political affiliation and gender, particularly in the public sector. Ethnic discrimination regarding access to utilities, education, and health care is present as well. Furthermore, lack of cooperation between pension and health insurance systems in the two entities continues to affect the sustainability of return movements to minority areas (ICG 13 December 2002). The lack of access to an adequate level of social assistance makes returnees regularly dependent on humanitarian help. Emergency needs chronically surface during the winter season, as demonstrated by the Red Cross appeal launched in December 2003 to assist 30,000 of the most vulnerable minority returnees with food and hygiene parcels (IFRC 23 December 2002).

Furthermore, physical security is still a problem for minority returnees. Despite a significant decrease in ethnically-motivated violence, from over 300 incidents reported countrywide in 2000 to less than 2000 in 2002, the level of violence against minorities remains high (UNSC 2 December 2002, UNHCR 10 December 2002). This is especially the case in eastern Republika Srpska, where reported incidents have involved the use of explosive devices, handguns, knives by the perpetrators. The lack of an independent justice system and the monoethnic composition of the police forces ensure that most of these crimes remain unpunished (ICG 13 December 2002).

As a result of the hostile context, return remains a very fragile process. Minority returns seem to be more sustainable in rural areas, in small ethnic enclaves, where families can rely on gardens and subsistence farming, and where their presence triggers less attention from the majority population. International observers also report incomplete or aborted return movements. Displaced persons who have regained access to their property often decide not to return and leave their property unoccupied, sell or rent it. Many returnees continue to commute to the area of displacement where they have found a job. Families also frequently split, with one adult returning to the pre-war property, while other members remain in areas of

displacement, where children can follow the educational curriculum of their own ethnic group. Finally, there are reports that many returnees finally renounce to rebuild their life in their place of origin and prefer to sell their properties and resettle durably elsewhere in the country (ICG 13 December 2002, OHR/HRCC 5 February 2001).

Lack of data on IDPs' vulnerability

Although not exposed to any physical violence, persons still displaced by the war continue to live in precarious conditions. Accommodation constitutes the main problem as many displaced households illegally occupy houses or flats left behind by still other displaced families. A small portion of the displaced population – about 3,000 persons as of December 2002 – continue to live in collective centres (UNHCR 30 November 2002, collective centres). Existing data also suggest that displaced persons, as well as returnees, are particularly vulnerable to a risk of poverty. Long dependent on humanitarian aid, displaced persons have not been given an adequate level of attention from the social welfare system. Entities' social welfare centres tend to devote a considerable part of their resources to transfers to war veterans, although surveys have shown that this group is significantly less exposed to the risk of poverty than the rest of average population. This disproportionate level of assistance granted to the war veterans limits the scope for the provision of assistance to other vulnerable categories, such as the displaced persons and the returnees (European Commission 2002, Poverty Strategy Paper Team December 2002).

The re-registration of the displaced population conducted by UNHCR in 2000 revealed that only 16 percent of the displaced in Republika Srpska wished to return to their places of origin in the Federation, against 74 percent of the displaced in the Federation who wished to return to Republika Srpska (UNHCR 29 November 2001). As observed by international organizations on the ground, authorities in the Republika Srpska continue to support the durable resettlement of the displaced population on their territory rather than encouraging them to return to areas controlled by other ethnic groups. Socially owned land continues to be allocated by the RS authorities to Serb displaced households, with detrimental effects on the livelihoods of minority returnees who are often deprived of cultivable land as a result (HRW 30 May 2000). Similar cases of abusive allocation of land have been reported in the Federation (ICG 13 December 2002, OHR HRCC 17 April 2002).

From humanitarian aid to development

The international community maintains a massive presence in the country to ensure the implementation of the peace agreement by all parties under the supervision of the High Representative. The Dayton agreement has designated UNHCR as the lead agency for the return of both refugees and displaced persons. However, the complexity of the return challenge has necessitated a strong cooperation between all relevant international actors. Since 2002, the property restitution process has been dealt with through an interagency framework, the PLIP, which includes the OSCE, the Office of the High Representative, and the Commission for Real Property Claims for Displaced Person and Refugees instituted by the Dayton agreement. The coordination of return and reconstruction policies and programmes is ensured through the Reconstruction and Return Task Force, which comprises humanitarian and human rights agencies, development actors, such as UNDP and the World Bank, and the main donors such as the European Union or the United States (OHR 2003). Regionally, the Stability Pact for Southeastern Europe plays also a significant role in promoting return and monitoring the commitments made by donors and the states in the region, through the Regional Return Initiative (Stability Pact 31 August 2002). With regard to security, the cooperation between international agencies, the NATO-led SFOR and the international police mission, under EU management since January 2003, has also proved essential (ICG 22 May 2001, EUPM 2003).

Seven years after the entry into force of the Agreement, the focus of the international presence has clearly moved from a humanitarian to a development agenda. Humanitarian agencies have either pulled out of the country (as WFP did in 1999) or have gradually reduced their activities. UNHCR has compressed its funding requirements, which decreased from US\$ 87 million in 1998 to US\$ 17 million in 2003 and will continue to provide "limited and flexible" humanitarian assistance to the most vulnerable returnees and to

support its country-wide network of legal assistance centres for returnees and IDPs (UNHCR December 2002). The declining financial support from major donor countries also affects the reconstruction effort, particularly in the housing sector, which may endanger the sustainability of return movements (IHF 28 May 2002).

The conflict (1991-1995)

The conflict in Bosnia erupted following the collapse of the Socialist Federal Republic of Yugoslavia in 1991 and 1992. Refusing to live with other ethnic groups in an independent Bosnia and Herzegovina, ethnic Serb extremists implemented a policy of “ethnic cleansing”, with the objective of creating a territorial continuity between Serb-dominated areas in Bosnia and Herzegovina and Serbia. Serious violations of humanitarian law were committed during the conflict, including large-scale expulsion of civilians, indiscriminate attacks and mass murder. Although officially united in an alliance against Bosnian Serbs, the two other ethnic groups in the country, the Bosnian Croats and, to a lesser extent, the Bosnian Muslims (or Bosniacs) also attempted to create homogenous ethnic areas through the forced displacement of civilians. At the end of the conflict in December 1995, more than one million persons were internally displaced while 1.3 million had been forced to flee abroad (AI March 1997).

The Dayton Agreement enshrined the right of all the displaced persons to return to their homes (Annex 7). To facilitate the exercise of this right, the agreement provides for a strong international presence, comprising a civilian office headed by the High Representative as well as a NATO-led military force. The Agreement also calls for the creation of a mechanism to ensure the enforcement of the property rights of the displaced, namely the Commission for Real Property Claims. However, the Agreement also confirms indirectly the areas of influence of the various ethnic groups, in particular through the recognition of two entities whose border corresponds to the front line between the Croatian-Muslim alliance and the Bosnian Serb. Croat extremist attempts to create their own entity distinct from the Federation during 2001 continue to demonstrate the reality of war-inherited ethnic divisions in the country.

(Updated January 2002)

CAUSES AND BACKGROUND OF DISPLACEMENT

The ethnic conflict (1992-1995)

Displacement during the armed conflict (1992-1995)

- Three ethno-religious protagonists: Bosnian Croats (17% of Bosnia population), Bosnian Serbs (32%), and Bosniacs or Bosnian Muslims (44%)(1991 census)
- Most of current displaced and refugee population forced to leave in early months of the war (1992) by the Bosnian Serb forces
- Muslim population in Bosnian Croat-controlled areas displaced during Muslim-Croat conflict in 1993 and early 1994
- Muslim-dominated armed forces also responsible for forcible expulsions of Serbs in some areas
- Large waves of expulsions and departures in the early months of the war followed by a continual departure of the remaining minorities until the cease-fire in 1995

"Describing the conflict as a 'civil war' is inadequate, given the political and military involvement of neighbouring states, notably Croatia and Serbia who are 'parties' to the peace agreement. [...] Similarly, the 'ethnic' nature of the conflict is sometimes overstated, though peace plans, from Vance–Owen to the Dayton Agreement, recognize three 'ethno-religious' protagonists: Bosnian Croats, predominantly Roman Catholic (17 per cent of Bosnia's population at the 1991 census); Bosnian Serbs, predominantly Orthodox (32 per cent); and Bosniacs, who are Bosnian Muslims (44 per cent). The remainder of Bosnia's 1991 population (totalling 4.36 million) was made up of those who described themselves as 'Yugoslav' (5 per cent) and 'other ethnicities' (2 per cent)." (Stubbs 1998, p. 192)

"The armed conflict in Bosnia-Herzegovina was characterized by gross human rights abuses as armed forces led by one nationality attempted to force other nationalities out of the disputed territory. Bosnian Serb and Yugoslav National Army (JNA) forces (early in the conflict) were responsible for most abuses, but Bosnian Croat forces, the Croatian Army which fought with them, and to a lesser extent, forces of the mainly Muslim Bosnian Army also perpetrated abuses. While there were both regional and chronological variations in the pattern of events, analysis of the abuses reveals deliberate policies of killing, physically expelling or causing "unwanted" civilian populations to leave.

The early months of the war, from April 1992, saw the creation of most of today's refugees and displaced people. Some of those people were taken away at gunpoint, but most fled to escape the gross human rights abuses which were being perpetrated around them. Many of those who left were forced to sign documents transferring their property to the municipality." (AI 19 March 1997, Part I)

"Most displacement took place in 1992 through a series of territorial shifts and incidents of forced expulsion, termed "ethnic cleansing", which generated more than 1 million internally displaced and some 1,1 million refugees who left the territory of Bosnia-Herzegovina but remained on the territory of the former Yugoslavia." (Weiss & Pasic 1998, p. 185)

"Early in the conflict the Bosnian Serb forces, Serbian paramilitaries and the JNA units that became the Bosnian Serb Army (VRS) typically used overwhelming military force to crush resistance and round up the civilian population. Tens of thousands of people were detained in concentration camps and mass prison compounds where torture and deliberate and arbitrary killings were everyday occurrences. Thousands of

these detainees are still “missing”. Many of those who survived detention were not allowed to return to their homes, but were handed over in prisoner exchanges. Civilians were often detained as hostages to be traded for prisoners of war or the bodies of dead soldiers.

Many of those who were not detained were forced to cross the front lines, often having to pass through minefields and sometimes being shot at or being robbed and assaulted by soldiers. During the Muslim-Croat conflict in 1993 and early 1994, Muslims in Bosnian Croat-controlled west Mostar were frequently made to cross the lines into the Muslim-controlled east part of the town. Thousands of Muslim men detained by Bosnian Croat forces during this part of the conflict were unable to return to their home areas upon release or exchange. The Muslim-dominated armed forces which were formed into the Army of Bosnia-Herzegovina were responsible for forcible expulsions of Serbs in some areas, notably in the Konjic area in early and mid-1992. All sides mobilized minorities to perform forced labour, often in dangerous situations such as trench-digging close to front lines or in minefields. Some of these people were effectively in detention.

Thousands of women were raped or sexually abused as part of the pattern of abuses aimed at expelling civilian populations. [...] The incidence of male rape is also under-reported because of the stigmatization which results from such violations. The large waves of expulsions and departures in the early months of the war were followed by a continual haemorrhage of the remaining minorities particularly from the Bosnian Serb-controlled region of northwest Bosnia. In many areas, members of minority nationalities had been reduced to a residual core long before the cease-fire of October 1995." (AI 19 March 1997, Part I)

A dramatic failure of the international community: the "safe areas" (1993-1995)

- In 1993, the Security Council placed six government-held areas under the protection of the United Nations and the NATO military alliance
- The six safe areas were under constant siege and intermittent bombardment by the Bosnian Serbs; two of them (Srebrenica and Zepa) were ultimately seized by the Bosnian Serbs (1995)

"[T]he UN Security Council has declared six government-held enclaves - Bihac, Gorazde, Sarajevo, Srebrenica, Tuzla and Zepa - to be safe areas, with the purpose of safeguarding civilians from attack and ensuring that they receive the humanitarian assistance which they need to survive. Established in 1993, the Security Council placed the safe areas under the protection of the United Nations and the NATO military alliance.

[...]

The six safe areas have been under constant siege and intermittent bombardment by the Bosnian Serbs, jeopardizing the safety of the residents. Thus in 1994, the former chief of UNHCR's Bosnia operation wrote that 'surrounded by enemy forces, without basic shelter, medical assistance or infrastructure, isolated and living under sporadic shelling or sniper fire, these areas are becoming more and more like detention centres, administered by the UN and assisted by UNHCR.

Events in Srebrenica and Zepa in July 1995 underlined even more graphically the vulnerability of the safe areas to armed attack. Having endured the siege for many months, these two safe areas were finally seized by Bosnian Serb forces, and the population expelled from the enclaves." (UNHCR 1995a, Box 3.5)

"Srebrenica was overrun by Serb forces on 11 July 1995. Some 6000 Bosniac males appear to have been killed in the following days, and over 30,000 people fled to Tuzla and its environs." (Stubbs 1998, pp. 193-194)

"After an intense round of diplomatic negotiations, NATO announced that it would launch intensive air strikes against the Bosnian Serb forces, should they advance upon the remaining safe areas, particularly Gorazde in the east of the country.

As the Secretary-General has acknowledged, the safe areas in Bosnia and Herzegovina are not only dangerous, but have also been drawn into the deadly logic of the war. 'What is happening now,' he observed in May 1995, 'is that certain safe areas are used by the two parties to the conflict to sustain their confrontation.' Established without the consent of the Bosnian Serbs, and used as military bases by the Bosnian government forces, the safe areas could even be said to provoke attacks on the residents and relief personnel they are intended to protect." (UNHCR 1995a, Box 3.5)

For more information, see also:

"Final periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 42 of Commission resolution 1995/89", 22 August 1995, paras. 67-93 [Internet]

"Report of the Secretary-General pursuant to General Assembly Resolution 53/35, The Fall of Srebrenica, A/54/549" [Internet]

The Dayton Agreement consolidates the cease-fire (September-December 1995)

- Bosnia and Herzegovina continued as a sovereign state comprising two entities: The Federation of Bosnia-Herzegovina (a Bosniac-Croat Federation) and the Republika Srpska (Serbian Republic)
- Agreement provided for a strong NATO peace implementation force (IFOR) (later the peace stabilization force (SFOR)), together with a civilian office of the high representative (OHR).

"A cease-fire was called in September 1995. A general framework agreement (the 'Dayton Agreement') was signed in Dayton, USA on 21 November 1995 and subsequently in Paris, France by the presidents of Bosnia-Herzegovina, Croatia and Serbia." (Stubbs 1998, p. 192)

"The Dayton Agreement secured the continuation of Bosnia-Herzegovina as a sovereign state within internationally recognized borders, but gave this state and its revolving presidency only limited powers. De facto, most power resides in the two entities that make up the state: the Federation of Bosnia-Herzegovina, which controls 51 per cent of the territory, effectively a Bosniac-Croat federation that is further divided along ethnic lines at the cantonal and municipal levels; and Republika Srpska (the Serbian Republic), which controls 49 per cent, itself increasingly split between the western part loyal to Republika Srpska President Plavsic, and the eastern part loyal to Bosnian presidency member Krajišnik and, ultimately, to indicted war criminal Karadzic. The two entities are divided by an inter-entity boundary line (IEBL), which, on the whole, runs along the cease-fire line. In places, this is a highly visible line with the Dayton Agreement securing demilitarized 'zones of separation'; in others it is virtually invisible. Two significant territorial exchanges were agreed: Sarajevo became reunified within the federation, and Mrkonjic Grad and its surrounding areas were handed over to Republika Srpska. The strategically important town of Brcko remained Serb-held pending final arbitration [...]. The Dayton Agreement provided for a strong NATO peace implementation force (IFOR), which later became the peace stabilization force (SFOR), together with a civilian office of the high representative (OHR)." (Stubbs 1998, p. 192)

For the full text of the Dayton Agreement, see "General Framework Agreement" (Office of the High Representative Website) [Internet]

For more information on the provision of the Dayton Agreement on the return of the displaced populations, see "The General Framework for Peace in Bosnia and Herzegovina (The Dayton Agreement)" [Internal link]

The reconstruction (1996-2001)

More population displacement in 1996

- Transfer of territory between the Muslim-Croat Federation and the Republika Srpska (mainly in Sarajevo) forced about 60,000 Serbs to leave for the Yugoslav Republic or various destinations in the Republika Srpska
- Remaining minorities evicted particularly in the Republika Srpska and in Croat-held areas

"With the signing of the Dayton Peace Accords on December 14, 1995, the stage was set for the monumental task of implementing the agreement's provisions in Bosnia and Hercegovina [...] during 1996. By March, the North Atlantic Treaty Organization (NATO) had deployed most of its 60,000-troop "Implementation Force" (IFOR), which successfully separated the warring parties and began to provide the necessary security to edge the Bosnian cease-fire toward peace. On September 14, Bosnians went to the polls and elected national representatives without any major security incidents reported. Notwithstanding these noteworthy accomplishments, the implementation of major aspects of the peace agreement lagged far behind in 1996. Rather than uprooted persons being able to return to their original homes – a fundamental principle of the Dayton Peace Accords – displacements and "ethnic cleansing" continued during the year, accentuating the trend toward ethnic separation and away from the ideal of a single, multi-ethnic state enshrined in the Dayton Peace Accords." (USCR 1997, p. 170)

More displacement induced by transfer of territory

"The transfer of territory between the Muslim-Croat Federation and the Republika Srpska and the ability of Muslims and Croats to govern jointly within the Federation posed the first critical challenges to the Dayton Peace Accords during 1996. Both issues came to a head in the cities of Sarajevo and Mostar between January and March.

Among the most contentious of the land transfers mandated by the Dayton Peace Accords was the return of five Serb-held suburbs around Sarajevo to Federation control by mid-March 1996. The Bosnian Serb authorities relinquished control of Grbavica, the last of the five suburbs, on March 19. But by the time of Sarajevo's reunification, some 62,000 Serb residents had left those suburbs for the Federal Republic of Yugoslavia and various destinations in the Republika Srpska. These included Srebrenica, Bratunac, Zvornik, Visegrad, and Rogatica – areas which had Muslim majorities before the war but since had been "ethnically cleansed." Only about 8,000 Serbs chose to remain in the five formerly Serb-held suburbs after they reverted to the control of the Bosnian government.

In the weeks and days preceding and directly following its transfer, Serb-held Sarajevo degenerated into a state of lawlessness, characterized by widespread terror, looting, and arson. Serbs who decided to remain in their Sarajevo homes were subject to systematic intimidation, first from Serb nationalists determined to prevent peaceful coexistence between Bosnia's ethnic groups, and second by extremists among the Muslim returnees to the suburbs who harassed them and looted their houses with impunity once the Bosnian government authorities had resumed control. These events, said NATO's Secretary General, Javier Solana, represented a 'terrible blow to our vision of a multi-ethnic Bosnia.'

[...]

Displacements resulting from the transfer of territory elsewhere in Bosnia foreshadowed the considerably larger exodus of Sarajevo's Serb communities. In January, some 7,000 Bosnian Serbs abandoned their homes in and around Odzak in northern Bosnia before the area reverted to Federation control. An additional 2,500 Serb residents of the south-central Bosnian town of Borci left their homes for Visegrad in

the Republika Srpska. As in Sarajevo, widespread looting and burning took place in these and other areas that were transferred from one side to the other." (USCR 1997, pp. 172-173)

Continued Ethnic Cleansing

"As members of Bosnia's rival groups strongly, and sometimes violently, opposed the return of minority refugees and internally displaced persons in 1996, so too were they intolerant of minorities who remained in their midst. Extremists and advocates of ethnic purity, particularly in the Republika Srpska and Croat-held territory, continued to "cleanse" their communities of undesired minorities who remained." (USCR 1997, p. 174)

Slow progress of reconstruction and return since the Dayton Agreement (1997-1999)

- International efforts has not yet achieved the goal of establishing Bosnia as a stable, functioning state
- Implementation of the Peace Agreement (including the return of refugees and displaced persons) only possible under intense international pressure
- New climate of cooperation and improving relations between the leadership of the Republika Srpska entity and the Bosnia and Hercegovina observed during first half of 1999

"Despite considerable progress since the signing of the Dayton Peace Agreement (DPA) in November 1995 in consolidating the peace and rebuilding normal life in Bosnia and Herzegovina (Bosnia), international efforts do not appear to be achieving the goal of establishing Bosnia as a stable, functioning state, able at some point to run its own affairs without the need for continued international help. Peace, in the narrow sense of an absence of war, has been maintained; progress has been made in establishing freedom of movement throughout the country; joint institutions, including the state presidency, parliamentary assemblies and ministries, as well as a joint command for the armed forces of the Federation of Bosnia and Herzegovina (Federation), have been established.

However, the return of refugees and displaced persons (DPs), one of the key planks of the DPA, has been disappointingly slow, despite considerable international attention to this issue and the application of considerable resources. While joint institutions have been set up, at the state level they barely function, if at all, with the international high representative [...] having to intervene and impose decisions in a number of key areas. Institutions in the Federation frequently do not function properly. Bosniac and Croat parallel institutions continue, de facto, to operate, while in cases where joint institutions have begun to function, Bosniac and Croat officials often behave more as representatives of their ethnic groups and political parties than as professional public servants. And while a joint command for the Federation Army notionally exists, in practice separate Bosniac and Croat military formations remain, so that Bosnia still effectively has three military forces representing the three recent wartime protagonists.

In general, mutually-suspicious ethnic parties representing the three principal ethnic groups are dominant. They hold very different perspectives about how the country should look. If they do co-operate at all in implementing the DPA it is usually only grudgingly and under intense international pressure. The political system, which requires consensus among ethnic representatives, does not function effectively." (ICG 9 September 1998, Introduction)

Signs of improvements in 1999

"A new climate of cooperation and improving relations between the leadership of the Republika Srpska entity and the Bosnia and Hercegovina Government are two of the positive signs for post-Dayton programmes. Relations with the Republika Srpska entity began in 1999 on a sour note with the nearly simultaneous announcement of the international arbitration on Brcko and the High Representative's decision to remove the President of the entity. However, with the passing of the initial protests and the

forced interdependency within Bosnia and Hercegovina as a result of the sanctions and military action against the Federal Republic of Yugoslavia, the atmosphere has improved. The current Republika Srpska representative to the Bosnia and Hercegovina Presidency has also been more forthcoming with respect to democratic reforms and confidence-building. It is hoped that these developments will remove some of the political and legalistic barriers to post-Dayton implementation programmes." (UN July 1999, p. 9)

Political scene decreasingly dominated by nationalistic forces (1999-2002)

- Nationalistic forces dominated the political scene until the General Elections of November 2000
- Cooperation between the High Representative and local actors and institutions improved significantly since then
- Developments such as the accession to the Council of Europe highlight the fact that BiH statehood is no longer at issue
- Relations with neighbouring countries have also normalized
- High Representative had to face attempts by Croat nationalist forces to create a third Croat-dominated Entity (March 2001)
- Parliamentary Assembly in the Republika Srpska still often obstruct legislation and slow down efforts to strengthen the State but there have been some positive signs of shifting attitudes
- October 2002 general elections have shown a declining support to nationalist forces which continue to control the BiH presidency
- The votes of returnees and potential returnees, voting in absentia, have begun to affect politics locally

Assessment of political developments by the High Representative (August 1999-May 2002)

"In general, I would divide my three-year term as High Representative into two parts. The first part, which lasted for about a year and a half, was marked by robust, intensive, and above all, direct engagement in all aspects of political life in BiH. During that period, I had to remove –under my GFAP Annex 10 powers– around 70 politicians, among them the Croat member of the BiH Presidency, a cantonal governor, several ministers and a number of mayors, for obstruction of the peace implementation process. Because of persistent nationalist obstruction of essential legislation in the BiH Parliament, I had to impose laws on a wide range of issues, necessary for strengthening the State institutions, sustaining returns and reforming the economy.

The second part of my term was marked by efforts to establish partnership with the non-nationalist forces that came to power after the elections of November 2000, and to show them that they, too, are responsible for the future of BiH. During this second phase, BiH made significant strides towards a progressive transfer of ownership to its citizens and institutions. Politicians in BiH are now more capable of independent problem-solving and decision-making, as demonstrated by the passage of the Election Law in August 2001 and, above all, the negotiations on Entity constitutional reform which culminated in the 27 March 2002 Mrakovica-Sarajevo Agreement. [...] The Council of Europe (CoE) provided important recognition of BiH's progress when it granted the country full membership on 24 April 2002.

Developments such as CoE accession highlight the fact that BiH statehood is no longer at issue. Although its citizens sometimes still have difficulty viewing their country with pride and confidence, this will change as the IC's institution-building efforts begin to bear fruit and the State begins to deliver benefits. Also, since the establishment of democratic regimes in Croatia and the Federal Republic of Yugoslavia (FRY), the country is no longer under any serious external political or military threat. In this regard, the last year has been characterized by a series of events including the exchange of ambassadors between BiH and FRY and a number of high-level parliamentary visits from both FRY and Croatia.

As said in my 19th Report, the Republika Srpska (RS) and FRY signed an Agreement on Special Parallel Relations (SPR) on 5 March 2001. Although the concept of 'special' relations between an Entity and a neighboring country is an outdated concept, such an agreement is a right of the Entities, in conformity with the General Framework Agreement for Peace in BiH (GFAP). Nevertheless, I ensured that the agreement's text and spirit fully respect BiH's sovereignty and territorial integrity. My Office has a supervisory role in the agreement's implementation and is involved in the drafting of its annexes. Moreover, I insist with the governments of neighbouring countries -and with those in BiH at State and Entity level- to concentrate on state-to-state relations.

The overall positive developments in the region influenced the results of the November 2000 Elections and had major impact on the nationalist parties of BiH. Still, during my mandate it was necessary to face down religious and nationalist intolerance, most blatantly over the Croat declaration of 'self-rule' on 3 March 2001. [...] Because of this declaration, I had to remove Ante Jelavic, the Croat member of the BiH Presidency and President of the nationalist HDZ party, from his positions, for personally leading this violation of the constitutional order. In April that same year, I appointed a Provisional Administrator for Hercegovacka Banka, which acted as the financial backbone of the HDZ-led illegal parallel structures. The investigation into this bank is continuing and, in April 2002, I decided to extend the term of the Provisional Administrator for another year.

The hard-line leadership's failure to establish the Third Entity has led to a crisis in the HDZ. At first, Jelavic and his cohorts refused to step down from their leadership positions in the party, even though that meant they could not register for the 5 October 2002 elections. But, as of 4 May, Jelavic and his associates resigned. Although I welcome the resignations as a sign that the majority of HDZ members realize that the pursuit of a Third Entity is a dead-end, it is too early to say whether or not the party will undergo a true process of democratization.

Change is also taking place among the nationalist elements in the RS. Although the Serb members of the BiH Parliamentary Assembly still often obstruct legislation and slow down efforts to strengthen the State and enhance its competencies, there have been some welcome signs of shifting attitudes. On 12 December 2000, in my presence, the SDS leadership endorsed Dayton, along with all previous PIC Declarations, and committed the party to full cooperation with the IC. Although they have not fulfilled all these commitments, there has been significant improvement, and in December 2001 they barred indicted war criminals from membership in the party. They also participated actively in the 2002 constitutional reform process, and accepted the Mrakovica-Sarajevo Agreement, including the provision that positions in the RS government, legislature, and judiciary must be given to Bosniacs and Croats. Such a development would have been difficult to imagine when I took on the role of High Representative in August 1999. (OHR 14 May 2002, sect. II)

"Nationalist local officials have continually set up obstacles to the return of the displaced since the signing of the Dayton Peace Agreement in 1995. The appointment of the new moderate government has been hailed by international observers as a development which should contribute to the country's progress in accelerating the return of refugees and displaced people." (UNHCR 28 February 2001, p. 4)

On 5 October 2002, general elections awarded four-year mandates for the Presidency of BiH, the House of Representatives of the Parliamentary Assembly of BiH, the House of Representatives of the Parliament of the Federation of BiH (Federation), the President and Vice Presidents of the Republika Srpska (RS), the National Assembly of the RS, and ten Cantonal Assemblies in the Federation, as well as a two-year mandate for the Municipal Council of Žepče. Representatives of the nationalist SDA, SDS, and the HDZ, won the Bosniac, Serb, and Croat seats in the three-member BiH Presidency. At the State level, and in the elections for the Entity parliaments, the HDZ and SDS saw their vote drop slightly, while the SDA increased its vote by five percentage points. The SDP, which was the central party in the Alliance that had governed at State and Federation level, lost the biggest share of votes when it dropped from 27.3% to 16.2%.

“[The results of Bosnia’s fourth post-war general elections on 5 October 2002] were widely interpreted by the international media and some of the domestic press as an unalloyed victory for the nationalist parties that made and fought the war – and had done their worst since to preserve its spoils, including the homogenisation achieved by ‘ethnic cleansing’. The outcome was seen as an ominous setback for efforts to put the complex multinational state recreated in Dayton on the path to stability, legitimacy, prosperity and European integration.

The Cassandras overlooked several factors. Not only did support for two of the three nationalist parties, the Croatian Democratic Union (HDZ) and Serb Democratic Party (SDS), decline, but the latter faced its most serious challenge to date from the moderate Alliance of Independent Social Democrats (SNSD). This was sufficient to undermine its longstanding claim to be the natural party of government in ‘its’ entity, Republika Srpska (RS). Moreover, the votes of returnees and potential returnees, voting in absentia, have begun to affect politics, permitting Federation-based parties to claim 17 per cent of the seats in the RS National Assembly in the October elections.

The media also failed to consider that the biggest losers, the multinational Social Democratic Party (SDP) that had led the ‘Alliance for Change’ in the Federation and on the state level, may have done most to contrive their own defeat. In any case, the low turnout (55 per cent) was as much a vote against politics-as-normal as for nationalism.” (ICG 13 December 2002, executive summary)

New regional context more favourable to durable solutions (2000-2001)

- Changes in the leadership in the Federal Republic of Yugoslavia and Croatia create conditions for more constructive bilateral relations
- On 27 June, Croatia, the Federal Republic of Yugoslavia and Bosnia and Herzegovina endorsed a ‘regional action’ programme to accelerate refugee returns
- On 29 June, the Agreement on Succession Issues of the Former Socialist Federal Republic of Yugoslavia (SFRY) was signed in Vienna

"Progress in Bosnia and Herzegovina is inextricably linked to developments in the region. With the recent historic change in the leadership of the Federal Republic of Yugoslavia, together with changes earlier in 2000 in the Republic of Croatia, for the first time since the war there is a realistic prospect of constructive bilateral relations based on mutual respect for the sovereignty and territorial integrity of each State, while also developing the 'special relations' that are envisaged in the Dayton Accords. The recent visit of President Kostunica to Sarajevo was a first step towards full normalization of bilateral relations. Every effort should continue to be made in order to move this process forward." (UNSC 30 November 2000, para. 33)

"Renewed Regional Co-operation: On 21 May, an official BiH state delegation visited Belgrade for the first time since the end of the war. A week later, the Croatian President, Stipe Mesic, paid a two-day visit to Sarajevo. A result of these meetings was the establishment (in the case of the FRY) and the more efficient functioning (in the case of Croatia) of Inter-state Councils between BiH and the two states. In addition, on May 14, the ministers of interior of these three countries signed an agreement on the fight against organized crime in the region, corruption and the trafficking of people, and on joint police activities. On 27 June, the Republic of Croatia, the Federal Republic of Yugoslavia and signed a ‘regional action’ programme in Brussels to accelerate refugee returns in the Balkans. The programme will be funded through bilateral initiatives and national action plans under the umbrella of the Stability Pact for SE Europe. The objective is to resolve the plight of approximately 490,000 refugees and displaced persons within two years. BiH On 29 June, the Agreement on Succession Issues of the Former Socialist Federal Republic of Yugoslavia (SFRY) was signed in Vienna by the Foreign Ministers of BiH, the Republic of Croatia, the Republic of Slovenia and the Federal Republic of Yugoslavia, and the Vice President of the Former Yugoslav Republic of

Macedonia. The Agreement provides for the distribution of the rights, obligations, assets and liabilities of the SFRY among the States, and symbolises the beginning of a period of renewed regional co-operation." (OHR HRCC 18 October 2001)

See also Radio Free Europe/Radio Liberty note "[Which way for Bosnia?](#)", 14 May 2001 [Internet]

See also "[A regional initiative: the Stability Pact for South Eastern Europe](#) envelope on Stability Pact" [Internal link]

POPULATION PROFILE AND FIGURES

Total Figures

Total internally displaced population: 375,000 persons (as of 1 December 2002)

- Available figures show a continuous decrease in 2002
- Both entities host approximately equal number of displaced persons

Estimate of BiH displaced persons still in need of durable solutions as of 1 December 2002

IDPs in the Federation of BiH	170,000
Out of this, nb in collective centres	2,020
IDPs in the Republika Srpska	185,000
Out of this, nb in collective centres	1,108
IDPs in the Brcko District	20,000
Total IDPs in BiH	375,000

(UNHCR 1 December 2002)

Estimate of BiH displaced persons still in need of durable solutions as of 30 April 2002

IDPs in the Federation of BiH	194,000
Out of this, nb in collective centres	2,641
IDPs in the Republika Srpska	198,500
Out of this, nb in collective centres	1,975
IDPs in the Brcko District	21,500
Total IDPs in BiH	414,500

(UNHCR 1 December 2002)

UNHCR figures show significant decrease of IDP population between 1999 and 2001

- IDP population fell below 500,000 persons in 2001

Estimate of internally displaced persons still in need of durable solutions (as of 1 October 2001): 470,500

Federation of Bosnia and Herzegovina: 236,000

Republika Srpska: 212,500

Brcko District: 22,000

(UNHCR October 2001)

Estimates of internally displaced persons still seeking solutions (as of 31 August 2000): 793,500

- Federation of Bosnia and Herzegovina: 462,500

- Republika Srpska: 331,000

(UNHCR 6 September 2000)

Estimate of displaced persons still seeking solutions (as of 31 August 1999): 838,000

Federation of Bosnia and Herzegovina: 487,300

- 98,500 are originating from the Federation.
- 388,800 are originating from the Republika Srpska.

Republika Srpska: 343,500

- 298,000 are originating from the Federation.
- 45,500 are originating from the Republika Srpska.

(UNHCR 15 September 1999)

Estimate of displaced persons still seeking solutions (as of 1 March 1999): 836,500

Federation of Bosnia and Herzegovina: 490,000

- 107,000 are originating from the Federation.
- 383,000 are originating from the Republika Srpska.

Republika Srpska: 346,500

- 300,500 are originating from the Federation.
- 46,000 are originating from the Republika Srpska.

(UNHCR 26 May 1999)

At least 200,000 persons have become internally displaced since the Dayton Agreement (1995-1999)

- 80,000 persons displaced as a result of transfers of territory between the two Entities
- The internally displaced population also includes returning refugees who cannot return to their pre-war home

Newly displaced persons

"[S]ince Dayton, another 80,000 individuals have been displaced as a result of transfers of territory." (UN Commission on Human Rights, 17 March 1998, para. 4)

Relocated returning refugees

"In 1999, 43,385 internally displaced persons returned to their places of origin - 50 percent more than in 1998, when 29,570 internally displaced persons returned. Despite these returns, the overall number of internally displaced people in Bosnia barely decreased from the previous year, as many repatriating refugees became newly displaced. About 10,000 Bosnian Serbs originating in the Federation relocated from Yugoslavia to Republika Srpska at the time of the bombing; and many non-Serb returnees from third countries, originally from Republika Srpska, were forced to relocate to areas of the Federation." (USCR 2000, p. 220)

"The total number of refugees having returned to Bosnia since the end of the war has reached some 330,000. Another 256,000 displaced persons have returned within Bosnia, but the overall estimated number of displaced has continued to increase to approximately 850,000, as refugees relocated upon repatriation outnumber those who return to their pre-war homes." (UN SC 11 June 1999, para. 46)

Cumulative figure for relocating returnees (1997-1998) as of 10 November 1998

106,000 refugees relocated in the Federation

9,500 refugees relocated in the Republika Srpska

(HIWG 16 November 1998, p. 13)

For more information on the relocation on returning refugees, see ["Return of refugees to situations of internal displacement \(1999\)"](#) [Internal link].

Total internally displaced population (from December 1996 to November 1998): More than 800,000 persons

Estimate of displaced persons still seeking solutions (as of November 1998): 860,000 persons

Federation of Bosnia and Hercegovina: 500,000

117,000 are originating from the Federation.

383,000 are originating from the Republika Srpska.

Republika Srpska: 360,000

314,000 are originating from the Federation.

46,000 are originating from the Republika Srpska.

Total figure includes refugees who have returned to internal displacement.

(UN December 1998, pp. 14-15; OHR/RRTF 13 December 1998, para. 2.2; HIWG 16 November 1998, p. 13)

Estimate of displaced persons still seeking solutions (as of December 1997): 816,000 persons

Federation of Bosnia-Hercegovina: 450,000

117,000 are originating from the Federation.

333,000 are originating from the Republika Srpska.

Republika Srpska: 366,000

317,000 are originating from the Federation.

49,000 are originating from the Republika Srpska.

(UN December 1998, p. 15; USCR 1998, p. 164; UNHCR July 1998, table 1)

"Precise data for the number of IDPs at the end of the war as well as current figures are not available. Nonetheless, UNHCR and Federation authorities agree that there were an estimated 450,000 internally displaced persons in the Federation as of the beginning of 1997. In the RS Entity, officials estimate that the current number of internally displaced persons total 416,000. However the Coalition for Return estimated differ - 605,000 internally displaced persons in the Federation, and 295,000 in the RS Entity." (ICG 30 April 1997, section 3)

"In April 1997, the respective entity authorities of Bosnia and Herzegovina estimated that there were 450,000 internally displaced persons in the Federation and 416,000 in Republika Srpska." (UN November 1997, p. 28)

"While a full census is due to be carried out in 1998, the total figure of 866,000 may be relatively accurate, although there is considerable disagreement about the breakdown between the entities." (Stubbs 1998, p. 193)

December 1996: between 760,000 and 1 million persons

Indicative number of internally displaced of concern to UNHCR

IDPs of concern to UNHCR, Total: 760,146

IDPs of concern to UNHCR, Assisted: 494,095

(UNHCR 1997, table 2)

"By the end of 1996, close to half of Bosnia's pre-war population of 4.4 million remained uprooted by war. About one million persons remained displaced within Bosnia." (USCR 1997, p. 171)

For a critical review of figures for displaced population, see ICG reports "[Minority Return or Mass Relocation?](#)" (14 May 1998) and "[Going Nowhere Fast: Refugees and Internally Displaced Persons in Bosnia](#)" (30 April 1997) [Internet]

Total internally displaced population during the war (from 1993 to 1995): 1,1 to 1,3 million persons

End 1995

Indicative number of internally displaced of concern to UNHCR (as of end 1995)

Assisted IDPs: 1,097,900

Total IDPs: 1,097,900

(UNHCR 1996, table 7)

"[...] UNHCR estimates that 1.3 million persons remained displaced within Bosnia at the end of 1995, while that lead UN agency in Bosnia characterized another 1.4 million within Bosnia as 'war affected'". (USCR 1996, p. 129)

End 1994

Indicative number of internally displaced of concern to UNHCR (as of end 1994)

Assisted IDPs: 1,282,600

Total IDPs: 1,282,600

(UNHCR 1995, table 6)

"In much of the country, conditions remained grim at best. An estimated 1.3 million Bosnians were internally displaced, more than 800,000 others had fled the country entirely, and tens of thousands, had been killed in the conflict. (USCR 1995, p. 128)

End 1993

Indicative number of internally displaced of concern to UNHCR (as of end 1993)

Assisted IDPs: 1,290,000

Total IDPs: 1,290,000

(UNHCR 1995, table 6)

Disagreggated figures

Internally displaced persons in collective centres (1995-2002)

- Statistics show a decrease since December 1995

Collective Centres (CC) Status (as at December 2002)

	Federation	RS	BH
Nb of operating collective centres	27	21	48
Nb of resident DPs	2,020	1,108	3,128

Total CC residents in BH in December 2001: 5,639

Total CC residents in BH in December 2000: 9,210

Total CC residents in BH in December 1999: 10,878

Total CC residents in BH in December 1998: 12,061

Total CC residents in BH in December 1997: 31,302

Total CC residents in BH in December 1996: 18, 541

Total CC residents in BH in December 1995: 54,000

(UNHCR BiH August 2001)

See also UNHCR Map "[Collective centres in BiH](#)", April 2002 [Internet]

PATTERNS OF DISPLACEMENT

Typology of the internally displaced population

Inter-entity displaced constitute the largest group of IDPs in Bosnia

- Populations unable or unwilling to return to places governed by the same authorities who caused them to flee

"Inter-entity displaced are the largest number of IDPs, those who left their homes during the war and now find the place where they used to live assigned to the 'other' entity (for example non-Serbs find their former homes are now part of Republika Srpska). Their forced expulsion, termed 'ethnic cleansing', was an explicit war aim and paper guarantees of 'freedom of movement' are unlikely to alter their situation in the near future. Consequently, they remain unable or unwilling to return to places governed by the same authorities who caused them to flee in the first place. Many left so-called 'safe areas' that were overrun despite international community guarantees and long after Western countries closed their doors to Bosnian refugees. The most dramatic such exodus was from Srebrenica in eastern Bosnia, which was overrun by Serb forces on 11 July 1995. Some 6000 Bosniac males appear to have been killed in the following days, and over 30,000 people fled to Tuzla and its environs from where, in municipal elections held in September 1997, they elected one of many 'councils in exile' in Bosnia-Herzegovina." (Stubbs 1998, pp. 193-194)

Intra-entity displaced: movements of displacement within the Federation from a minority area to a majority area

- Displacement resulting mainly from the Bosniac-Croat war from April 1993 to March 1994

"Within the entity of Federation, significant movements of displacement from minority to majority areas occurred (Bosnian Croats to Croat controlled areas and Bosniacs to Bosniac controlled areas): this situation is similar to displacement from one entity to the other. A substantial number of displaced persons have also increased their standards of life in their place of displacement (a significant proportion of Bosnian Croats moved in areas integrated within the Croatian economy where they can benefit from higher employment rates and standards of living).

Most of the displaced who fled to the other entity and from a minority area to a majority area within the Federation are in a refugee like situation (they were expelled during the war or fled for security reasons) and face an insurmountable accumulation of obstacles to return to their home in minority areas which render the returning possibilities almost impossible: physical destruction of their previous accommodation, presence of mines, absence of economic and employment opportunities, discrimination in employment, unfavourable political situation, security, violation of human rights, unfavourable schooling system, discrimination in access to public services, lack of objective and regularly updated information (preventing reconciliation and the build-up of trust in the event of minority returns). As a consequence, many displaced decided to remain in their area of displacement.

Furthermore, the attachment to the pre-war family house as well as the determination to return among certain groups of displaced and refugees has been weakened by an extended period of living abroad, the integration into a new location, the destruction of the property, the changing economic conditions, the

pessimism about returns and the dispersal of the home communities." (Campigotto December 1998, section 3.1)

Intra-entity displaced: movements of persons following destruction and lack of security on the confrontation line

- Displaced in this category have often relocated to town centres from surrounding villages.
- An important minority have appropriated more than one housing unit, thus impeding minority returns

"Over 25% of the displaced persons remained in the entity where they form the majority group.

Most of them fled their destroyed houses or the confrontation line to relocate in safer areas and where basic commodities and services are likely to be available.

In the most larger towns, relocation movements of people from the surrounding villages into the town centres occurred significantly. An explanation is the more favourable situation in the urban areas (higher economic standards, access to the black market, and to a certain extent, access to social and public services). With this relocation pattern, an important minority of people have taken advantage of reallocation provisions in the property laws to appropriate more than one housing unit and thus are impeding minority returns. As a consequence, this group is reluctant to minority returns in order to secure its position. Displaced in urban areas are more determined to remain (especially the younger people) even though inter-ethnic factors are no longer preventing their return.

In general, displaced persons of the majority group are the most hostile to minority returns, they fear to be re-displaced by the return of the original inhabitants." (Campigotto December 1998, section 3.1)

Displaced returnees: a significant proportion of the returning refugees are not able to return to their pre-war home

- The great majority of repatriations from abroad are now to areas where the returnee would be displaced but among the majority, while the returnee's home lies in an area where they would be among the minority
- A significant proportion of the returning refugees are voluntarily not returning to their pre-war home

"Displaced returnees are relatively few so far, but are likely to grow as there is pressure on Bosnian refugees to return from western European countries where they have temporary protection. Various push-pull factors, including a few cases of forced repatriation, have produced newly displaced people." (Stubbs 1998, pp. 193-194)

"[T]here may be pressures on persons [originating from areas where they would no longer be in the majority upon return] to return, but to a majority area. The great majority of repatriations from abroad are now to areas other than the returnee's home. They are to areas where the returnee would be displaced but among the majority, while the returnee's home lies in an area where they would be among the minority." (UNHCR May 1999, para. 2.68)

"A survey of the Swiss Government found that 67.5% of the returnees from abroad were not able to return to their pre-war house, and that 47% voluntarily relocated to other areas of the country. The majority of

refugees are very often returning to multiple occupancy situations or temporary accommodation." (Campigotto December 1998, section 3.4)

For more information on the relocation of returning refugees, see ["Return of refugees to situations of internal displacement \(1999\)"](#)

Other aspects

Internal displacement follows a rural-urban migration pattern (1998)

"There are few systematic data comparing and contrasting refugees and IDPs, though some generalizations can be made. On the whole, the refugees who left Bosnia-Herzegovina did so earlier in the war rather than later (when the exit doors were firmly closed). They tend to be urban, more cosmopolitan in outlook and better educated than their internally displaced counterparts. The presence of large numbers of rural IDPs in the urban centres has been a cause of continuing tension in Bosnia-Herzegovina (the two groups were relatively impermeable before the war) and has contributed to the continued dominance of the three ethnically-based nationalist parties." (Stubbs 1998, p. 194)

See also ["War-induced movements: typology \(1998\)"](#) and ["Scenario of population movements: impact of the economy \(1998\)"](#) [Internal links]

Internal displacement likely to become durable (1998)

- Return movements will remain impossible as a result of destruction and illegal occupancy of the properties of the displaced

"The future of Bosnia portends more displacement. Annex 7 of the peace settlement is designed to bring refugees and internally displaced persons back to their pre-war homes to claim property that was destroyed or occupied by voluntary or involuntary migrants from other parts of the former Yugoslavia. It will take some time to straighten out the chain of illegal property transfers that accompanied 'ethnic cleansing', in spite of the establishment of the Commission for Displaced Persons and Refugees. So much housing and infrastructure have been destroyed that it is unclear to what extent returnees and the persons whom they will displace (that is, the illegal occupants who themselves may have been chased from their own property) can be accommodated. [...] [D]isplacement will be a part of the policy landscape for international and local officials for decades." (Weiss & Pasic 1998, p. 186)

PHYSICAL SECURITY & FREEDOM OF MOVEMENT

Insecurity

Violence against returnees: a persisting pattern despite recent improvements (2002)

- There has been a significant decrease in the number of violent incidents against returnees, from over 300 incidents reported in 2000 to less than 200 in 2002
- However the level of violence against Bosniac returnees in the Republic Srpska (RS) remains high
- Prosecutions against perpetrators are extremely rare, especially in eastern RS
- Attacks on returnees also continue in the Federation, though both the frequency and severity of such disorders are much less than in the RS
- The presence of putative war criminals in public institutions continues to impede return

“ICG has been told repeatedly by both international officials and local politicians that threats to the security and wellbeing of returnees have diminished markedly throughout BiH during 2002. But human rights organisations such as the RS Helsinki Committee paint a less positive picture, contending that attacks on returnees to that entity are increasing. An analysis of violent incidents carried out by SFOR confirms that there are several trouble-spots. It shows, for instance, that a Bosniac returnee to Bijeljina or Prijedor is ten times more likely to become a victim of violent crime (defined as bombing, rape, stoning, assault, arson or murder) than a local Serb. Moreover, out of six returnee deaths in the eastern RS since 2000, police investigations have yet to result in a single prosecution.

In its quarterly report for April-June 2002, the Helsinki Committee of Republika Srpska reported eight attacks with explosive devices against returning Croats and Bosniaks and their property in the RS. Repeated attacks on Bosniac returnees to the south-eastern RS municipality of Gacko in the first half of 2002 culminated in the demolition of the minaret of a newly reconstructed mosque in September. Although both the mayor of Gacko and RS Prime Minister Mladen Ivanic condemned this act, it remains to be seen whether the perpetrators will be pursued and prosecuted. Bombings directed against three returnees to Prijedor in the first half of this year – not to mention the case of one Bosniac family in Banja Luka whose home has been attacked five times since 1999 – demonstrate that a persistent if low-level campaign of violence against returnees continues even in more ‘liberal’ areas in the RS. Ugly demonstrations and vandalism directed at returnees’ homes and businesses in Brcko and several RS cities following Yugoslavia’s victory in the world basketball championship in Indianapolis in September 2002 – and comments by the RS interior minister that the miscreants were just ‘having fun’ – point to a climate of officially sanctioned impunity.

Sources in OHR and UNHCR report that SDS-controlled municipalities in the eastern marches of the RS remain an exception to the general trend towards greater returnee security in that entity. The police, prosecutors and courts in the municipalities of Bijeljina, Zvornik, Bratunac, Vlasenica, Milici and Visegrad, to name the worst, still fail to treat attacks on returnees and their property, including murders, as crimes, even when considerable international pressure is brought to bear on police and prosecutors. Bratunac witnessed a particularly noxious rash of return-related violence in March this year when a returnee was killed by an explosive device planted in his yard, a grenade was thrown at another returnee’s house and two Bosniac parents were beaten up at a school where they had gone to enquire about enrolling their children. Potential indictees for war crimes, including men who participated in the Srebrenica massacres, retain

significant power in the town's administration. On the other hand, OHR and OSCE officials working in the area claim that the police have subsequently succeeded in curtailing violent outbreaks in the town.

The murder of a sixteen-year old Bosniak girl, shot dead in front of her house near Vlasenica by a sniper on the sixth anniversary of the fall of Srebrenica in July 1995, highlights the climate of impunity prevailing in the eastern RS. According to international officials familiar with the case, the initial police investigation both ignored and covered up crucial evidence. After the IPTF became involved, a bullet was recovered and sent to France for ballistics tests. Further investigation matched the bullet with a gun owned by a local Serb. Following more IPTF intervention, the police finally arrested three suspects in April 2002, including the owner of the gun and a friend who had 'borrowed' it. But all were subsequently released. Refugees from Vlasenica identified one of the suspects as having participated in war crimes against Bosniak civilians. With the EU taking over responsibility for monitoring the police from the UN in January 2003, some international officials have expressed concern lest this case be dropped.

Regardless of the seriousness of this particular crime, the reluctance of the police to investigate, their sloth in eventually doing so, the unwillingness of prosecutors to mount a case, and the allegations that one of the suspects was also a known war criminal all serve to illustrate how difficult it is for non-Serbs to obtain justice in this region, even when the international machinery is brought to bear. Such attacks and the official indifference with which they are met are hardly fortuitous. They reflect, rather, the determination of local SDS oligarchs to preserve their eradication of Bosniak majorities in the Drina valley.

Attacks on returnees also continue in the Federation, though both the frequency and severity of such disorders are much less than in the RS. Nevertheless, incidents such as the stoning in September 2002 of a bus containing 70 potential Serb returnees to the Gorazde area are equally clearly designed to inhibit return. Violence directed at Serb returnees to Drvar and the representatives of international organizations on the spot has diminished substantially of late. But those same international organisations warn that accelerated return to Glamoc, Bosansko Grahovo and other nearby towns could lead to new outbreaks of anti-Serb and anti-international intimidation. Although the presence of putative war criminals in local administrations, police forces, schools and informal municipal power structures continues to impede return throughout BiH, the removal of such people encourages return. IPTF now regularly decertifies police officers against whom there is evidence of wartime misdeeds. The sacking in 2001 of the police chief of the outer Sarajevo suburb of Hadzici is a case in point. Sacked because he had run a notorious camp in Tarcin where Serb civilians were held and from which some disappeared, his removal from office was quickly followed by seemingly permanent Serb returns to Hadzici.

The relatively large number of public indictments issued by the ICTY against the commandants and guards of the several concentration camps around Prijedor – and, more especially, the early and high profile arrests carried out by British SFOR troops – were crucial to opening up the area for large-scale return. Subsequent removals of police officers in Prijedor and Janja on suspicion of involvement in war crimes have doubtless helped to keep the flow of returns going. Yet arrests and removals from office will only have a lasting effect on the climate for return when local courts begin to follow them up with war crimes' prosecutions. ICTY officials have claimed that between 15,000 and 25,000 individuals in the former Yugoslavia may be indictable for war crimes. Given the fact that the Bosnian war was the longest and bloodiest of the Yugoslav conflicts, many thousands of these individuals must still be residing in BiH. In a recent assessment visit to Bosnia, the president of the Association for Threatened Peoples confirmed that war criminals remain present in the institutions of the RS, including its schools. They may not be big enough fish for indictment by The Hague, but they are certainly remembered by their surviving victims." (ICG 13 December 2002, pp. 18-19)

"The presence of multi-ethnic police has underpinned and encouraged an increasing number of minority returnees, up from 41,000 in 1999 to over 92,000 in 2001, and numbering 80,711 by the end of September 2002. IPTF statistics have shown a decrease in the number of and intensity of ethnically related incidents down from over 300 in 2000 to less than 200 in 2002." (UNSC 2 December 2002, para. 24)

“[T]he number of recorded security incidents against returnees continues to concern UNHCR.

At least 80 incidents were reported in 2002 resulting in damage to property, including houses, shops and cars, for example in Bijeljina, Foca, Mostar and Sarajevo municipalities.

Another 70 incidents consisted of physical threats and violence against returnees, as well as group violence reported, for example in Bijeljina, Bratunac, Travnik and Zavidovici municipalities.

In addition, 70 incidents were reported in 2002, resulting in damages to religious edifices and desecration of religious or memorial sites, in particular in Mostar and Prijedor municipalities.

In at least 90 of the total incidents reported in 2002, explosive devices, hand guns or knives have been used by the perpetrators. These incidents caused injuries in at least 18 cases. While the municipalities cited above are those where a high number of such incidents have occurred, similar incidents against returnees are reported from elsewhere in BiH as well.” (UNHCR 10 December 2002)

See also UNHCR, “UNHCR’s position on Categories of Persons from Bosnia and Herzegovina in Need of International Protection”, September 2001 [Internet]

Landmines continues to hamper return in rural areas (2002)

- Landmines are particularly a problem along the inter-ethnic boundary line
- There could be up to 30,000 mine fields throughout the country
- Landmines and UXO killed 15 civilians and injured 19 persons between January and May 2002
- Local residents of mine-affected areas, rather than internally displaced persons or returnees, continue to record the highest number of incidents
- Children are also among the victims

“In some areas of BiH security concerns remain, and incidents are occasionally reported. Minority returnees suffer discrimination in everyday life and in their relations with administrative bodies. In addition, the existence of mines throughout the country and particularly along the inter-entity boundary line, remains a deterrent to return, reconstruction and economic recovery in rural areas.” (UNHCR December 2002, p. 241)

“The BHMIC has described BiH as probably the most heavily mined country in Europe following extensive use of landmines, especially antipersonnel mines, during the 1991-1995 war. A considerable quantity of unexploded ordnance (UXO) also affects the country. The BHMIC described the situation as ‘a threat which is generally low density and random in nature. The total area potentially affected is in the order of 4,000 square kilometers and the bulk of it still requires survey in order to determine the finite extent of the problem.’

By 30 April 2002, BHMIC had recorded 18,228 minefields. However, it estimates the probable total number to be 30,000, containing approximately one million mines. BHMIC also estimates that two million items of UXO are still unlocated.

BHMIC explains that there has been no complete national survey, and these records refer only to known minefields. More minefields are being discovered from better reporting and from clearance activity. In the middle and southern part of BiH, most mines were randomly laid by soldiers not trained for orderly laying of mines and accurate record-keeping; many of the minefield records are therefore nonexistent or useless. BHMIC has received no minefield reports from the Serb army for the areas around Sarajevo and Gorazde.” (Landmine Monitor Core Group August 2002, Bosnia and Herzegovina)

“In 2001, reported landmine/UXO explosions killed 32 people and injured 55 others, including 12 children, representing a decrease from the 100 new casualties reported in 2000. Of the new casualties, 84 were civilians. On 2 April 2001, a landmine explosion near the southwestern town of Prozor killed a French soldier serving with SFOR in Bosnia and Herzegovina, during a reconnaissance operation.

Landmines and UXO continued to claim casualties in 2002, with 15 civilians killed and 19 injured up to 10 May 2002.

The ICRC, working at the community level throughout the country, continues to collect data and provide up-to-date information on landmine and UXO incidents. As of 10 May 2002, the ICRC database contained information on 4,733 individuals killed or injured by landmines or UXO. The database is continuously updated from field reports, and in some instances information is collected on casualties that occurred in prior years that were not previously recorded. Based on the ICRC statistics, between 1996 and 2002 the mine incident rate fell from an average of 52 casualties per month to just over seven casualties per month.

The statistics indicate that local residents of mine-affected areas, rather than internally displaced persons or returning refugees, continue to record the highest number of incidents, and rural males aged 20-40 years are most likely to fall victim to mines, as they practice high-risk behavior. The population is, in many cases, aware of the existence of mines and the danger they pose, but all do not practice safe behavior mainly due to the economic necessity of cultivating the land, although other factors also come into play. Of the casualties reported in 2001, 35.6 percent had knowledge of the danger of mines.

Seasonal variations indicate that the highest risk for the population is March to May, July and August, which are the months of peak agricultural activity. The majority of casualties were injured while farming (rural males), incurring the risk pursuing activities out of economic need.

The ICRC’s ongoing data collection also indicates that children, despite preventive measures, continue to fall victim to landmines and UXO in BiH. Children under the age of 18 accounted for 13.8 percent of new casualties reported in 2001.” (Landmine Monitor Core Group August 2002, Bosnia and Herzegovina)

Law enforcement and judicial institutions contribute to impunity in certain areas (2000-2001)

- Police forces remain mono-ethnic in most areas and their effectiveness in crime detection, investigation and response remains low
- The lack of an independent judiciary continues to be another major concern

"In his previous reports, the Special Rapporteur [of the UN Commission on Human Rights] outlined his major areas of human rights concern in Bosnia and Herzegovina. These concerns remain valid. The role of the police, as agents of the State, in ensuring the effective protection of human rights is vitally important. Despite the efforts of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) to restructure the local police, police forces remain mono-ethnic in most areas and their effectiveness in crime detection, investigation and response remains low. The lack of a functioning and independent judiciary continues to be another major concern. The interference of political power structures both within law enforcement agencies and the judicial system remains strong. The judicial system assessment programme (JSAP) of UNMIBH, which is closing down in December 2000, has over a period of two years monitored and assessed the court system. Its main findings have been that the entire judiciary is politically, professionally and structurally dysfunctional. The successor of JSAP, the Independent Judicial Commission, will have the difficult task of actually implementing the judicial reforms needed." (UNCHR 29 January 2001, para. 8)

"Given that potential returnees regard security in their place of origin as a basic precondition for return, it is essential that local police forces meet their obligations under the GFAP to provide a safe and secure environment for all persons in their respective jurisdictions. Local police forces have, in many instances, failed to provide effective protection to members of minority constituent peoples and reports continue to be received of returnees experiencing harassment that may be sanctioned by the local police. Widespread insecurity continues to prevail in certain areas, and perpetrators of criminal acts against minority returnees regularly go unpunished.

IPTF continues to be responsible for the dismissal of officers who fail to provide adequate protection for the committal of acts not in accordance with the law. Between September 2000 and March 2001, 14 police personnel throughout BiH were de-authorized for 'severe violations of law'. It should be noted that, in some cases, de-authorized officers (including, in one case, a dismissed Chief of Police) have refused to turn in uniforms, firearms and official government vehicles. Despite the very important efforts by the IPTF to enhance the number of so-called minority police officers, only 258 minority officers could be deployed in the Federation between April 1999 and July 2001, and only 228 could be deployed in the RS during the same period.

In order to support the effectiveness of police activities and to end the cycle of impunity that pervades some areas, it is also necessary to have in place an adequate and functioning criminal code. The criminal legislation and procedures still applied in the Entities were taken from the legal framework that existed within the former Socialist Federal Republic of Yugoslavia, and do not comply with international standards of due process of law. As noted by the UNMIBH Judicial System Assessment System Programme (JSAP), whose mandate came to an end on 30 November 2000, 'the BiH criminal justice system fails to uphold its primary responsibility to prosecute and to punish criminal behaviour while protecting the fundamental rights of the accused.' The functions of the JSAP were taken by the Independent Judicial Commission (IJC), under the auspices of OHR, which began its work in March 2001." (UNHCR September 2001, paras. 17-19)

"The police misconduct in responding to minority return-related violence, particularly in the RS, can be divided into five categories:

- **Operational failure to control demonstrators** – failure to deploy police officers preventatively in order to prevent the spread of violence; in some instances, the local police have made only cosmetic adjustments to security plans to deflect scrutiny;
- **Failure to perform adequate preliminary investigations** – claiming that mines or grenades were not planted, and that they were merely left over from the war, in order to avoid performing criminal investigations; failure to conduct basic preliminary investigative actions, such as interviewing witnesses or victims and following up leads;
- **Bypassing public prosecutors** – attempting to reduce criminal liability for acts by failing to send information to the public prosecutor; and instead forwarding reports to courts for minor offences, where small fines are imposed (if at all); criminal proceedings are not initiated in these cases, and perpetrators generally go unpunished;
- **Failure to co-operate with judicial investigations** – ignoring requests of investigative judges to give testimony regarding events witnessed by the police;
- **Failure to testify truthfully in trials** – lying in court in order to downplay the culpability of perpetrators of minority incidents." (OHR/HRCC April 2001, para. 17)

See also "Policing the Police in Bosnia: A Further Reform Agenda", a report by the International Crisis Group, 10 May 2002 [Internet]

See the website of the UN Mission in Bosnia and Herzegovina for the assessment reports prepared by the Judicial System Assessment Programme [Internet]

For more information on the progress of the reform of the police forces and the judicial system, see also the Report of the UN Secretary-General on the United Nations Mission in Bosnia and Herzegovina, 30 November 2000 [Internet]

Entities adopt amnesty legislation in line with Dayton Agreement (1999-2001)

- New Federation Law on Amnesty (December 1999) applies to almost anybody who committed a crime between 1 January 1991 and 22 December 1995 except for certain very serious crimes
- Law on Amnesty in the Republika Srpska was brought in line with the requirements of the Dayton Agreement in July 1999
- RS courts generally implement the law but the inefficiency of the judicial system in the RS hampers the swift processing of cases
- Both Entity governments have agreed to exempt returnees from conscription for five years following their return (February 1998) but there are reports conscription of displaced persons
- There is a widespread public ignorance of the possibility of opting for non-military service

"Implementation of Article VI of Annex 7 of the GFAP, which provides for the granting of an amnesty to all those who evaded the military draft, deserted or refused to answer a military call-up during the conflict, may be considered essential to allow for the safe and dignified return of male refugees from BiH. In order to facilitate implementation of this guarantee, both Entities adopted laws on amnesty.

The Federation of BiH Law on Amnesty came into force on 11 December 1999, and provides amnesty to almost anybody who committed a crime (i.e. any of the crimes set out under the relevant criminal codes that were in force in the territory of the Federation of BiH) between 1 January 1991 and 22 December 1995, except for certain very serious crimes such as crimes against humanity and international law and those defined in the Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY), as well as certain specified crimes under the criminal code such as aggravated theft, rape and murder.

Similarly, albeit after considerable pressure from the international community, the Law on Changes and Amendments to the Amnesty Law of the Republika Srpska was eventually passed in the RS, entering into force on 23 August 1999. This law grants amnesty to, inter alia, persons who in the period between 1 January 1991 and 22 December 1995 deserted or evaded a draft call from the RS Army. These amendments brought the RS amnesty regime into line with the GFAP requirements regarding amnesty.

A monitoring exercise was conducted in February and March of 2000 by UNMIBH's JSAP, and the findings were published in June 2000. Generally, the findings of this report were positive, as the general tendency was apparently for the RS courts to implement the law. However, the report also indicated that the judicial system in the RS remained inefficient and that the processing of cases was proceeding very slowly.

With regard to post-war conscription and draft evasion, the Sarajevo Declaration of February 1998 committed both Entity governments to the enactment of legislation on conscientious objection and on alternative service, and to the exemption of returnees from any form of conscription for a period of five years following return.

Unfortunately, it appears that neither Entity government has made any substantive provision for allowing either conscientious objection to military service or for performance of alternative service. It has been reported that there is a serious lack of awareness on the part of those liable for conscription of the possibility for them to opt for alternative service rather than military service. Of greater concern, in the absence of accurate citizenship records, is that the use of school and education records for conscription purposes at local level appears to have resulted in a number of recorded cases of conscription for military service of displaced persons.

It is widely recognized that the Entity legislation that would regulate conscientious objection and alternative service is unsatisfactory. The Federation Law on Defence requires significant amendments, including making it mandatory for a person liable to conscription to be made aware in advance of his/her right to conscientiously object to military service, and that the period of alternative service be reduced from an arguably punitive 24 months to (at least) the standard (in terms of length of regular military service) 12 months. nonetheless, despite the current legislative provisions, there is generally considered to be widespread popular ignorance of the possibility of opting for non-military service." (UNHCR September 2001, paras. 36-42)

Freedom of movement

Improving freedom of movement despite continued influence of ethnic separatists (2000-2001)

- All permanent police checkpoints were dismantled in 1999
- The introduction of universal license plates in 1998 also improved the freedom of movement throughout Bosnia significantly
- Many problems remain to prevent returns, including the obstruction by hard-liners in order to increase ethnic homogeneity in a specific area
- Displaced persons were frequently pressured to remain displaced, while those who wished to return were discouraged, often through the use of violence
- Despite these obstacles, ethnic minorities began returning to their destroyed villages in increasing numbers

"The Constitution provides for 'the right to liberty of movement and residence,' and freedom of movement, including across the IEBL, continued to improve; however, some limits remained in practice. The IPTF and SFOR completed the dismantling of all permanent police checkpoints in 1999, greatly enhancing freedom of movement.

Freedom of movement improved significantly with the introduction of universal license plates in 1998. The new plates do not identify the vehicles as being registered in predominantly Bosniak, Bosnian Serb, or Bosnian Croat areas.

[...]

However, many problems remained to prevent returns, including the obstruction by hard-liners of implementation of property legislation, political pressure for individuals to remain displaced in order to increase ethnic homogeneity of the population in a specific area, and the lack of an ethnically neutral curriculum in public schools [...]. For example, the European Roma Rights Center (ERRC) reported that Roma from the RS (most of whom are Muslim) who were forced out of their homes allegedly have had serious difficulties returning to their prewar homes. The ERRC reported that Roma have had to pay financial compensation, ranging from \$1,500 to \$5,000 (3,000 to 10,000 KM) to Serbs occupying their prewar homes in order to move back. The ERRC also reported that some Roma's homes are occupied by RS government bodies.

[...]

The continued influence of ethnic separatists in positions of authority also hindered minority returns. Much of Croat-controlled Herzegovina and towns in eastern RS remained resistant to minority returns. IDP's living in those areas, even those who privately indicated interest in returning to their prewar homes, frequently were pressured to remain displaced, while those who wished to return were discouraged, often through the use of violence. In particular, IDP's in the hard-line RS areas of Bratunac and Srebrenica,

mostly from Sarajevo, were intimidated from attempting to return [...]. For example, in June Serb IDP's living in Kotorsko blocked the main Sarajevo-Brod highway for several hours after Bosniaks began returning to the village to clean their property. The Serbs were angry because they were unable to return to their homes in Vozuca, which continue to be occupied by Bosniak refugees from Srebrenica. Several days after the blockade, Bosniaks blocked another portion of the highway to call attention to Serb harassment and intimidation, which was obstructing their return to Kotorsko. In mid-July several hundred Bosniaks blocked a main road near Maglaj, in central Bosnia, to protest the impending eviction of Muslim fundamentalist families occupying Serb property in the village of Bocinja. The blockade lasted for several days. However, within weeks of the end of the blockade, authorities began evicting Muslim families from Bocinja without incident.

Despite these obstacles, ethnic minority refugees and IDP's began returning to their destroyed villages in increasing numbers in some areas of Herzegovina and the eastern RS. For example, in the spring Bosniaks began returning to Zepa, the outskirts of Foca, and even villages near Visegrad. In the summer, several Bosniaks returned to Srebrenica town, and dozens more returned to several outlying villages. Elsewhere in the RS, Bosniaks began returning to the center of Prijedor and Doboj. Serb returns accelerated in the Capljina area of Herzegovina. However, local government officials continue to obstruct minority returns to Drvar and to harass Serb returnees.

Government leaders in both the RS and the Federation often have used a variety of tactics, including public statements, to inhibit the return of IDP's.

The increased number of ethnically integrated police forces helped improve the climate for returns, although security remained inadequate in some areas." (U.S. DOS February 2001, sect. 2d)

"[D]espite the inclusion in Article I (4) of the Constitution of BiH of a guaranteed right to return to freedom of movement, the introduction by the High Representative in 1998 of uniform vehicle license plates across BiH, and the ongoing activities of UNHCR bus-lines across key return axes, certain segment of the displaced population remain reluctant and uncertain to cross inter-Entity, and sometimes inter-Cantonal boundary lines." (UNHCR September 2001, para. 10)

Inter-entity bus traffic supported by UNHCR has contributed to improved freedom of movement of minority members between the entities (1996-2001)

- Free bus service initiated by UNHCR in 1996 to foster cross-entity visits of minority members
- Security of buses initially ensured through escorts by international armed and police forces
- Bus lines have been commercialised progressively since 1998
- UNHCR bus lines are flexible and often re-directed in order to follow return trends and identified axis of return
- However, the UNHCR bus lines do not prevent security incidents from taking place during assessments visits

"By late spring of 1996, it was obvious to UNHCR that the assessment visit strategy was not working and that the dividing lines between the entities were hardening into de facto borders. It was equally clear that tens of thousands of 'minority' Bosnians desperately wanted to cross the lines to visit their former towns, get in contact with family members and friends, find out whether their former houses were still standing and, if so, who was occupying them.

In perhaps its boldest experiment, UNHCR decided to open a free bus service on routes to the Sarajevo Serb suburbs and between cities such as Banja Luka and Drvar, Tuzla and Bijeljina, and Sarajevo and Gorazde. UNHCR began this program with considerable trepidation because it was clear there might be

harassment and attacks on the buses. There were indeed some problems on a number of routes initially, but overall the bussing program was a success. The buses were often filled to capacity and the frequently emotional response of the riders made clear that beneath the surface of the inter-community cold wars, there remains a pool of 'normal people' who resist the nationalists' program of ethnic segregation.

The safety of the bussing experiment was of high concern at the start, and this was an area where IFOR took special measures to assure security. The initial runs on some routes were escorted by IFOR and IPTF, and were monitored from the air. Bosnian Serb authorities in some areas such as Banja Luka initially resisted the buses on the grounds that the service had not received prior authorisation, that the drivers were not licensed in the RS Entity, and the buses were uninsured. At one point, a British IFOR commander in Banja Luka dispatched armoured vehicles to an especially troublesome Bosnian Serb checkpoint with orders to attach hooks to the police cars and drag them away. This put a definitive end to the resistance at that location. Over time the harassment subsided.

The service was sub-contracted to the Danish Refugee Council. By the end of the year, 11 such bus lines were in operation, providing transportation to up to 1,000 passengers per day wishing to visit their places of origin. UNHCR intended to transfer this service to a commercial operation, but security concerns have so far prevented the implementation of this intention. Despite the efforts of local authorities, in particular Bosnian Serbs and Croats, to obstruct the bus service, some 283,000 passengers have used the buses as of April 1997. The annual cost of this service has been approximately \$1.3 million. While the impact of the bus service on actual numbers of minority returns is impossible to determine, there is no doubt that it was an important confidence-building effort and promoted freedom of movement across the former confrontation lines." (ICG 30 April 1997, section 1.4)

"The present UNHCR-sponsored bus lines enabled hundreds of thousands to visit their former homes and re-establish pre-war links. While some of these bus lines were commercialised during 1998, UNHCR will maintain the remaining bus lines which service minority returns and are not commercially viable, and will open additional bus lines particularly in sensitive areas of minority return." (UN December 1998, p. 59)

"There are now 17 UNHCR bus lines. Thirteen lines previously run by UNHCR were commercialised in 1998 and handed over to private companies. A survey conducted in December 1998 revealed that for many people, this was the only way to visit the other Entity, friends, relatives and homes. The UNHCR bus lines provide a sense of security and are more frequently used by Serbs than by Bosniacs or Croats. UNHCR bus lines are flexible and often re-directed in order to follow return trends and identified axes of return. However, the UNHCR bus lines do not prevent security incidents from taking place during assessments visits. For instance between March and June of 1998, a series of violent incidents took place which ranged from a group of 50-75 Serbs stoning the Kladanj-Vlasenica UNHCR bus to the physical assault and/or robbery of a number of Bosniac passengers from Sapna (Federation) visiting Zvornik (RS). In Zvornik, when victims approached the local police for help, the common response was that they were attacked by a gang operating in the area and that the victims should not return in the future. Another incident took place in the town of Piskavice, outside of Vlasenica (RS), and involved a group of approximately 12 Bosniac women, five of whom were verbally and physically assaulted whilst visiting their pre-conflict homes and the local graveyard. On 29 August 1998, a crowd of Serbs threatened the displaced Bosniacs who were visiting Klisa (RS). The displaced Bosniacs were advised to leave and, as a result, they held the IPTF officers hostage. On 5 June 1998, displaced Bosniacs also originally from Klisa had their bus stoned. On 5 October 1998, the UNHCR bus line Trebinje (RS)-Mostar (Federation) was stopped for two hours by the Federation local police. The luggage of the passengers was searched and some boxes of cigarettes were confiscated.

While these types of incidents are not a daily occurrence, they happen with enough frequency to indicate that tensions remain high and that full freedom of movement is still not fully assured throughout the country." (UNHCR May 1999, sections 2.45-2.46)

"Bus lines (one a cross-border service) were operational in 2001. The number of bus lines was reduced to nine after April 2001, due to commercialization of four lines. The remaining lines will be privatized as soon as they become commercially viable. " (UNHCR June 2002, p. 353)

See Map of UNHCR bus lines as of January 2001 (website of UNHCR Office of the Chief of Mission in Bosnia and Herzegovina) [Internet].

Returning displaced are not subject to the payment of so-called "war taxes" (1999)

"The expression 'war taxes' can be defined as any amount of money which returning refugees have to pay directly or indirectly to the local authorities or communities in exile in their quasi official capacity upon return because of their stay abroad during the conflict." (UNHCR May 1999, section 2.47)

"Returning displaced persons are not usually subject to the payment of such taxes (except in the Gorazde Canton where Cantonal Decision of 11 April 1997 provides that returning displaced persons and refugees have to pay an extra 20% for the issuance of certain public documents, such as a driving licenses, ID cards and passports)." (UNHCR May 1999, note 92)

Agreement on free movement of persons signed between both Entities (August 1998)

"On 11 August [1998], the Ministers of Trade and Finance of the RS and the Federation signed an agreement in which they committed themselves to remove obstacles to internal trade. This is another step forward in attaining freedom of movement of persons, goods, services, and capital in BiH. Even though implementation of the agreement has proven difficult, the Ministries of both Entities have recognised that from a legal point of view they cannot ignore the presence of the other Entity and that they will both benefit economically from mutual co-operation." (OHR 14 October 1998, para. 96)

Vulnerable groups

Persons of mixed ethnicity or in mixed marriages may face violence upon return (2000-2001)

- There are still many areas where mixed marriages and persons of mixed ethnicity will face harassment and discrimination on account of their mixed ethnicity

"It is UNHCR's position that the assessment of the possibility for the return of persons of mixed marriages or persons of mixed ethnicity will have to be conducted on a case-by-case basis. In many areas mixed couples and persons of mixed ethnicity continue to face discrimination in employment and access to housing and education possibilities for their children. Moreover, the children of mixed marriages can encounter particular problems in re-integration, including the difficulty of being forced to choose their own 'ethnic' identity. As noted by the Federation Ombudsmen, '[a] special form of discrimination related to [a] child's right to a name and identity occurs in schools where names of children are used for perfidious discrimination.' The return of these persons to certain areas can be confronted with violence or harassment, uncertainty, instability and also invokes the real possibility of re-traumatization. " (UNHCR September 2001, para. 93)

Members of the Roma communities face widespread discrimination upon return (2000-2001)

- Roma returnees have problems in accessing social benefits, adequate housing and employment
- There are reports of obstruction to the return of Roma in eastern Bosnia and in the RS
- The absence of 'national minority status' for Roma explains the lack of attention to their situation

"The pre-war Roma population in BiH numbered approximately 50,000-60,000 and may be higher as this figure does not include those who declared themselves as 'Yugoslavs', 'Muslims' or 'Others'. No updated figures of the post-conflict population are available and accurate statistics on the Roma population in general are difficult to obtain.

Before the conflict, many Roma lived in what is now the Federation of BiH, especially in urban areas such as Sarajevo and Tuzla. Many Roma also lived in what is now the RS, predominantly in the eastern region near the areas of Bijeljina and Zvornik, as well as Brcko. Many of those displaced from this region are still living abroad or remain displaced in the Federation. Having been generally displaced during the war, Roma returnees often encounter extremely difficult conditions including widespread discrimination in terms of access to employment, to adequate education for children, to social services and health benefits, and to adequate housing. Roma in BiH can also be subjected to acts of violence perpetrated by residents of return areas. Attacks by Croat nationalists against returning Roma have been registered in eastern Bosnia and the return of Roma has also been seriously hindered by local authorities in the RS, one example being in Bijeljina, where municipal and Entity military and civil institutions had been situated in former Roma houses, including the Ministry for Displaced Persons and Refugees, the Military Court, and the RS Directorate for Privatization.

Roma constitute a large minority group in BiH and yet are often overlooked in all spheres of public life. The absence of 'national minority status' for Roma and a general lack of awareness that the Roma constitute a minority group add to the difficulties and prejudices encountered by Roma returnees. The Stability Pact for South-Eastern Europe has suggested that in the year 2001, which has been declared the International Year of the Roma, both governmental organizations and NGOs in the Region focus their efforts on the plight of Roma." (UNHCR September 2001, paras. 88-90)

See also Access of Roma to Education and Health Care Services in Turly Canton, Federation of Bosnia and Herzegovina December 2001 - January 2002, report published by the OSCE, the Council of Europe and UNICEF [Internal link]

SUBSISTENCE NEEDS (HEALTH NUTRITION AND SHELTER)

Access to essential public services

Persisting problems of access to utilities for returnees and other vulnerable persons (2000-2001)

- Returnees are often over-billed for periods during which they were displaced or for reconnection
- Utility companies claim a lack of technical or network capacity to deny re-connection to returnees
- Private lawsuits have been lodged against utility companies
- Inter-Agency Working Group on Utilities was created in May 2001 to deal with legal analysis and the development of a strategic approach regarding discriminatory practices

"A number of problems have been identified with respect to access to public utilities and 'obsolete debts'. In particular, a number of pre-conflict subscribers who have since repossessed their properties or who have had their homes reconstructed, are faced with discriminatory excessive charges for reconnection or are discriminatorily refused reconnection on the grounds of a lack of, for example, required telephone lines or materials. Additionally, a considerable number of persons were faced with bills incurred in their absence by displaced persons who had occupied their property during the period 1992-95. While the majority of these debts should have been considered obsolete, a number of persons paid portions under threat of disconnection, thereby canceling the limited period.

Pre-conflict subscribers continue to encounter major difficulties in accessing public services, including electricity and gas services, in addition to telecommunications network reconnections. This affects in particular minority returnees. It should be noted that private lawsuits against public companies have been submitted to local courts (approximately 400 cases in Tuzla alone) where returnees were forced into living in inappropriate living conditions due to the disconnection of water, gas, and electricity supply. It is evident, however, that the problem of discriminatory access to utilities is sustained by a number of recorded means, including the charging of inflated reconnection fees/war-time occupants' usage costs to returnees, utility companies claiming a lack of 'technical/network capacity' to effect re-connections to returnees, and a deficient regulatory legal framework." (UNHCR September 2001, paras. 68-69)

"Lack of access to public services including utilities supply hinder sustainable return and is contradictory to Annexes 6 and 7. The Inter-Agency Working Group on Utilities was established (with the authority of Human Rights Steering Board) in May 2001 to deal with legal analysis of the case material and development of a strategic approach regarding discriminatory application of existing laws and regulations. Despite the fact that public companies are bound by law to represent the public interest and uninterruptedly supply services they choose to deliberately impose their internal regulations and disconnect their clients without a warning system when bills (caused by temporary users) were not paid. It has been reported that private lawsuits (about 400 in the Tuzla area alone) against public electric companies have been submitted to local courts. A first review of the verdicts showed inconsistency in applying local civil laws. The Working Group on Utilities developed a questionnaire to be used for reporting cases of discriminatory application of laws and internal regulations. It is to be decided by International Community if the already existing network of NGOs specialised in return and reconstruction issues could deal with and, if necessary, report cases for further consideration to Working Group on Utilities. The result of a thorough legal analysis would possibly demand changes of present legal provisions and regulations. At the same time conditionality of funding is being considered to be imposed on those state-owned companies that do not comply in supporting the basic needs of returnees. An action plan was developed in May 2001, by the Inter

Agency Working Group on Utilities. An Agreement was reached to distribute the questionnaire through RRTF and LAIC (UNHCR) networks. The distribution has been accomplished. In parallel action representatives of the WG were meeting representatives of the Entities' Ministries of Energy and Mining to discuss the occurring problems in electricity supply around the country, and informing the relevant authorities and electricity companies about the forthcoming survey. The deadline for reporting was extended until the end of October 2001. Electricity providers, already included in the survey, were among the first respondents. The results of the survey will be analysed by the Working Group." (OHR HRCC 18 October 2001, para. 114)

Health

Health care system does not sufficiently address the needs of returnees and internally displaced persons (2001)

- Problems are mainly linked to the complexity of the legal framework, lack of funds and absence of inter-Entity co-operation
- The situation is aggravated by the damaged infrastructure, and the effects of war on the health of the population
- An agreement between all health insurance funds was signed in December 2001 which may improve coverage across Entity lines
- Pensioners and unemployed persons continue to face difficulty to register for health insurance upon return

"The provision of health care and the availability and quality of treatment in BiH does not sufficiently address the needs of the residents of the country, particularly those of displaced persons and returnees. This represents a significant problem for those who are chronically ill or in need of continuing medical care who may be returning either from abroad or from internal displacement. This predicament results from a myriad variety of problems and obstacles, although many are related to the overall complexity of the legislative and legal framework surrounding the provision of health care and the general lack of funds and resources attributed to the health care system of BiH. These problems are seriously compounded by the post-war situation in BiH, which includes refugee returns, internally displaced persons, and damaged structures.

Regardless of the difficulties faced in providing health care to the residents of the country, the levels of health care currently provided are both significantly lower than that of other, more developed nations, as well as below the level provided in BiH prior to the conflict. Recognizing the scale and severity of this issue, UNHCR completed a detailed examination of the health care system in BiH in July 2001.

Aside from the difficulties created by the complexity of the compulsory health insurance scheme, primary problems also include geographic fixation of where health care can be provided, the inability to transfer coverage from location to location, non-payment of contributions into the health funds, and the absence of inter-Entity co-operation on health insurance issues. Various international agencies and key influential players have advocated an inter-Entity agreement between the health funds. However, as of July 2001, no agreement had been signed. As a result of these difficulties, residents who are covered under the current system must often pay high prices for treatment and medication and generally experience difficulty accessing proper health care.

When examining the health care system of BiH from a medical perspective, it quickly becomes apparent that adequate medical care is often not available. This is due in part to the complexity of the insurance schemes, but from a medical point of view, it result primarily from the absence of proper facilities,

equipment and medication, as well as from a lack of essential funds. These major shortcomings are exacerbated by transportation problems resulting from rugged topography and damaged infrastructure, as well as by the fact that the war seriously affected the health of the population, resulting in unforeseen increases in demand on health care providers. Given these considerations, it is evident that it may not be possible for patients with chronic diseases to obtain the necessary treatment in the territory of BiH. At the current levels of treatment available, the lives of persons in need of medical treatment for chronic diseases or conditions, even of these would not ordinarily be considered life-threatening conditions outside BiH, may be jeopardized if they are forced to seek treatment in BiH." (UNHCR September 2001, paras. 57-59)

"The complex division of authority between Entities plaguing health care and protection may be ending. On 5 December 2001, the Directors of the Entity (and Brcko District) health insurance funds signed an agreement that all those insured in one Entity can receive health coverage in the other, with specific provisions entitling pensioners to added benefits. Notably, this is the first major inter-Entity agreement prepared and negotiated without the intervention of the international community. This agreement and the manner in which it was negotiated are strongly endorsed by the Special Representative." (UN CHR 8 January 2002, para. 19)

"The problem of medical insurance is closely linked to those of pensions, since the funds contribute directly to the public health care sector. Under the Agreement on Mutual Rights and Obligations in the Implementation of Pension and Disability Insurance, returnees who collect their pensions in the "other" entity do not have access to associated benefits, most significantly health insurance. Another agreement between the entities and Brcko District, signed on 5 December 2001, does allow returning pensioners to register for health insurance if the pension fund from the "other" entity certifies their entitlement. Unfortunately, the RS pension fund reportedly fails to provide the needed certification for returnees to the Federation.

Until recently, younger returnees' health cover depended on the dubious prospect of finding an employer who would pay contributions. However, unemployed returnees can now register as such and so qualify to receive medical benefits. But they must register within a specified period. International officials monitoring refugee issues say that it is too soon to tell how this system is functioning, but initial indications are not encouraging. Several associations of returnees to Sarajevo recently complained that their members are being systematically discriminated against in seeking health care, citing the examples of hundreds of returnees who sought the associations' help after a recent outbreak of flu. The RS media picked up the report, *Glas Srpski* using it as fodder for its near-daily articles on the allegedly intolerable conditions facing Serbs in Sarajevo. As with the pension system, a more durable arrangement for health coverage will have to be found – one which does not punish individuals who choose to exercise their right to return. "(ICG 13 December 2002, p. 21-22)

See also UNHCR, Health Care in Bosnia and Herzegovina in the context of the return of Refugees and Displaced Persons, Sarajevo, July 2001 [Internet]

Shelter

Reconstruction efforts do not keep up with the needs of the returnees (2002)

- Between 4,000 and 7,000 returning families in need of reconstruction assistance will not get help before winter (December 2002)

"The first requirement for a refugee family to return is housing. Although international donors have spent some €608 million to date on repairing war-damaged houses and infrastructure, there is now estimated to

be a funding gap of €599 million between what is available this year and what UNHCR and OHR reckon is needed to rebuild the 66,500 housing units to which pre-war occupants seek to return. Moreover, of some 16,000 families who have already returned to their pre-war homes but are still awaiting reconstruction assistance, between 4,125 and 7,000 will not in fact get that help before winter. In some parts of the country, returning refugees continue to shelter in tent villages or to cram together in partially reconstructed houses, waiting for building materials and other assistance. For example, in the eastern RS village of Glogova (Bratunac municipality) to which Bosniaks began to return in force in 2000, their inflow continues to outpace reconstruction aid. Many of these families not only survived the 1995 Srebrenica massacres, they are also returning despite the fact that Bratunac is still run by the same wartime leadership that 'cleansed' the municipality in 1992." (ICG 13 December 2002, p. 7)

"The return statistics once more highlight the urgent need for additional reconstruction assistance, and Blatter [[UNHCR Chief of Mission] appealed to the donor community by saying: 'Annex 7 of the GFAP can only work if the right to return is backed up by sufficient financial means to make it a reality'. Blatter concluded that the local Governments and the international community must now ensure sufficient support to those who, having been forced out of their homes during the conflict, are now returning." (UNHCR 15 February 2002)

"The returnees to North-East Bosnia experienced the first snow in 296 tent settlements, as well as in hundreds of ruins, containers, and sheds. About 10,000 people were believed to be lacking food, clothes, medication and firewood. In many locations, donated building material went to ruins since the majority of returnees were neither in good health (mostly elderly persons) nor professionally or materially in the position to use it. All this showed that neither the authorities nor international organizations in charge systematically followed up the issue of return and returnees." (IHF 28 May 2002, p. 74)

Reports of deteriorating conditions in some collective centres (2000-2001)

- Many of the collective centres have become de facto centres for elderly as the younger people have moved on
- The number of persons still requiring assistance provided in the centres has only reduced gradually since 1996
- In April 2000, UNHCR discontinued material assistance and focused its activities to the identification of durable solutions for these beneficiaries
- UNHCR reports diminishing financial resources and the deteriorating living conditions in the centres

"As UNHCR support for collective centres will cease at the end of March [2000], the whole issue of collective centres has again been raised. The Delegation [of the International Federation of the Red Cross] has voiced its concern over what is considered to be unacceptable conditions in some of the collective centres, many of which have received virtually no support for years. Many of the collective centres have become de facto centres for elderly as the younger people have moved on but the vulnerable elderly remain. Some of them have been in the collective centres for seven years with no hope of moving elsewhere or going home. efforts are underway to discuss and identify a long term solution for the future of these vulnerable elderly people." (IFRC 2 May 2000)

"7,527 vulnerable persons among the displaced population in Bosnia and Herzegovina remain currently accommodated in 80 Collective Centres (schools, hotels, barracks, etc.) throughout the country (45 are in the RS with 3,945 residents, while 35 are situated in the Federation and accommodate 3,582 persons). They are administered by the two Entity Governments.

At the end of the war in December 1995, some 45,000 displaced resided in such centres. Their number declined drastically to 18,500 at the end of 1996, after the majority returned to their pre-war homes. Since then, however, the number of persons still requiring assistance provided in these centres has only reduced gradually. A total of KM 30 million was disbursed by UNHCR on maintenance, heating fuel, and complementary food aid from the end of 1995 to March 2000.

UNHCR had various implementing partners between 1996 and March 2000 to assist this group of beneficiaries, including: Mercy Corps Scotland (provision of food, maintenance of dwellings), United Methodist Committee on Relief (maintenance), the Federal Ministry for Social Affairs, Displaced Persons and Refugees (maintenance), the Ministry for Refugees and Displaced Persons and the Commissioner for Refugees of Republika Srpska (maintenance, provision of heating fuel), and Action Contre la Faim (ACF) (provision of fresh food and maintenance). Other Agencies such as CARE International and Catholic Relief Services (CRS) actively assisted through community services, psycho-therapy and additional monthly food distribution. There are also other agencies that provided one-time assistance to the centres.

In April 2000, UNHCR discontinued material assistance and focused its activities to the identification of durable solutions for these beneficiaries, leading to the eventual closure of the centres. At the same time, UNHCR has been encouraging the Entity authorities to take a more proactive approach in resolving the plight of this vulnerable population. During the course of 2001, the Federal Ministry for Social Affairs, Displaced Persons and Refugees intends to close some collective centres by accommodating the individuals concerned in reconstructed houses. The Ministry for Refugees and Displaced Persons in Republika Srpska aims to continue its strategy of housing collective centres residents in newly constructed apartments for a one year tenancy period. Institutional care, in close co-ordination with the respective Ministries of Health, will be offered where possible to the elderly among the centres' residents.

[...]

As a consequence of diminishing financial resources and the rapidly deteriorating living conditions in the centres, the remaining residents remain of primary concern to UNHCR. Although Swiss Disaster Relief is striving to provide durable solutions wherever possible, this is long-term projects for the project, unless other donors provide additional fund to this project. UNHCR's ultimate goal is to eliminate the need for collective centres altogether." (UNHCR August 2001)

See also "Reintegration of vulnerable groups can prove very difficult (2000-2001)" [Internal link]

Housing shortages affect displaced persons who are being evicted as a result of the property restitution process (2000-2001)

- Until now, most of those who had to vacate contested properties have been local residents who already have their own properties (double occupancy)
- Many of those who are still occupying properties cannot return because their own house is destroyed or occupied or because of security concerns
- Local authorities fail to provide alternative accommodation to evicted families
- UNHCR appeals to donors to ensure that adequate resources are made available to address housing needs of minority evictees who cannot return to their own homes

"A key factor in the dramatic increase in the number of people returning to their pre-war homes where they are now in the ethnic minority has been more vigorous enforcement of property legislation.

During the war, local authorities in Bosnia and Herzegovina allocated abandoned properties to people of the same ethnic group in a bid to create entire mono-ethnic towns and areas. This is being reversed through the eviction of those occupying properties which did not belong to them before the war, and enabling the

original inhabitants to return. By the end March 2001, almost 60,000 families had been able to reclaim their properties.

The Property Law Implementation Programme, which has been pushed through by international organisations such as the OHR, OSCE and UNHCR, is now moving into a phase which raises sensitive challenges. Until now, most of those who have had to vacate contested properties have been local residents who already have their own properties as well. Many of those who are still occupying properties and who now face eviction are displaced people who cannot return to their own homes because they are occupied or destroyed, or because of security concerns. Under Bosnian law, these families are entitled to alternative accommodation provided by the local authorities. In practice, this has usually meant collective accommodation of a fairly minimal standard. While no minority family has ended up on the streets, the local authorities in Bosnia and Herzegovina have not been pro-active enough in providing alternative accommodation. This has led to slow-down in the property return process in some areas.

UNHCR is concerned that not enough priority is being given to the needs of vulnerable families who are being forced to vacate the properties they occupy. The property restitution process will accelerate during the course of this year. This is critical to ensure that displaced persons and refugees are able to exercise their right to return. At the same time, UNHCR is appealing to donors to ensure that adequate resources are made available to address the emerging needs of vulnerable individuals affected by the process, particularly minority evictees who cannot return to their own homes. Action by the local authorities which is urgently required includes the implementation of a fair social housing policy and development of viable social safety net." (UNHCR 30 April 2001, p. 4)

"In addition, an emerging issue is the question of alternative accommodation for the increasing number of illegal occupants who are being evicted as part of the property restitution process. Until recently, evictions under the Property Law Implementation Plan have focused on 'double occupants' or people who have access to more than one property. With the problem of double occupancy now largely addressed, the process has moved on towards evictions of illegal occupants who do not have access to another property and who must find alternative accommodation. Some of those being evicted are minorities who have nowhere to go, and who cannot return to their own homes because they are occupied by other displaced people. Along with the Office of the High Representative, the OSCE, and other international agencies involved in the implementation of the property law implementation programme, UNHCR will continue to work with local authorities to step-up their efforts to deal with this key question." (UNHCR January 2001, p.4)

For more details on the funding gaps relating to the reconstruction process and housing needs, see International Management Group, "Reconstruction Needs in Bosnia and Herzegovina", January 2001 [Internet]

Damages to pre-war housing stock are considerable but may not be the main impediment to return (1997-1998)

- 50 percent of the housing stock was damaged and 6 percent destroyed in the Federation, and 24 percent damaged and 5 percent in the Federation
- Damage to the stock was not, however, evenly distributed throughout the country and the overall population has substantially decreased

"The shortage of housing in Bosnia and Herzegovina was a major obstacle to the return and reintegration of displaced persons during 1996 and threatens to continue as such for 1997. Data published by the World Bank and other economic assistance providers suggest that, during the war, 50 percent of the housing stock was damaged and 6 percent destroyed in the Federation, and 24 percent damaged and 5 percent in the RS Entity. The restoration of these damaged and destroyed housing to the pre-war level was estimated to cost

between \$3 and 4 billion. World Bank estimates indicate that half a million flats and houses were damaged or destroyed during the war, with municipalities along the former confrontation lines sustaining the bulk of the damage." (ICG 30 April 1997, section 4.2)

"The pre-war housing stock (see Box 10) suffered considerable damage during the war. Damage to the stock was not, however, evenly distributed throughout the country - and the overall population has substantially decreased. Housing shortages vary significantly among the regions, and within each region between municipalities and rural or urban communities. In specific places, and for certain categories of beneficiaries (especially the most vulnerable), there is a shortage of accommodation. Such situations are, however, relatively limited and may not be the main impediment to providing returnees and displaced persons with suitable accommodation.

Box 10: the housing situation in 1991

Pre-war accommodation standards in Bosnia and Herzegovina were relatively high:

About 1,295,000 housing units for 4,4 million people;

A relatively high-quality housing stock, half of which was built after 1971;

Adequate residential infrastructure coverage in urban areas (although services lagged behind in unplanned and privately developed suburbs).

The housing stock was:

80 percent privately-owned, mainly in the countryside (owner-built family houses);

20 percent was "socially-owned" (i.e. by public companies), mainly in the cities, where public housing (multi-family blocks of rental apartments) accounted for about half of the stock; tenure bestowed many of the benefits of full ownership."

(OHR/RRTF March 1998, paras. 44-45)

Refugees and displaced persons often cannot return to their homes without evicting others (1998)

- A number of families control several housing units (often theirs and one or several occupied ones) while keeping a housing unit in the city
- Improving allocation and management of the existing housing space may be more efficient to support reintegration than constructing new housing units

"Almost everywhere throughout Bosnia and Herzegovina, many houses of people who left during the war (and particularly those belonging to ethnic minorities) are currently used to host displaced persons. Refugees and displaced persons often cannot return to their homes without evicting others - which is almost impossible in the absence of satisfactory alternative solution for occupants. In principle, this is primarily a logistical problem: movements should be synchronized, with some sort of temporary accommodation provided where needed. But many 'temporary' occupants have no intention of returning to their place of origin (for political, economic or personal reasons), particularly among rural people currently accommodated in cities. Reconstructing villages of origin has proven both costly and relatively ineffective in motivating such people to return: even once their homes are repaired, they tend to stay in town. Assisting them in settling in the urban environment where they currently live may be the only solution to enable the pre-war owners to return.

A number of families control several housing units (often theirs and one or several occupied ones): split households, extension of pre-war housing space, returns to villages while keeping a housing unit in the city, etc. A recent UNHCR survey shows that Sarajevo could host an additional 40,000 returnees (i.e. the bulk of the expected returns) with no deterioration in the housing situation (as measured by number of persons per unit) compared to pre-war levels. Preliminary analysis indicates that a similar situation might exist in several other regions. Improving allocation and management of the existing housing space (with

decentralized, incentive-based mechanisms) may be more important to support reintegration (and much less expensive) than constructing new housing units." (OHR/RRTF March 1998, para. 44)

"Most habitable accommodation in Bosnia and Herzegovina is presently occupied (legally or illegally). Achieving substantial returns will therefore depend on generating vacant housing space - the fast track solution - and resolving property disputes related to occupied apartments and houses. This latter process will be time consuming and painful, as it involves contested rather than vacant space and forces people to move, sometimes into inferior accommodation." (OHR/RRTF 13 December 1998, para. 3.3)

See also "Obstacles to the return of the displaced: numerous housing options have not been pursued by the local authorities (1999)" [Internal link]

Vulnerable Groups

Reintegration of vulnerable groups can prove very difficult (2000-2001)

- Returnees without prospects of re-integration run the risk of ending up in collective centres, which the local authorities and UNHCR are trying to phase-down
- Ethnic membership, lack of financial resources and absence of family support seriously affect the access of vulnerable groups to health care and social services
- Already disadvantaged groups also risk being further marginalised through reconstruction assistance, privatization and allocation of the housing stock
- Many returnees, in particular in rural areas controlled by another ethnic group, or elderly, disabled and residents of collective centres, find themselves in extremely precarious conditions

"The assessment of medical cases and socially vulnerable persons, such as (mentally and physically) handicapped persons or the elderly, should not be limited merely to the availability of treatment or special care requirements in BiH. Several other factors play an equally important role in ensuring accessibility to treatment and special care. The financial resources of the concerned individuals must be taken into account, since the former social policy of free access to social services and health care, applied under the socialist system, has changed with the introduction of fees to access health care and social services. Vulnerable but impoverished returnees in general do not have access to proper treatment and to medical facilities. The health insurance system is still ineffective and the restructuring of the health care and social service infrastructure is far from complete. The reform of the Entities' legislation regulating these matters may well take some time since it must take into account the constitutional competencies of the various levels of government authority.

The ethnicity of a returnee might also affect her/his access to health care and social services. Therefore, the reintegration of members of minority constituent peoples might be further undermined by their vulnerability and their disability. Provided there are no other protection problems, the possibility of repatriation of individuals in need of special care should be assessed on a case-by-case basis. Returnees without prospects of re-integration run the risk of ending up in collective centres, which the local authorities and UNHCR are trying to phase-down by providing solutions to the displaced residents. Consideration should be given to whether the community of origin or relatives can provide care and assistance or, alternatively, to whether the appropriate institutions are close to the place of origin so as to ensure proper reintegration in the place of pre-conflict residence, and finally as to whether funds are available to pay for services provided by a medical facility or through home care. The reintegration of elderly persons without family support can prove particularly difficult. The elderly in BiH represent close to 11% of the total population as opposed to the 1991 figure of 6.5%. UNHCR discourages the creation of

new institutions for vulnerable persons, because they do not take into account their needs of independence and socialisation and because they often represent an expensive model of care for which the authorities in BiH do not provide the necessary funds to sustain. As in any repatriation, children separated from their families or traditional care-givers must be accorded special care and attention, particularly regarding their legal status and special protection needs." (UNHCR August 2000, sect. 3)

"Insufficient attention has been paid to the needs and problems of persons belonging to vulnerable groups, many of them women, in the return process. There is a grave risk of already disadvantaged groups being further marginalized and excluded when property is redistributed in Bosnia and Herzegovina through reconstruction assistance, privatization and allocation of the limited available housing stock. Additional efforts are needed to address the needs of vulnerable people." (UNCHR 29 January 2001, para. 33)

"Five years after Dayton, discrimination on the basis of ethnicity, political opinion and gender remains one of the core problems in Bosnia and Herzegovina. The importance of this matter increases as the international community tries to push for the accelerated return of refugees and IDPs. Return makes sense only if it is sustainable. Once the familiar obstacles of poor security and difficulties in property repossession are overcome, access to social and economic rights will be of primary importance. Unfortunately, many returnees - particularly in rural areas and locations where returnees are a small minority (in particular in eastern Republika Srpska and some Bosnian Croat controlled areas) - find themselves in extremely precarious conditions. This is especially true for the most vulnerable groups among the returnees, including the elderly, sick and disabled, and residents of collective centres." (UNCHR 29 January 2001, para. 18)

See also "Extremely Vulnerable Individuals: The Need for Continuing International Support in Light of the Difficulties to Reintegration Upon Return", November 1999, website of UNHCR mission in Sarajevo [Internet]

See also "Special protection needs of vulnerable categories of returnees (especially women)(2000)" [Internal link]

ACCESS TO EDUCATION

General

Entity ministers of education signed an agreement on returnee children (March 2002)

- Agreement allows parents to choose the curriculum for certain subjects
- School boards must also reflect the composition of the population
- Implementation of the agreement remains problematic
- OSCE has been entrusted with monitoring of the education reform

“The entity ministers of education signed an Interim Agreement on the accommodation of specific needs and rights of returnee children in March 2002, and an international working group on Access and Non-Discrimination in Education has undertaken to implement the agreement in municipalities where return is happening. The agreement requires returnee children to take all general subjects under the curriculum in force in the area of return, but allows parents to opt for their curriculum of choice in the ‘national group’ of subjects. Significantly, the agreement also calls upon local authorities to hire returnee teachers and to ensure that the national composition of school boards reflects that of the population.

The interim agreement is a step in the right direction, though its implementation will require the international community both to keep up the pressure at the entity and cantonal levels and to monitor developments on the local level. In the RS, the requirement that school boards should be representative of their communities has been largely disregarded thus far, with the education minister (an SDS appointee) continuing to nominate party loyalists as members. In the Federation, the March agreement carries little force in itself, since it is the cantonal ministers of education who make and effect policy. Efforts have been made to overcome this legal obstacle by convincing cantonal ministers to issue instructions in line with the Interim Agreement, but implementation of the agreement has been spotty thus far.

In Drvar, Serb parents and other protesters blocked a main road in October 2002 to demand that the ‘national subjects’ and, in particular, the Serbian language rather than Croatian should be offered this year in Drvar’s schools. The protesters succeeded in part, securing an agreement with the canton to allow for both classes to be held and assignments completed in Serbian, as well as for the immediate hiring of three Serbian (or Serbo-Croat) language teachers. This strike and demonstration, in which hundreds of persons reportedly participated, indicates how significant education issues are for returnee parents.

The only viable solution in the long term will be a thoroughgoing overhaul of the entire educational system in BiH, including its legislative framework, management, financing, teacher-training provision, standards and, perhaps most fraught of all, the elaboration of flexible curricula common to all national groups. Late in the day, the international community has turned its attention to education, and entrusted the OSCE with the job of energising and co-ordinating reform.” (ICG 13 December 2002, pp. 20-21)

See also:

*Office of the High Representative, “Entity Education Ministers sign interim agreement on education for returnee children”, press release, 7 March 2002 [Internet]
Implementation for the Interim Agreement on accommodation of specific needs and rights of returnee children, 13 November 2002 [Internet]*

Discrimination and segregation in the education system hampers the return of minority families (2000-2001)

- Children of minority families often continue to live or attend school in the area of displacement
- Federation and RS Ministers signed a Declaration and Agreement on Education in BiH, on 10 May 2000, aiming at the creation of a joint core curriculum
- Implementation of the agreement as well as the review of textbooks and removal of offensive material remains, however, highly unsatisfactory
- 85% school age minority returnee children and adolescents are attending schools in the Federation and only 5% are attending schools in the RS, according to recent UNHCR survey
- The international community is compelled to intervene in a certain number of local school crises

"Despite some progress having been achieved over the past year, discrimination, segregation and bias continue to dominate education in BiH. School curricula continue to reflect the nationalist ideology of the dominant national group in any locality and minority returnees are regularly denied access to educational facilities, thus strongly militating against the return of minority families. Similarly, given the 'ethnically' divided nature of the curricula in operation, it would seem that even following the official 'return' of some families, the children of these families will continue either to live, or at least to attend school in the 'other' Entity, where the curriculum being taught is that of 'their' 'ethnic' group.

Both Federation and RS Ministers on 10 May 2000 signed a Declaration and Agreement on Education in BiH. This agreement affirms the commitment of the authorities of both Entities to pursuing the dual strategy supported by OHR, which focuses on removing offensive and ethnocentric material from textbooks and the curriculum, and on eradicating 'ethnic' bias from the educational system as a whole. The agreement also provided for the establishment of a national Curriculum Harmonization Board (CHB). A national Higher Education Co-ordination Board for university-level education was also established.

Despite these positive steps, however, the review and expurgation of textbooks and supplemental annexes in the RS and Federation has proceeded slowly, due to ongoing negotiations over sensitive issues such as history and literature. The removing of barriers for successful minority returns has also been impeded by the effective division of education systems along nationalist lines following, to a certain extent, directly from the decentralization and the fragmentation of authority within BiH, particularly in the Federation. For example, in the absence of a relevant Entity or BiH law, education in the Federation is a Cantonal matter and, in cases where the dominant constituent people in a given municipality differs from that in the canton as a whole, authority over education is given over to the municipality.

Furthermore, Croat-dominated areas of the Federation have modeled their education system, including holidays, on that in operation in the Republic of Croatia. Similarly, in the absence of any state-level education law, the RS maintains responsibility for its own unitary education system, modeled on that of the Federal Republic of Yugoslavia.

In many places throughout BiH, nationalist manipulation of schools and acts of discrimination continue to take place. For example, in Velika Kladusa, four pupils were dismissed from their lessons for not wearing traditional Muslim clothing. Several cases of harassment of pupils were also reported in the Catholic school in the Sarajevo settlement of Stup.

The denial of access to educational facilities is a serious impediment to the return of minority families. Nevertheless, real progress towards eradicating 'ethnic' segregation from the education system has so far been minimal, and it is expected that the work of the Curriculum Harmonization Board in this regard will be obstructed within both the Federation and RS. Thus, it is not surprising that despite a number of recent successes in resolving school crises in the Federation, and the re-integration of primary schools in, for example, Stolac and Vares, it must be noted that the direct political intervention of the international

community was required before these cases could be resolved successfully. There are currently indications that such direct involvement will continue to be necessary over the foreseeable future." (UNHCR September 2001, paras. 70-74)

"According to the UNHCR's *Returnee Monitoring Study: Minority Returnees to the Republika Srpska – Bosnia and Herzegovina* of June 2000, 85% of the school age returnee children and adolescents were attending schools in the Federation. Only 5% were attending schools in the RS. Much of this is due to the lack of available schools in their communities (most of which were destroyed during the war) and the RS curriculum. In addition, many parents simply feel that it is too soon to de-register from municipalities of their place of displacement and are taking more of a wait and see approach. Another reason for concern parents give is that they are afraid that their children might behave badly towards other ethnic groups and vice versa." (UNHCR August 2000, sect. 2)

Serious impact of war on the educational system (1997-2002)

- 75 percent of all schools have been reconstructed since the war
- There remain qualitative deficiencies: lack of qualified teachers, content of the curriculum

"The education sector is in somewhat in better shape: 75 % of all schools have been reconstructed and refurbished since the war, enrolment rates are high, and pupil-teacher ratios remain within acceptable limits. However the quality of educational provision, the content of the curriculum, the ratios of qualified staff, and educational expenditure varies markedly between the Entities, Cantons and Municipalities. " (European Commission 2002, p. 10)

"One of the most serious consequences of the war was the effect on children's learning. Disruption of schools, displaced populations, destruction of schools, classrooms, laboratories, and teaching aids, and inexperienced teachers all affected the ability of students to receive basic education. Teachers at all levels of the educational system are confronted with classrooms of diverse ages, learning difficulties, and physical disabilities." (UN December 1998, p. 117)

"During the war, a large number of qualified teachers left the country, were injured or killed, or served in the army. Individuals with little or no formal teacher education were mobilised to teach. Even in this post-war transition period, many inexperienced teachers remain in the system. In addition, even experienced teachers lack the type of skills needed to confront myriad problems in the schools. There is also a need to develop, strengthen, and expand in-service teacher education programmes throughout both Entities. And, there is a need to work closely with school directors to support the work of teachers to create effective schools." (UN November 1997, p. 96)

ISSUES OF SELF-RELIANCE AND PUBLIC PARTICIPATION

Self-reliance

Overstretched social welfare system (2002)

- Social policy is the responsibility of Entities and Cantons, while social assistance in the Republika Srpska is provided by the municipalities
- Official unemployment is estimated at around 40%
- The veterans protection system in both BiH Entities is one of the most generous in the world
- As a result, social welfare systems have a limited capacity for more ambitious poverty alleviations

“The war shattered economic and social structures in BiH completely. 250,000 people were killed or registered as missing and more than 1.2 million persons were displaced. According to UNHCR estimates there are still almost half a million displaced persons in BiH. Under the GFAP exclusive responsibility for social policy rests with the Entities and in the case of the Federation this responsibility is shared with the Cantons, which are also responsible for policy implementation and service provision. Social assistance in the RS is provided by the municipalities. This situation has contributed to under developed and uncoordinated social policy formulation.

Reliable statistics on poverty in BiH do not exist. Unofficial data suggests that between 45-55% of the population live in poverty, and that 15-22% survives on average monthly incomes of enjoying the highest standards and the RS the lowest. The average net salary in the Federation is 436 KM and in the RS 309 KM. Official unemployment, excluding workers on waiting lists, is estimated at around 40%. Limited survey data suggests that poverty rates amongst the unemployed are three to five times higher than amongst the employed.

Unemployment is highest amongst displaced persons and demobilised soldiers. The employment situation may worsen as privatisation proceeds and new job creation is discouraged by rigidities in labour market legislation and high taxes on labour. There are 415,000 registered pensioners and disabled persons, who receive pensions set below the indicator of relative poverty (50% of the average net wage).

There is an extremely limited capacity to provide social welfare payments and services. While estimates of the percentage of the population receiving social assistance benefits vary it is clear that it is very restricted with domestically financed programmes limited to pensions, veterans and limited poverty alleviation. It is estimated that well under 5% of the registered unemployed receive unemployment benefits. A World Bank analysis suggests that less than euro 25 per capita per annum are spent on social assistance programmes (including administrative costs). The situation is exacerbated by the additional demand placed on the system as a result of the war by veterans, families of deceased soldiers and returnees. On the delivery side local responsibility has led to wide variations in the level of assistance provided. The Centres for Social Work, a legacy from the SFRY system, provide direct and referral services and cash benefits but in many cases an estimated 50% of their resources are devoted to personnel and administration costs. Variations in service provision are contributing to an emerging rural/urban divide. There has been limited reform of health policy, the provision of primary health care, health financing mechanisms and medical training.” (European Commission 2002, pp. 9-10)

Excessive attention given to the war veterans

“A specific issue is that of financial assistance provided to war veterans by the governments of both Entities. Contrary to conventional public opinion, the analysis of the data collected during the living standard survey (LSMS) has shown that war veterans and the war disabled face considerably lower poverty-related risks than the average BiH population, which might be explained by very high consideration that the governments give to these categories, motivated by political promises, and spurred by the strength and high level of organization of these groups. The veterans protection system in both BiH Entities is one of the most generous in the world. The transfers to the war veterans represent the single largest form of social welfare transfers. These transfers, which amount to nearly 4 percent of GDP, are a major burden for the entity budgets, limiting the scope for the provision of assistance to other vulnerable categories of the population. In addition, considerable sums are being allocated from lower levels of government for financing the veterans' benefits. Nonetheless, it has been noted that there are certain subcategories of disabled and of families of those killed in war who are not adequately covered and protected, while some groups, on the other hand, do not even depend on these transfers. “ (Poverty Reduction Strategy Paper Team December 2002)

Refugees and displaced persons are particularly exposed to the risk of poverty (2002)

- This is particularly the case in the Republika Srpska, while this risk appear to be lower in the Federation
- The position of the displaced persons in the social welfare system and other social support systems has not been adequately resolved
- Single mothers in displaced persons or returnee households do not have access to the basic forms of social welfare
- To prevent the process of returns from stalling and failing additional funds will be required for housing

Most Vulnerable Categories of the Poor

“Although the identified poverty rate in BiH is lower than had been presumed, the essential conclusion is that the threat of poverty in BiH is widespread among the population and that the poor are a heterogeneous group, so that even a typical household bears a considerable risk of declining into poverty.

Some population categories are, however, more threatened than the others. In addition, the causes of impoverishment of individual categories are different, and an understanding of those processes is important for an identification of key areas of intervention and planning strategies for poverty reduction. Those who are below the poverty line are as a rule children, persons with low education levels, the elderly and the disabled as well as the rural population. Analysis of data for the population as a whole indicates that children, especially those under 5 years of age, displaced persons and returnees, the unemployed, and persons with low education levels, are particularly exposed to the risk of poverty. Contrary to received wisdom, the elderly are less threatened by the risk of poverty than the average person, and the same can be said for the disabled and war veterans. Those least at risk are the employed, both those in the noneconomic sector and those in the ‘grey economy’.[3]

Another surprising conclusion is that poverty is not primarily a problem of the unemployed, displaced persons, the disabled, or the families of soldiers killed during the war. All these groups combined constitute less than half the poor. The majority of the poor in BiH are employed persons living in families with children, the result of low wages and the fact that one wage is inadequate to keep a household above the poverty level.” (Poverty Strategy Paper Team December 2002, pp. 10-11)

[Footnote 3: BiH, Preliminary Findings from the LSMS, BiH authorities in cooperation with the World Bank, August 2002, p. 8-9]

“The data of the Office for Displaced Persons and Refugees of FBiH indicate that 281.652 displaced persons reside in FBiH (35% from the territory of FBiH and 65% from RS). It is estimated that 624.250 BiH refugees live abroad, of whom some 297.550 have no permanent solution to their status, and therefore the possibility of their return must be envisaged. In addition, at this moment, 243.386 displaced persons live in the RS and around 23.500 in Brcko District. According to the data of the Ministry of Refugees and Displaced Persons of BiH and UNHCR, by 30 June 2002, 366.150 refugees and 294.857 displaced persons had returned to the Federation BiH, while 35.883 refugees and 166.963 displaced persons had returned to the RS, and 747 refugees and 14.201 displaced persons to Brcko District.

In all parts of the country, these categories, frequently without any stable source of income and not being covered by the existing social welfare systems, are considerably more susceptible to poverty than the population that was not forced to move. In the case of returnees, the picture varies: in the RS returnees are extremely susceptible to the risk of poverty, while in the FBiH that risk is even lower than the average. There are various reasons for this, including different conditions for returns and differing attitudes towards returnees in the two entities. [10] Displaced persons constitute around 45% of the extremely poor in the FBiH, while in the RS, the displaced population accounts for only 21% of all those falling into this category. Eight percent of the poorest and 37% of persons on the poverty line live in a joint household with at least one displaced person. By far the most difficult is the situation of displaced persons still living in collective centers, 40% of whom fall into the category of the poorest and 39% are actually on the poverty line. It should be pointed out that this analysis is based on data originating from a survey conducted in 1998, and that it is probable that significant movements within those groups have occurred since.[11] However, more recent data that would connect the state of poverty with the status of displaced persons are not available.

An additional problem of displaced persons results from the fact that they emerged as a vulnerable group during the war, and their position in the social welfare system and other social support systems has not been adequately resolved. They have been to a great extent dependent on humanitarian aid and the support of international organizations. Housing conditions are mainly poor, regardless of whether they are in collective centers or other people's apartments allocated for temporary occupancy. [12] In the circumstances of radical cut-backs and the imminent cessation of these types of assistance, the displaced are in an especially difficult position, as there is no organized system at the entity and cantonal level that could take over the role of financing the needs of the displaced. The displaced therefore represent a charge on the municipalities which, in most cases, are unable to provide them with even the minimal conditions for survival.

Displacement has had an impact on the stratification of the labour market: the displaced are in a much more difficult situation, facing greater difficulties in finding a job and often forced to accept jobs that other groups were not interested in. In view of the difficult economic situation as well as continued ethnic tensions, returnees almost never manage to return to their previous jobs. Single mothers in displaced persons or returnee households face particularly serious problems since, in addition to all the other aspects of discrimination, they do not have access to even the basic forms of social welfare provided to other population groups.[13]

Regaining possession of and renovating or reconstructing property are two specific problems faced by returnees. According to data from March 2001, of the total number of claims submitted for the restoration of property (private property or occupancy right), 47% had been ruled on, and in 23% of cases the previous occupant did in fact regain possession of his property. The process was more efficient in the FBiH, where during this period 62% of claims had been ruled on and property had been reinstated in 32% of cases. In RS the property repossession process is slower and the percentage of cases ruled on was 34%, while only 15% of the total number of claims have successfully been concluded by property reinstatement. [14] Many returnees still need assistance in the physical reconstruction of their houses and apartments, and available funds are dwindling. To prevent the process of returns from stalling and failing, as well as to keep returnees from falling below the poverty line, additional funds will be required for housing from the budgets of the Entities (and cantons), as well as from international sources.

The Living Standards Measurement Survey did not include the most vulnerable group of the displaced, those who are still residing in collective centers. According to official data, there are still around 1000 displaced persons in collective accommodation in FBiH and some 2000 in the RS. In the continued elaboration of the Poverty Reduction Strategy this population group will also be covered by the research so that their specific problems can be taken into account. “ (Poverty Strategy Paper Team December 2002, pp. 10-11)

[Footnote 9: Reform of social security development in FBiH, Inter-ministry social policy working group, February 2002, page 28 – 29]

[Footnote 10: BiH, Preliminary Findings from the LSMS, authorities of BiH in cooperation with World Bank, August 2002, page 8 and 9]

[Footnote 11: Poverty and Inequality in BiH: Legacy of the War, World Bank, December 1999]

[Footnote 12: Reform of social security development in FBiH, Inter-ministry social policy working group, February 2002, page 29]

[Footnote 13: Gender and Poverty: A Qualitative Survey, IBHI, June 2002, page 2]

[Footnote 14: Human Development Report, UNDP, September 2002, page 76 – 79]

[Footnote 15: Human Development Report, UNDP, September 2002, page 76]

Sustainable return continues to be hindered by the withholding of employment opportunities from minorities (2000-2002)

- Sustainability of return to urban areas may be endangered by lack of land for subsistence farming
- Minority returnees continue to commute to majority areas to work
- Unemployment rate stands around 40% in the Federation and is even higher in the RS
- The limited employment opportunities are compounded by widespread discrimination based on ethnicity, political affiliation or gender
- Discriminatory dismissal or recruitment is especially prevalent in the public sector
- There are also certain concerns that the privatization process in some parts of BiH is taking place in a corrupt fashion
- International efforts towards eliminating ‘ethnic’ discrimination in employment, focuses on legislative reform and the implementation of an anti-discrimination strategy
- Entities's labour laws provide a measure of compensation, albeit largely symbolic for discrimination and loss of jobs suffered during the conflict
- Young people are unlikely to return to areas where there is no employment

“Although international efforts have helped make it possible for refugees to go home, they have been less successful in creating the conditions needed to sustain such return. Micro-credit programs for small returnee businesses and donations of livestock and agricultural equipment have made a difference, particularly in rural areas and when supplemented by pension payments. But with an official unemployment rate of some 40 per cent, returns to urban areas, where there is little or no land available for gardens and subsistence farming, are more problematic. Still, some cities and towns, including Sarajevo, have experienced a large and growing influx of returnees. Areas close to entity (and ethnic) boundaries also attract and stand a better chance of keeping returnees, since such persons can more readily visit, clear up and rebuild their former homes – and assess conditions for permanent return – before actually making the break. Moreover, in cities such as Prijedor and Sarajevo, many people have returned to live as ‘minorities’, but continue to commute to the places where they were formerly displaced to work. While it is a positive sign that so many people nowadays disregard former confrontation lines in their everyday lives, not every

returnee or would-be returnee can have the added security of living close to an area where his or her group is in the majority.” (ICG 13 December 2002, p. 2)

See also “discrimination in a depressed economy”, section V, in: “The Continuing Challenge of Refugee Return in Bosnia and Herzegovina”, International Crisis Group, 13 December 2002 [Internet]

"The economies of both Entities remain in a fragile state, with unemployment hovering around 40 per cent in the Federation, and even higher in the RS. International aid is decreasing, and living standards are also declining. Reductions in aid are resulting in greater pressure on national authorities to improve the economic situation of its citizens, and the extent of fraud and corruption at higher levels of government are becoming more apparent as greater moves towards openness and transparency are demanded by the international community in the course of the ongoing economic reform of the country. As noted by the International Crisis Group, 'Bosnia's economic situation is bleak... if the foreign investment on which the country must rely is to flow, the numerous obstacles to setting up businesses, making money legally and enjoying the fruits of success must be removed'.

The limited employment opportunities are compounded by widespread discrimination based on ethnicity, political affiliation or gender. In addition to political obstacles, the current state of the economy often does not allow minority returnees to reintegrate into the employment market. Pressure on the employment market is already high since the BiH economy does not generate enough jobs to absorb all or even a substantial part of the available workforce. It is also feared that discrimination based on ethnicity, political affiliation and/or gender will affect the selection criteria of those who may lose their employment as a result of economic reform.

Discriminatory dismissal or recruitment based on ethnicity, political affiliation, membership in a particular trade union or participation in social movements is especially prevalent in local administrations at all levels, public enterprises, the legal profession, the medical field, schools and universities. Such discrimination, in particular on account of ethnicity, started during the conflict, when the employees who were displaced were either dismissed or put on waiting lists. There are also certain concerns that the privatization process in some parts of BiH is taking place in a corrupt fashion, and that the result may be that many companies come to be owned entirely by one 'constituent people', which may in turn have a negative impact on non-discriminatory employment practices.

Bearing in mind the above considerations, the international community has adopted a dual strategy towards eliminating the problems of 'ethnic' discrimination in employment, focusing on legislative reform of the RS and Federation Labour Laws to ensure that the shift from the pre-war socialist system to a free market economy is carried out in a non-discriminatory fashion, and on implementation of a joint, inter-agency anti-discrimination strategy, designed to support the adoption of a set of fair employment principles.

The key elements in this strategy are audits of the employment practices of selected enterprises, and encouragement on the part of donors to condition their aid and investment on the adoption by recipient enterprises of non-discriminatory hiring and firing practices.

To date, both the RS and Federation Labour Laws have been reformed. Anti-discrimination clauses have been included in both laws, and retro-active provisions have been included in both of the Laws to provide a measure of compensation, albeit largely symbolic (pre-conflict employers are, in the majority of cases, not obliged to re-hire those pre-conflict employees dismissed from their jobs) for discrimination and loss of jobs suffered during the conflict in BiH.

It is indisputable that a clear pattern of employment discrimination on 'ethnic' and political grounds appears to prevail in post-conflict BiH. The few existing economic opportunities are reserved for those who provide political support to the dominant political parties. As property re-possession continues to increase in pace, such discrimination – based on past experiences and on a currently justifiable fear of future

discrimination – becomes an increasingly significant deterrent to minority return." (UNHCR September 2001, paras. 75-80)

"The continued depressed state of the economy throughout the country and the consequent lack of employment opportunities for returnees remained a serious obstacle to a significant number of returns. As a result, most minority returnees were elderly. This placed a burden on receiving municipalities. Younger minority group members, who depend on adequate wages to support families, generally remained displaced, especially in cases in which they had managed over the past 7 years to find work." (U.S. DOS February 2001, sect. 2d)

The Human Rights Chamber for Bosnia and Herzegovina [Internet] and the Human Rights Ombudsperson for Bosnia and Herzegovina [Internet] issue decisions relating to employment discrimination which can be searched on the web.

See also "Prevention and Elimination of Discrimination in Employment, Fair Employment Practices Strategy", October 2001, a revised policy paper from the OSCR, UN OHCHR, UNHCR and the Office of the High Representative [Internet]

For more information on the labour law in Bosnia and Herzegovina, consult the human rights reports prepared by the Human Rights Coordination Centre (HRCC) [Internet]. Paragraphs 108 to 113 of HRCC report covering the period between 1 April and 30 June 2001 contain information on the latest developments.

See also OSCE report "Employment Discrimination in Bosnia and Herzegovina", June 1999 [Internet]

See also "Persisting economic difficulties keeps unemployment rate at a high level (2000-2001)" [Internal link]

Inter-entity return still hampered by divided pension system (2002)

- Pensioners who return from Republika Srpska (RS) to the Federation receive only meager pension from RS pension fund
- Since March 2002, they have also lose the possibility to collect their payments in the Federation
- The merging of the Mostar and Sarajevo-based funds in January 2002 has made return between Croat and Bosniac-dominated areas easier

"Within BiH, the fragmentation of the Fund of the former Socialist Republic of BiH into three (now two) separate Funds (the RS and the now-merged Sarajevo and Mostar Funds), the unharmonised legislation between the two Entities and the lack of framework legislation at the state level, causes problems for pensioner DPs and returnees. They are often unable to receive the full amount of their pensions and, in case of returnees, to enjoy other benefits related to their pensions, the most important of which is health insurance.

The first problem relates to a general lack of resources in the Funds of both Entities. What aggravates this situation and, therefore also affects the amount of pensions that ordinary pensioners receive, is that it is not clear from which budget the Government is funding those pensions that are based on more advantageous calculation modalities, namely the doubling of so-called 'special years of service'. It seems that contributions of ordinary pensioners are used to finance these preferential pensions granted to certain categories of persons. This, in turn, results in the additional reduction of the pensions which ordinary pensioners receive each month.

A second issue adversely affecting DPs and returnees, is the different pension calculation schemes and different pension amounts in each Entity and the absence of comprehensive legislation regulating pension and other social benefits for DPs who return to their place of origin in the other Entity.

Following the Agreement on Mutual Rights and Obligations in the Implementation of Pension and Disability Insurance between the three Funds in BiH, it became possible for a pension beneficiary, who receives a pension from the Fund which is in his/her place of displacement, to continue to receive this pension in his/her place of return (i.e. place of new residence), even if the said place of return is in the other Entity.

However, the difference in pension amounts between the Republika Srpska (RS) and the Federation of BiH, in conjunction with differences in cost of living, as well as the impossibility for pensioners who collect their pensions from a Fund in one Entity to enjoy other related social benefits (the most important being health care insurance) in the other Entity, is influencing decisions to return and the sustainability of returns. For example, displaced persons, who receive their pension from the RS Fund, will be reluctant to return to their place of origin in the Federation (where cost of living is higher), because they will be unable to sustain themselves with the pension received from the RS Fund. Thus, whereas return entails additional costs for the returnee, in many cases returnees end up receiving less (i.e. lower pensions and no insured health care) than those who were never displaced.

At present, despite certain positive developments such as the merger of the Sarajevo and Mostar Funds [January 2002] or, on a related front, the improved access to insured health care for returnee pensioners, the situation of displaced persons and returnees in the area of pensions has now become even more precarious with the recent withdrawal of the RS Fund from the Agreement on Mutual Rights and Obligations in the Implementation of Pension and Disability Insurance [March 2002].” (Stability Pact 31 August 2002, pp. 31-32)

For more detailed information, see "Pension and Disability Insurance Within and Between Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia in the Context of the Return of Refugees and Displaced Persons", a discussion paper prepared for the ongoing trilateral dialogue in the context of the Stability Pact Regional Return Initiative Task Force, October 2001 [Internet] and its update released in June 2002 [Internal link]

In March 1999, OSCE issued a paper/study on the pension system and its current problems in BiH. See full text of the report on the website of OSCE Mission to Bosnia and Herzegovina [Internet]

See also the decision by the Constitutional Court of Bosnia and Herzegovina "S. and Z. Elezovic. from Mostar vs. the Mostar Cantonal Court", 29 September 2000 (Case No. U 5/00) [Internet]

Coping mechanisms developed by the population to compensate food insecurity (1994-1999)

- Available information suggests a trend of improved food security from 1994
- Agriculture became the primary source of income for the local population during and after the war, while significantly fewer internally displaced households were able to rely on agriculture as a household income source
- Low levels of income and destruction of property were addressed by pooling of resources and combining households that would have lived separately under normal circumstances
- Free accommodation and non-payment of public services, remittances from abroad, sale of personal belongings and unregistered and informal sector work were other coping mechanisms

"The information found on household food security and coping mechanisms mainly relates to the years following the Dayton Peace Agreement, and only in part to IDPs.

Food availability during the post-war period was characterized by steady improvements in supply and declining prices resulting from the resumption of commercial transport and normalization of trade. Although large portions of the population remained vulnerable and dependent on humanitarian aid due to their limited purchasing power, the Food Security Survey of 1997 by CIET International and the WFP Food Aid Beneficiary Household Survey of 1998 confirmed a trend of improved food security. The survey portrayed steadily increasing food security from 1994 to 1996, applying indicators such as households' storage capacity, purchase of food and spending on non-essential food items such as coffee. Equally, in 1997 only some five percent of surveyed households perceived food as a major problem, compared with 30 percent in 1994.

The main coping mechanisms developed by the population to compensate food insecurity were:

- **Agriculture:** Although the contribution of agriculture to Gross Domestic Product before the war was relatively limited, Bosnia-Herzegovina was nonetheless regarded as a dominantly rural area, with 94 percent of the arable land being privately owned. As mentioned earlier, the primary source of income for many village households was salaried work in nearby industries for the benefit of social security (pensions, health care); agricultural production was relied on to supplement income. Even in highly industrialized areas in central Bosnia, up to 80 percent of households had some access to land and practised agriculture. Consequently, agriculture and the livestock sector assumed an important role in the population's food security during and after the war, and because of their smallholder nature, could adapt to the lack of fuel, agricultural inputs and machinery (WFP/UNHCR/FAO 1996). Accordingly, agriculture, particularly in the Republika Srpska, increased as a primary source of income, parallel to a decrease in marketing of agricultural production (which was more important in the Federation). Compared with the domiciled population, significantly fewer IDP households were able to rely on agriculture as a household income source (World Bank 1999a).
- **Pooling of resources:** Low levels of income and destruction of property were addressed by pooling of resources and combining households that would have lived separately under normal circumstances (World Bank 1999a).
- **Free accommodation and non-payment of public services:** Another important coping mechanism consisted of accommodation, i.e. the assigning of abandoned houses to IDP households. A further frequent subsidy to household income was the partial or non-payment of bills for public services such as water and electricity, but not telephone bills, which households tended to pay (World Bank 1999a). However, these practices are likely to decline.
- **Remittances from abroad:** For large portions of the population, support from family members living abroad constituted an important supplement to the household income. Money transfers from relatives living in Western Europe, including refugees, were assumed to account for about 30 percent of income (WFP/UNHCR/FAO 1996).
- **Sale of personal belongings:** The 1998 WFP household survey revealed that between seven and nine percent of WFP beneficiaries in the Federation and Republika Srpska, respectively, had sold personal belongings to generate cash during the three preceding months. The items most commonly sold were livestock, jewellery, cars and furniture. It may be assumed that this percentage was considerably higher in earlier years, when unemployment rates were higher (WFP 1998a).
- **Unregistered and informal sector work:** Up to 24 percent of households not involved in agriculture relied on unregistered work as a means of coping and compensation for loss of regular work (World Bank 1999a). "

(WFP May 1999, pp. 30-31)

Displaced and the returnees particularly affected by unemployment (1998)

- High unemployment rates prevail throughout the country
- Unemployment is about 20 to 30 percent higher for displaced than for residents, and average salaries 20 to 30 percent lower than those of residents

"Successful economic revival is key to effective reintegration of refugees and displaced persons. At this stage, unemployment is one of the major impediments for many to resume a normal life, while many of those currently receiving regular incomes are reluctant to move (and consequently to return to their place of origin or even to Bosnia and Herzegovina). There are two facets to this issue:

High unemployment rates prevail throughout the country. Assessing the exact extent of the problem remains difficult in the absence of reliable statistics. Social surveys show, however, that about a third of Bosnia and Herzegovina's labor force is currently unemployed, with substantial variations between cantons and regions (see Box 8). Such employment rates are comparable to those of the immediate pre-war period (27 percent in 1991) or in less dynamic countries in the region (e.g. FYR Macedonia, with an unemployment rate at 36 percent in 1995).

Returnees and displaced persons are particularly affected. Several surveys have been conducted to assess the extent of unemployment among returnees, but sample populations were often too limited and too specific to be representative. However, they all indicate significant unemployment rates. With regard to displaced persons, preliminary surveys indicate that unemployment is about 20 to 30 percent higher than for residents, and average salaries 20 to 30 percent lower than those of residents. The difficulties returnees and displaced persons face stem from different reasons:

- i. social networks play an important role in Bosnia and Herzegovina for finding jobs, and returnees and displaced persons have less access to efficient networks;
- ii. public and socially-owned sectors remain predominant in the economy (accounting for 59 percent of jobs in the Federation, and 67 percent in Republika Srpska) and local authorities tend to privilege their constituencies (i.e. the residents) in job allocation;
- iii. there is an element of resentment vis-à-vis returnees which impedes their full reintegration in the labor market; and
- iv. ethnic minorities are clearly discriminated against in many instances, particularly for access to public jobs.

Experience in other Central and Eastern European countries shows that it takes many years to resolve the unemployment issue, and that the transition to a market economy is accompanied by significant changes in labor market composition (less agriculture and industry, more services; less public employment, more private or self-employment). In Bosnia and Herzegovina, many refugees and displaced persons (as well as residents) will have to change jobs, and will often no longer find employment opportunities where they formerly worked."

Box 8: unemployment rates – tentative estimates (spring 1997)

FEDERATION (BY CANTON)		REPUBLIKA SRPSKA (BY REGION)	
Una-Sana	46.5	Eastern Region	34.7
Posavina	64.3	Western Region	22.7
Tuzla-Podrinje	27.7	Average	27.3
Zenica-Doboj	24.4	Unemployment rates are generally higher for women than for men, for people with secondary education than for others (whether more or less educated). Pre-war conglomerates still keep "waiting lists" of unemployed workers which may result in some "hidden unemployment" (particularly in Republika Srpska, where the unemployment rate could be closed to 40-50 percent).	
Gorazde	39.4		
Central Bosnia	32.8		
Neretva	34.4		
Western Herzegovina	18.5		
Sarajevo	33.9		
Western Bosnia	35.3		
Average	32.5		

(OHR/RRTF March 1998, paras. 37-38)

"In the context of the general high levels of unemployment in Bosnia and Herzegovina, international support obviously cannot be targeted only on returnees and/or displaced persons without exacerbating tensions and making reintegration difficult." (OHR/RRTF March 1998, para. 39)

"Transition to a market economy and restructuring of economic activities as a consequence of the breakdown of the internal Yugoslav market are resulting in significant changes on the labor market. Returnees and displaced persons are likely to be among those most affected by these changes, and should not be marginalized in the adjustment process." (OHR/RRTF March 1998, para. 43)

"About 60 percent of unemployed displaced persons are looking for jobs which do not require specific qualifications or skills." (OHR/RRTF March 1998, para. 43)

Participation

Returnees are not adequately represented in public institutions (2002)

- Public institutions have been subjected to a policy of ethnic homogenization, especially in the Republika Srpska
- Minority returnees have to face hostility from authorities and often prefer to avoid any contact with them
- This is particularly a problem in entity, cantonal and municipal housing offices
- Risks of discrimination are also real from public utility companies, the education system, justice and police officers
- The recruitment of minority police officers remains insufficient
- However, returnees are in the process of establishing themselves in governments and institutions in various municipalities
- High Representative has forced local authorities to guarantee representation to all ethnic groups

"The homogenisation of Bosnia's population in separate national enclaves during the war, the partition sealed by the DPA and the subsequent electoral victories of the nationalist parties have ensured that municipal administrations, courts, police, schools, and public companies are staffed almost exclusively by members of the locally dominant nation. There are partial exceptions to this rule in some cities and professions in the Federation, but the RS as a whole continues to reflect the success of 'ethnic cleansing',

particularly in those towns where the SDS initiated its project through the exemplary execution or expulsion of influential leaders of the Bosniak and Croat communities.

Mono-ethnic institutions inhibit return in two key ways. First, because the private sector accounts for a mere 35 per cent of BiH's GDP, public institutions are the largest employers. More significantly, because of the many appointments of ardent loyalists to public sector jobs made by the nationalist parties during and since the war, the members of new minorities" can still expect to meet with antagonism and discrimination in their contacts with these authorities. In places like Prijedor, Bratunac and Srebrenica, where individuals involved in running concentration camps or leading paramilitary formations are known to work in the courts, schools and police, the natural tendency of returnees to avoid dealings with the authorities is all the greater. As a result, where large-scale return has taken place, returnees have usually formed parallel institutions, led by returnee associations, serviced by token representatives in municipal government and sustained by a largely separate economy. Return has not yet resulted in re-integration.

One sector where the past has an obvious effect on return is in the staffing of entity, cantonal and municipal housing offices, to which potential returnees must apply to repossess their pre-war property. For example, according to figures provided by the RS Ministry for Displaced Persons and Refugees, only 22 out of 520 employees in that ministry are not Serbs. Moreover, a significant number of employees in the RS Housing Offices (OMIs) are themselves displaced persons, with an obvious conflict of interest in assisting returnees to repossess property usually occupied by people like themselves. None of the OMI heads of office in the RS represents returning Bosniaks or Croats.

Returnees can encounter discrimination in many spheres and guises. For example, in some areas, newly built settlements for 'majority' DPs are connected to roads, electricity grids and other utilities before returnee villages, whose infrastructure was destroyed in the war, are reconnected. This reflects the fact that the public utility companies are run by the governing parties throughout the country. Meanwhile, [...], the nationally exclusive curricula and staffing of schools perpetuates divisions and deters returnee parents from sending their children to school. Nor have judges and prosecutors, appointed during the war for their loyalty, proved ready to dispense nationally impartial justice.

Bosnia's police forces are, in fact, the only public institutions that the international community has sought systematically to reintegrate. In restructuring agreements signed with the Federation in 1996 and with Republika Srpska in 1998, the UN mission set quotas for the recruitment of 'minority' officers to the entities' forces. In the Federation, forces were meant to reflect the national composition of the prewar population in a given municipality, as determined by Yugoslavia's last census in 1991. A laxer standard was accepted for the RS, where the profile of the police force in a given municipality was required to conform only to the level of participation by the various national communities in the 1997 elections.

The reintegration of Bosnia's police forces has had two objects. First, it seeks to ensure a more secure environment for returning refugees through the assurance that 'their' nation is represented among those upholding the law. Second, reintegration aims to provide employment for some returnees, thereby offering a stimulus to return. But the experience of UNMIBH in attempting to reintegrate municipal police forces also offers a primer to international organisations that will be endeavouring to ensure the proportional representation of the three 'constituent peoples' and 'others' in all institutions of authority following the April and October 2002 amendments to the entity constitutions.

Not surprisingly, the recruitment of 'minority' police officers has been subject to overt political obstruction by entity and cantonal interior ministries. But it has also fallen foul of prevailing salary and cost of living differentials, the lack of enough places in the police academies and the absence of affordable housing in the receiving locality. Moreover, officers who have taken up employment in areas where another nation predominates have had to face either intermittent threats to their security or marginalisation. For example, 'minority' officers are sometimes sidelined, not issued with weapons or badges, prevented from participating in investigations and assigned to menial jobs such as doorman or parking attendant. Abuses of this sort are particularly widespread in the RS and in Croat-ruled parts of the Federation.

Although 10 per cent of police ranks across BiH were composed of ‘minority’ officers by October 2002, recruitment still lags well behind the targets set for both entities. Progress has, however, been made in some municipalities with significant returnee populations. In Drvar, continuous UNMIBH pressure on the recalcitrant Canton 10 authorities in Livno, including the successive removal of three interior ministers, has finally paid off, with Serb returnees now comprising 44 per cent of the force and a Serb chief in place. In neighbouring Bosansko Grahovo, to which Serbs have also returned in significant numbers, returnees comprise 27 per cent of the force.

Returning Serbs have also succeeded in securing political power in Drvar, as well as significant representation in the municipal administration, despite the efforts of the HDZ-dominated cantonal government to frustrate or contain this process. In Bosansko Grahovo and Glamoc, too, Serb (and Bosniak, in the case of Glamoc) returnees are in the process of establishing themselves in the municipal governments and administrations. Yet as returns have overturned the post-war demographic structure in these towns, the canton has cut off revenue payments and transferred competencies up to the cantonal level. The SNSD mayor of Drvar has characterised these policies as an ‘economic blockade’ of the municipalities, a judgment confirmed to ICG by a number of international organisations working in the canton. As a consequence of the High Representative’s imposition of amendments to the Federation constitution on the morrow of the 5 October elections, however, Serbs and Bosniaks will be guaranteed representation in the government of Canton 10 commensurate with their pre-war numbers. The robust implementation of these amendments will both exclude the possibility of mono-ethnic cantonal governments and serve to encourage further return.” (ICG 13 December 2002, pp. 16-18)

For more information on the constitutional reform, see "Constitutional changes and their significance", Sect. VII in: "The Continuing Challenge of Refugee Return in Bosnia & Herzegovina", International Crisis Group, 13 December 2002 [Internet]

Minority returnees emerge as a political force after October 2002 elections (2002)

- Returnees have impacted on the political life of several municipalities
- They can help marginalize nationalist politicians if they participate in elections,
- Next step will be to reintegrate returnees in the local administrations
- 2002 constitutional amendments will help to strengthen minorities’ representation

“While the sum total of returns recorded thus far has yet to transform the overall pattern of national separation and homogeneity inflicted upon BiH by the war, returnees have significantly altered social and political life in many municipalities and localities (*mjesne zajednice*), thus testing the argument over whether reintegration is politically stabilising or destabilising.

In the Bosniak-majority town of Bugojno in central Bosnia some 8,500 Croats have returned, half the pre-war population of Croats. A lesser, but not insignificant, percentage of Serbs has also returned to Bugojno. In Drvar, where Serbs formed the overwhelming majority until almost all fled the assault of the Croatian Army in 1995, returning Serbs have re-nationalised the town. In the tiny RS municipality of Vukosavlje (near Modrica), about 80 per cent of the mostly Bosniak refugees have returned. Janja (in the Bijeljina municipality) was an almost exclusively Bosniak settlement before the war and an almost entirely Serb one thereafter. It has seen the return of about 6,000 Bosniaks (or 60 per cent of its pre-war Bosniak population). In Sarajevo, Serbs have lately returned in significant numbers. There were 17,891 registered returns to Sarajevo Canton in 2001 and almost double that number is expected in 2002. These are just a few examples of encouraging movements on the local level.

The Bosanska Krajina municipality of Prijedor demonstrates how returnees and potential returnees can help marginalise nationalist politicians if they participate in elections. In the 2000 municipal polls, over 10,000 Bosniaks still living outside the municipality cast absentee ballots, securing nine places on the 32-member municipal council for Bosniaks from the Coalition for a Unified and Democratic Bosnia (CUD, the then coalition of the SDA and the Party for BiH, SBiH). At the same time, large numbers of Prijedor Serbs defected from the SDS to more moderate parties formed after the SDS split in 1997: the Alliance of Independent Social Democrats (SNSD), Serb National Alliance (SNS) and Party of Democratic Progress (PDP). The Bosniak councillors supported the election of SNSD member Nada Sevo as mayor and secured the appointment of one of their number, Muharem Murselovic, as president of the municipal assembly. Large-scale returns since 2000 mean that Bosniaks are likely to become an even stronger political force after the next municipal elections.

As many as 20,000 Bosniaks are estimated to have returned to Prijedor. They thus exercise greater political influence than is possible in most other municipalities to which refugees have returned. But mixed municipal councils are now common throughout BiH. This ensures that returnees have representatives to defend their interests, even if they are still regularly outvoted by members of the dominant group. The 2004 municipal elections will result in even more power sharing, since the returnee population will be more than double that of 2000. The next step will be to reintegrate returnees in the local administrations, school staffs, public companies and police, where their presence is still negligible. The April and October 2002 amendments to the entity constitutions (discussed below) mandate these reforms in the cantons and municipalities, but will remain dead letters without pressure from the international community.

Returnees emerged as recognisable constituencies in both entities in the October 2002 general elections, albeit of widely varying significance in the different legislatures (state, entity and cantonal). Federation-based parties won fourteen seats in the 83-member RSNA and elected two of the fourteen RS deputies to the state parliament. On the other hand, RS-based parties took just one seat in the Federation House of Representatives. Nor did they do well in cantonal races. As is explained below, however, under new constitutional amendments, each of the three 'constituent peoples' will nonetheless have representatives in the governments and legislatures of the entities and cantons.

[...]

The representation of 'minority' returnees to both entities will in any case be amplified this year by the implementation of constitutional amendments guaranteeing at least four seats in the entities' parliaments to each of the three 'constituent peoples'. The amendments also require the newly formed entity governments to include a specified number of ministers from each people, as well as prescribing that certain key offices must be shared out among the different nations. What is effectively second chamber of the RSNA, the Council of Peoples, has been created with the power to block legislation that offends against 'vital national interests'. The pre-existing Federation House of Peoples, meanwhile, has been recast to include an equal number of Serbs. These changes – and others discussed in more detail below – will have the effects of both giving greater voice to returnees and encouraging yet more returns." (ICG 13 December 2002, pp. 5-6)

For more details on constitutional amendments imposed in April and October 2002 on entity constitutions, consult Section VII "Constitutional changes and their significance" in: ["The Continuing Challenge of Refugee Return in Bosnia and Herzegovina"](#), International Crisis Group, 13 December 2002 [Internet]

New Election Law provides for the right to vote of the displaced (August 2001)

- A displaced person can vote either in municipality of current residence or of pre-war residence
- The Law also prohibits illegal occupants of properties from voting in the place of current residence and from running elections

"On 23 August [2001] the BiH passed the Election Law, thus ending several years of failed attempts. Both Chambers approved this crucial piece of legislation in the version that had been submitted to them by the CoM as a result of an agreement in principle on its content reached by key party leaders under the auspices of the International Community (apart from my Office, the OSCE and the CoE were also involved). This crucial decision means that BiH now has the legal framework through which to sustain democratic governance as this new Law paves the way for the formation of an Election Commission." (OHR 13 September 2001, para. 1)

"Article 19.8 provides special voter registration options and voting options for displaced persons and refugees. A displaced person has three registration options: (1) permanent residence according to the last national Census (1991), (2) permanent residence at the time the person acquired the status of a displaced person, subject to proof of the same, or (3) current residence if established at least six months prior to Election Day, subject to proof of the same. A displaced person, who exercises one of the first two registration options, can vote either (1) in person in the appropriate polling station within the municipality of permanent residence or (2) in the appropriate absentee polling station within the municipality of current residence. Similarly, a refugee has the first two registration options (current residence is obviously not applicable). A refugee can vote by mail from out of country, or return on Election Day and vote a tendered ballot.

Article 19.8 also provides that a 'citizen of Bosnia and Herzegovina who is occupying a house or an apartment for which s/he does not have an ownership or occupancy right, while an enforcement document is issued by a competent court or administrative authority on the restitution of a house or an apartment, or CRPC decision, has no right to vote in the place of current domicile, until s/he abandons real-estate property owned by other, and may register to vote only in the municipality where s/he had the permanent residence in accordance to the last Census in Bosnia and Herzegovina (sic).'

[...]

Article 3.7 provides that no person shall forfeit any right or entitlement due to the fact that he or she has registered as a voter, or due to his or her registration to vote for a municipality other than the one in which he or she currently resides. This article also provides that no person shall be required to present any document issued relative to registration or voting for any other purpose except as is necessary for the purpose of voter registration, confirmation of registration, or voting. The purpose of this article is to prevent the conditioning or forfeiture of rights based on the municipality registration option exercised by a voter. This provision is especially applicable to displaced persons and refugees." (OSCE 25 July 2002, sect. III-J)

"Article 19.9 prohibits the candidacy of a person who fails to vacate real estate property or to leave an apartment where the property or apartment is owned by or subject to the occupancy right of a refugee or displaced person, provided this issue has been adjudicated by an administrative, enforcement, or court decision. This same prohibition applies to a person who refuses to vacate or leave within 120 days of the filing with a competent administrative body of a request to enforce a certificate issued by the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC)." (OSCE 25 July 2002, sect. III-B)

An English translation of the [Election Law of Bosnia and Herzegovina](#), as amended, is available on the website of the OSCE Mission to Bosnia and Herzegovina. [Internet]

For information on the election law prior the August 2001 reform, see "[Internally Displaced Persons and Political Participation: the OSCE Region, An Occasional Paper](#)", Simon Bagshaw, September 2000, section on Bosnia and Herzegovina [Internet]

Implementation of privatisation process has been discriminatory against displaced persons (2001)

- Entity governments were allowed to distribute disproportionate numbers of vouchers to war veterans, which discriminated against the displaced
- Legislation in RS made sure that minority returnees could not acquire property in the privatisation process, while providing discounts to war veterans and Serbs
- On 17 July 2001 the High Representative allowed for a discount to refugees and displaced persons returning to RS when purchasing their socially owned apartments

"The privatisation program imposed on Bosnia by the international community was misconceived from the start. Based on an already discredited model used in Russia and the Czech Republic, USAID hired the accountants and consultants PricewaterhouseCoopers to create a voucher-based scheme that would enable the state not only to liquidate its assets, but also to pay its debts to its citizens. The voucher model is flawed because it does not attract fresh capital. It merely changes ownership on paper. As a consequence, it does not bring the technology and know-how transfers necessary to boost both the production and productivity of worn out or war-torn plant. Moreover, the short-termism inherent to the voucher system provides incumbent management opportunities to accumulate shares in their firms, often marginalising shareholders who acquired stakes during the pre-war bout of privatisation under Yugoslav Premier Ante Markovic.

The system also required an intricate implementation infrastructure that war-torn Bosnia still lacks to this day. When USAID and the World Bank began constructing the system in 1997, more than half of all Bosnians were still refugees or displaced persons. The constitutional structure ordained by Dayton had already proved dysfunctional, having created two entities which were – and remain – locked in mutual enmity, dead set against coordinated action for the common good, and led by politicians interested mainly in consolidating their wartime gains by retaining control over economic prizes. Furthermore, the prevalence of the fuzzy concept of ‘social ownership’ (dating back to the era of Tito, Kardelj and self-management) and the absence of clearly recorded land titles (dating back even further) made it extremely hard to establish ownership. This, in turn, permitted arbitrary interpretations of who ‘owned’ any given property, a circumstance which local politicians have flagrantly abused.

Rather than implement privatisation on the state level – which would have been the logical choice given the small scale of the Bosnian economy – the privatisation legislation, written and sponsored by USAID in 1998, created an entity-based scheme involving twelve privatisation agencies: one for the RS, one for the Federation as a whole, and one for each of its ten cantons. From the very start this institutional and regulatory framework had enormous potential for corruption. It offered politicians the chance to confirm the effects of ethnic cleansing by means of ethnically exclusive privatisations. It also afforded them a large measure of control over most aspects of the process. One clear conflict of interest was that the legislation permitted the managers of each state company to create the privatisation program for their own firm. Moreover, the legislation provided numerous opportunities for local authorities to strip the assets of state-owned enterprises, thus leaving less of value to be privatised.

Privatisation has also stimulated ethnic politics, since entity governments were allowed to distribute disproportionate numbers of vouchers to ‘their’ war veterans, which discriminated against citizens who had fled or been forcibly removed from their homes during the war. In both entities almost half the vouchers (by value) issued thus far have gone to war veterans. In the Federation, vouchers were vastly overvalued and could be sold by their recipients for just 3-5 per cent of their face value. This allowed subsequent buyers to acquire vouchers very cheaply and to use them to buy an entire company for peanuts. It also favoured domestic over foreign investors, as demonstrated in the case of the ultimately quashed privatisation of the Sarajevo Holiday Inn.

In Republika Srpska, this problem was avoided by linking the worth of vouchers to the value of the enterprise being privatised and to the number of would-be investors. But this system, too, was easy to abuse, making sure that any shares acquired by ethnic minorities would always comprise less than 50 per cent of a firm’s capital. Until recently the RS system, unlike that in the Federation, did not permit voucher-holders to use them to purchase socially owned apartments. This made sure that minority returnees could

not acquire property in the privatisation process, while providing discounts to war veterans and Serbs who moved into the RS during and after the war. However, on 17 July 2001 the High Representative issued a decision allowing for a 75 per cent discount to refugees and displaced persons returning to RS when purchasing their socially owned apartments." (ICG 7 August 2001, paras. 18-19)

See also the decisions regarding the privatisation adopted by the High Representative on 17 July 2001:

- [Decision Amending the Law on Sale of Apartments with Occupancy Rights \[Internet\]](#)
- [Decision Further amending the Law on the Privatization of State Owned Apartments \[Internet\]](#)
- [Decision giving approval to the amended RS Law on Apartment Privatisation \[Internet\]](#)

Decision of the High Representative on "High Representative amends entity laws on privatization of socially owned apartments", press release, 17 July 2001 [Internet]

International community supports the capacity of the civil society to address human rights issues (2000)

- Three drafts, state level and two entity laws, on associations and foundations were reviewed by the Office of the High Representative and are expected to enter the legislative process shortly.
- OHR, in cooperation with OSCE, established a Civil Society Coordination Group to coordinate NGO capacity building activities of international and donor organisations in areas of human rights and democratization

"Efforts to develop the capacity of civil society, through NGOs, to address human rights issues and to ensure the sustainability of human rights activities have continued. Thus, three drafts, state level and two entity laws, on associations and foundations were reviewed by OHR and are expected to enter the legislative process shortly.

Cooperation between NGOs and the international community was increased within this period and networks have become more sustainable and operational involving NGOs from almost all territory of Bosnia and Herzegovina. Nevertheless, only a few efforts have been undertaken in the development of capacity of local human rights NGOs to ensure sustainability of human rights activities currently undertaken by international organizations. OHR, in cooperation with OSCE, has established a Civil Society Coordination Group which consists of several intergovernmental and donor organizations which address human rights and democratization. The aim of the group is to promote cooperation between agencies working to advance the ability of NGOs and other members of civil society, as well as to develop a common policy, avoid overlap and ensure a more systematic and long term approach in the advancement of a sustainable civil society." (OHR 3 May 2000, paras. 76-77)

Law on Associations and Foundations respecting independence of Non-Governmental Organisations: Developments

"The draft state level Law on Associations and Foundations has been finalized by the OHR after the OHR departments decided that the law would cover only associations and foundations and not public legal persons (public corporations established by the institutions of BiH or by the institutions of District of Brcko), as reported earlier. It is expected that the draft law will be distributed to the Council of Ministers by the end of this month. The latter is to forward it to the State Parliament.

Concerning the draft Law on Associations and Foundations in the Republika Srpska the draft law was sent to the RS National Assembly in July, where the law passed the first reading without debate. For the final adoption of the law it will be necessary that the draft passes the second reading at the next RS National Assembly session.

Finally, with respect to the Federation law, in July OHR, USAID and the International Center for Non-for-profit Law have held two meetings with the Federal Ministry of Justice and Ministry of Social Affairs, Refugees and DP's in order to present the draft. At the last meeting it was agreed that the ministers would send their comments on the draft by July 21st to OHR and have another meeting on 31st July to finalize the draft which would be consequently sent to the Federation Parliament." (OHR HRCC 28 July 2000, sect. 6)

A lobby group for the displaced: the Coalition for Return (1996-1998)

- 1996: Creation of the Coalition for Return, a multi-ethnic movement of displaced persons
- Objective of the organisation is to lobby for the creation of an environment conducive to return of all displaced, regardless of their nationality
- The Coalition for Return has also organized assessment visits and disseminated information on the rights of the displaced

"A promising development during 1996 was the formation of the Coalition for Return, a multi-ethnic movement of displaced persons from all parts of Bosnia and Herzegovina. Coalition for Return's aim is to lobby for the creation of an environment conducive to the return of all displaced persons - regardless of their nationality - to their homes of origin. The Coalition was established on the initiative of Deputy High Representative Ambassador Michael Steiner in Sarajevo in October 1996. Representatives of displaced persons were urged by Ambassador Steiner to form a forum to counterbalance the nationalist-separatist political agendas of the ruling political parties. Within five months, the Coalition managed to organise a network spanning both Entities, the neighbouring countries, and refugee host-countries in Western Europe, including approximately 70 displaced persons associations representing tens of thousand individuals.

The Coalition for Return has met with local authorities to persuade them to comply with the provisions of Annex 7 of DPA, and to promote the safe and voluntary return of all displaced persons to their homes of origin. A representative of Coalition for Return told [the International Crisis Group] 'Until now, the political parties have been pressured only from the 'outside' - by people on whom they did not rely for support. The Coalition for Return can be more effective by pressuring from the *inside*. If the displaced persons of various communities take up the return issue themselves, local authorities will have to respond because their political support depends on the local community, including the displaced.'

The Coalition for Return has also focused on bringing displaced persons in contact with other displaced persons currently residing in their homes. The Coalition for Return has organised fact-finding visits to identify areas of the country where return is most feasible. The Coalition for Return is in the process of consolidating relevant information which will serve to bridge the gaps on questions and issues relevant to displaced persons. Such research could be valuable sources of objective and unbiased information for displaced persons, thus enabling them to make informed choices about returning to their homes or remaining in their temporary areas of residence.

The Coalition for Return has organised three major conferences in Banja Luka, Mostar and Tuzla, focusing on strategies for return and repatriation during 1997. The following projects have either been initiated or will be in 1997: (1) the opening of four regional offices in Sarajevo, Banja Luka, Mostar and Tuzla; (2) identification of viable areas for returns; (3) provision of information to internally displaced persons and refugees, especially in Croatia and the Federal Republic of Yugoslavia, through a monthly bulletin; (4) establishment of a strategy planning group to provide information to international organisations and relevant authorities; (5) initiation of a self-help home repair programme; (6) expansion of a weekly television programme dedicated to issues relevant to displaced persons; (7) appointment of three journalists - one from each ethnic group - to act as the Coalition's spokespersons; (8) appointment of a team to disseminate information to displaced persons in the country as well as abroad; (9) establishment of links with organisations providing legal aid and information to internally displaced persons and refugees; (10)

initiation of a lobbying effort to pressure Entity authorities to repeal discriminatory legislation; and (11) promotion of the return of displaced persons as a major issue during the September 1997 municipal elections." (ICG 30 April 1997, section 1.4.3)

"Most minority returns so far have been spontaneous, arranged by displaced persons themselves through local non-governmental organisations. The Coalition for Return (whose representatives the Special Rapporteur met in July 1998) has organized assessment visits, collected and disseminated information, and advocated strongly for returns, thus creating some small progress. The Special Rapporteur believes this is a good way to achieve sustainable returns, and hopes that these associations receive support for their work." (UN GA 11 September 1998)

See also "High Representative meets Displaced Persons and Refugee Associations" OHR Press Release 26 January 2000 [Internet]

DOCUMENTATION NEEDS AND CITIZENSHIP

Document-related needs

IDPs do not always register upon return (2002)

- Registration is a pre-condition for accessing basic services

"UNHCR regional Co-ordinator for South Eastern Europe and the Chief of Mission in BiH, Mr. Werner Blatter, accompanied by DCOM SFOR General De Goesbriand visited Stolac today. During the visit the UNHCR and the SFOR delegation met with Stolac Mayor, Zeljko Obradovic, and the Head of Municipal Assembly, Zoran Turkovic.

In the course of their meeting, Blatter highlighted the need for unification of the education and health systems in the municipality.

[...]

Blatter also expressed his concern over the fact that many returnees are not registering with the municipality upon return. 'Not only is registration in the place of return the responsibility of returnees, but it is also a pre-condition for their access to all utilities, health care and education', said Blatter." (UNHCR 14 March 2002)

Minority returnee continue to face burdensome administrative procedures for the issuance of identity documents (2000-2001)

- Entities have been unable to adopt uniform legislation regarding identity documents and residence registration
- The High Representative issued on 30 July 1999 a Decision on Identity Cards in order to protect the rights of returning refugees and displaced persons to obtain an ID Card
- There are still reports of returnees being unable or unwilling to apply for identity documents

"The issue of residence registration and issuance of identity cards is crucial, since access to social services (social welfare, health care, and humanitarian assistance) and ultimately reintegration are conditioned by the fulfillment of this administrative requirement. In order to have a better understanding of the situation in this area, UNHCR carried out surveys in both Entities, analysing the domestic legal framework and the practice of registration of returnees and displaced persons [38]. These studies *inter alia* indicated that returnees had encountered a variety of obstacles when applying for issuance of identity cards.

Recognizing that there was a clear need for the legal frameworks regulating identity card issuance and residence registration to be overhauled, a Working Group consisting of representatives of OHR, UNHCR, OSCE, UNMIBH and SFOR was established in 1999. In 2000 the Working Group produced a set of draft BiH laws on identity cards and Permanent and Temporary Residence Registration, accompanied by a new draft law on Identity Numbers (JMBs). These laws envision the operation of regimes governing the issuance of identity cards, residence registration and the issuance of personal identification numbers at state (BiH) level and have been the subject of much debate. Despite having been presented to and discussed by the BiH Council of Ministers on a number of occasions, no agreement has been reached to date on adoption of these draft laws [39].

Nonetheless, reports continue to be received by UNHCR of returnees being unable or unwilling to apply for identity cards, or to register their residence in their place of origin. In many cases (e.g. in the Eastern RS) this may be due both to a general unease among minority returnees with regard to dealings with local representatives of the respective Entity Ministry of the Interior - generally the police station. Of more concern, however, is the complex and often burdensome application and issuance procedures currently in place in both Entities, which often provide local officials with ample opportunity to make life difficult for minority returnees, e.g. levying excessive administrative fees or by making demands for hard-to-produce documentation.

As noted by one independent monitor of developments in BiH '[p]ublic administration [in general] is BiH is a labyrinth of pre-war, wartime and post-war institutions, often exercising overlapping administrative authority.' [40] "

[Footnote 38: UNHCR Sarajevo, *Survey on Registration of Repatriates in the Federation of Bosnia and Herzegovina and Entitlement to Food Assistance and Medical Care*, May 1997 (Update in November 1998); *Registration of Repatriates in the Federation of Bosnia and Herzegovina and Entitlement to Identity Documents, Food Assistance and Medical Care*) and *Survey on Registration of Repatriates in the Republika Srpska and Entitlement to Identity Documents, Food Assistance and Medical Care*, October 1997 (Update in April 1999)] [Internet]

[Footnote 39: Until such laws are in place, the High Representative on 30 July 1999 issued a [Decision on Identity Cards. Under the Decision](#) [Internet], all public documents issued by a competent body of the former SFRY and the former Socialist Republic of Bosnia and Herzegovina (SRBiH) are recognized as official proof of the facts stated therein and must be accepted by all public officials in BiH. Specifically, personal identity cards issued by a competent SFRY/SRBiH body, which were valid on 6 April 1992 may be exchanged until 5 April 2002, for new personal identity cards.]

[Footnote 40: International Crisis Group, *Rule of Law in Public Administration: Confusion and Discrimination in a Post Communist Bureaucracy*, Sarajevo, 15 November 1999.] (UNHCR September 2001, paras. 43-46) [Internet]

"In order to protect the rights of returning refugees and displaced persons to obtain an ID Card, the High Representative issued on 30 July 1999, a Decision on Identity Cards. Given the fact that returnees faced a myriad of obstacles to obtain their ID Cards and the lack of a legal framework in line with the GFAP, this interim measure imposed by the High Representative was a must. Under the Decision [note], all public documents issued by a competent body of the former SFRY and the former Socialist Republic of Bosnia and Herzegovina (SRBiH) are recognised as official proof of the facts stated therein and must be accepted by public officials at all levels, be it Municipalities, Cantons, Entities, or the State. Specifically, personal identity cards issued by a competent SFRY/SRBiH body, which were valid on 6 April 1992 may be exchanged until 5 April 2002, for new personal ID Cards as envisaged by valid laws and regulations." (UNHCR August 2000, sect. 2)

Improving access to documents and mutual recognition of documents (2000-2001)

- There are still cases of excessive fees being charged for accessing personal records but incidents have decreased significantly
- Entities recognise documents issued in a different Entity but problems remain for documents issued in Croatia and the Federal Republic of Yugoslavia

"In both Entities the situation regarding access to documents are continued to improve. The BiH *Law on Freedom of Information in Bosnia and Herzegovina* was adopted in October 2000 [41], and establishes that

every person has a right to access information in the control of public authorities in BiH, to the greatest extent possible consistent with the public interest, and that public authorities have a corresponding obligation to disclose information. It should also enable every person to request the amendment of, and to comment on, his or her personal information in the control of a public authority [42].

Nonetheless, individuals continue to face difficulties accessing personal documents due to registers having been destroyed or records having disappeared, as is the case, for example, in Drvar. The retrieval of records and documents is often subject to excessive bureaucratic procedures. There are still cases of excessive or illegal fees being charged for accessing personal records or other official documents, although the incidents reported have decreased dramatically.

Difficulties also continues to be encountered with regard to recognition in the Federation of BiH of documents issued in the Federal Republic of Yugoslavia (FRY). It is hoped that, in light of the recently established diplomatic relations between BiH and FRY (15 December 2000) these difficulties will eventually be overcome. Similar difficulties have also been encountered with regard to the mutual recognition of documents between the Republic of Croatia and the RS."

[Endnote 41: BiH Official Gazette, No. 28/2000. 17 November 2000.]

[Endnote 42: the Federation Law on Recognition of Public Documents on the Territory of the Federation of Bosnia and Herzegovina (entered into force on 26 February 1998) provides for the recognition of public documents issued by the authorities of the then Republic of Bosnia and Herzegovina and the so-called 'Herzeg-Bosna' authorities. Although its implementation was difficult at the initial period, it appears that in practice, the previous problem of one Entity refusing to recognize documents issued by the other is no longer an issue of concern.] (UNHCR September 2001, paras. 47-49)

Citizenship

Federation still needs to adopt citizenship law (2001)

- The BiH Citizenship law provides for the adoption of citizenship laws in both Entities
- Absence of citizenship law in the Federation leaves former SFRY citizens who took up permanent residence in BiH before 1998 in a limbo

"Effective citizenship remains critical to the exercise of human rights and fundamental freedoms. The Law on Citizenship of Bosnia and Herzegovina (the 'BiH Citizenship Law') entered into force on 1 January 1998. Its provisions ensure the legal continuity of the internal citizenship of the former Socialist Republic of BiH and regulate the status of those who did not hold this citizenship but who had permanent residence in BiH.

The BiH Citizenship Law also provides for the adoption of citizenship laws of both Entities – a necessary precondition for an adequately functioning and fully implemented citizenship regime. To date, only the RS has passed a law on citizenship. The Ministry of Administration and Local Self-Government (MALSG) took over citizenship-related tasks from the RS Ministry of Interior (MOI) in September 2000.

The absence of a functioning legal citizenship framework in the Federation of BiH has prevented the overall implementation of the citizenship legislation in BiH. In particular, it currently prevents those former SFRY citizens who took up permanent residence in BiH before 1998 and who are now living in the Federation of BiH, from acquiring BiH/Federation citizenship, although according to the BiH Citizenship Law, such persons have been eligible for BiH citizenship as of 1 January 2000. The draft Federation Citizenship Law therefore needs urgent adoption." (UNHCR September 2001, 33-35)

ISSUES OF FAMILY UNITY, IDENTITY AND CULTURE

Family unity

Missing persons and disappearances: 17,000 cases have still not been solved (January 2002)

- Exhumations have been implemented under an OHR-mediated Agreement reached in 1996
- The ICRC has received request to trace more than 20,000 missing persons since the war years, of which about 2,500 have been accounted for
- Investigations have been hampered by lack of cooperation from local authorities, in particular in the RS

"Under an OHR-mediated agreement reached in 1996, exhumations are carried out by the Bosniak, Bosnian Croat, and Bosnian Serb commissions for missing persons. The commissions are free to carry out exhumations and collect unburied mortal remains in territory under the authority of another majority ethnic group using an established notification system. The International Commission for Missing Persons (ICMP), which operates in all countries of the former Yugoslavia, reported that the remains of an estimated 2,500 persons had been recovered during the year, including a mass grave found in Jakarina Kosa near Prijedor containing the remains of 372 Muslims, the largest mass grave discovered in the country. This number was significantly higher than in the previous year because the Federation Government increased the budget for courts involved in the exhumation process. The ICMP established an in-country DNA identification system, which began operations in October, in three DNA laboratories in Sarajevo, Banja Luka, and Tuzla. The ICMP collected 18,230 blood samples in the country of relatives of missing persons to aid in the DNA identification of approximately 4,000 unidentified recovered remains, exhumed primarily from around Srebrenica. During the year, the ICMP identified 117 recovered remains using DNA techniques. The Missing Persons Institute (MPI), a state of institution opened in August 2000, continued to prepare to eventually take over responsibility from the ICMP for recovering and identifying human remains and supporting families of the missing.

The International Committee of the Red Cross (ICRC) reported that since 1995 it has received request from family members to trace 20,741 persons missing from the war years, including 17,191 Muslims, 723 Croats, 2,577 Serbs, and 250 others. A total of 2,498 of these persons have been accounted for (300 of whom were found alive). The ICRC noted that in 1999 it suspended further meetings of the Working Group for Tracing Missing Persons – created by the Dayton Peace Agreement to serve as a channel for passing request to local authorities—due to lack of cooperation from local authorities. At year's end, the ICRC was attempting to reconstitute the group with new representatives.

Authorities in the RS have failed to conduct full investigations into several war time disappearance cases, as ordered by the Human Rights Chamber of Bosnia and Herzegovina. For example, by year's end, RS authorities had failed to comply with the BiH Human Rights Chamber's 1997 order to conduct a full investigation into the disappearance of Father Tomislav Matanovic from Prijedor in 1995, whose body was discovered in October." (U.S. DOS 4 March 2002, sect. 1b)

Households exposed to increased domestic tensions as the result of displacement and return (1999)

- Violence against women is not addressed adequately by the authorities

"Violence against women is not defined in any domestic law nor have there been any official instructions or policy statements regarding the problem by government at any level. In Bosnia, domestic violence against women has increased due to: difficult transitions when women became heads of households, while men went to war, compounded by tensions when the men returned home, often to underemployment [or] unemployment; forced migration resulting in the loss of community which might otherwise provide a safety-net for the strains on families; and post-traumatic stress not only on those who fought during the war but those who remained behind. Given the lack of legal definition of domestic violence, courts are left to decide what measures to take, if any against perpetrators." (OHR/HRCC September 1999, para. 90)

Religion

Freedom of religion: Violence and vandalism against ethnic-religious minorities (2001)

- Religious discrimination against minorities occurs in virtually all parts of the country, but more so in the RS and in Croat-dominated cantons
- Increasing return movements and the pressure of the international community on nationalist parties led to several violent incidents during the first half of 2001

"Religion and ethnicity are identified closely in the country. Despite the constitutional provisions for religious freedom, a degree of discrimination against minorities occurs in virtually all parts of the country. Discrimination is significantly worse in the RS, particularly in the eastern RS, and in Croat-dominated areas of the Federation. However, incidents of discrimination occurred in Bosniak-majority areas as well. In some communities, local religious figures contributed to intolerance and an increase in nationalist feeling through public statements and, on occasion, in sermons. At times minority religious believers, clerics, and properties associated with religious minorities sometimes became targets. Increasing refugee returns and the resulting growth in ethnic/religious minorities, combined with sustained pressure from the international community on nationalist political parties, led to severe tension and several violent incidents during the first half of the year. On May 5, approximately 1,500 Serbs, many of them from the hard-line nationalist Ravna Gora Chetnik movement, disrupted a cornerstone laying ceremony for the reconstruction of the destroyed Omar Pasha mosque in Trebinje, in the southern RS. Members of the crowd beat the local OHR representative and a television cameraman in a scuffle that resulted as the Serbs blocked Bosniak and international dignitaries from entering the site. On May 7, a riot broke out in Banja Luka on the occasion of a similar cornerstone laying ceremony for the reconstruction of the destroyed Ferhadija Central Mosque; approximately 200 of the estimated 2,000 to 5,000 protesters broke through police lines and violently attacked participants, including elderly persons, government officials, and representatives of the international community. The rioters trapped over 300 persons in a building on the site owned by the Islamic Community for approximately 8 hours until RS police evacuated them. Protesters stoned the building and removed Islamic symbols. Approximately 30 persons were injured in the riot, including a Muslim man, Murat Badic, who died from his wounds on May 26. Protestors also burned Bosniak-owned business, eight buses that brought Bosniaks to Banja Luka, and heavily damaged the car of Bosnia's Foreign Minister (who is a Bosniak).

Protests in Bosniak majority areas in response to the Trebinje and Banja Luka riots were largely peaceful. There were, however, some violent reprisals. On May 6, unknown assailants threw a grenade at the house of the leader of Trebinje's Muslim community. Local police detained two Bosniak men for throwing a hand grenade at the Serb Orthodox Church in the Bosniak-dominated town of Sanski Most on May 8. The windows of a nearby cafe owned by a Serb also were smashed in the incident. Also on May 8, a group of displaced Bosniaks originally from the RS refused to allow a group of displaced Serbs, originally from

Sarajevo, to enter the Osjek cemetery in Ilidza, a suburb of Sarajevo that was predominantly Serb before the war. On May 9, 11 tombstones in an Orthodox cemetery in Tuzla were desecrated and the cemetery chapel vandalized. Three Bosniak juveniles were arrested and charged in the case and local government officials condemned the vandalism. Also on May 9, approximately 20 Bosniaks stoned a house inhabited by Serbs in Sarajevo. Local police responded immediately, but no arrests were made.

In Croat-dominated Glamoc, unknown persons shot at Serb returnees' houses and the Orthodox Monastery Veselinje with automatic weapons. Police had no suspects in the case at year's end. Also in May, leaflets were distributed in Doboje, in the RS, calling on Muslims to leave the city and urging Serbs to protest against the reconstruction of the city's mosque. On December 4, a crowd of Croats attacked the reconstruction site for the Stolac mosque, burning the fence surrounding the site. Local police did not intervene and later released two of the perpetrators who had been arrested for the incident (see Section 1.c.).

Attacks against Orthodox and Catholic clerics and religious edifices have occurred in Sarajevo. On May 28, a Muslim woman walking with her husband and children physically and verbally assaulted a Catholic nun in central Sarajevo. On June 3, a group of Muslim youths harassed Catholic seminary students in front of the Catholic cathedral in Sarajevo.

In Croat-dominated areas of Herzegovina, Muslims felt pressure not to practice their religion in public and have been the subject of violent attacks in the past." (U.S. DOS 4 March 2002, sect. 5)

PROPERTY ISSUES

Institutions

Commission for Real Property Claims of Displaced Persons and Refugees (2001)

- The Commission is responsible for the processing of property claims for displaced persons and refugees under Annex 7 of the Dayton Peace Agreement
- 176,000 decisions providing incontrovertible proof of property rights have been issued as of November 2001
- Implementation of CRPC decisions has improved but requires joint action from relevant international agencies on local authorities
- Other activities of the CRPC include: verification of cadaster evidence, maintenance of a database for land survey, legal advice in the property legislation reform process
- CRPC also maintains regional offices in FRY and Croatia

"The Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) was established under Annex 7 of the General Framework Agreement for Peace (GFAP) to decide real property claims for refugees and displaced persons (RDPs). Protecting and restoring property rights remains the cornerstone of the peace process and constitute the primary condition precedent to the long term economic and social stability of BiH, and the broader region of South Eastern Europe. This priority has been specifically acknowledged by the International Community in Annex 7, and through its continued support of the activities of the CRPC.

REVIEW OF CRPC PROGRAMS

Protection/Human Rights/Rule of Law

CLAIMS AND DECISIONS: CRPC has collected claims for 302,710 properties, relating to 341,827 claimants throughout BiH. With an average of 1 in 4 persons owning property in BiH, demand for claims collection is almost met. To date, CRPC has issued 176,243 decisions which provide incontrovertible proof of property rights, and legally require that domestic authorities free up occupied properties so that RDPs can return. With the consistent pressure of the International Community, more and more RDPs have been able to return with the assistance of CRPC decisions, which operate as a check on a domestic system which is not yet fully impartial or independent.

PROPERTY LAW IMPLEMENTATION, ADVICE AND RESPONSE: CRPC has joined forces with OHR, OSCE, UNHCR and UNMIBH to tackle ongoing problems associated with property law implementation. As an impartial decision making body with a State-wide mandate, CR PC has been able to make a unique contribution to these efforts. CRPC decision holders who face delays in the enforcement of their decisions continue to receive legal and practical advice from a CRPC special response unit made up of experienced local lawyers. The unit ensures that difficulties faced by decision holders are adequately addressed by domestic authorities. The continual dialogue with authorities has led to improvements in the enforcement of CRPC decisions and to better adherence to the law.

SPECIFIC TARGETING: CRPC contributes to several initiatives that have been undertaken to remove political influences from the property law implementation process, and to improve transparency and

impartiality. These initiatives include: assisting in the implementation of the Provisional Election Commission (PEC) rule that persons who occupy housing subject to a municipal or CRPC decision are not eligible to stand for election; assisting UNMIBH/IPTF in ensuring that local police are not multiple or illegal occupants and, more recently, CRPC is able to assist in the implementation of a similar policy for judges and prosecutors.

Economic Recovery and Infrastructure

RECONSTRUCTION DETERMINATIONS: The International Community continues to expend vast amounts of resources to reconstruct and replenish the devastated housing stock in BiH. CRPC has assisted these efforts by providing to date about 35,000 determinations to reconstruction agencies that confirmed beneficiaries who are legally entitled to inhabit the properties identified for repair, a policy which has become central to the rehabilitation strategy in BiH. CRPC has also provided donors and implementing partners with technical opinions relating to large infrastructure projects, such as hospitals and schools, and with opinions on municipal land allocations and building permits. This has facilitated a more transparent reconstruction environment.

IMPROVING LAND REGISTRIES: Cognisant that clear mechanisms for registering property rights are critical to BiH's economic future, CRPC continues to improve computerised cadastral databases, which are an important source of evidence on property rights. So far, it has verified that records in 74 of the 109 pre-war municipalities are accurate and has transformed them into a windows-based platform. CRPC is holding discussions with key surveying and technical cadastre institutions regarding digitalisation and mapping of municipalities where evidence has been destroyed.

LAW REFORM: As the specialist body with responsibility for property legal issues under the GFAP, CRPC continues to provide expert input and advice to other organisations and agencies involved in developing policy and legislative reform to strengthen the property legal framework. Progress made in the development of BiH's property-legal framework is improving the capacity and inclination of local organs to take actions within their competencies in accordance with Annex 7.

OPERATIONS IN FRY AND CROATIA: CRPC's regional offices in FRY and Croatia play a critical role in reducing the demands on countries hosting BiH refugees. Continued efforts by CRPC to enable claimants to return or to find another permanent solution reduce displacement and pressure on available housing stocks and collective accommodation. To date, over 46,800 claims relating to over 61,600 properties in BiH have been lodged with CRPC's offices and mobile teams in FRY (Serbia: Belgrade, Novi Sad and Požega; and Montenegro: Herceg Novi and Podgorica), and over 22,400 final and binding decisions have been issued. In Croatia, more than 9,400 claims relating to about 12,000 properties in BiH have been received in Zagreb, Slavonski Brod and Knin offices since operations began in 1999, and about 3,000 final and binding decisions have been issued. Based on the recorded caseload, it is anticipated that claimants in Croatia will represent an increasing proportion of unregistered claimants." (UN November 2001, pp. 129-130)

For more information, see the website of the [CRPC](#) [Internet]

For a critical review of the CRPC' activities, see ICG report "[Is Dayton Failing?: Bosnia Four Years After the Peace Agreement](#)" (28 October 1999), section "[Annex 7: Refugee Return - The Key to Dayton](#)", subsection 6 and 7 [Internet]

Some functions assigned to the CRPC have remained ignored (1999)

- The Dayton Agreement provided that the Commission allocate abandoned or empty properties and administer a compensation fund but these provisions have never been implemented

"DPA also envisaged two further major roles for the CRPC. First, the CRPC would be an agency through which the entity governments could allocate 'abandoned' or other empty properties. The Commission never assumed this role, as the Parties simply ignored it.

Second, the Commission was to administer the means by which refugees and dps would be compensated for properties that could not be restored to them, the so-called Property Fund. The Property Fund was never established, due to a combination of factors, the most fundamental of which was, and remains, the lack of money. The international community is not prepared to pay for destroyed or other properties, which cannot be returned to their rightful owners. And needless to say, Bosnian governments have neither the will nor the money. Yet this Fund remains a crucially important element in Annex 7." (ICG 28 October 1999, section "Annex 7" subsection 8)

Property law and policy

Property legislation: overview (2002)

- Both private property and socially-owned property were declared temporarily abandoned by local authorities, who allocated these properties to refugees and DPs, as well as to politically well connected people
- Annex VII of the Dayton Peace Agreement provides that displaced persons and refugees have the right to have restored to them property of which they were deprived since 1991
- The Office of the High Representative (Human Rights/ Rule of Law Department) has been deeply engaged in restructuring the legal regime which governs property rights
- New property laws were passed by the Federation legislatures in April of 1998 and in Republika Srpska in December 1998
- In October 1999, the High Representative issued several Decisions which completed the legal framework
- A network of housing offices, which have the responsibility of receiving claims from pre-war occupants for the return of their property, have been established throughout the country
- The High Representative issued 13 decisions in December 2001 allowing for the speedier process of property claims

"As a result of the armed conflict in Bosnia and Herzegovina, hundreds of thousands people fled their homes in the country's villages and cities. Local authorities, faced with an influx and outflow of refugees and displaced persons (DPs), introduced a series of laws aimed at declaring these properties abandoned and accommodating the in-coming refugees and displaced persons by providing them with legal authority to occupy these abandoned properties. Simultaneously, some displaced persons moved into vacant property without the involvement or authorization of the local authorities.

In Bosnia and Herzegovina, like the other former Republics of the Socialist Federal Republic of Yugoslavia, there were essentially two types of property. Property was either privately-owned, which is the common method of ownership in the free market economies, or it was socially-owned, a form of property entitlement which is stronger than a rental agreement, but not as strong as private property.

Socially-owned property is different in fundamental respects. First, the property is always an apartment and is usually located in an urban area. Employees of state-owned enterprises or organs, such as the municipalities or government ministries, paid a portion of their salary to a housing fund. The managers of

the enterprises or state organs used the housing fund to construct apartments for the employees. Employees who were entitled to an apartment, as set out in the Law on Housing Relations, were allocated apartments and, once they actually moved into the apartment, they became occupancy right holders (ORHs). An ORH exercised almost unlimited rights over the apartment, to include passing the apartment on to his/her children. However, and most importantly, the ORH could not sell the apartment and s/he must occupy the apartment. An occupancy right could be cancelled if the ORH failed to occupy the apartment for six months or more.

Both private property and socially-owned property were declared temporarily abandoned by local authorities, who allocated these properties to refugees and DPs, as well as to politically well connected people. Laws were passed establishing how the owner could return and reclaim possession of his/her property. Local authorities invoked the failure to occupy these apartments by those who fled during the conflict to cancel hundreds of thousands of occupancy rights. The authorities then re-allocated these apartments to others, usually DPs and refugees, but again, also to some members of the political class.

After the signing of the General Framework Agreement on Peace in Bosnia and Herzegovina, the international community, citing Annex VII of the Peace Agreement, which provides that DPs and refugees have the right to have restored to them property of which they were deprived in the course of hostilities since 1991, demanded that the two Entities of Bosnia and Herzegovina implement a claims process that would allow displaced persons and refugees to reclaim their homes.

OHR and Property Rights

OHR has been deeply engaged in restructuring the legal regime which governs property rights in Bosnia and Herzegovina. Laws which were invoked during the war, which legalized the occupation by displaced persons and others of property which was not theirs before the war, have been overtaken by new laws which recognize the rights of the pre-war owners/ occupancy right holders.

The role of the Human Rights/ Rule of Law Department [Office of the High Representative] has primarily been to direct and oversee these legislative changes, drawing upon the support, knowledge, and assistance of other agencies such as UNHCR, the OSCE, and the Commission for real Property Claims. The Department has been extensively involved on the legislative work which has produced this new legal regime. Both through the drafting of new laws and amendment, and, where necessary, the imposition of those laws, OHR has succeeded in building a legal framework in which property will be restored to pre-war owners. The RRTF Department, has been focused on the implementation of these laws.

There have been two main phases to the legislative work. First, in the Federation, new property laws were passed by the Federation legislatures in April of 1998. Similar, although not identical laws were passed in Republika Srpska in December of the same year. Then, in October 1999, the High Representative issued several Decisions which completed the legal framework, harmonizing the laws in both entities, closing loopholes, and providing more transparency to the claims process.

Major Laws Passed on Property Issues:

6 December 1997, the Law on the Sale of Apartments with Occupancy Rights (this Federation Law allows those who did not flee their socially owned apartments to purchase these apartments. It also serves as the basis for allowing DPs and refugees who reclaim their socially owned apartments to purchase these apartments.) was passed by the Federation government.

4 April 1998, the Law on the Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens (this Federation law outlines the procedure for owners of real property in the Federation, who either fled their homes or their homes were declared abandoned, to claim their real property was passed by the Federation government.

4 April 1998, the Law on the Cessation of the Application of the Law on Abandoned Apartments (this Federation Law outlines the procedure for occupancy right holders, who either fled their socially owned apartments or their socially owned apartments were declared abandoned, to claim their socially owned apartments) was passed by the Federation government.

2 December 1998, the Law on the Cessation of the Application of the Law on the Use of Abandoned Property (this Republika Srpska law is that Entity's version of the two Federation laws above allowing refugees and DPs to claim their privately owned homes and socially owned apartments) was passed by the republic Srpska National Assembly.

27 October 1999, the High Representatives issued various Decisions amending the above Federation and Republika Srpska laws pertaining to property claims. He also issued Decisions in the form of administrative instructions outlining how the laws were to be applied.

A network of housing offices, which have the responsibility of receiving claims from pre-war occupants for the return of their property, have been established throughout the country, in the Federation under the Cantonal Ministries of Urbanism, and in the RS under the Ministry of Refugees and Displaced Persons. Those claiming property are required to submit a request to the housing authorities in the municipality where their homes are located. The housing authorities must then adjudicate the claim, evaluate whether the current occupant of the property is entitled to alternative accommodation and then ensure that the property is vacated so that the owner or occupancy right holder can repossess his/her property." (OHR May 2000)

Recent decisions adopted by the High Representative:

"Although process is clearly being made, without a significant increase in the implementation rates, particularly in the RS, the process could still take up to four years to be completed.

With this scenario in mind, on 4 December 2001, I issued thirteen Decisions, comprehensively amending the property laws of both Entities, together with an Instruction on the purchase of apartments in the Federation. The amendments reduce the possibility of manipulations and delays, allow for the speedier eviction of multiple occupants, and ensure the full right of refugees and displaced persons to 'freely return to their homes of origin', as guaranteed by the Dayton Peace Agreement." (OHR 5 March 2002, sect. VI)

More detailed information on the property law in Bosnia and Herzegovina is available under "[Property Law Implementation Plan](#)" on the website of the Office of the High Representative [Internet], or on the website of the [Commission for Real Property Claims of Displaced Persons and Refugees \(CRPC\) \[Internet\]](#)

See also the [decisions adopted by the High Representative in the field of property law \[Internet\]](#)

UNMIBH adopts policy to prevent illegal use of property by police officers, elected officials and members of the judiciary (2000-2002)

- Police officers that are double or illegal occupants face removal from the police if they do not vacate the property
- Since August 2000, more than 1500 police officers have legalised their housing status (June 2001)
- The Provisional Election Commission can remove candidates from the candidate lists if they occupy property where a decision is outstanding
- The newly established Independent Judiciary Commission (IJC) will help identify members of the judiciary who are occupying contested space (March 2001)
- The High Representative issued a decision prioritizing the return of properties to returnee police officers (April 2002)

Local Police: Under the UNMIBH *Policy on Registration, Provisional Authorisation, and Certification*, police officers who are double or illegal occupants face de-authorisation if they do not vacate property within a specific time period. During the period of 1 April to 30 June 2001, 201 police officials have legalised their housing status, either either by voluntarily vacating the property they occupied or concluding rental agreements with property owners. Since this policy entered into force, around 1500 police officers hav voluntarily vacated property they had illegally occupied. Nevertheless, hundreds more police officers in both Entities continue to use claimed property. IPTF's Housing Action Team is continuing to compile and act on cases of police occupancy throughout the country, and to notify fellow members of the multi-agency Property Legislation Plan (PLIP), which comprises OSCE; OHR, and UNHCR, together with UNMIBH and CRPC. Additionally, UNMIBH concluded the local police survey project, which consisted of verifying the legality of all police stations in Bosnia and Herzegovina through the CRPC claim. In the course of this project, 11 police stations were identified as illegally occupying somebody's else property for which there was a claim a CRPC claim. At the end of the project, all police stations were regularised, vacating the property or reaching a rental agreement with the rightful owner of the property.

Elected Officials: PEC Rules 7.16 and 108 bar officials from holding office if they occupy property where an administrative decision, CRPC decision, or Court decision remains outstanding. The PEC regulations have further led to the parties screening their lists to ensure that none of their candidates are in violation of the ruling and, in numerous cases, to the vacation of contested property by candidates/officials in order to avoid removal. Ninety-five elected and appointed officials were appointed officials were removed under the PEC Rule on Illegal Occupants in 2000, and a further 7 in 2001, bringing the total up to 102. On 76 June 2001, the Bihac Minister of Culture and Education, Izolda Osmanagic, was removed by PEC due to her failure to comply with property laws. She was occupying someone's property and did not vacate the property in question by the deadline that she was issued.

Judges, Prosecutors and Housing: Under the auspices of the Property Legislation Implementation Plan (PLIP), OSCE has been systematically gathering information on judges and prosecutors who have failed to bring their housing situation into full compliance with the property law. Through IJC [Independent Judiciary Commission], these cases will be brought to the attention of the competent entity review Commissions and Councils under the Comprehensive Review Process, established to enforce standards of professional behaviour among judges and prosecutors." (OHR 18 October 2001, paras. 7-9)

"The High Representative, Wolfgang Petritsch, today issued a Decision prioritising the return of residential properties to returnee police officers in both Entities. Housing bodies, which under the property laws are obliged to resolve claims on the repossession of private and socially owned properties in the chronological order in which they were received, are now legally requested, as an exception, to treat claims by returning police officers as priorities.

The High Representative has issued this Decision in order to promote the return of so called minority police officers in accordance with the Framework Agreement on Police Restructuring, Reform and Democratisation in Republika Srpska and the Agreement on Restructuring the Police in the Federation, as well as the recent amendments to the Entity Constitutions under which the ethnic composition of the public administration at all levels must reflect the 1991 census. An accelerated return of minority police officers is important for the overall return process as most minority returnees point to the presence of minority police officers on the local police forces as a guarantee of their safety in their pre-war municipalities." (OHR 30 April 2002)

See also ["New election law provides for the right to vote of the displaced \(August 2001\)"](#) [Internal link]

An attempt to unlock the return process: the Property Law Implementation Plan (PLIP) (1999-2001)

- The High Representative launched the PLIP with the support of OSCE, UNHCR and UNMIBH to ensure that all citizens of BiH can exercise their individual rights to property
- Non-Compliance Reports have been compiled to cover abuses of property legislation by housing officers and other governments officials
- PLIP agencies also invited local authorities to prioritise the eviction of “multiple occupants”
- Although successful, this strategy delayed the recovery of properties occupied by families without access to alternative accommodations
- Policy for 2003 foresees the limitation of discretion of local authorities in processing property claims and the focus on the provision of alternative housing

"On October 27, 1999 the High Representative, Wolfgang Petritsch, with the full support of OSCE, UNHCR and UNMIBH launched the Property Law Implementation Plan (PLIP) by passing amendments and instructions to harmonize and clarify RS and FBiH legislation on property repossession, in order to create a consistent legal framework and equal rights and remedies for all refugees and displaced persons across Bosnia and Herzegovina. The Property Legislation Implementation Plan (PLIP) - closely coordinated and executed by representatives of OHR, OSCE, UNHCR, UNMIBH and CRPC - is at its heart a political operation to ensure that all citizens of BiH can exercise their individual rights to property, thereby unlocking the return process throughout BiH." (OHR/OSCE/UNMiBH/UNHCR/CRPC 11 May 2000)

"Fostering return and respect for human rights through [Property Law Implementation, PLI] has been one of the highest priorities of the International Community in Bosnia and Herzegovina since the [Dayton Peace Agreement] was signed. To promote this priority, the four major international organizations involved in PLI OSCE, the Office of the High Representative (OHR), the UN High Commissioner for Refugees Mission in BiH (UNMBIH) have joined with the annex 7 Commission for Real Property Claims of Displaced Persons and Refugees (CRPC). The resulting interagency forum is called the Property Law Implementation Plan (PLIP). PLIP meets regularly to discuss and recommend PLI policy in Sarajevo. Its organisation pool their field presence to ensure that one international agency representative acts as a 'Focal Point' for PLIP issues in every municipality of Bosnia and Herzegovina. Among other duties, Focal Points collect statistics on PLI throughout BiH, which are issued in updated form each month." (OSCE 2002)

PLIP policy 1999-2003

“In its attempts to guarantee property rights and support return, the IC has proved adept at matching its tactics to changing conditions on the ground. First came the push for adoption of Entity laws on administrative property repossession in 1998, and their initial harmonisation through High Representative amendments in 1999. Early implementation efforts overcame local authorities’ initial resistance, at first to taking, and later to deciding, claims.

The current phase of implementation has focused on enforcement by drawing the authorities’ attention to cases of ‘double’ or ‘multiple occupancy.’ The fact that multiple occupants are defined by their ability to otherwise meet their own housing needs (by dint of income, access to housing elsewhere, etc.) renders them ‘easy cases,’ whose eviction carries little political cost for the authorities.

As a result, the IC has been able to kick-start real enforcement of the property laws by encouraging the housing authorities to focus their resources on confirming and acting on allegations of multiple occupancy. Very often the IC field presence has been relied on to provide data confirming multiple occupancy status to be acted on by the authorities. In light of the ongoing reduction of IC resources, this pattern is no longer sustainable.

The initial focus on multiple occupancy saw implementation rates rise to 15% in the summer of 2000 and over 30% one year later, reaching an implementation rate of 57% at end July 2002. However, the cost of this strategy has been borne fully by those claimants whose property is occupied by ‘hard cases,’ i.e. temporary occupants who *cannot* otherwise meet their own housing needs and are therefore entitled to look to the authorities for alternative accommodation (AA). Where the authorities fail to provide AA within legal deadlines, they are required to evict the temporary occupant, unless, in accordance with the conditions prescribed by the property laws, they have conclusively proven to OHR’s satisfaction the non-availability of AA. This requirement for eviction in accordance with the legal deadlines is the most widely breached provision of the property laws leaving the owners of properties occupied by ‘hard cases’ indefinitely dispossessed. Temporary occupants with the right to AA are effectively given an open-ended right to live in other people’s claimed property in open violation of the law.

In effect, the current strategy risks creating the appearance of tacit IC approval of two illegal practices—the failure to provide AA (despite numerous available low-cost options) and the related failure to nevertheless return properties occupied by ‘hard cases’ to their rightful owners. Compounding this problem, the freedom to pick and choose alleged multiple occupant cases for prioritised processing has left housing authorities with broad discretion over the order of processing all cases, inviting both bribery and pressure not to act against politically protected groups.

These concerns have given rise to the third phase of the PLIP, described in this paper. The ‘New Strategic Direction’ (NSD) reflects a new emphasis on chronological processing of all cases, other than the exceptions provided by law. This policy must be supported by the provision of sufficient alternative accommodation to ensure smooth processing of ‘hard cases’ as they arise within the chronology, and allowing the rightful owners to repossess their property without further delay.

Crucial preliminary steps have already been taken. Most importantly, the amendments imposed on 4 December 2001 to the property laws have made chronological processing an explicit legal obligation binding on housing authorities in both Entities, save for the exceptions defined in subsequent HR decisions. The PLIP agencies have also intensified their campaign of pressuring authorities at all levels to provide sufficient budgetary funds for AA and ensure their efficient use. Chronological processing is now virtually universally understood and accepted in principle and is being applied in practice in an increasing number of municipalities. The time has come for ad hoc efforts to promote chronology based on adequate alternative accommodation to give way to a clear and systematic IC policy in line with recent amendments to the property laws as promulgated by the HR.” (OHR/OSCE/UNMiBH/UNHCR/CRPC 12 September 2002, sect. 2)

See also “A new strategic direction in PLIP: IC principals demand an end to selective implementation of the property laws”, press release from the Office of the High Representative, 12 September 2002 [Internet]

For a detailed description of the PLIP, see the “Property Law Implementation Plan (PLIP) Inter-Agency Framework Document”, October 2000 [Internet]

See also information on the PLIP on the website of the Office of the High Representative [Internet]

Implementation

Progress in property repossession (2002)

- 67 percent of property claims have been solved as of November 2002, although available data may be inflated
- The international community pressured local authorities to give precedence to the right to repossess one's pre-war property over any right granted to current occupants
- Double Occupancy Commissions were created to prioritise evictions of people with multiple dwellings
- Removal of obstructionist officials and collocation of international monitors with local return authorities also helped to enforce IDPs' property rights
- Republika Srpska has focused efforts on returning socially-owned apartments in urban areas where return is less sustainable compared to rural areas
- The positive trend in property recovery may actually lead to a premature decision from the international community to withdraw prematurely

November 2002 statistics on property claims

“The PLIP agencies (OHR, UNHCR, OSCE, CRPC and UNMIBH) wish to announce the Property Law Implementation statistics for November 2002. They note an overall increase of three percent in the property-law implementation rate, which as of the end of November stands at 67 percent throughout the country.

In Brcko District, 73 percent of property claims recorded in these statistics have been solved; in the BiH Federation, 71 percent have been solved, while in the RS 61 percent of claims were resolved. However, out of the total caseload currently registered in housing offices throughout BiH, there are still around 82 000 claims unresolved.

The overall increase in the implementation rate results primarily from a decrease in the number of claims recorded. The reason for this, according to housing offices, is ongoing revision of files and the exclusion of destroyed properties from the statistics.” (PLIP agencies 2 January 2003)

Unfortunately, PLIP statistics are not wholly reliable, and probably overstate the extent to which properties have been reclaimed by their owners. Although it still not possible to assess the degree of inflation involved, the process of revising figures has begun and already suggests that the road ahead will prove longer than is now claimed [6]. Furthermore, the ongoing uncertainty over the PLIP data raises questions about the wisdom of transferring full responsibility for property implementation and other return-related matters to the local authorities at the end of 2003, as is currently planned.

[Footnote 6: The CRPC has already found a significant number of cases where municipalities reported repossessions of destroyed property (which are meant to be excluded) or double-counted single housing repossessions. In Bugojno, for instance, the CRPC found that about 400 cases had been submitted twice. Though the PLIP estimates continue to report Bugojno's repossession ratio at over 88 per cent, a source in one of the PLIP agencies estimates that, after correction, the real number would be closed to 60 per cent. ICG interview with PLIP official, 15 November 2002.] (ICG 13 December 2002, p. 2)

Overview 1995-2002

“A second crucial factor since 2000 in opening up the housing stock required for refugees to return has been international pressure on local authorities to help would-be returnees realise their right to repossess their pre-war flats and houses. After unwanted citizens fled or were expelled, the wartime regimes distributed refugees' abandoned or forcibly surrendered housing to incomers of the 'right' sort. In some cases, the authorities were forced to allocate empty dwellings as an *ad hoc* response to uncontrolled inflows. In other cases, the nationalist parties – principally the HDZ and SDS – organized the mass expulsion of 'alien' groups and the mass relocation of their own, sometimes over great distances. For example, after the Croatian Army took Drvar in September 1995 and the Serb population fled, the HDZ sought to entice Croats from ethnically mixed central Bosnia to resettle there, advertising a better life with a

job and free housing in Croatia's new strategic borderland. Similarly, when the implementation of the territorial provisions of the DPA led to the transfer of the Serb-held Sarajevo suburbs to the Federation in early 1996, the SDS dragooned Serbs into fleeing and relocating in eastern Bosnia, occupying the homes of expelled Bosniaks.

In 1997 and 1998, the international community resolved to support return by insisting that the right to repossess one's pre-war property should take precedence over any rights that local authorities had granted to the current occupant. In 1998, international arm-twisting compelled the entities, first the Federation and then the RS, to create legal frameworks for property repossession. These laws were strengthened and harmonised by the High Representative in October 1999. They established a straightforward administrative procedure, set deadlines for local housing offices to process claims and current occupants to vacate housing units, and compelled local authorities to evict occupants who would not leave voluntarily.

Predictably, these laws and procedures met – and continue to meet – with obstruction throughout the country. However, the five primary international agencies working to support return have largely succeeded in overcoming such resistance, even in hard-line municipalities, through a unified strategy for implementing the law: the Property Law Implementation Plan (PLIP). Under this plan the agencies' representatives serve as Focal Points, each covering a few municipalities and charged with coordinating their activities at the local level and monitoring the work of local housing offices.

The UN International Police Task Force (IPTF) exercises its supervisory powers over local police forces to ensure that evictions take place as ordered. Double Occupancy Commissions, composed of local and international officials, work to prioritise evictions of people with multiple dwellings. In a number of municipalities with particularly bad records, internationals co-locate in return offices, setting quotas of cases to be resolved and providing daily oversight. Finally, the High Representative has used his Bonn-Petersburg powers to remove over 30 mayors and other municipal officials who have obstructed implementation of the property laws and exercise of the right to return.

This combination of legal and political pressure has yielded results. By 30 September 2002, PLIP statistics indicated that over 150,000 families had repossessed their houses and flats, but nearly 100,000 claims remained outstanding. The RS continues to lag behind the Federation in the percentage of claims resulting in repossessions, but the gap between the entities is closing. Under Minister for Refugees and Displaced Persons Mico Micic, the RS significantly improved its rate of implementation: from 31 per cent at the end of 2001 to 56 per cent in September 2002.

Nevertheless, high-ranking international officials recently chastised Bosnian officials for failing to enforce the property laws in a 'uniform, efficient and transparent way', pointing to the continuing practice of allowing judges, politicians, police officers and war veterans illegally to occupy other peoples' homes. Some municipalities in the eastern RS still seek to thwart Bosniaks from reclaiming their property and, thereby, to preserve this strategic region's new Serb majority. Meanwhile, housing officials in the two largest cities of the western RS, Banja Luka and Prijedor, also appear reluctant to embrace the notion that these towns should again be mixed. A number of smaller Bosniak-majority towns in the Federation, including Lukavac, Srebrenik, Zavidovici, Donji Vakuf and some outlying municipalities in Sarajevo Canton, also lag behind due to politically motivated resistance to return.

Of even more concern is the fact that the Republika Srpska authorities seem to have focused significantly more effort on returning socially-owned apartments, mostly in urban areas, to their pre-war owners than on returning private property, more often located in rural areas. This is troubling because return to villages is more easily sustainable through agriculture than is return to cities and towns, where employment opportunities are scarce. Overall, the rate of repossession of socially owned property in the RS was 64 per cent in September 2002, while claimants of private property had only succeeded in 53 per cent of cases. In some municipalities (e.g., Doboju, Visegrad, Zvornik and Foca) the implementation rate for socially owned property is close to or greater than twice that for private houses. Thus in these areas the focus seems to be on returning property to persons less likely to return in fact, but more likely to exchange or sell. Coupled

with the failure to return land for farming and business premises at the same rate as housing, these data suggest a policy of implementing the law in a manner calculated to result in a minimum of sustainable returns.

Despite such game playing and hold-ups, international officials have declared their confidence that the housing property laws will be fully implemented by the end of 2003. This in sharp contrast to the gloom that prevailed as recently as 2000, when sluggish implementation rates suggested that many people could be waiting for up to 40 years to recover their residences in the RS and 22 years in the Federation. Some international officials admit privately, however, that 15 to 20 per cent of property claims will probably remain unresolved at the end of 2003. There is thus a danger that, in their haste to slim down the international presence in BiH and to hand over to the local authorities, the relevant agencies will slacken their engagement or significantly reduce their presence, so allowing recalcitrant Bosnian officials to block the final tranche of housing repossessions. Concentrated action after 2003 in the remaining hard-line municipalities should be enough to prevent this.

Of greater concern is the temptation that the international community may feel to declare Annex 7 complete as soon as the property laws have been fully implemented for housing. Not only would such a declaration imply the abandonment of tens of thousands of Bosnians who cannot yet return to unreconstructed homes, as well as those who will not have repossessed other property essential to sustainable return, it would also absolve the BiH authorities of their wider obligation under Dayton to provide conditions conducive to return and reintegration. As this report will argue, local governments, particularly in the RS, have collaborated in permitting ever larger numbers of refugees to repossess their homes because they have also been left free to pursue other policies that discourage real return. In the eastern RS, municipal governments have either distributed free land and building materials or provided credits for buying them to displaced Serbs whom they aim to keep in the RS. Throughout BiH, the nationalist establishments have been able to count on dire economic conditions and discrimination in access to employment as disincentives to return. Difficulties in accessing utilities, divisive and nationalistic school curricula, delays and bureaucratic barriers to the payment of pensions and the provision of health care, and the presence of uncaught and unpunished war criminals all play varying parts in deterring return." (ICG 13 December 2002, pp.9-11)

Local authorities fail to secure alternative accommodation (2001-2002)

- Implementation of property law is mainly obstructed by the failure to provide alternative accommodation for persons due to be evicted
- Some housing offices are apparently conniving at the illegal sale or misallocation of unclaimed properties
- High Representative issued decisions to improve the allocation of alternative accommodation (December 2001)
- The revalidation of occupancy rights for unclaimed apartments which could be used as alternative accommodation will also be reviewed
- Instructions have been issued to enable the purchase of apartments in the Federation following repossession

"Failure to provide alternative accommodation for persons due to be evicted, but unable to solve their own housing needs, continues to be the primary reason for failure by the housing authorities to increase their rates of implementation. Some housing offices are apparently conniving at the illegal sale or misallocation of unclaimed socially owned property, supposed to be used as alternative accommodation. Initiatives to provide accommodation using available resources remain sporadic, and, in most cases, superficial. Countrywide, this is one of the greatest sources for concern regarding the level of commitment shown by local authorities to implementation of the property laws." (OHR HRCC 18 October 2001, para. 3)

"Implementation of the property laws has been obstructed by the fact that up until now, many authorities have failed in their obligation to secure alternative accommodation. Although there are notable exceptions, responsible authorities at all levels of government have delayed, given the excuse of lack of means, and passed the blame to each other. Municipalities that have tried to solve the problem, through serious proposals, often meet with little or no support from Cantonal or Entity officials.

As a result, the authorities break the law by failing to evict temporary occupants who have the right to alternative accommodation. The law is clear in such cases, a long 90-day deadline to vacate is given, during which the authorities are responsible for finding alternative accommodation. After expiry of the deadline, the owner or occupancy right holder should be allowed to repossess their home without further delay. Thousands of cases inside and outside BiH are blocked from repossessing their homes by housing authorities who fail to find alternative accommodation and illegally use this as an excuse not to evict temporary occupants who have overstayed.

Not one temporary occupants should be evicted into the street. At the same time, the law must be respected. The responsible authorities must budget, find and use alternative accommodation without further delay. The PLIP Cell member agencies have identified numerous buildings that can be used for this purpose." (OHR 6 December 2001)

For more information on the Decisions of the High Representative issued on December 4, 2001, to improve the provision of alternative accommodation, see "[High Representative imposes amendments to Property Laws](#)", Office of the High Representative, 5 December 2002 [Internet]

See also:

"[The responsibility of the cantonal authorities for the emergency accommodation](#)", OHR press release, 7 December 2001 [Internet]

"[PLIP agencies call on relevant authorities to fulfill their obligations under the property laws](#)", PLIP press release, 24 January 2002 [Internet]

"[High Representative issues Decision ensuring transparency in the use of funds for return of refugees and displaced persons in both Entities](#)", 25 January 2002 [Internet]

"[PLIP agencies reiterate alternative accommodation criteria](#)", PLIP press release, 11 April 2002 [Internet]

"All purchases of apartments where the purchase is based on revalidated contract to an unclaimed apartment will be frozen, pending establishment of a proper review process. Unclaimed apartments are to be used as alternative accommodation, unless the temporary occupant meets strict criteria for revalidating the occupancy right. Previously, many individuals who did not meet the criteria were able to revalidate and then privatize. Thus a large source of alternative accommodation for vulnerable individuals were lost. The new amendments [4 December 2001] provide for stricter review of all revalidations and subsequent privatizations. Instructions enabling the purchase of apartments in the Federation have been established following the receipt of numerous complaints from citizens who currently face excessive demands for documentation, and are unable to purchase their apartments following repossession. The instructions regulate the documentary requirements for purchase, and the obligations of the competent bodies. The documentary evidence that can be requested by the authorities is defined and limited by the new instruction for the Federation." (OHR HRCC 2001, p. 5)

In July of 2001, the High Representative amended the laws governing the privatization of apartments in both entities. Included in the amendments are provisions requiring a reinstated occupancy right-holder to prove that s/he had vacated any property s/he had been occupying, so as to prevent multiple occupancy. The High Representative has now been given an instruction to Federation authorities on the documentation

to be produced to prove that the occupancy right-holder is not continuing to occupy someone else's property. (Republika Srpska issued its own instruction on the subject). (OSCE 6 February 2002)

"Multiple occupant: technically, a temporary user who has access to two or more properties (usually their pre-war home and the property they currently occupy). Under the property laws, however, temporary users will also be 'deemed' to be a multiple occupant if they have other means (e.g., sufficient disposable income or other assets) by which to provide for their own housing." (OSCE 6 February 2002)

See also "Buyers of privatized apartments in the Federation of BiH should be careful", press release by PLIP agencies, 13 November 2001 [Internet]

Full text of the Decisions issued by the High Representative relating to property issues are available on the website of the High Representative [Internet]

The issue of property allocation: An obstacle to return (2002)

- Allocation of formerly socially owned property continues despite ban enforced by the High Representative
- Such allocation is implemented in an attempt to solidify ethnic separation
- Action is needed to ensure that future allocations are transparent, in the best public interest, and non-discriminatory
- International Crisis Group suggests treating illegal land grants as a matter for criminal law may prove more effective

"Allocations of state-owned, formerly socially owned, property and construction works on this property continue throughout BiH, in disregard of the Decision of the High Representative (27 April 2000) banning all such allocations unless made with the authorisation (waiver) of the OHR. Moreover, protests are being raised in many quarters regarding past allocations, for which in most cases OHR waivers have yet to be issued or requested, particularly mass allocations of land to groups for purposes of local integration.

In certain cases, such allocations of property also hinder return. Further, the conversion to construction land of land used for agricultural purposes before the war, and allocation thereof to groups of displaced persons for purposes of local integration or relocation, affects the sustainability of return. Allocation of property can also be an obstacle to property law implementation – and thus return – in that those who are allocated land for individual housing construction, in some cases, continue to occupy contested property until – and even after – construction on the land is completed. The non-transparent or discriminatory selection of beneficiaries of mass allocations can also solidify ethnic separation.

It is clear that the process of allocating property in both the Federation and the RS requires urgent review to ensure that all allocations are transparent, in the best public interest, and non-discriminatory. It is also necessary to address the issue of the rights of persons violated by allocations made, without OHR consent, since 06 April 1992.

The High Representative's Property Allocation Decision is due to expire in July 2002 and a dialogue has been initiated within the Working Group, recently established by the BiH state-level Commission for Refugees and Displaced Persons, to address these issues.

Plan of Action: Address the issue of illegal or discriminatory allocation of property

Review the problems related to property allocations and establish a legal framework and necessary monitoring mechanisms to ensure that future allocations are transparent, in the best public interest, and non-discriminatory.

Establish a legal framework and/or mechanism for resolving the issues relating to past allocations in contravention of the High Representative's Decisions and for redressing the rights of persons violated by such allocations. "

(OHR HRCC 17 April 2002, p. 8)

"Successive high representatives have sacked six mayors and other municipal officials in 2001-02 for making illegal allocations, but to little effect. Treating illegal land grants as a matter for the criminal law has proved more effective. According to international officials working in the eastern RS, the indictment of a former mayor of Bratunac that seeks to make him liable to pay damages to all individuals who have been harmed by his abuses has had a chilling effect on further building in the municipality. This former mayor is currently being tried in absentia, because he has fled to Serbia." (ICG 13 December 2002, p.13)

See also:

"Public land allocation to support resettlement and discourage return", in: [The Wages of Sin: Confronting Bosnia's Republika Srpska](#), a report by the International Crisis Group, 8 October 2001, pp. 30-32 [Internet]

"Projects to accommodate displaced persons and promote return" in: [Unfinished Business: The Return of Refugees and Displaced Persons to Bijeljina](#), Human Rights Watch, 30 May 2000 [Internet]

"High Representative extends ban on the allocation of state-owned land", press release from the Office of the High Representative, 31 July 2002 [Internet]

Housing authorities are exposed to violence and threats (2000-2002)

- International agencies call upon local police forces to ensure the protection of housing offices

"OHR, OSCE, UNHCR, UNMIBH and CRPC wish to emphasize that the housing offices responsible for the processing property claims are performing a service that benefits the country as a whole, and are gravely concerned by continuing reports of threats against housing officials. The latest reports include repeated verbal harassment and threats, both in Zenica and in Glamoc. The local authorities, the local police forces and society at large must do more to ensure that officials are protected and the work of the housing offices is supported and recognized." (OHR 30 May 2002)

"Housing authorities responsible for implementing property law were threatened or intimidated into resigning. In the spring [2001], an enraged Serb facing eviction entered the office of the head of the housing department in Bosanski Samac, waving a Kalashnikov assault rifle. The housing department head resigned shortly afterwards." (U.S. DOS 4 March 2002, sect. 1f)

"Threats to Housing Authorities in some Parts of BiH: During the reporting period a number of housing authorities, responsible for property law implementation have been threatened and/or assaulted. In Cazin (Fed), the housing board director received numerous threats in February and in April, the Head of the Banja Luka OMI resigned after receiving threats. The latter had been under strong pressure not to carry out evictions of Croatian Serbs and war veterans occupying property. In late April, the head of the housing authority in Bijeljina (RS) was stabbed. On 29 April, the head of Stolac Housing Board was beaten up by an alleged double occupant, who also tried to stab him. The victim was hospitalized with serious injuries. Local police did not respond adequately and the case was reported to the IPTF. Subsequently the IPTF

issued two non-compliance reports against the local police and continues to monitor the investigation into the incident by the local police. It appears that these assaults have taken place in response to movements in property law implementation in the respective areas." (OHR HRCC 15 May 2000, para. 9)

See also "PLIP principals condemns violation of the property laws by political pressure groups", PLIP press release, 23 April 2002 [Internet]

Reports of evicted occupants looting and damaging properties (2001)

- Looting cases rise with the increasing rate of repossessions
- Local authorities have been explicitly requested by the High Representative to actively prevent temporary users from damaging apartments when they leave

"In BiH, as the rate of repossessions increases, so too does the number of looting cases. In most instances, the relevant authorities fail to take the necessary steps in investigating the crime and, at times, in refusing to accept that the act constitutes a crime. However, during the reporting period [1 September 2000 - 31 March 2001], the first known court verdict regarding a looting case was issued by the Municipal Court of Bosanska Krupa. In early October 2000, the court found the defendant guilty and sentenced him to six months imprisonment. Whilst the number of prosecutions of looting cases rises (generally only as a result of pressure from the International Community), the lack of convictions and deterrent sentences remains concerning." (OHR April 2001, para. 28)

New measures enforced by the High Representative (December 2001):

"Local authorities are now explicitly liable to compensate occupancy right-holders for any damages to an apartment during the period it was abandoned (and thereby deemed under control of the local authorities). The authorities are now required to make greater efforts to ensure that temporary users do not loot apartments when they leave, by taking an inventory of the state of that apartment prior to and, again, immediately after the temporary user vacates, and to press charges against the temporary user if they loot or damage the apartment. The authorities must warn temporary users that they will be subject to criminal sanctions if they remove objects from or damage the apartment." (OSCE 6 February 2002)

See also full text of the Decisions of the High Representative:

Decision Enacting The Law On Amendments To The Law On The Cessation Of Application Of The Law On The Use Of Abandoned Property (RS), 4 December 2001 [Internet]

Decision Enacting The Law On Amendments To The Law On The Cessation Of Application Of The Law On Abandoned Apartments (FBiH), 4 December 2001 [Internet]

Decision Enacting the law on amendments to the Law on the Cessation of Application of the Law on Temporary Abandoned Real Property Owned by Citizens (FBiH), 4 December 2001 [Internet]

The case of the "floaters" in the Republika Srpska (2001)

- About 300 families in Banja Luka and Bijeljina were expelled during the war but remained in their municipalities of origin throughout the war
- The majority was able to recover their property only in the summer of 2001
- At least 80 families are still in need of solution as of end 2001

"Some of the difficulties with repossession of pre-war property in urban areas can be highlighted by reference to the so-called 'floaters': approximately 300 families, mainly in the Banja Luka and Bijeljina urban areas of the RS, who were forcibly expelled during the war but who, despite having remained in their municipalities of origin throughout the war, had been, until very recently, unable to repossess their properties. They therefore continued to reside in extremely poor living conditions, often in garages, makeshift houses or worse. In many cases, the pre-conflict apartments/houses of these 'floaters' were occupied by displaced persons who required alternative accommodation. Over the past five years, the RS authorities made various commitments to reinstate these 'floater' families in their pre-conflict homes. However, the majority of cases were only resolved in the summer of 2001. The RS Ministry of Refugees and Displaced Persons has developed an operational plan to resolve the outstanding 20 'floater' cases by the end of October 2001." (UNHCR September 2001, para. 29)

"No property was returned to so-called 'floaters', i.e. Bosniak families who had not left the region of their own will but were expelled from their flats or houses during the war. There were 50 'floaters' families in Banja Luka, and 30 in Bijeljina. Although the RS Ministry for Refugees and Displaced Persons promised to resolve these cases by the end of September, they failed to do so." (IHF 28 May 2002, p. 74)

Lack of official property rights excludes the Roma community from assistance schemes (2001-2002)

- Roma lack legal entitlements to the pre-war residences and are thus unable to recover their rights
- Roma face additional discrimination on the part of housing authorities

"There are three different Roma communities in BiH at the present time. The first community is composed of indigenous Roma that have been living in BiH for generations. The second group comprises the refugee Roma community which originates from South Eastern Europe and is currently accommodated in UNHCR's Reception Centres across the country. Lastly, there is the Cergari Roma who are an itinerant population in the region. Although all three communities are of concern of UNHCR, the crucial issue facing the indigenous Roma population is housing. The availability of adequate shelter is of particular relevance of UNHCR as it is directly linked to the question of return as defined in Annex VII of the Dayton Peace Accords.

The housing situation pertaining to the Bosnian Roma is especially complex. The handful of Roma who had private property or who were living in socially owned apartments before the war are in a position to try and repossess their houses through Property Law Implementation Plan (PLIP). However, the majority of Bosnian Roma either lived in prefab houses or in settlements built on state owned land which were not officially 'recognized' by the authorities before the war. Consequently, they do not have any legal entitlement to their pre-war residences nor to the land on which these were built, irrespective of the fact that some families were domiciled on that land for a substantial period of time. The corollary is that these Roma fall outside the PLIP framework and are denied any reconstruction assistance even though their houses may have been destroyed during the hostilities.

UNHCR's approach to the Bosnian Roma varies according to their specific requirements. The Office's immediate priority is to advocate the Roma's needs by raising general awareness among international agencies, NGOs and the local authorities. Where applicable, Roma with legal entitlements to property are being assisted through the PLIP mechanism. In the case of destroyed property, UNHCR seeks to attract donor interest and has submitted reconstruction projects to the Stability Pact for South-Eastern Europe. As far as contested land is concerned, the Office is collaborating with international agencies to negotiate the issue as a long-term solution." (UNHCR August 2001, p. 2)

"Roma make up the largest of BiH's 17 national minority groups. There are Roma throughout the Federation and RS, with the biggest concentration in Tuzla Canton, where there is large community of

displaced people and repatriates. During the war many of Bosnia's Roma, who are mainly Muslim by religious orientation, were expelled from predominantly Serb/Croat held parts of the country and fled to other European countries, such as Germany, Switzerland, Italy, Sweden and the Netherlands, as well as being internally displaced. Post-war they have been returning to BiH, but many still can not return to their pre-war homes because they have been destroyed or occupied. In Bijeljina for example, which used to be home to some very wealthy Roma, Roma have returned to find their houses lived in by local authorities. There have been some cases of Roma living in tents in the garden of their occupied houses. Like all persons displaced during the BiH war, Roma face many obstacles and obstructions as they try to maneuver through the complicated legal administrative property repossession process. Yet Roma also face the additional hurdle of discrimination on the part of housing authorities." (OSCE 7 April 2002)

PATTERNS OF RETURN AND RESETTLEMENT

Movements of return

Significant return movements since 2000 (2002)

- 2000 was declared a breakthrough year with 67,000 persons returning to areas where their ethnic group is in minority (minority return)
- Minority return rate has increased regularly since then
- Since January 2002, UNHCR is witnessing a steady increase in returns of over 30% each month

Return data for 2002 (as of November 2002)

“In November 2002 UNHCR recorded 5,087 so-called minority returns bringing the total to 91,969 minority returns in Bosnia and Herzegovina during the first 11 months of the year 2002. In comparison with the same period of the previous year, the number of recorded minority returns has thus increased by 10,976 persons.

[...]

The total number of 919,746 refugees and displaced persons have thus returned to their pre-war municipalities since the signing of the Dayton Peace Agreement (GFAP). Out of this total 682,365 refugees and displaced persons returned to the Federation of BiH, 218,996 to the Republika Srpska and 18,385 to Brecko District.

The full statistics package for the year 2002 will be available at the beginning of the next month.”(UNHCR 9 January 2003)

Overview 1999-2002

“Since the signing of the DPA, UNHCR has registered some 907,000 returns, both within Bosnia and from abroad, of which 367,000 were so-called ‘minority’ returns, whereby persons return to an area now dominated by another national group. This means that returns to and inside BiH far exceed the total number of Serbs who fled Croatia since 1991, and testify to the relative success of Bosnia’s system of property repossession in facilitating return. These movements against the grain of both the war and nationalist propaganda have grown steadily since 2000, when UNHCR figures registered an increase of more than 50 per cent on 1999. The upward trend continued in 2001 and in the first three-quarters of 2002. In the course of June 2002 alone, UNHCR counted more ‘minority’ returns than in the same month in 1999, 2000 and 2001 combined.

Moreover, UNHCR officials explain that their estimates are almost certainly on the low side since, until 2002, they represented only those people who registered their returns with the local municipal or cantonal authorities. Throughout BiH, large numbers of returnees fail to register because they want to maintain their pensions or health benefits in the places from which they have returned, because they have gone home only provisionally or parttime, or because they do not trust the local authorities. The latter phenomenon is particularly marked in the eastern RS municipalities of Srpsko Gorazde, Zvornik and Foca, from which UNHCR receives very little data on returns because returnees are reluctant to make their presence known.

Notwithstanding the increased tempo of return in recent years, the pool of potential returnees remains large. Some 127,000 refugees from BiH still live in Croatia and Yugoslavia, while approximately 380,000 remain internally displaced within Bosnia. If the current rate of return is maintained through the end of 2003, another 150,000 returns can be expected, meaning that more than half of those displaced because they

belonged to the 'wrong' nation will have gone home. UNHCR believes that this trend will continue *if* international pressure and financial support are maintained." (ICG 13 December 2002, p. 4)

"[There] has been significant improvement on returns in the past three years. When I took office, in 1999, the rate of return was such that the Federation process would have taken at least another 22 years. In the RS, it would have taken another 40 years. By 2001, UNHCR registered the return of 92,061 people to their pre-war homes in areas where their ethnic group is in minority. In contrast, the year 2000 – which was declared then a breakthrough year – saw only 67,445 of the 'minority' returns. Figures this year show an increase greater than 20 % over the record 2001 figures. Thus a similar increase in overall return can be expected at the end of this year. If this rate is maintained – and I believe it can be maintained – mass return will be completed by 2004. This will be a historic achievement." (OHR 14 May 2002, para. 30)

Detailed return statistics are available on the website of UNHCR Chief of Mission in Sarajevo [Internet]. See in particular:

Minority return 2002 (also includes minority return figures from 1996 to 2001) [Internet]

Returns summary to Bosnia and Herzegovina from 01/01/96 to 30/04/02 [Internet]

UNHCR statistics do not systematically include figures for "self-organised" return movements (2000)

- A substantial number of returnees do not register with UNHCR fields
- Many of the spontaneous returns reflect a "home-grown" strategy by the displaced and Bosnian government officials to target areas of least resistance

"Given the confusion in post-war Bosnia, exact numbers of returnees are difficult to calculate. Information on refugee returns is collected primarily by three different agencies: United Nations High Commission on Refugees (UNHCR), Office of the High Representative's Reconstruction and Return Task Force (RRTF), and the NATO-led Stabilisation Force (SFOR). In addition, each utilises a different methodology for gathering data on returns, and each readily admits that its numbers are inaccurate. Given the difficulties of accurate statistical collection in Bosnia, none of these numbers should be taken as absolute. Rather, they should be seen as relative indicators of trends. UNHCR figures are based on the number of returnees that actually register with the UNHCR field offices. RRTF figures are based on "previous experience and the fact that substantial numbers of returnees do not register." SFOR figures are based on "reports from SFOR patrols, which cannot cover the whole state, but may be useful as a trend indication." As a result of the different methodologies, UNHCR, RTTF, and SFOR all provide differing estimates. Given the difficulties of accurate statistical collection in Bosnia, none of their numbers should be taken as precisely accurate, but rather as general indicators of trends. (ICG 31 May 2000, "How Many?")

"In April [2000] the self-organised return movements of Bosniak displaced persons from Sarajevo Canton to their places of origin in Eastern RS Municipalities increased. These returns often take place without any assistance and the returnees live on the ruins of their pre-conflict homes. Since 1 April, some 100-150 people returned to their villages of origin in Miljevina MZ, municipality of Foca/Srbinje. They settled in tent camps in seven locations and started cleaning their ruined houses and fields. No security incidents have been reported. The first self-organised return to Zepa took place on 20 April. Twenty-nine displaced persons from the Sarajevo area returned to four villages, and 20 persons remained overnight. A second self-organised return movement to Rogatica took place on 27 April. More than 100 persons joined the convoy on the announced day, the majority were taking advantage of the movement to make an assessment visit to their destroyed properties. Approximately 45 persons remained camping in the three villages. ." (OHR HRCC 15 May 2000, para. 21)

"Spontaneous returns to Canton 1 have picked up in April, particularly to Kljuc and Bosanska Krupa municipalities, areas to which only very small numbers of returnees had returned since 1996. More than 50 Bosnian Serbs have come back to Kljuc and there are indications that many more will follow both from the RS and FRY. Visits to clean and plant the fields have increased." (OHR HRCC 15 May 2000, para. 28)

"Many of the spontaneous returns reflect a "home-grown" strategy by refugee groups and Bosnian government officials to target areas of least resistance. In this strategy, refugees return to remote, unoccupied, burned out villages deep within "enemy" territory, where there is little or no presence of the majority group. Because the returns are low visibility and do not displace members of the majority ethnic group from their housing, ethnic tensions are usually manageable, and the local majority is able to slowly adjust to the presence of a significant minority group nearby. Success in one village is then duplicated in another nearby village. This policy of reoccupying remote or empty regions, is responsible for most of spontaneous returns. Refugees from the same region - seeing the viability of these initial returns - are then encouraged to return." (ICG 31 May 2000, "Breakdown of Returns")

Preferences of the displaced

Survey conducted end of 2000 reveals that the majority of the displaced in the RS does not wish to return (2000-2001)

"Seventy-four percent of IDPs currently living in FBiH expressed their wish to return to their pre-war homes (in RS), while only 16 % of IDPs in RS wish to return to FBiH (some 20% of IDPs in both entities were unsure regarding return.)" (UN November 2001, p. 34)

For detailed figures by municipality, see the [report by statement of return](#) prepared on the basis of the re-registration process implemented jointly by the governments of the Federation of Bosnia and Herzegovina, the Republika Srpska, and the United Nations High Commissioner for Refugees end of 2000. Please note that the figures provided in the report refer to households. [Internal link]

Survey conducted by the CRPC and UNHCR: 76% of respondents currently residing in the Federation and 34% of respondents currently residing in the RS prefer to return to their pre-war property (November 1999)

- One of the main barriers to return identified by respondents is personal security and security of their property
- Other obstacles to return include: lack of economic opportunities, need for reconstruction assistance, difficulty in assesting property rights

"The Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) has been asked by the United Nations High Commissioner for Refugees (UNHCR) to conduct a survey on the preferences and intentions of displaced persons and refugees. More than 3,000 interviews were conducted throughout Bosnia and Herzegovina, in Croatia and the Federal Republic of Yugoslavia. Respondents were requested to identify how they would prefer to exercise their property rights, and what factors (be they legal, socio-economic or political) influenced their preferences. The research provides a current snapshot of the intentions of displaced persons and refugees, four years after the signing of the Dayton Agreement. It looks at why so many persons remain without a durable solution, and suggests choice and flexibility in approaches to these problems. Its goal is to ensure that the wishes of the people concerned are known and taken into account.

The research confirms that many, if not most, wish to return to property they occupied prior to the war. The results reveal that approximately 61% of all respondents wish to return to their pre-war property. Within BiH, 76% of respondents currently residing in the Federation and 34% of respondents currently residing in the RS prefer to return to their pre-war property. 76% of all Bosniak, 73% of all Croat, and 36% of all Serb displaced person respondents indicated a preference to return to pre-war property. 54% of refugees in Croatia and 49% of refugees in FRY expressed a desire to return to their pre-war homes. The majority of all respondents (59%) who indicated a preference to return cited the mere fact that 'this was their home' as their main motivating factor. The second most prevalent factor cited by those who indicated a preference to return was that their current housing situation was unacceptable.

Security: One of the main barriers to return identified by respondents is personal security and security of their property. The majority (58%) of all respondents who indicated a preference to sell, exchange or lease their properties indicated that they would return if the local authorities guaranteed their safety or if their pre-war neighbours returned. 4

Economics: Economic factors have also affected preferences to return. 21% of all respondents who indicated a preference to sell, lease or exchange their property indicated that they would return if there were job opportunities available.⁵ 23% of respondents with agricultural land adjoining their pre-war property indicated a preference to settle in an urban location.

Reconstruction: 19% of respondents who indicated a preference to sell, lease or exchange indicated that they would choose to return if their pre-war property was reconstructed. Of the returnees that were interviewed, approximately 61% indicated that they had received international reconstruction assistance.

Legal Framework: Given the difficulties to implement the property laws at the time of the research (i.e. before the High Representative amended the legal property framework through his 27 October 1999 decisions), and the real difficulties that refugees and displaced persons continue to face in asserting their legal rights, respondents were asked about the impact the legal system had had on their preferences regarding the exercise of their property rights. Out of all respondents interviewed, 67% had filed claims with the competent administrative authorities and were awaiting a response. In the instances where administrative authorities issued decisions confirming the right of the respondent to return to pre-war property, 21% of respondents were advised that they would not be able to return until alternative accommodation was located for the current user. A total of 5% indicated that they were unable to return due to destruction of their pre-war property. Of the returnees that were interviewed, 90% indicated that their property remained vacant during the war, and therefore complicated eviction procedures were avoided." (CRPC/UNHCR 1999)

"Many, if not most local and national authorities, leaders of displaced persons organizations and most of the Republika Srpska media have continuously voiced the opinion that the overwhelming majority of these displaced persons do not want to return, as they are not interested in living in a multi-ethnic Bosnia-Herzegovina. This assumption is used time and again as an explanation for the difficulties hampering the return of the pre-war non-Serb population. For example, surveys conducted in collective centres by Republika Srpska refugee authorities are frequently quoted as confirmation of this view. However, such a generalization of the situation may oversimplify the opinions and wishes of this displaced population. A survey conducted by the CRPC on behalf of UNHCR, displays a more nuanced picture. Interviews conducted with a cross-section of 3,000 displaced persons in both entities, as well as Bosnian refugees in the Republic of Croatia and the Federal Republic of Yugoslavia, showed that 34% of respondents currently living in the Republika Srpska, and 36 % of all Bosnian Serb displaced persons wished to return to their pre-war homes." (AI July 2000, p. 17)

Current Preferences of Refugees and Displaced Persons: Conditional Return (1998)

- The large majority of displaced Serbs intend to relocate within Republika Srpska (or in third countries) - while Bosniacs, and to a lesser extent Croats, appear more willing to return to their places of origin
- Older people are generally more willing to return, while younger people prefer to stay or go where there are more employment opportunities.
- Preferences are also linked to family status, education level, places of origin and residence
- The primary concerns for displaced persons to return to their place of origin are political environment and security
- Once the political and security situation is considered satisfactory, displaced persons identify lack of employment opportunities and accommodation problems as the two main obstacles for successful reintegration

"Two surveys recently conducted by the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC, established under Annex 7 of the Dayton Peace Agreement) and by the Danish Refugee Council (DRC) provide some information about the preferences of refugees and displaced persons under current circumstances. Although the survey sample is perhaps not fully representative of all refugees and displaced persons, identified trends are consistent with registration patterns for municipal elections (to vote for the place of origin or for the place of residence) and with an analysis of claims submitted to the CRPC. These preferences are not, however, static and may change as the political and security environment improves.

Preferences are closely linked to ethnicity (see Table 1). The large majority of displaced Serbs intend to relocate within Republika Srpska (or in third countries) - while Bosniacs, and to a lesser extent Croats, appear more willing to return to their places of origin.

Exceptions to general "ethnic patterns" are very local and often occur in municipalities where large returns would challenge the current majority. This is true in both Republika Srpska and the Federation. The CRPC survey also observed that the determination of minority displaced persons to return to municipalities where they were pre-war majorities (or large minorities) seems often premised on a desire to alter the political control of the return destination. Reciprocally, current majorities (and authorities) are very reluctant to accept returns of large groups which could challenge their status. This suggests that minority returns may be easier to achieve in areas where an overwhelming pre-war majority still exists.

Table 1: "Would you like to return to your pre-war home?" CRPC Survey (displaced persons and refugees in neighboring countries)			
In percent:	Yes	No	Maybe
Bosniac	80	7	13
Croat:	62	17	21
Serb:	23	55	22

Preferences are linked to age and family status. As a general pattern, older people are more willing to return, while younger people prefer to stay or go where there are more employment opportunities. This is particularly true for pre-war rural populations. Many young men are still fearful of crossing the Inter-Entity Boundary Line, since some people have reportedly been arrested for having served in the other Entity's army (amnesty laws remain unsatisfactory in Republika Srpska, and are not adequately implemented in the Federation). Preferences are also linked to education levels: people willing to return to minority areas or even to Bosnia and Herzegovina (for refugees accommodated in host countries) are likely to be less skilled than average.

Preferences are closely associated with places of origin and residence - and with local factors such as circumstances which surrounded eviction, damage level, presence of old neighbors, etc. Local trends are highly variable and need to be carefully assessed, for defining priority areas in delivering assistance. (OHR/RRTF March 1998, para. 11)

"Obstacles To Successful Return and Reintegration: Political Environment And Security First

The CRPC and the DRC surveys provide useful information on the main subjective factors which influence refugees and displaced persons when making the decision (in current circumstances) on whether to return or relocate - and on where to relocate to (see Table 2):

the primary concerns for refugees to return in Bosnia and Herzegovina and for displaced persons to return to their place of origin are political environment and security;

once the political and security situation is considered satisfactory, refugees and displaced persons identify lack of employment opportunities and accommodation problems as the two main obstacles for successful reintegration. "

Table 2: "Would you choose to return to your pre-war home under any of the following circumstances?" CRPC Survey (displaced persons and refugees in neighboring countries)	
If your neighbors from before the war also returned to their homes?	25 %
If the local authorities guaranteed your safety?	22 %
If there were job opportunities available?	16 %
If your house were reconstructed?	12 %

(OHR/RRTF March 1998, para. 12)

For further information on the factors underlying the decision of the displaced to return, see "[Preventing Minority Return in Bosnia and Herzegovina: The Anatomy of Hate and Fear](#)" (section "Refugees and Decisions whether to return") by the International Crisis Group (10 August 1999) [Internet]

Preferences of the displaced living in camps in the Republika Srpska: Most families wish to be accommodated or relocated in RS (1998)

"ARA carried out a survey (Step to Return, Study Research, February/March 1998) on the wishes to return of the population living in collective centres in Republika Srpska (at that time the population of the collective centres in Republika Srpska was approximately 6,900 individuals). The results showed that 77% (1,998 families) wished to be accommodated or relocated in RS at the moment. Out of this number, 62% (1,246 families) expressed a wish to be relocated in the present place of residence (town where the collective centre is located), and 38% (752 families) would like to be relocated in another area of RS. 12% (308 families) wished to return to their place of origin. 113 families (4%) would like to be accommodated in specialised institutions and 6% (151 families) would like to go abroad.

18 % (466 families) would like to be accommodated in rural areas, 82 % (2,137 families) would like to be accommodated in urban areas. 29% of the residents have changed their position wishing to change their former rural life with a life in urban areas.

The return of the 308 families could happen in the following areas of BiH: Drvar (72 families), Sanski Most (62 families), Sarajevo (61 families), Petrovac (24 families), Krupa (11 families), Grahovo (9 families), Kluc (9 families), Mostar (8 families), Jajce (7 families), Konjic (4 families).

The majority of the persons wishing to return did not express any particular comments on the conditions for return but a significant number of individuals mentioned the following conditions: access to public services; reconstruction of the house; security; relocation of the families currently occupying the flat; return of close relatives and compatriots.

The role of the municipality is of great importance regarding the provision of accommodation for the persons presently accommodated in the collective centres. The majority of the families wish to be relocated in Visegrad (525 families), Trebinje (192 families), Serb Sarajevo (183), Prijedor (180), Bratunac (147), and Lukavica (120)." (Campigotto December 1998, section 3.1)

Selected types of return movements

Returns to destroyed villages: the vulnerability of the "house cleaners" (2000-2002)

- Relatively large numbers of displaced persons (usually male heads of household) return to their pre-war homes to preparing it for reconstruction work
- Conditions in which returnees have to live create a new kind of dependency on humanitarian aid from UNHCR and other international organizations
- There is no clarity about when and how much funding will become available for reconstruction of houses and infrastructure, upon which such returns are clearly dependent
- Other factors hampering the sustainability of return include the presence of landmines, the lack of employment opportunities and the absence of education facilities for minorities
- Some minority returnees have repossessed their homes only to sell their property and move to areas where they belong to the ethnic majority

"[T]he larger return movements have been mostly to more distant villages or hamlets which have been totally or partially destroyed. Such initiatives tie in with the notion that 'funding follows return' - meaning that potential returnees need to demonstrate their eagerness to return by starting to clear rubble from their destroyed houses and preparing it for reconstruction work. By now relatively large numbers of displaced persons are, almost weekly, travelling to their pre-war villages and in most cases scores of them (usually male heads of household) have stayed near their pre-war homes overnight.

These large-scale return events have been described as major breakthroughs in the returns process to eastern Republika Srpska. However, two months on, reports indicate that such types of returns lack serious prospects of sustainability. The returnees staying overnight are quickly becoming demotivated by the conditions in which they have to live - tent settlements among the ruins of their homes with no electricity, running water, medical service, or even reliable shelter during bad weather conditions. A new kind of dependency on humanitarian aid from UNHCR and other international organizations has been created and some of the returnees are reportedly already considering returning to Sarajevo in mid-June.

There is no clarity about when and how much funding will become available for reconstruction of houses and infrastructure, upon which such returns are clearly dependent. Some reports have indicated that reconstruction aid may not arrive before August at the soonest, when the return and reconstruction season is more or less winding up for the year. At a funding conference organized by the Stability Pact for

Southeastern Europe at the end of March 2000, donor countries pledged to contribute large amounts of money towards reconstruction of houses and infrastructure aimed at enabling the minority return of tens of thousands of refugees and internally displaced persons in Bosnia-Herzegovina. Yet although donor countries pledged approximately US\$239 million to refugee returns for Bosnia-Herzegovina and Croatia (of which US\$180 million is intended for Bosnia-Herzegovina), only approximately US\$ 60 million constitutes 'new' pledges (nota bene: for both Croatia and Bosnia-Herzegovina). The remainder of the pledged amount is a reaffirmation of previous commitments that are outstanding. Alarming, despite the establishment of the Stability Pact, donor governments' interest in actually living up to these pledges seems to be on the wane. There is a great risk that this might slow down the return process and disrupt the optimistic predictions of actual returns that the international community was hoping for.

It is also obvious that such returns will never be durable solutions without reintegration of the returnees in the local municipality and, apart from police patrols (under the constant supervision of IPTF), there are apparently few steps taken to initiate this.

In addition, areas like Zepa are reportedly still heavily mined, as may be the case for other more distant villages. An acute funding problem appears to have arisen for mine clearing operations throughout the country. UNHCR's mine clearing programme expired at the end of 1999, and other demining activities have effectively been suspended since the beginning of the year. Apart from presenting a direct security threat, the presence of mined areas further undermines the sustainability of returns as it limits the ability of returnees to work on their land." (AI 1 July 2000, pp. 12-15)

"Once refugees return, they are faced with a number of factors - beyond electricity, running water, and house repair - which make staying difficult. First and foremost is finding employment. Minority returnees are typically unable to obtain re-employment in their pre-war state-owned firms. As a result they are left to fend for themselves, either by starting private companies with their own limited resources, or falling back on subsistence agriculture. In both instances, refugees typically lack the capital either to start a business, or to purchase farm tools and seeds. The lack of education is also a problem, particularly for the increasing number of returnees with children. Local schools were often destroyed during the war, and a number of donors are reluctant to reconstruct schools. Often the nearest school is distant, either back in the returnee's majority area, or controlled by the majority ethnic group and teaching a version of history or religion unacceptable to the returnee. As a result, numerous instances have occurred where refugees have returned to their pre-war homes and then left, unable to sustain themselves." (ICG 31 May 2000, "International community and Bosnian Government Readiness")

"As repossessions of pre-war homes and returns to these homes take place, it is becoming increasingly apparent that many of the conditions necessary for sustaining such returns have not been met. Indeed, there is evidence that some PLIP beneficiaries have repossessed their homes, only to sell their property and move elsewhere - to areas in which they are of the ethnic majority. The systematic application of such administrative, legal and political obstacles to return as those noted below are significant contributory factors to *abortive* returns." (OHR/HRCC 5 February 2001, sect. 1)

For more information on property sales upon repossession, see section IV-C "Returning to sell" in: "The Continuing Challenge of Refugee Return in Bosnia and Herzegovina", International Crisis Group, 13 December 2002 [Internet]

See also "Sustainable return to be hindered by the withholding of employment opportunities to minorities" [Internal link]

Special protection needs of vulnerable categories of returnees (especially women)(2000)

- A study, compiled by UNHCR and the Office of the United Nations High Commissioner for Human Rights (April 2000), gives special attention to the particular problems faced by vulnerable women in minority returns
- The lack of familial or community support, psychological trauma, personal security and security of property are of key importance in women's decision to return to an area where their nationality is now in the minority
- Access to reconstruction assistance may also be problematic for those women who require child care assistance, are alone or are elderly and/or immobile

"Due consideration should be given to the fact that many pre-war inhabitants of large parts of the eastern Republika Srpska are still considerably traumatized by having been victimized by, or having witnessed gross human rights violations committed during the war by the Bosnian Serb army and Serb paramilitaries. Instances of renewed violence, albeit not personally directed against them, may have a retraumatizing effect; such persons will need a redoubling of efforts to reassure them that they will be able to live in their pre-war community without fear for their safety.

In addition, the specific protection needs of female returnees should be taken into account. A large number of women who are single heads of families are potential returnees to certain parts of the eastern Republika Srpska (Srebrenica, Bratunac and Vlasenica). In a recently published study, compiled by UNHCR and the Office of the United Nations High Commissioner for Human Rights (OHCHR), special attention is given to the particular problems faced by women in minority returns. The study found that the issue of personal security and security of property is of key importance in women's decision to return to an area where their nationality is now in the minority, particularly in the light of the fact that many of them are single heads of households following the death or 'disappearance' of their husbands during the war. It recommends that local police forces improve the investigation and prosecution of the perpetrators of ethnically motivated violence, and that the composition of the police forces is multi-ethnic and gender balanced." (AI July 2000, pp. 23-24)

"Gender study: 'Daunting Prospects - Minority Women: Obstacles to their Return and Integration': In April, UNHCR (assisted by the OHCHR) issued a report on the current situation and specific obstacles to return and integration faced by displaced and returnee women. The study focuses on female-headed families, single women and extremely vulnerable women, from all ethnic backgrounds.

The study identified three specific obstacles to return for the categories of women examined: (1) lack of familial or community support, (2) personal security and (3) psychological trauma. It was generally found that their fear of returning (whether or not justified) was compounded by the lack of familial or community support, or by psychological trauma. Regarding access to the reconstruction assistance, it was found that there is no common (BiH wide) criteria for beneficiaries of reconstruction assistance. In many cases, it was not clear whether women were prioritised or sidelined for such assistance, or indeed if such aid was evenly distributed. Specific concerns were raised with the principle of 'funding follows return,' which may disadvantage those who require child care assistance, are alone or are elderly and/or immobile. Regarding the repossession of property, the report recommends serious efforts be made to ensure that vulnerable women are not forgotten, whether with respect to monitoring evictions, the allocation of alternative accommodation, or the re-allocation of unclaimed apartments.

Other issues, such as the prosecution of alleged war criminals, satisfactory gender and ethnic composition of local police forces, access and quality of health care, employment opportunities and access to education and vocational training, were also reviewed as factors affecting return and/or integration potential. Without improvements, the report found, women will continue to be marginalized, and their return and/or integration potential compromised.

This study strongly recommends, in line with the Beijing Platform for Action, an active and visible policy of mainstreaming a gender perspective into all policies and programs by both international actors and local

governments, in order to assess the impact of decisions on women and men, respectively. The study further recommends that collective return programs be enhanced, incorporating female-headed families and single women, alongside other returning families, in order to ease the fear about return expressed by many women interviewed, as well as providing community support, for those who genuinely and freely choose to return. In addition, while noting the need to continue to promote and support minority returns, other durable solutions, such as local integration and settlement, will need to be found for those who are unable for valid protection reasons to return, or who are unwilling to do so." (OHR HRCC 15 May 2000, paras. 32-35)

See [Daunting Prospects. Minority Women: Obstacles to their Return and Reintegration](#), UNHCR/UNHCHR, April 2000 [Internet]

See also [Extremely Vulnerable Individuals: the Need for Continuing International Support in Light of the Difficulties to Reintegration upon Return](#), UNHCR, November 2000 [Internet]

UNHCR reviews the situation of returnees in Tuzla Canton (January 2000)

- An extremely low percentage of interviewees had secured employment since their return, while a correspondingly high percentage indicated re-employment to be their chief concern at present
- UNHCR study also highlights the vulnerability of the Roma population and persons living in transit centres

"Returnee Monitoring Study: Refugees Repatriating to Tuzla Canton, Bosnia and Herzegovina: In January 2000, UNHCR released a study of the conditions of returnees to Canton 3 (Tuzla Canton) targeting in particular recent repatriates (both returnees and displaced persons), predominantly displaced from the RS, transit centre inhabitants and Roma. UNHCR conducted 226 interviews on issues relating to security, residence registration and documentation, employment, education, access to social services, pensions, and access to public services. UNHCR found many areas of concern with respect to ensuring the sustainability of return. A quarter of interviewees had been asked to pay war taxes either during their stay abroad, or upon their return to BiH. An extremely low percentage (3%) of interviewees had secured employment since their return, while a correspondingly high percentage indicated re-employment to be their chief concern at present. Of the interviewees who believed they were eligible for a pension, 34 % had not been able to secure this pension and 26% of interviewees indicated that they had problems with access to electricity, telephones and/or water.

Several issues appeared to be particularly pressing for the Roma population. The level of confidence of Roma in the police was very low. The employment rate of Roma interviewed was less than 2% and participation rates of Roma children in education stood at a mere 9%, with most families citing financial difficulties preventing them from sending children to school.

Of people interviewed who are living in transit centres, approximately 50% were extremely vulnerable individuals (EVI's), many of whom had been unable to repossess their property, and none were employed." (OHR HRCC 15 May 2000, paras. 29-31)

See [Returnee Monitoring Study, Refugees Repatriating to Tuzla Canton - Bosnia and Herzegovina](#), UNHCR Sarajevo, January 2000 [Internet]

Urban minority return (1999)

- Not all returnees register their residence, and many end up staying with friends or family pending return of their property

- Returns to urban areas are generally not reconstruction-led, but rather facilitated either by returnees' staying with friends and family, or by property law implementation

"(The following information is based on information provided by UNHCR on returns to four urban centres in BiH: Sarajevo, Tuzla, Banja Luka and Mostar. It is not exhaustive, but is meant to highlight various issues faced by returnees attempting to return to urban areas, as previous reporting has tended to focus return to rural areas.)

Urban Minority Returns April - September: It is difficult to estimate actual numbers of minority returns which have taken place to urban areas, in part because not all returnees register their residence, and in part because many end up staying with friends or family pending return of their property. The following statistics are UNHCR estimates, as of August 31, 1999.

	Minority returns: Dayton-April 1999			Minority returns: April-August 1999		
	Bosniaks	Croats	Serbs	Bosniaks	Croats	Serbs
Sarajevo	---	18,957	10,315	---	384	1,092
Tuzla	---	107	287	---	9	45
Banja Luka	571	130	---	85	---	---
Mostar	520	244	963	172	12	92

Urban Returns through Reconstruction and Property Implementation: in rural areas, returns to urban areas are generally not reconstruction-led, but rather facilitated either by returnees' staying with friends and family, or by property law implementation. An increase in returns to urban areas thus requires strict implementation of property laws. This is still not in evidence in most of the Federation, and in the RS the implementation has only barely commenced.

Some evictions have been taking place in Sarajevo, but overall the attitude of the Cantonal Government is obstructionist and there has been open pressure by the Ministry of Justice on the courts to stop evictions. The Sarajevo municipalities range in their co-operativeness on property return, Ilidza, Ilijas, and Hadzici being relative co-operative, while Novo Sarajevo, Novi Grad, and Vogosca are generally uncooperative. Stari Grad has not been active on property return.

In Tuzla municipality the municipal authorities are generally co-operative in facilitating minority returns. The Tuzla Housing Department is taking a leading role in the development of the Tuzla-Bijelina axis, a property mechanism facilitate the return of displaced persons to these municipalities. The implementation of property laws in cases of multiple occupancy has been greatly facilitated during the reporting period by the establishment of Double Occupancy Commissions (DOC's), comprised jointly of local authority representatives and international representatives.

In Banja Luka, the local authorities have not made any efforts to minority returns and return to occupied property is thus still an extremely process. In 1999, there have been some thirty evictions/reinstatements in Luka. The vast majority of returns take place discreetly to relatives and and the statistics available do not correspond with the actual returns. Reconstruction of new housing has very limited significance in facilitating minority returns.

There has been virtually no return to Mostar through property law implementation, although some through reconstruction. In Mostar, decisions on claims for repossession of socially-owned property have been issued in less than 2% of cases. Enforcement of decisions and reinstatement of claimants is not being ensured by the authorities. Local authorities refuse to take action on multiple occupancy cases, and have yet to address the 'post-Dayton eviction' cases. A Double Occupancy Commission has been established, but has not yet resulted in reinstatements despite the issuance of 14 decisions.

Security and Urban Returns: Generally, security is not an issue in Sarajevo and Tuzla. No cases of violence of harassment have been reported recently. In Banja Luka there has been a tremendous improvement of the security situation since 1996, but individual circumstances, as well as the political climate, dictate returnees' security considerations. In Mostar, security considerations still play a significant role." (OHR/HRCC September 1999, paras. 18-25)

Return of refugees to situations of internal displacement (1999)

- The great majority of repatriations from abroad are now to areas where the returnee would be displaced but among the majority, while the returnee's home lies in an area where they would be among the minority
- These returnees are trying to find temporary accommodation in various municipalities along the Inter-Entity Boundary Line, particularly in parts of the Una Sana Canton, Canton Sarajevo and throughout Tuzla-Podrinje Canton
- Since the resources in the areas of accommodation, employment, education, health service and humanitarian aid are generally scarce, repatriates to circumstances of displacement compete with the local population and the other displaced persons
- There is now a 'grey' population of perhaps tens of thousands of these relocatees who are not registered, whose whereabouts are not recorded and who are vulnerable to manipulation.

"[T]here may be pressures on persons [originating from areas where they would no longer be in the majority upon return] to return, but to a majority area. The great majority of repatriations from abroad are now to areas other than the returnee's home. They are to areas where the returnee would be displaced but among the majority, while the returnee's home lies in an area where they would be among the minority. (Note [1]) UNHCR is gravely preoccupied that the return and peace-consolidation processes are, and may continue to be, seriously undermined by induced repatriation to an area which is not the pre-conflict place of residence, but where the returnee will be part of the majority. Article I(1) of Annex 7 of the GFAP provides for the right of every refugee or displaced person to return to her/his pre-conflict place of residence. This recognises that the deliberate placement of groups of people into housing belonging to other ethnic groups in order to secure ethnically-based control over territory and thus prevent minority return (also referred to as hostile relocation), is unacceptable.

Given the Federation policy to refer returnees from abroad to areas close to their pre-conflict homes, these returnees are trying to find temporary accommodation in various municipalities along the Inter-Entity Boundary Line, particularly in parts of the Una Sana Canton, Canton Sarajevo and throughout Tuzla-Podrinje Canton, all areas already well known for their lack of absorption capacity. Not least because of slow progress in the implementation of the GFAP, in particular its Annex 7, in the RS and, notably, in its Eastern parts, Bosniac returnees originating from the RS are currently unable to return to their homes of origin in the RS. Nor can the majority of these returnees remain in the transit accommodation which they usually identify on first arrival. Such returnees thus face further displacement to temporary accommodation.

Induced repatriations to situations of internal displacement which is not sustainable aggravate existing problems and are increasingly counterproductive for ongoing efforts to implement the GFAP, and specifically to promote minority return opportunities generally. This is widely recognised by OHR, OSCE, SFOR and others concerned. In situations of internal displacement, people are relocating to the homes of others (minorities) and as the option of returning to their own homes does not yet exist, they are not exercising a free choice. The following paragraphs set out briefly the effects of such returns on the individuals themselves, on others, and more generally.

i) Effect on the individuals themselves

Such returnees have little choice as to their place of temporary residence, and as accommodation becomes scarcer, they have still less. They are exposed to a number of protection problems. For example:

The majority of municipal authorities in the Federation of BH and RS register those who cannot return to their pre-conflict place of residence if they can provide proof of accommodation, but are not in a position to assist them in identifying accommodation if they are in need. [...] [In other municipalities,] the non-registration of displaced person and, consequently, the denial of the displaced person's card to them means that they are denied access to food, medical care and other assistance.

In addition, it should be noted generally that those displaced internally because of the conflict are now living temporarily in places other than their registered place of permanent residence and have obtained temporary residence registration under certain circumstances. A displaced person, irrespective of her/his place of origin, cannot convert temporary residence registration to registration of permanent residence, unless s/he first deregisters at her/his place of former permanent residence and has managed to integrate fully, without depending on any assistance provided by the authorities.

It is therefore not surprising that such returnees often come under the influence and pressure of those who are opposed to their subsequent (minority) return to their homes and are vulnerable to these pressures, as they are to the increasingly organised mafias who control the housing market, the local economy, etc.; or vice versa, not least because of their economic and physical insecurity, they are manipulated by extremists to create the potential for violent incidents in forced return attempts or to support radical nationalist agendas. This is aggravated by the fact that they are forced to spend their return grant (if received) and savings not on repairing their homes and restarting a sustainable life, but on short-term survival, exorbitant rents, bribes, etc. Their continued displacement without prospects for a meaningful future is therefore a major destabilising factor.

Repatriates returning to displacement in the countryside often rely on smallscale farming for their livelihood. As rich farmland has already been allocated to the early displaced, the newly arrived displaced repatriates would only get land of lower quality and higher mine risks. This land often lies near the former front lines.

ii) Effect on others

Increasingly, these relocations are directly blocking minority returns that could now be realised. Such returnees, with accumulated savings and the financial assistance package provided by the authorities, are very likely to occupy accommodation to which the pre-conflict occupants and owners would return, if they were able. The recent returnees are also likely to dislodge displaced persons unable to pay higher accommodation rentals now being sought by impoverished locals. Such returns may force the most vulnerable into collective centres.

Transit or temporary accommodation may become blocked, not least because of the new arrivals of refugees and returnees from FRY.

iii) More generally

Since the resources in the areas of accommodation, employment, education, health service and humanitarian aid are generally scarce, repatriates to circumstances of displacement compete with the local population and the other displaced persons. This aggravates already existing prejudice and hostility against returning refugees who are perceived as 'traitors and wealthy' while those remaining in BH are considered to have 'defended the country and suffered'. According to a report commissioned by the World Bank, 'discrimination within the communities of people of the same nationality can at times be stronger than against people of other nationalities'.

Indeed, these relocations deplete the absorption capacity of municipalities and are therefore increasing the level of social frustration, criminality and domestic violence as a result of over-crowding and the dashed expectations of the returnees. Reconciliation is set back as a result, as national and international observers attest. Those local authorities who are genuinely ready to commit to minority return are unable to do so because of the need to accommodate these 'majority relocatees'. This also impinges on the ability of municipalities to meet Open City criteria. Those local authorities who are seeking reasons to block minority return are strengthened, as are the corrupt and criminal elements in their communities. There is now a 'grey' population of perhaps tens of thousands of these relocatees who are not registered, whose whereabouts are not recorded and who are vulnerable to manipulation. As in Sanski Most, 'hostile relocation' also feeds agendas for local political manipulation to secure ethnically-based control over territory, thus preventing minority return and giving rise to future instability. It provides those who obstruct the peace process with yet another tool.

In summary, these returns to internal displacement are clearly undermining the progress that is being made on minority return and causing real and avoidable hardship.

Note [1]: According to UNHCR, approximately 100,000 BH refugees still remain in Germany. The total figure of repatriations from Germany since the signing of the GFAP amounts to some 250,000. In 1998, 83,000 BH refugees from Germany benefited from assisted return programmes (GARP/IOM). UNHCR estimates the overall number of returnees from Germany by the end of 1998 to reach 105,000, including self-organised returns. More than 2,000 were deported in 1998. While the deportation numbers may not appear significant, they do have in practice a major impact on people who are trying to make an informed choice as to their possible repatriation. The majority of these returns in 1998 has been to internal displacement. UNHCR summarised its concerns in a Note by UNHCR on Repatriation from Germany to Bosnia and Herzegovina dated 21 July 1998, which was shared with the German Government in July 1998 and remains valid. On the Return of Refugees and Displaced Persons, the PIC, in its Peace Implementation Agenda, annexed to the December 1998 Madrid Declaration of the PIC, regretted the small proportion of minority returns of those who returned in 1998. In view of the limited absorption capacity in BH, a rapid pace of returns leading to relocation would adversely affect not only the minority return process but also the full implementation of the Federation and newly passed RS property laws, both of which are high priorities of the international community in BH during 1999." (UNHCR May 1999, paras. 2.68-2.79)

For a detailed discussion of the relocation policy, see International Crisis Group (ICG), "Minority Return or Mass Relocation?", (Sarajavo), 14 May 1998, section 2 "The Spectre of Mass Relocation" [Internet].

War-induced movements: typology (1998)

- The conflict has caused new movements, which would not have happened in a peaceful situation, such as the expulsion of ethnic minorities from areas with strong economic potential
- The conflict has also accelerated pre-war urbanization- and transition-related population movements, which will not be reversible

"Even prior to the start of hostilities in the former Yugoslavia, significant population movements had taken place. The effect of the conflict has been two-fold: (i) it has caused new movements, which would not have happened in a peaceful situation; and (ii) it has accelerated pre-war migration trends.

Population movements can be classified in four categories:

Movements which would not have happened in peace time. These include: expulsions of ethnic minorities from areas with strong economic potential, abandonment of housing units located close to frontlines or heavily damaged, etc.

Movements resulting from pre-war housing shortages. Before the war, a relatively large number of families shared their houses with relatives. With the departure of ethnic minorities, many households have split up and currently occupy several housing units (and they are reluctant to return to the pre-war situation).

Urbanization (see Box 2). Urbanization began prior to the war, in patterns similar to those of other Central European countries. The war caused a large number of rural people to move to cities, and many of them have become accustomed to urban standards of living. Many former rural dwellers may prefer to remain in town rather than to return to remote areas. This is likely to be particularly true for younger people.

Transition-related movements. Bosnia and Herzegovina is undergoing a substantial economic reform process. A number of pre-war large enterprises are likely to be restructured (e.g., Zenica steel plant), and new businesses are already emerging in many places (e.g., Tuzla). The distribution of employment opportunities throughout the country is rapidly changing - which has generated and will continue to generate significant labor force migration (although ethnic factors are likely to constrain such movements for at least a few years).

Box 2: Urbanization

Before the war, about 40 percent of Bosnia and Herzegovina's active population was employed in agriculture. However, only 16 percent of the 570,000 farms had more than 5 ha (and 35 percent had less than 1 ha) of cultivable land. Agricultural output in many mountainous areas was very poor and primarily limited to subsistence needs. Household incomes were often completed by a salary earned by one family member working abroad or in a neighboring factory. Social infrastructure of villages was heavily subsidized (to a large extent by the Northern republics in the former Yugoslavia). During the period 1986 - 1991, a large number of people moved from the countryside to the cities. Similar trends can be observed in other Central European countries: as an example, since 1989, rural employment has declined by 40 percent in the Czech Republic.

The four types of movement have different potentials for reversal: ...

Movements which would not have happened if the war had not occurred can, in principle, be reversed. If adequate encouragement is given to local authorities, combined with significant financial assistance, people who were expelled or had to abandon their homes, in particular ethnic minorities, may be in a position to return. ... Movements which were accelerated by the war are less likely to be reversible. Urbanization trends and transition-related movements are unlikely to differ from patterns observed in other Central European countries. And governmental authorities are no longer able to subsidize the social infrastructure of villages, while extensive repairs have to be carried out in many places. In many instances, sustainable return to rural areas which relied on subsistence farming prior to the war will not be possible.

Regardless of their preferences, and even if the political situation improves substantially, a significant number of refugees and displaced persons will have to relocate for economic reasons, particularly those originating from rural areas which suffered heavy destruction. However, to foster sustained peace in the region, the decision to relocate should be made with a sense of free will (in view of economic opportunities for example, rather than as a result of political pressure), which requires effective implementation of the 'right to return'." (OHR/RRTF March 1998, paras. 13-15)

Political and legal factors

Opposition against return of ethnic minority remains strong (2001)

- Despite noticeable improvements, obstruction by hardliners continues to hamper returns and the implementation of property law

- Objective of nationalist authorities is to strengthen the ethnic homogeneity of areas under their control
- Minority returnees face employment discrimination, lack of access to essential services and utilities

"There were some improvements during the year that facilitated returns. In the RS, more than 80 percent of the RS Refugee Ministry's budget was spent on resettling Serb IDP's to the RS. Much of the funding was spent on new housing for residents of collective centers, instead of on alternative accommodation to facilitate evictions. However, during the year, the RS allocated some funds to reconstruct Bosniak housing in Brcko, and allocated other funds for assistance to Serbs returning to the Federation. Although IDP's in the hard-line RS areas of Bratunac and Srebrenica, mostly from Sarajevo, were intimidated from attempting to return (see Section 1.c.), by year's end, more than 50 families from these two towns returned to their homes in the Federation. In early June, the High Representative removed the hard-line Serb mayor of Bratunac for obstructing the return of refugees and IDP's. The mayor had publicly opposed the return of Bosniaks and had threatened to dismantle several Bosniak houses reconstructed by NGO's over minor legal technicalities. The mayor promptly went into hiding in Serbia, fearing arrest for other criminal activity while he had worked as mayor. The increased number of ethnically integrated police forces also helped improve the climate for returns, although security remained inadequate in some areas (see Section 5).

However, many problems remained that prevented returns, including the obstruction by hard-liners of implementation of property legislation, political pressure for individuals to remain displaced in order to increase the ethnic homogeneity of the population in a specific area, societal violence, and the lack of an ethnically neutral curriculum in public schools (see Section 5). Municipal administration taxes on documents that are necessary for return, such as birth or land certificates are high. In addition, minority returnees often faced employment discrimination, lack of access to health care in the place of return, and denial of utility services such as electricity, gas, and telephones by publicly-owned utility companies.

The continued influence of ethnic separatists in positions of authority hindered minority returns. Government leaders in both the RS and the Federation often have used a variety of tactics, including public statements, to inhibit the return of IDP's. Most of those returning from Europe were unable to return to their prewar homes in the RS. Much of Croat-controlled Herzegovina and towns in eastern RS remained resistant to minority returns, although efforts by hard-line Croats to resettle returning refugees and consolidate the results of ethnic cleansings have ceased for the most part. IDP's living in those areas, even those who privately indicated interest in returning to their prewar homes, frequently were pressured to remain displaced, while those who wished to return were discouraged, often through the use of violence (see Section 5).

In February it was discovered that a member of the SDS party was involved in arson attacks on the houses of Bosniak returnees. After pressure from the international community, the SDS presidency announced that it would expel the party member." (U.S. DOS 4 March 2002, sect. 2d)

Ethnic differences were used to justify the war and remain a powerful political force in the country. Although some politicians still support the concepts of a "Greater Serbia" and a "Greater Croatia", mixed communities exist peacefully in a growing number of areas, including Sarajevo and Tuzla. However, nationalist Bosnian Serb and Croat politicians sought to increase the ethnic homogeneity of the population in areas they control by discouraging IDP's of their own ethnicity from returning to their prewar homes if they would be in the minority there. Hard-line Bosnian Croats continued to discourage some Croat returns to central Bosnia and actively have recruited displaced Croats to resettle in Herzegovina; however this intimidation has decreased. Some hard-line local authorities in the eastern RS sought to keep information regarding the right to return and conditions in return sites from reaching displaced Serbs in their areas, so as to dissuade them from attempting to return to their former homes. Although the new RS Government officially support the right to return, it continued to obstruct returns on many levels." (U.S. DOS 4 March 2002, sect. 5)

RS authorities give the priority to the resettlement of the displaced Serbs (2001-2002)

- The bulk of the RS Refugee Ministry's budget supports the permanent settlement of Serbs DPs and Refugees
- In an April 2001 resolution, the RS National Assembly requested more support to be given to the displaced families of war veterans
- International community will need to monitor closely the allocation of newly built housing units to prevent abuses
- The Refugee Ministry spent virtually nothing to assist Serbs who wish to return to the Federation
- The High Representative issued a Decision ensuring transparency in the allocation of funds for refugee return in the Entity budgets (January 2002)

"Unfortunately, an analysis of the RS budgets for 2000 and 2001 demonstrates that official priorities focus overwhelmingly on providing incentives to displaced Serbs to remain in the RS while, in many ways, working against minority return. In early 2001, for example, the government budgeted about KM 34.5 million for the Ministry for Refugees and Displaced Persons (Refugee Ministry), KM 28 million of which was allocated to projects. Of this latter sum, KM 21 million (or 75 per cent) was earmarked for resolving the problems of refugees and displaced persons currently residing in the RS (i.e., supporting the permanent settlement of Serb DPs and refugees), while only 25 per cent was allotted to helping returnees.

In a set of parliamentary conclusions in April, the National Assembly 'tasked' the government with closing collective centres in the RS (that is, with finding permanent accommodation for Serb DPs and refugees) and with resolving the housing problems of the refugee and DP families of deceased war veterans by May 2002. The assembly further stipulated that 'at least' KM 29,255,609 of the ministry's budget should be allocated to these tasks, even though the RS Ministry of Veterans and Labour had already budgeted KM 101 million to assist fallen soldiers, war invalids and victims of war in 2001. [RS National Assembly, Adopted Conclusions on Program for Solving the Problems of DPs, Returnees and Refugees, 10 April 2001]

The National Assembly thus instructed the Refugee Ministry to spend more than its total available budget on programs dedicated to solving the housing problems of Serb refugees and DPs. At the same time, the assembly made no mention of funding for programs to assist returnees to the RS, nor even to assist Serbs wishing to return to the Federation. Despite this striking discrepancy, deputies made the rhetorical (and disingenuous) gesture of 'demanding' that the Refugee Ministry accord 'equal treatment to refugees, DPs and returnees in the process of resolving their problems according to the program.'

These parliamentary strictures turned out to be irrelevant, however, when the government was compelled drastically to readjust its budget at mid- year in order take account of serious revenue shortfalls of between 20 and 30 per cent. Rather than imposing corresponding cuts all round, however, the government now allotted a mere KM 2.1 million to the Refugee Ministry, so reducing its budget by a swingeing 85 per cent. Similar budgetary shortfalls in 2000 had provided an excuse for the government to spend none of the KM 5 million that it had budgeted to support return in that year. The tiny sum remaining to the ministry this year is being spent to build new housing or provide alternative accommodation for displaced Serbs still living in temporary collective centres or vacating homes being reclaimed by returning Bosniaks and Croats.

[...]

Under considerable pressure from the international community, the RS authorities agreed that new housing units created through this program would be allocated according to strict criteria. Accordingly, 'individuals who have failed to claim their properties, individuals who have repossessed their properties and multiple occupants are not eligible to be allocated apartments. Those who are allocated apartments will receive only six-month temporary contracts to use them and will be denied an extension if they do not remain entitled

under the Criteria.' [[Collective centre closure program in RS expected to provide alternative accommodation](#)], Joint OSCE, UNMIBH, UNHCR, CRPC, and OHR Press Release, 30 August 2001 [Internet]] In addition, the government promised to use vacated collective centres to provide temporary accommodation for those evicted from dwellings reclaimed by their pre-war occupants, usually people who fled or were expelled during the war.

In this way the international agencies charged with implementing the property laws are attempting to ensure that closing the collective centres assists as much in facilitating non-Serb return to the RS as it does in helping displaced Serbs with no alternative accommodation. Nevertheless, the experience of international officials working on the property laws has shown that international agencies will need to micromanage the use of this new accommodation if abuses are to be prevented. Shortly after the RS authorities agreed to the new criteria, documentation about beneficiaries currently being moved out of collective centres in the eastern RS was suddenly transferred to the Refugee Ministry in Banja Luka, complicating the work of international officials in the field attempting to monitor the use of new housing. The potential injustice of constructing new flats for residents of collective centres could be compounded by the fact that much of the housing will be built on public land effectively privatised to benefit only Serbs remaining in the RS. Meanwhile, the Refugee Ministry spends virtually nothing to assist Serbs who wish to return to the Federation.

[...]

[A]t the same time as the Refugee Ministry's budget was cut to the bone, the already fat budget of the Ministry for Veterans and Labour received an *increase* at mid-year. An ambiguous KM 4 million item in this ministry's budget for spending on 'special purposes' is now nearly twice the entire budget of the Refugee Ministry. According to the UN, the Veterans and Labour Ministry is involved in the multimillion dollar 'industry' of trafficking women from elsewhere in Eastern Europe for work as prostitutes in Bosnia. The majority of women found working in brothels in the RS during IPTF raids possess work permits issued by this Ministry.

The government's budgetary manipulations make political sense, since groups of veterans and associations of DPs constitute bedrock elements of SDS power at local level. Veterans and their families and Serbs displaced from the Federation and Croatia made sacrifices in the name of the SDS's (and Milosevic's) project for a greater Serbia. They therefore remain as important as emblems in political rhetoric as they do as SDS voters. They are also easily mobilised to demonstrate against the international community and returning Bosniaks." (ICG 8 October 2001, pp. 28-30)

"They were some improvements during the year [2001] that facilitated return. In the RS, more than 80 percent of the RS Refugee Ministry's budget was spent on resettling Serb IDP's to the RS. Much of the funding was spent on new housing for residents of collective centers, instead of an alternative accommodation to facilitate evictions. However, during the year, the RS allocated some funds to reconstruction Bosniak housing in Brcko, and allocated other funds for assistance to Serbs returning to the Federation." (U.S. DOS 4 March 2002, sect. 2d)

"On 24 January, I issued a Decision ensuring transparency in the allocation of funds for refugee return in the Entity budgets. It was issued in response to an application lodged by three (non-Serb) members of the RS Constitutional Commission who invoked vital national interest to veto the proposed 2002 RS budget. They maintained that insufficient funds had been allocated to returns to the RS in the 2002 budget, and that funds allocated to minority returns in 2000 and 2001 RS budgets had not been spent. Among other things, my Decision requires Entity Ministers to notify periodically the State Minister for Refugees on their expenditure on refugee return." (OHR 5 March 2002, sect. V)

See also:

"High Representative issues Decision ensuring transparency in the use of funds for return of refugees and displaced persons in both Entities", 25 January 2002 [Internet]

"Republika Srpska failing to implement the Property Laws", OSCE press release, 11 September 2001 [Internet]

"RS Government remains under the influence of nationalist Serb Democratic Party (2000-2001)" [Internal link]

"Bosnia and Herzegovina: Waiting on the doorstep: minority returns to eastern Republika Srpska", Amnesty International, July 2000 [Internet]

"Unfinished business: returned of displaced persons and other human rights issues in Bijeljina", Human Rights Watch, May 2000 [Internet]

Arrests and prosecutions for war crimes: a condition for minority return (2000-2002)

- The level of co-operation of RS authorities with the ICTY remains poor

"[A] critical concern to those returning and minorities who stayed throughout the war is their physical and psychological security. The arrest of war criminals indicted by the ICTY, and support for the exhumations process is essential for the promotion not only of reintegration, but also reconciliation. To date co-operation by local authorities with the ICTY has been poor; with respect to exhumations co-operation has generally been good. The challenge for 2000 will be to assist in ensuring that both processes move forward." (OHR HRCC 20 Jan 2000, sect. 1)

"[The Office of the High Representative] has continued to work closely with ICTY to pressure the relevant authorities of BiH, especially those of the RS, to co-operate more efficiently with the Tribunal. Despite the adoption of the RS Law on Co-operation with the ICTY on 17 October 2001, the level of co-operation remains poor and RS authorities have yet to arrest, or facilitate the arrest of, a single ICTY-indictee." (OHR 13 May 2002, para. 27)

Regional dimension of displacement and return in BiH (2000-2001)

- The return to Croatia of Croatian Serbs currently displaced in the Republika Srpska would free up the space needed for the return of Bosniak and Croat displaced in Bosnia
- Despite the political changes in Croatia and the Regional Return Initiative of the Stability Pact, the procedures for return to Croatia remain obstructive, according to the High Representative

"The return of the displaced within Bosnia and Herzegovina remains inextricably linked to refugee movements elsewhere in the Balkans, and particularly Croatia and FRY [...]. But [the High Representative] expect[s] that the momentum associated with the newly elected Government in Croatia and the Regional Return Initiative launched by the Stability Pact will finally lead to progress on this issue. Croatian Serbs in Republika Srpska, many of whom would like to return to Croatia and whose movement would free up the space needed for Bosniak and Croat return, continue to be my particular concern. However, [...] the procedures for return to Croatia remain obstructive and a complete overhaul is required to enable Croatian Serb refugees to exercise their right to return and to instill confidence in the return process. As foreseen in the return programme, the Croatian Government must allow all its former residents, including those who for reasons beyond their control do not possess Croatian citizenship, to return. The Government of Croatia still needs to extend its consular services in full, and on a non-discriminatory basis, to Croatian Serb refugees in both Bosnia and Herzegovina and the FRY. Only by giving Croatian Serb refugees access to passports will they have genuine freedom of movement to travel to and from their homes of origin in order to make an informed decision about return.

Other issues that remain to be addressed by the new Government are establishment of effective mechanisms that will allow returnees to restore their property and occupancy rights; access to personal documents and non-discriminatory inclusion in reconstruction programmes. In order to bring the Croatian citizenship regime in accordance with international standards applicable in situations of dissolution of a State, the Croatian Government must amend its Citizenship Law to facilitate naturalization of former habitual residents whose genuine, effective links are with Croatia rather than with their country of asylum. The OHR will work within Stability Pact's Regional Return Initiative to help ensure that these legislative obstacles to return are removed urgently." (OHR 3 May 2000, paras. 89-90)

"Refugee return in BiH remains affected by return movements in Croatia and the Federal Republic of Yugoslavia (FRY). There has been little recent progress in return to Croatia, due to the lack of a clear and transparent legal framework for the repossession of property. Therefore some 35,000 Croatian Serbs in the western RS remain in limbo, creating a serious obstacle to minority return to that entity. My office is also working on improving the return situation from FRY to BiH." (OHR 12 March 2001, para. 37)

See also "Update on durable solutions for refugees and displaced persons in the context of the Dayton Agreement", Humanitarian Issues Working Group, 29 November 1999 [Internet]

For more information on the Stability Pact, see website of the [Special Coordinator of the Stability Pact for South Eastern Europe](#) [Internet]

Security and return: involvement of local and international security forces (1999-2000)

- Security incidents related to the greater number of returns to rural areas increased in both entities
- UNMIBH responded by developing security plans jointly with the IPTF, the local police, community leaders, associations of displaced persons, SFOR and UNHCR
- Impunity for the perpetrators of the majority of ethnically-motivated and anti-return attacks continues to hamper durable minority return

"UNMIBH supports a wide range of activities by the United Nations system of organizations. In the first quarter of this year, minority returns registered by the Office of the United Nations High Commissioner for Refugees (UNHCR) quadrupled, from 1,711 in 1999 to 7,300. Security incidents related to the greater number of returns to rural areas have also increased in both entities. UNMIBH has responded by developing, jointly with local police forces, security plans on the local and regional levels to determine what needs to be done before, during and after returns. Most plans involve local police support for active engagement and community policing. This process also relies on field-level consultations between IPTF, the local police, community leaders, associations of displaced persons, SFOR and UNHCR." (UNSC 2 June 2000, para. 24)

"Amnesty International is concerned that return-related incidents of violence against life and property continue to be reported. Amnesty International applauds the efforts undertaken by the local police force to provide extensive and very visible protection in accompanying return initiatives and patrolling return locations. In addition, the close cooperation between the International Police Task Force (IPTF) and the Republika Srpska police force, as well as the increasingly active role of SFOR in the return process should be noted. However, with few exceptions, there appears to be continued impunity for the perpetrators of the majority of ethnically-motivated and anti-return attacks which have occurred over the last year. Amnesty International is also worried by what appears to be complacency in parts of the international community, notably the IPTF, as evidenced in their lack of follow-up in these cases.

While the number of reported return-related violent incidents in the whole of Bosnia-Herzegovina has decreased in relation to previous years, the fact remains that most of them are not resolved and only in rare cases do local and national officials condemn such incidents publicly.

The Ombudsperson of Bosnia-Herzegovina concluded in one of her special reports that the violence directed against returnees and the failure of the authorities to effectively investigate those responsible for orchestrating violent incidents constituted inhuman treatment and is therefore a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The lasting effects of impunity for these attacks cannot be underestimated. In the case of Srebrenica, which has seen virtually no returns to the centre of town, the attack on one of the Bosniac councillors in October last year, which to date has not been resolved, is cited over and over again by the Bosniac councillors as the main reason why they are reluctant to settle permanently in the town. While international monitors have raised questions as to the credibility of these fears and suspect that other motives underlie some councillors' decision not to move back permanently, the symbolic impact of the attack will last as long as it is followed by apparent inaction.

[...]

Incidents of violence increased in Janja and Bijeljina in the north of the entity at the end of February and the beginning of March this year. This development appears to be clearly connected to the increase in numbers of Bosniacs returning, and also to the fact that the OMIs started issuing positive decisions in property claims. According to local residents in Janja interviewed by Amnesty International, there were some 10 incidents, involving 30 petrol bombs thrown at Bosniac returnee houses between January and March 2000. In Bijeljina, several incidents were also reported, including the repeated throwing of explosive devices at the home of one returnee in the centre of town. To date, no one has been prosecuted for any of these incidents." (AI 1 July 2000, pp. 20-22)

See Human Rights Ombudsperson for Bosnia-Herzegovina, [Special Report on Discrimination in the Effective Protection of Human Rights or Returnees in Both Entities of Bosnia-Herzegovina](#). No. 3275/99, 29 September 1999 [Internet]

The responsibility of the municipality offices of the RS Ministry for Refugees and Displaced Persons (OMIs) in slow return process (2000)

- OMIs are tasked to deal with applications for the return of property and the execution of property-related decisions
- There are frequent reports by potential returnees which indicate that OMIs have on occasion deliberately and unlawfully delayed reinstatements, given incorrect information or failed to act on applications for the return of property
- Most decisions of property restitution are for partially or totally destroyed property which is not currently inhabited
- Reinstatement into property in town and village centres are rare, except in cases of persons who were evicted or expelled from their homes but stayed on during and after the war (the "floaters")
- Other cases of actual returns include instances where returnees have reportedly "bought out" the temporary occupant, or where the local housing authorities proceeded with evictions on the assumption that the owner was abroad and would likely not regain his property

"The Republika Srpska administrative and political authorities, in particular the Ministry for Refugees and Displaced Persons, are meant to play a leading role in enabling returns, by implementing and enforcing property legislation and other administrative procedures. On a local level, the municipality offices of the Ministry for Refugees and Displaced Persons (Odsjek Ministarstva izbjeglih i raseljenih lica, or OMI), are tasked to deal with applications for the return of property and the execution of their own positive decisions

as well as enforcing decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC, the decisions of which are regarded as final and binding).

The long-standing lack of progress in processing claims in the eastern Republika Srpska, coupled with the low number of actual reinstatements has caused the OMIs to become the focal point of criticism by frustrated returnees and by the international community for their largely inadequate performance in this respect to date. Local OMI officials who met with Amnesty International were keen to stress the many practical and resource-related problems they face in their work. While there is clearly a lack of legally qualified staff and general office and logistical equipment, their explanation fails to justify satisfactorily the slow pace at which applications are processed and the lack of execution of affirmative decisions. In addition, international human rights monitors have stated that the lack of attention given on the entity level to ensure that the OMIs operate effectively amounts in itself to political obstruction.

There are frequent reports by potential returnees which indicate that OMIs have on occasion deliberately and unlawfully delayed reinstatements, given incorrect information or failed to act on applications for the return of property claiming that it is not accompanied by the right documentation. These continuing shortcomings appear to be of a fundamental nature and result in cases being deadlocked for long periods of time, with the clear result - in many cases with apparent deliberate intent - of discouraging prospective returnees." (AI 1 July 2000, pp. 6-7)

"The number of cases in which the OMIs [Municipality offices of the RS Ministry for Refugees and Displaced Persons] have taken a decision allowing the pre-war inhabitant to regain possession of his or her property varies from municipality to municipality. In general, it appears that the number of positive decisions has increased significantly since the start of 2000. Yet one constant in the data is that most decisions are for partially or totally destroyed property which is not currently inhabited. While there have been several large-scale return movements of Bosniac displaced communities to empty and destroyed villages (most of which were mono-ethnic before the war), reinstatements into property in town and village centres are rare.

Where such returns have taken place, they often concern specific cases such as the so-called "floaters" in the town of Bijeljina: Bosniacs or Roma who were evicted or expelled from their homes but nevertheless stayed on during and after the war. It has been recognized both by the international community and by local authorities that the floaters should be prioritized in the procedures reaffirming property rights. Yet even these cases proceed slowly and are riddled with irregularities, in some cases adding to the continued vulnerability of such minority "remainees". Other cases of actual returns include instances where returnees have reportedly "bought out" the temporary occupant, or where the local housing authorities proceeded with evictions on the assumption that the owner was abroad and would likely not regain his property." (AI July 2000, p. 10)

See also "Difficulties faced by housing authorities responsible for property law implementation (2000)" [Internal link]

Momentum for minority return: a review of current conditions by the International Crisis Group (May 2000)

- Improving security conditions, increasing enforcement of property rights by pre-war owners and the waning nationalism in neighbouring countries have encouraged displaced population in Bosnia to return home
- Increasing level of returns free up housing for minority pre-war occupants, creating a momentum for a 'virtuous circle' of nationwide minority returns

"The real reasons for the increase in returns are three-fold: refugee impatience; new international community effectiveness; and a change in the psychology of both majority and minority populations

The sharp increase in refugee return comes after four and a half years of hard work by numerous international agencies, including the RRTF, UHNCR, and numerous humanitarian organisations acting as implementing partners for the major donors. Although many of these efforts have met with failure, long-term initiatives have now begun to bear fruit. Some have met with symbolic but numerically insignificant success. All have proven slow. The real reasons for the increase in returns are three-fold: refugee impatience; new international community effectiveness; and a change in the psychology of both majority and minority populations.

Bosnia's refugee population - some of whom have been waiting as long as eight years to return home - seems to have decided that it is time to return. This indicates a subtle shift in the psychology of both majority and minority populations, caused by the absence of fighting for over four years, as well as the general level of security conveyed by the international presence. So too, many have decided that international community efforts are too slow, and that they must take the initiative to achieve their rights under the Dayton agreement. Other influences on psychology may be attributed to new actions taken by the international community to enforce the right of pre-war occupants to their property, as well as the heartening effect of the elections in Croatia, which provided a strong signal that Croatian nationalism was waning. In addition, Bosniak government officials have actively encouraged refugee groups to undertake spontaneous returns.

The High Representative's imposition of new property laws, as well as the RRTF's emphasis on the rule of law have succeeded in turning what was formerly a highly politicised issue into a simple question of adherence to the law. Using the Property Law Implementation Program (PLIP), the primary focus has shifted from tolerating excuses for non-implementation by local officials to emphasis on following the letter of the law, as expressed in the RRTF document "Non-negotiable Principles in the Context of The Property Law Implementation."

In the cases of evictions from refugee property this has proven highly successful, as seen by the evictions taking place throughout the country. During the month of May 2000, 205 evictions took place in the Federation and 163 in RS. As of the end of February, there had been total 4,882 evictions in the Federation since the imposition of the new property law. Although RS has seen a total of only 424 evictions, the pace is picking up rapidly as evictions spread to such previously untouchable areas as Banja Luka, Bijeljina, Foca, Visegrad and Pale. The OHR has followed through aggressively by dismissing officials who refuse to implement the property laws. Continued evictions send a subtle message to those illegally occupying someone else's property that they can not remain indefinitely. Sooner or later their turn will come. As a result, a major psychological barrier has been breached.

The success of the 1998 Sarajevo Declaration, which succeeded in returning 20,000 non-Bosniaks to Sarajevo, has had an effect throughout the country. As these people are 'down-loaded' from Sarajevo, they free up housing for minority pre-war occupants, while at the same time returning to their pre-war regions and placing pressure on illegal occupants to vacate property. Many people evicted from their Sarajevo apartments have decided to undertake spontaneous returns. Returnees from RS and Croat majority regions, in coming back to Sarajevo, have freed up the housing they illegally occupied in their majority area, which permits increased returns there and creates momentum for a 'virtuous circle' of nationwide minority returns." (ICG 31 May 2000, "Why now?")

A serious obstacle to minority return: the policy of "hostile relocation" (2000)

- Local or entity-level authorities have tried to secure territory and actively block return of minorities by placing displaced persons in housing belonging to a minority ethnic group

"Voluntary relocation has been defined as the resettlement of a person in a property where he or she did not previously live, which occurs with the consent both of the relocated person and the original owner of that property. Relocation in Bosnia-Herzegovina has often been less than voluntary. There have been numerous occasions, even in latter years, of so-called hostile relocation inside Bosnia-Herzegovina, that is, situations where the local or entity-level authorities have tried to secure territory and actively block return of minorities by placing displaced persons in housing belonging to a minority ethnic group. Passive relocation occurs when the displacement becomes a permanent condition not based on the free will of the returnee, including when the individuals concerned become resigned to remaining in their present location." (AI July 2000, note 86)

For more information on the relocation policy, see ICG "Preventing Minority Return in Bosnia and Herzegovina: The Anatomy of Hate and Fear" (10 August 1999) and "Minority Return or Mass Relocation?" (14 May 1998) [Internet]

International initiatives

RRTF Action plan for 1999 - Review by the International Crisis Group

- The strategy of the Action Plan consists of more effort in support of an agreed plan, but the authors of the plan are realistic about the difficulties they face in implementation
- It offers no new strategy for breaking down the resistance of host authorities to return

"Negotiated consensual return - the RRTF strategy: third year of failure?"

The RRTF strategy represents the current favoured policy of the international community in promoting returns. It does not represent a consensus on policy, for no such consensus exists, but it does assert the leadership of the High Representative in co-ordinating the Return process, with the authority of the Peace Implementation Council behind him.

The 1999 plan puts forward a three-pronged strategy: space, security, sustainability. Space for return is to be created by reconstruction, by stronger regulations against illegal and double occupancy and so on, continuing the existing strategy that Bosnian authorities are to be pressured to conform to rules they have themselves accepted. Security is to be ensured by employing minorities in local police forces and by exploiting an increased (if vague) commitment by SFOR to support returns. Sustainability consists of creating a welcoming environment in which returnees have not just a home but a life [...].

The strategy is based upon supporting and amplifying existing movements of population back to their homes, concentrating on 'axes of return', since populations in many cases did not become dispersed but moved as a mass to a new location (Kakanj Croats to Drvar and Capljina, Sarajevo Serbs to Srebrenica, Brcko etc, Bosniac-Serb exchanges between Teslic and Tesanj).

The 1999 plan is comprehensive and well thought out. However, despite an on-paper commitment to greater co-ordination of the international effort, and increased staff resources for RRTF to ensure a prompt political response to local problems in as many places as possible, it offers no new strategy for breaking down the resistance of host authorities to return. The strategy consists of more effort in support of an agreed plan, and the authors of the plan are realistic about the difficulties they face in implementation.

The odds were against the success of the plan from the start, but NATO action in FRY after 24 March, just as the Return season was set to start, derailed it completely. For many weeks international organisations were unable to work in Republika Srpska at all, and a sustained campaign to promote return was impossible. Between January and April only 543 Bosniacs and Croats returned to their homes in RS: very few will have returned since then. Within the Federation figures were better, as usual (2959, mostly to Sarajevo and Drvar-Grahovo), but working relations between the HDZ and SDA at national level were uncooperative, and there was no sign of an atmosphere friendly to return, despite the false dawn of the 'Izetbegovic initiative'.

It seems unlikely that the 1999 RRTF plan will achieve the objective it set itself of 'a critical mass and sustainable flow' of minority returns. Will there be a 2000 RRTF plan along the same lines, against a background of dwindling resources? The 1999 plan itself suggests there will not. But what other policies are available?" (ICG 10 August 1999, "So What works? - Actual and Possible Policies for the International Community")

See other RRTF policy documents and reports (1997-2001) on the [website of the High Representative](#) [Internet]

Minority return to the Brcko area: International monitoring (1998-1999)

- The international community has devoted considerable human and material resources to promoting 'peaceful, orderly and phased' returns to the Brcko area
- Pursuant to the Award of the Arbitration Tribunal issued in February 1997, the international Supervisor assembled a staff of 20 internationals and several Bosnians to assist the process of return, reconstruction and economic development
- The return of refugees and displaced persons to their homes of origin has remained limited
- The final award issued by the Brcko Arbitration Tribunal has affected the security situation

"Brcko represents a model for minority returns strictly regulated and monitored by the international community. The Brcko area has been a leading recipient of aid from organisations including the US Agency for International Development and the European commission. For 1998, the OHR hopes to raise a total of 70 million US\$. The European commission has allocated 6.7 million US\$ for the Brcko area, a full ten percent of the funds it plans to spend on return projects this year throughout Bosnia. The World Bank allocated \$6.8 million to repair main roads. Several other donors have made commitments as well.

Over the past two years, the international community has devoted considerable human and material resources to promoting 'peaceful, orderly and phased' returns to the Brcko area. Owing to the strategic importance of Brcko, Serb settlers and Bosniac returnees, often with construction materials supplied by their authorities, rushed to repopulate its destroyed suburbs in 1996. An International Housing commission was established to register and approve applications for returns. Pursuant to the Award of the Arbitration Tribunal issued in February 1997, US Ambassador William Farrand was named Supervisor, and quickly assembled a staff of 20 internationals and several Bosnians to assist the process of return, reconstruction and economic development. Beginning in April 1997, an OHR Returns commission took over the process of approving applications for returns." (ICG 14 May 1998, section 3.e)

Assessment by the Brcko Arbitral Tribunal (March 1999)

"[W]ith respect to the most important of all of Dayton's objectives- the return of refugees and displaced persons to their homes of origin - the progress in the Brcko area has fallen far short of the basic standard spelled out in Paragraph 21 of the Supplemental Award of 15 March 1998. It is true, thanks almost entirely to the efforts of the international community, that in a narrow sense there has been some success in terms of returns: In the RS-held area south and west of Brcko Grad, Bosniacs and Croats returned in sufficient

numbers during 1997 and 1998 to enable RS authorities to claim that returns to the Brcko area have been greater than in any other RS municipality. But that in a sense is damning with faint praise: That achievement, such as it is, does not demonstrate 'a very vigorous and consistent program of correction and [Dayton] compliance.'" (Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area 5 March 1999, para. 16)

Development following the final award

"There were few minority returns to the Brcko area of supervision [in April-June 1999]. The reasons for this included the reduced availability of unoccupied houses suitable for reconstruction, uncertainty surrounding the implementation of the Brcko Arbitral Tribunal's Final Award, and tension caused by events in the FRY. By the end of June, however, OHR-North had detected some enthusiasm from members of all ethnic groups for return to homes of origin in the pre-war Brcko Opstina. Bosniaks were able to clean destroyed houses and begin reconstruction in Dizdarska and Rijeka, two neighbourhoods in the suburbs of Brcko town. Despite prior negative reactions on the part of Serb Displaced Persons to house-cleaning activities in those neighbourhoods in previous years, the Bosniaks engaged in house-cleaning and reconstruction were for the most part unhindered.

The security situation in Brcko has remained calm. Although some Serb political parties sponsored local rallies and protests related both to the NATO air strikes in Yugoslavia and to the Final Award, these gatherings remained non-violent and petered out even before the cessation of the NATO air strikes. The multi-ethnic Police has continued to co-operate with IPTF and to function reasonably effectively despite frequent delays in the payment of salaries to its officers and staff.

In April [1999], the Municipal Assembly elected Sinisa Kistic (SPRS) to the position of Mayor. Executive Board sessions were less confrontational and more productive than at any other time since the multi-ethnic Administration's inception." (OHR 16 July 1999, paras. 28-30)

For a critical review of the return process in Brcko, see International Crisis Group (ICG), [Minority Return or Mass Relocation?](#), (Sarajvo), 14 May 1998, section 3.E "Internationally Regulated Returns - The Brcko Model " [Internet].

For a detailed description of the return process in Brcko in 1997 and 1998, see Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area, [Final Award](#), 5 March 1999, paras. 18-31 [Internet].

For the Arbitral Tribunal's recommendations relating to the return of the displaced in the Brcko area, see Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area, [Final Award](#), 5 March 1999, para. 47 [Internet].

The UNHCR Open cities initiative (1997-1999)

- The UNHCR Open Cities initiative (March 1997) aims at encouraging cities or municipalities, where reconciliation between ethnic communities is possible, to declare publicly their willingness to allow minority groups to return
- Where such willingness has been demonstrated with actual returns, the community should be immediately rewarded and supported with international assistance
- Fourteen Open Cities have been recognised in April 1999 and UNHCR and its partners are currently assessing the potential of a similar number of other municipalities to become Open Cities
- Minority return to Open Cities has been slow; only 15,392 such returns have been recorded in June 1999

"The UNHCR Open Cities initiative aims at encouraging cities or municipalities, where reconciliation between ethnic communities is possible, to declare publicly their willingness to allow minority groups to return to their former homes and participate as full members of the community. Where such willingness has been demonstrated with actual returns, the community should be immediately rewarded and supported with international assistance.

Recognition of an Open City is a simple process based on clear and common criteria. Once a community volunteers itself as open, UNHCR and interested international agencies will meet with the local authorities to ensure that their commitment is genuine and that the community meets the basic criteria for being considered an Open City. These include:

genuine and consistent political will demonstrated by the local authorities after publicly declaring to be Open Cities;

confirmation that minority returns are occurring or will take place without any abuse of these minorities;

confirmation that local authorities are genuinely committed to consistent and equal support for all members of the population for which they are responsible, including:

- a demonstrated willingness by local authorities and the existing community to reintegrate minorities into the normal life of the community;
- equal rights and opportunities for employment, education and appointment to public office;
- freedom of movement which remains a fundamental pre-requisite for viable minority returns; assessment visits by minorities will be encouraged; and
- respect for human rights (to be monitored carefully by international organisations on the ground) to avoid abuses, discrimination, criminality, restrictions to freedom of movement and security incidents indicating a lack of equal opportunity for minorities;

confirmation that these human rights criteria have been applied to minorities who remained in the community or who returned earlier;

due recognition of the relative numbers of minority returnees (e.g. the return of three families to a remote village compared with hundreds of families to a majority, or a small number of villages compared with a large geographic area);

the demonstrated impartiality and involvement of the local police, in co-operation with IPTF as needed, in ensuring that security, law and order prevail for all. The integration of returnees into the local police force is to be encouraged;

confirmation that local authorities are genuinely committed to the removal of mines throughout the municipality; and

a positive use of the media to prepare the resident community for the return of minorities, to invite minorities to return and to promote reconciliation. Inflammatory statements must be banned.

The process does not end with recognition, as UNHCR staff and members of other international organisations will continue to monitor progress and foster sustained commitment to minority return and reintegration or suggest that support be redirected where this commitment has been lost. Thus, the implementation of assistance projects will be rapid, community-based and designed to be handed over to the local authorities. Assistance will be incremental, in accordance with progress, and flexible enough to meet specific needs identified by the community.

Since its launch by the High Commissioner in March 1997, UNHCR's initiative has been warmly welcomed by the international community, which is actively supporting the Programme. For the project to be effective, common application of the criteria and co-ordinated assistance is vital. UNHCR particularly welcomes the support of the United States government which began with an allocation of US\$ 5 million for Open City Support projects and later provided a further US\$ 8 million via UNHCR for the Open Cities Initiative. This is joined by significant contributions from the Swiss Government, the Holy See, and the European Community Humanitarian Office (ECHO). The contribution granted to UNHCR by the Government of Japan, focus on the continuation of the Open Cities Initiative. [...]

UNHCR is encouraging voluntary returns both within and between the two entities, as well as from abroad. It is hoped that the lists of potential and real Open Cities will grow over time, as communities and their leaders see the positive results which follow the reintegration of minority groups.
[...]

Fourteen Open Cities have been recognised and, through field visits and initiating contacts with the local authorities, UNHCR and its partners are currently assessing the potential of a similar number of other municipalities to become Open Cities. One Open City [Vogosca] has been de-recognised due to sustained lack of commitment to minority return and failure to meet the agreed commitments with UNHCR which originally led to Open City status." (UNHCR Sarajevo 15 April 1999)

"[M]inority return to Open Cities has been slow; only 15,392 such returns have been recorded to date. While UNHCR negotiated with local authorities to remove obstacles to minority returns, it became clear that the initiative had certain limitations." (UNHCR June 1999, p. 332)

For an update, see "Open Cities Status Report as of 1 August 1999", United Nations High Commissioner for Refugees (UNHCR), Sarajevo [Internet]

For a critical review of the Sarajevo Return Conference, see International Crisis Group (ICG), [Minority Return or Mass Relocation?](#), (Sarajevo), 14 May 1998 [Internet]

Promotion of minority returns: the Sarajevo declaration (February 1998-February 2000)

- Conference hosted by the OHR, the US Government and the European commission to facilitate more significant returns to the Sarajevo Canton
- The Conference agreed on concrete steps to be taken by the authorities and the international community
- The target of 20,000 minority returns to Sarajevo during 1998 was not met until February 2000

"The December 1997 Bonn Peace Implementation Conference called for a highly visible return conference in Sarajevo to promote minority returns. On 3 February 1998, the OHR, the US Government and the European commission hosted a high-level conference which conditioned future economic aid to the Sarajevo Canton on the return of at least 20,000 minorities in 1998. Although there have been more minority returns to the Sarajevo Canton than anywhere else in Bosnia and Herzegovina, it was agreed that the Canton had nevertheless failed to do enough to facilitate more significant minority returns. The Sarajevo Conference was a highly-publicised attempt to exert pressure on the Sarajevo authorities to take the lead in welcoming minorities.

A Sarajevo Declaration, drafted under the leadership of the OHR, outlined the most grievous problems and set deadlines for solutions." (ICG 14 May 1998, section 3.D.1)

"The Conference agreed on concrete steps to be taken by the authorities and the international community to make Sarajevo a model canton for minority return and multinational coexistence." (OHR 9 April 1998, para. 64)

"Implementation of the Sarajevo Declaration has been marked by continual problems. It is vital that the limited momentum which built up during the Summer should be reinstated, and in particular that no changes be made which might reduce the efficiency of the Cantonal Housing Department. Positive steps in some areas, including public security, have been overshadowed - and in some cases canceled out by -

failings by the authorities in other areas, notably housing and return to own homes of minorities. The number of registered minority returns to Sarajevo is around 4,000 - although it would have been closer to 6,000 if whole families had returned in all cases. It is estimated that there may have been 5000 unregistered returns. The recent set-back in education, where the Sarajevo Canton government has reneged upon its previous position of support for the Education Working Group yet again raises doubt about its good faith commitment to implement the Sarajevo Declaration and its fundamental aim of making Sarajevo a model for reconciliation, multi-ethnicity, freedom of movement and the unconditional right to return throughout Bosnia and Herzegovina. These failures could have an impact on international assistance to the Sarajevo Canton in 1999." (OHR/RRTF 12 December 1998, "Executive Summary")

For the full text of the "[Sarajevo Declaration](#)", see website of the Office of the High Representative [Internet].

For a critical review of the Sarajevo Return Conference, see International Crisis Group (ICG), [Minority Return or Mass Relocation?](#), (Sarajavo), 14 May 1998 [Internet].

International pressure in support of return: the declaration of the Peace Implementation Council in Madrid (16 December 1998)

- The PIC called for a re-doubling of efforts to create the conditions for a large number of returns in 1999
- The PIC endorsed the Reconstruction and Return Task Force (RRTF) action plan for 1999

"The Madrid [Peace Implementation Council (PIC)] meeting reviewed developments since the Bonn PIC in December 1997, and agreed a peace implementation agenda for the coming year. [At the initiative of the High Representative], the local parties were, for the first time, closely involved in the drafting of the Conclusions. Many of their proposals were reflected in the final texts, which were unanimously adopted. The Council strongly reaffirmed the Peace Agreement as the basis of freedom and democracy in Bosnia and Herzegovina. While noting the substantial progress of the last twelve months, the Council recognised how much more remained to be done to make peace in BiH self-sustaining. It acknowledged that following the end of the 'consolidation period', the next two years will be vital in strengthening the peace process and building democratic and market-oriented institutions - with the authorities in BiH increasingly assuming greater responsibility for the functions now undertaken or co-ordinated by the international community. It endorsed the continued presence of the international community in BiH as vital to help build the peace. But the Council drew attention to the fact that international assistance to BiH was now at its height and would inevitably begin to reduce in the near future. BiH should therefore use the coming period to prepare for life without total reliance on foreign aid.

The Council endorsed a comprehensive blueprint for reinforcing peace in BiH. This included a major effort to promote refugee and displaced person returns in 1999 (including endorsement of the Refugee and Reconstruction Task Force (RRTF) plan for 1999, accompanied by a pledge to provide funding for it). The Council also agreed on detailed proposals to strengthen BiH internally and externally. This will be achieved by measures to: entrench the rule of law, (in particular by reforming the judiciary and restructuring the police on multi-ethnic lines); strengthen BiH's institutions, especially its common institutions; create a market economy in BiH, and press ahead with privatisation; promote further democratisation by developing a new electoral law and further media reform.

BiH will be strengthened externally by the establishment of a BiH Border service at the state level, with the appropriate legal foundation, to control the frontiers of the country, and, inter alia, by steps, to be taken together with the Presidency and the Entities, towards establishing a common security policy and a state dimension to defence. The Madrid Declaration also set out proposals for strengthening BiH's ties with the European institutions, principally the Council of Europe and the EU, building on the efforts of the BiH/EU

Task Force. The Council reaffirmed its support for the broad and substantial powers given to me at the Bonn PIC. (OHR 12 February 1999, paras. 4-6)

The PIC agreed that, after the end of the current phase devoted to consolidating peace, the next two years should be devoted to making that peace self-sustaining. Enabling a free choice on return was recognised as an essential component of this strategy. The Council resolved "to support every effort to create the conditions for a major step forward on returns to own homes in 1999 for those who wish to exercise this right."

There was wide endorsement of the RRTF 1999 Action Plan and the emphasis the plan lays on renewed and concerted efforts by OHR, SFOR and UNHCR to promote the creation of conditions conducive to minority returns. The PIC further recognised 'the regional dimensions of return as set out in the UNHCR Regional Strategy presented at Luxembourg and in the reports presented to the Humanitarian Issues Working Group of the Council on 20 November.' 'The Council,' the Declaration continues, 'welcomes the strategy set out therein (which outlines four sustainable solutions, namely voluntary return to pre-conflict homes as the preferred solution, as well as local integration, resettlement and relocation), and calls upon the parties to co-operate in its implementation. The Council welcomes the strengthened links between the RRTF and the Return Facilitation Group, its counterpart in Croatia.'

The PIC called for a re-doubling of efforts to create the conditions for a large number of returns in 1999. In particular, in its final Declaration, the PIC:

- recalled the unfulfilled obligation of the Parties under Annex 7 of the Peace Agreement to co-operate with UNHCR and to create suitable conditions for return;
- insisted that the parties establish the conditions necessary for an effective returns process;
- noted that many tens of thousands of Bosnians have so far expressed a wish to return home immediately to minority areas, and endorsed the Reconstruction and Return Task Force (RRTF) action plan for 1999, which sets out an intensive programme to address the three key issues of space, security and sustainability and includes specific sector plans such as a substantial information campaign;
- undertook to provide the appropriate funding, commitment and resources needed for that purpose;
- welcomed the high degree of co-ordination ensured by the plan, as well as, in particular, the intention of UNMIBH and SFOR to co-operate in its implementation to the maximum extent possible within their mandates."

(UNHCR December 1998a, pp. 1-2)

For the full text of the Declaration of the Peace Implementation Council in Madrid, see website of the Office of the High Representative [Internet].

HUMANITARIAN ACCESS

General

Sporadic violence against representatives of the international community continues to be reported (2001)

- Human rights groups operate without government restriction but their recommendations remain often ignored
- Registration of NGOs have been simplified in December 2001
- International officials were injured, threatened, and taken hostage in riots organised by nationalist groups

"A wide variety of domestic and international human rights groups in general operate without government restriction, investigating and publishing their findings on human rights cases. The OHR reports that foreign government and NGO human rights monitors were able to travel without restriction in all areas of the country. International community representatives were given widespread, and for the most part, unhindered access to detention facilities and prisoners in the RS as well as in the Federation.

In December [2001] the Parliament adopted the Law on Associations and Foundations. This law, for the first time, allows NGO's to register at the national level and therefore to operate throughout the country without further administrative requirements. The law follows the general principle of voluntary registration and allows associations and foundations to engage directly in related economic activities.

While monitors enjoyed relative freedom to investigate human rights abuses, they rarely were successful in persuading the authorities in all regions to respond to their recommendations. Monitors' interventions often met with delays or categorical refusal.

Sporadic violence against international community representatives continued throughout the year [2001]. On April 6, Croat rioters disrupted a joint operation of local and international authorities to seize documents and other evidence from several offices of Herzegovacka Banka as part of an investigation into allegations of corruption and other illegal activities associated with the HDZ's drive to establish a parallel Croat government. Several local officials, police, SFOR soldiers and other international officials participating in the operation were injured, threatened, and taken hostage by rioters. On May 5, Serb nationalists obstructing the cornerstone laying ceremony on the grounds of a destroyed Mosque in Trebinje beat the local OHR representative. Several high-ranking members of the international community, along with other local dignitaries, were trapped inside the Islamic Community Center in Banja Luka for several hours while rioters stoned the building during May 7 riots which blocked the laying of the cornerstone for the destroyed Ferhadija Mosque. International property and officers were targeted specifically for vandalism or destruction." (U.S. DOS 4 March 2002, sect. 4)

NATIONAL AND INTERNATIONAL RESPONSES

National framework

The General Framework for Peace in Bosnia and Herzegovina (The Dayton Agreement, 1995)

- The Agreement guarantees the rights of all refugees and displaced persons freely to return to their homes and to have restored to them, or to receive compensation

"The General Framework Agreement for Peace in Bosnia and Herzegovina was initialled in Dayton, Ohio, on 21 November 1995, and signed in Paris on 14 December 1995. Article II, Paragraph 5, of Annex 4, which frames the Constitution of Bosnia and Herzegovina, states that: All refugees and [internally] displaced persons have the right freely to return to their homes of origin." (ICG 30 April 1997, "Introduction" and Notes 1 and 2)

"It is followed by an equally clear statement of the right of refugees and displaced persons to recover "property of which they were deprived in the course of hostilities since 1991, and to be compensated for any such property that cannot be restored to them.

Annex 7, which is the detailed Agreement on Refugees and [Internally] Displaced Persons, begins by reiterating that basic right in Chapter 1, Article 1, Paragraph 1. It adds: 'The early return of refugees and [internally] displaced persons is an important objective of the settlement of the conflict in Bosnia and Herzegovina. The parties confirm that they will accept the return of such persons who have left their territory, including those who have been accorded temporary protection by third countries.'

Finally, Annex 3, Article I, states that the parties "shall ensure freedom of movement", and Article IV speaks of the right of any citizen of Bosnia and Herzegovina listed in the 1991 census to vote, adding that by Election Day, 'the return of refugees should already be underway....'" (ICG 30 April 1997, Note 2)

For the full text of the [General Framework Agreement for Peace](#), see website of the Office of the High Representative [Internet]

Entity administrative structures in charge of the displaced population fail to implement existing Instructions on return (1999-2001)

- The BiH Ministry for Human Rights and Refugees is responsible for the coordination of inter-entity activities with regard to return
- The Commission for Refugees and Displaced Persons has also been created to encourage dialogue between State and Entity Ministries (February 2001)
- Each Entity has its own IDP-related ministry: The RS Ministry for Refugees and Displaced Persons and the Federation Ministry for Social Affairs, Displaced Persons and Refugees
- Municipal Information Offices (MROs) in the Federation and Municipal Offices of the Ministry for Refugees and Displaced Persons (OMIs) in the RS have been established in most municipalities of BH

State structures

"The BiH Ministry for Human Rights and Refugees (MHRR) was created in April 2000 and took over some of the then competencies of the BiH Ministry for Civil Affairs and Communications (MCAC). In addition to immigration, asylum and human rights, the Ministry is responsible for activities related to the repatriation to BiH of BiH citizens who became refugees abroad and for co-ordination of inter-entity activities with regard to return (as regulated in the Law on Refugees from BiH and Displaced Persons in BiH, published in December 1999). In addition, MHRR has been instrumental in the re-registration of displaced persons and of more than 6,000 Serb refugee families from Croatia in Republika Srpska and Brcko District. The creation of the Ministry presents an opportunity to develop capacity within the Ministry to act in a number of fields. The Ministry may be well placed to work with the entities and international organisations in order to ensure greater implementation of the property laws and certificates of the CRPC." (OHR/HRCC 5 February 2001, sect. III)

The coordination body: the State Commission for Refugees and Displaced Persons

The Commission was established on 21 February 2000 by BiH Presidency decision based on the New York Declaration from 15 November 1999 and Arciel 23 of the BiH 'Law on Refugees from BiH and Displaced Persons in BiH' from December 1999. The Commission is comprised of representative of State and Entity Ministries responsible for Refugees and Displaced Persons and UNHCR." (UNHCR 17 July 2001)

"The State Commission for Refugees (SCR), co-chaired by UNHCR and the State Ministry for Human Rights and Refugees (MHRR), in which my Office regularly participates, has established its value as an excellent forum for efficient coordination between the State, the Entities and the IC. The appropriate ministries of the RS, the Federation and Brcko District engage seriously, and in a constructive manner, in joint discussions of strategy, funding issues, and in particular, joint activities. The Federation and RS have become important donors to reconstruction and return-related projects. Under the leadership of MHRR, the SCR has embarked upon an initiative for joint projects according to common beneficiary criteria, to which both Entities and State will contribute funds. This can be viewed as a significant first step towards a common policy on return." (OHR 14 May 2002, para. 31)

Entity structures

"In February 1998, the Federation Ministry for Social Affairs, Displaced Persons and Refugees passed an Instruction on the Method of Organising the Return of Displaced Persons and Repatriates to/within the Territory of the Federation of Bosnia and Herzegovina [FBH Official Gazette, No. 6/98, 9 March 1998.] which requests all Cantonal and municipal authorities responsible for return issues to use a common and standardised Voluntary Return Application Form and follow procedures linked to property assessment and exchange of information on the registration of displaced persons wishing to return. The mechanism, which is linked to a database system, is intended to support and facilitate organised return and the basis for return planning purposes in accordance with Article I(5) of Annex 7 of the GFAP. In June 1998, the RS Ministry for Refugees and Displaced Persons adopted a similar Instruction [RS Official Messenger, No. 18/98, 8 June 1998]. The Ministry of Civil Affairs and Communication, in co-operation with UNHCR, has finalised the text of a State Instruction on Organised Return to facilitate inter-Entity returns and repatriation from abroad but has, for the past seven months, failed to adopt it formally. The absence of the State Instruction effectively hampers the smooth incorporation of refugees willing to return into the system.

While Municipal Information Offices (MROs) in the Federation and Municipal Offices of the Ministry for Refugees and Displaced Persons (OMIs) in the RS have been established in most municipalities of BH, the implementation of the Instructions has already proven difficult in some parts of the Federation and the RS and has in fact been used by the local authorities in certain municipalities to obstruct return, often by adding bureaucratic hurdles. For example, some OMIs charge illegal fees and require that applicants present supporting documentation relating to property repossession in order to register their intentions to return, which is not required according to the Instructions on Organised Return. In both the Federation and the RS, the authorities have not fully met the staffing needs and running costs of the MROs, OMIs and related municipal bodies to conduct housing assessments. Consequently, the performance of these

municipal bodies is uneven and the processing of applications is slow with occasional stoppages, particularly in the Herzegovina-Neretva Canton." (UNHCR May 1999, paras. 2.19-2.20)

RS Government remains under the influence of nationalist Serb Democratic Party (2000-2001)

- SDS emerged as the clear winner from the November 2000 general elections
- The International Community allowed only SDS members to take portfolios in the new government as "independent experts"
- The "independent expert" serving as Minister for Refugees and Displaced Persons, Mico Micic has expressed reservations to the implementation of the property laws

"Ten years ago, Radovan Karadzic led the members of his Serb Democratic Party (SDS) out of the parliament of Bosnia and Herzegovina (Bosnia): soon afterwards, in January 1992, they proclaimed 'Republika Srpska', as part of their strategy to undermine Bosnia's integrity and preclude its independence. First as an idea and then as a fact, the RS negated Bosnia's history, demography and integrity.

Fortunately, Dayton also gave significant powers to the international community to promote and impose reforms on both entities, to push the integrative provisions of the agreement, and to make itself redundant as Bosnia moved towards Europe. The only hope of resolving this contradiction lay in the vigorous exercise of these civilian and military powers to reform the RS.

Almost six years after Dayton, these hopes lie unfulfilled and partly forgotten. The unreconstructed nature of the RS and its political elite remain the major obstacles to the establishment of a functional, stable and solvent Bosnian state. The current RS coalition government, formed after the November 2000 elections under the leadership of another professed moderate and reformer, Mladen Ivanic, looks likely to repeat the experience of previous years, but with the difference that the SDS is now effectively back in power. It won the RS presidency and vice-presidency and secured the largest number of seats in the National Assembly in the November 2000 elections.

Alarmed at the prospect of having to contend once more with the stonewalling and prevarication of the SDS, international representatives threatened to impose an embargo on all aid to the RS if the SDS were to be included in the government. But when its new favourite, Ivanic, insisted he could not form a viable government without the SDS, the international community backed down, allowing party stalwarts to take portfolios as 'independent experts'. (ICG 8 October 2001, Executive Summary)

"International officials and local political analysts in the RS openly admit that the 'former' SDS politicians appointed as 'expert' ministers continue, in fact, to represent their party interest. For example, the 'independent expert' serving as Minister for Refugees and Displaced Persons, Mico Micic, was a physical education teacher before the war who later became an SDS politician. Before his ministerial appointment, he headed the Bijeljina association of war invalids and fallen soldiers. In hardline municipalities such as Bijeljina, these associations typically help organise opposition to the implementation of the property laws. Several international officials told ICG that these associations are believed to have played a part in coordinating recent violence against both Bosniak returnees to the RS and the disrupted ceremonies to mark the reconstruction of destroyed mosques. Several Banja Luka politicians and international officials described Micic as 'old school' SDS, who has publicly stated that the property law will not be respected if that means evicting war veterans from other people's homes. As is explained below, Micic's ministry has devoted the bulk of its ever dwindling resources to settling displaced Serbs permanently in the RS, neglecting the needs of both Serbs who want to return to the Federation and of non-Serbs seeking to come back to the RS." (ICG 8 October 2001, p. 14)

"In Bijeljina itself, aggressive groups of war veterans and refugees have recently protested over evictions of illegal occupants, and international officials have noted that hostility towards the international community has grown. In addition, both international and local officials in the city have suggested that organisations of war invalids and veterans, often headed by wartime SDS leaders, are suspected of involvement in violence against returnees, including the three days of rioting against Bosniak returnees in Janje last year." (ICG 8 October 2001, p. 14)

A domestic legal framework for repatriation and return movements has been finally adopted in both Entities and at State level (1999-2002)

- To fully apply the legal framework, the respective authorities still need to adopt further by-laws and instructions

"An adequate legal framework covering the treatment and return of refugees and displaced persons, as well as its full and fair implementation, is necessary for the effective protection and promotion of durable solutions.

In cooperation with UNHCR, the respective Entity Ministries (RS Ministry for Refugees and Displaced Persons; Federation Ministry for Social Affairs, Displaced Persons and Refugees) and the then competent State Ministry (Ministry for Civil Affairs and Communication) drafted new legislation in this area, with a view to ensuring consistency with Annex 7 of the GFAP and relevant international standards [Note 8]. The respective legislative bodies finally adopted the respective laws in 1999 and 2000 [Note 9]. This provides a domestic legal framework which regulates current voluntary repatriation movements and puts in place an adequate return mechanism, as required by international standards, in particular Annex 7 of the GFAP. To fully apply the legal framework, the respective authorities (State, Entity, Cantons in the Federation of BiH) still need to adopt further by-laws and instructions. Further, it remains to be seen how the authorities will apply the relevant provisions. In particular, whether they continue to grant DP status only to persons with accommodation. [Note 10]

Note 8: The proposed legislation will complete the domestic legal framework, regulate current voluntary repatriation movements and put in place an adequate return mechanism, as required by international standards, in particular Annex 7 of the GFAP.

Note 9: See *Law on Displaced Persons, Returnees and Refugees* (RS Official Gazette, No. 33/99, 26 November 1999) [Internal link]; *Law on Displaced-Expelled Persons and Repatriates in the Federation of Bosnia and Herzegovina*, (FBiH Official Gazette, No. 19/2000, 26 May 2000) [Internal link]; *Law on Refugees from BiH and Displaced Persons in BiH* (BiH Official Gazette, No. 23/99, 23 December 1999) [Internal link].

Note 10: According to the *Law on Displaced-Expelled Persons and Repatriates in the Federation of Bosnia and Herzegovina*, a displaced person is, among other, entitled to accommodation. Given the lack of accommodation the authorities will only grant the status provided the person concerned has already accommodation." (UNHCR August 2000, sect. 2)

The Law on Displaced Persons, Refugees and Returnees in the Republika Srpska (RS Official Gazette, No. 33/99, 26 November 1999) has been amended by the Decision of the High Representative Enacting the Law on Amendments to the Law on Displaced Persons, Refugees and Returnees in the Republika Srpska , 4 December 2001 [Internet]

The Law on Displaced-Expelled Persons and Repatriates in the Federation of Bosnia and Herzegovina (FBiH Official Gazette No. 19/2000, 26 May 2000) has been amended by the Decision of the High Representative Enacting the Law on Amendments to the Law on Amendments to the Law on Displaced-Expelled Persons and Repatriates in the Federation of Bosnia and Herzegovina, 4 December 2001 [Internet]

See also "Legal Framework regarding Displaced Persons and Returnee Status", UNHCR office of the Chief of Mission in Bosnia and Herzegovina

Division of the Bosnian society along ethnic lines hampers minority return, reconciliation and ethnic reintegration (2000)

- Essential legal reform work, including in the area of return and displacement, as well as the removal of obstacles to return, is seriously hampered by a highly decentralised constitutional regime, the continued existence of parallel structures, and an often unclear division of competencies
- The various State actors often fall far short of providing effective national protection to all BiH citizens without discrimination, particularly minority returnees

"The Bosnian society is still strongly divided along ethnic lines, as a result of the war, as well as ongoing massive manipulation and intimidation, in particular through the media. The current constitutional framework is not conducive to ethnic reintegration and in fact it is used by those in power to pursue their narrow nationalist agendas and to consolidate territorial and other gains obtained during the war years. Essential legal reform work, including in the area of return and displacement, as well as the removal of obstacles to return, is seriously hampered by a highly decentralised constitutional regime, the continued existence of parallel structures and administrations, as well as an often unclear division of competencies between the State and the Entities, and within the Federation between the Federation level and the Cantons. The predominance of the ethnic factor as the primary power-sharing model is yet another complicating element in this complex web of different legal systems. Matters that would fall into the competencies of the Entities but would equally require inter-Entity co-operation are currently not subject to an effective mechanism to address and regulate such matters.

The various State actors often fall far short of providing effective national protection to all BiH citizens without discrimination, particularly minority returnees. Reforms of the legal and administrative framework in 1998 and 1999 were only possible due to massive international intervention and imposition, which demonstrates the lack of political will and commitment of the authorities fully to implement the provisions of the GFAP. The municipal elections held in April 2000 have confirmed the dominant role of the three nationalist parties in rural areas, whereas some political changes occurred in urban areas. The current electoral system de facto favours the population to vote along ethnic lines. Given their respective programmes and ideologies, these parties are not working to correct the consequences of the conflict but rather consolidate and aggravate them. In fact, minority return, reconciliation and ethnic reintegration run counter to their monoethnic agendas and interests to preserve their economic and political powerbase. Moreover, the State of BiH is undermined by the virtual absence of vertical and horizontal co-operation of its various institutions. Vertically, the central state institutions' authority over other administrative or institutional bodies is often rebuffed by the Entities, the Cantons or the municipalities. Furthermore, the functioning of the common institutions has been severely weakened throughout 1999 due to political obstruction from the various parties. Horizontally, there is little, if any, co-operation between the Entities on subjects of common interest." (UNHCR August 2000, sect. 2)

The role of local NGOs still needs international support (1999)

- Local NGOs are proving increasingly willing and capable partners in supporting the return of refugees and displaced persons
- The High Representative coordinates international initiatives to enhance their legal status, consultation with representatives of local NGOs and authorities

"Efforts continued to assist local NGOs in becoming more politically active. Local NGOs are proving increasingly willing and capable partners in supporting the return of refugees and displaced persons, now conducting increasingly ambitious efforts on their own initiative, though generally still requiring considerable international assistance. Some NGOs have contributed in the OSCE-led process of educating citizens about electoral systems and gathering their input for the new election law. After reception of substantive comments from the Council of Europe and the International Centre for not-for-Profit Laws (ICNL), OHR finalised efforts to present to the legislators in both Entities as well as at the State level, draft legislation on Associations and Foundations. Substantive comments received from the Council of Europe and the International Centre for not-for-Profit Laws (ICNL) were included. In parallel an ad hoc working group, consisting of representatives of local NGOs and the Ministry of Justice of the RS, discussed and finalised draft legislation in the same area thereby taking responsibility and ownership. The two processes are being coordinated by OHR." (OHR 1 November 1999, para. 78)

"The Directory of ICVA lists 173 international NGOs and 365 national NGOs in BiH. The NGO network constitutes an integral part of humanitarian, human rights and development action in BiH." (UN November 2000, p. 23)

For more information, consult the website of [ICVA Bosnia and Herzegovina](#) [Internet]

International agencies

The High Representative: implementation of the civilian aspects of the Dayton Agreement (1996-2003)

- The High Representative has become more and more involved in return and human rights issues
- He has been allowed by the international community to remove from office public officials who violate legal commitments and the Dayton Peace Agreement, and to impose laws

"The Office of the High Representative (OHR) is the chief civilian peace implementation agency in Bosnia and Herzegovina. The 1995 [Dayton Peace Agreement](#) designated the High Representative to oversee the implementation of the civilian aspects of the Peace Agreement on behalf of the international community. He is also tasked with co-ordinating the activities of the civilian organisations and agencies operating in the Bosnia and Herzegovina." (OHR 2003, General Information)

"Article II of [Annex 10](#) of the Dayton Peace Agreement directs the High Representative to:

- Monitor the implementation of the peace settlement;
- Maintain close contact with the parties to the Agreement, to promote their full compliance with all civilian aspects of the Agreement;
- Co-ordinate the activities of the civilian organisations and agencies in Bosnia and Herzegovina to ensure the efficient implementation of the civilian aspects of the peace settlement. The High Representative shall respect their autonomy within their spheres of operation while as necessary giving general guidance to them about the impact of their activities on the implementation of the peace settlement;
- Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation;
- Participate in meetings of donor organisations;
- Report periodically on progress to the United Nations, European Union, United States, Russian Federation and other interested governments, parties and organisations;
- Provide guidance to the United Nations International Police Task Force (IPTF).

The OHR has grown from a small organisation, comprising just the High Representative and some 60 staff, into a much larger body. At the end of 2000, the OHR employed 681 staff and had 18 offices throughout Bosnia and Herzegovina and one representation office in Brussels.

The OHR's involvement in Bosnia and Herzegovina's political life has also expanded over time. At the beginning of the peace process, the High Representative chaired a number of joint bodies that brought together representatives of the war time parties and took care of the initial requirements of the peace process. The State and Entity Institutions envisaged in the Constitution were set up after the first post-Dayton elections in September 1996, but it took some time before they started meeting regularly. Now, one of the OHR's key tasks is to ensure that the institutions function effectively and in a responsible manner.

In the economic field, the High Representative initially co-ordinated the repair and reconstruction of Bosnia and Herzegovina's infrastructure, including its roads, bridges, airports, telephone networks and utilities. The reconstruction phase, financed under a \$5.1 billion World Bank/European Commission program, has been largely completed; the emphasis now is on revitalising the economy through reform.

The OHR has also become more and more involved in many other issues, such as the return of refugees and displaced persons, human rights issues and the establishment of the rule of law, which make up the framework of a functioning administration and society.

Among the most important milestones in the peace implementation process was the [PIC Conference in Bonn](#) in December 1997. Elaborating on Annex 10 of the Dayton Peace Agreement, the PIC requested the High Representative to remove from office public officials who violate legal commitments and the Dayton Peace Agreement, and to impose laws as he sees fit if Bosnia and Herzegovina's legislative bodies fail to do so.

Nonetheless, the governing principle of the OHR's engagement in Bosnia and Herzegovina is the concept of ownership. This concept calls on the officials and citizens of Bosnia and Herzegovina to take ownership of the peace process and the problems that their country faces, and not to rely on the international community to the degree that they have so far, both in terms of financial assistance as well as political interventions.

The OHR is focusing its efforts on three priority areas - the effective functioning of the institutions of a modern state, in particular Bosnia and Herzegovina's State Institutions, economic reform, and refugee return. Other important issues are judicial and legal reform; the protection of human rights; a reform of the education system; media reform, in particular the establishment of independent public service broadcasting; and Bosnia and Herzegovina's integration into Europe." (OHR 2003, The Mandate of OHR)

"On May 27 [2002], Paddy Ashdown succeeded Wolfgang Petritsch as high representative overseeing civilian aspects of the Dayton Peace Agreement. While the priorities of the former high representative had been accelerated refugee return, institution building, and economic reform, the new high representative declared that the fight against organized crime and regeneration of the Bosnian economy would be his main areas of focus. " (HRW 2003, Bosnia and Herzegovina)

For more information, consult of the website of the Office of the High Representative [Internet: <http://www.ohr.int/>]

UNHCR mandate: The return of the displaced population (1995-2003)

- 1992: UNHCR was requested by the UN Secretary-General to assume a lead agency role in coordinating large-scale humanitarian assistance to displaced

- 1995: UNHCR was given the responsibility for planning and coordinating the return of refugees and displaced persons to their homes
- Since Dayton agreement, UNHCR has presented detailed return plans
- One key area has been property restitution in collaboration with other relevant international agencies
- In 2003, UNHCR will also continue to provide humanitarian and legal assistance to returnees and IDPs
- UNHCR will also continue financing projects offering durable solutions to persons accommodated in collective centres

UNHCR's involvement in Bosnia and Herzegovina dates to 1992 when the Organization was requested by the UN Secretary-General to assume a lead agency role in coordinating large-scale humanitarian assistance to displaced and war-affected populations. This role which was later confirmed by the UN Security Council.

The Dayton Peace Accord (DPA) of December 1995 brought an end to the 1991-1995 conflict in the former Yugoslavia. Annex 7 of the Dayton Agreement conferred upon the Office the specific duty to develop, in close consultation with asylum countries and the Parties, a repatriation plan that will allow for an early, peaceful, orderly and phased return of refugees and displaced persons to and within Bosnia and Herzegovina. (UNHCR June 1999, p. 323; UNHCR December 1998, p. 275)

“UNHCR has undertaken a wide variety of measures to support the return process since the Dayton Agreement was signed, ranging from drawing up detailed return plans and addressing legal and procedural matters affecting returns, to assisting the physical return of refugees and the internally displaced and providing material assistance upon return. UNHCR presented detailed return plans in March 1996 in Oslo and in April and December 1997 in Geneva. These were later updated and consolidated in UNHCR’s ‘Regional Strategy for Sustainable Return of those Displaced in former Yugoslavia’, which was endorsed by the Peace Implementation Council and the Humanitarian Issues Working Group (HIWG) in June 1998. Updates on this strategy were also presented to the HIWG in November 1999 and September 2000.

One key area which has required significant investment by UNHCR and other international organisations has been that of property restitution, which is a particularly critical issue and which will continue to facilitate returns. During 2001, significant progress was made in the process of resolving property repossession claims of refugees and IDPs. At the end of April 2002, out of a total number of 255,237 claims for repossession of private property and socially owned apartments, 125,272 repossessions had taken place. Thus, 49 per cent of all property claims have so far been resolved through repossession by the pre-war owners or occupancy right holders, compared to an implementation ratio of 21 per cent at the end of 2000. This result has been achieved through continuous support being provided to the competent authorities, as well as close monitoring and pressure where necessary, by the international community, in particular through the collaborative efforts of agencies involved in the Property Law Implementation Plan (PLIP). UNHCR is an important actor in the PLIP, with a wide network of focal points devoted to this issue in the field. Nonetheless, while overall progress has been achieved, more still needs to be done to ensure property restitution in all Municipalities. In this context, UNHCR is concerned that renewed and sustained efforts by the authorities are required to bring the implementation rate to meaningful levels in several key return locations, in particular in Municipalities of the Eastern Republika Srpska.” (HIWG 1 June 2002, paras. 7-8)

Plans for 2003

“Main Objectives

21 Continue to support voluntary returns within and to Bosnia and Herzegovina (BiH), with a view to completing returns by the end of 2004.

Continue to closely monitor the implementation of property legislation and the exercise of associated civil rights.

❗ Provide limited and flexible humanitarian assistance to the most needy returning refugees and IDPs. Advocate the continuation of activities by other agencies, to ensure sustainability of returns.

❗ Continue legal assistance as well as the dissemination of information among returnees and internally displaced persons (IDPs) regarding their civil and legal rights. Identify ways and means to nationalise the existing network of Legal Aid and Information Centres (LAICs).

❗ Develop an effective asylum system in cooperation with other partners in the European Union structures and the Stability Pact (SP).

❗ Support the voluntary repatriation of Croatian-Serb refugees and other refugee groups to their countries of origin in the region.

As UNHCR approaches the completion of its responsibilities under the General Framework Agreement for Peace (GFAP), its strategic focus will increasingly be protection, in conformity with its core mandate. More attention will be paid to strengthening the capacity of State institutions in dealing with refugee and asylum issues. The key elements of the strategy comprise: 1) Protection and capacity-building of national institutions; 2) targeted and flexible assistance; and 3) Durable solutions.

rotection and Solutions

UNHCR will continue to intervene, negotiate, advise and provide information in facilitating the return of IDPs and refugees. The main aim of these initiatives will be to create and maintain a favourable climate for return and repatriation. Increasingly, emphasis will be placed on legal aspects, such as the implementation of the property laws and dissemination of information to the targeted population through LAICs. Efforts will be strengthened to further develop the legal framework and the capacity of the Government of BiH to deal with refugee and asylum-seeker issues.

Assistance

A multi-sectoral and flexible approach will remain the basis for targeted assistance in 2003, which is crucial at the initial phase of returns. It is also instrumental in creating sustainable conditions for returnees, for which UNHCR has developed the concept of Quick Support Funds (QSF) which have a very positive impact on returns. The funds will be used for community-based, small-scale projects. Interventions will be limited to those situations where other actors are unable to provide adequate assistance to the most vulnerable of the returnees. A limited distribution of domestic items to vulnerable persons is envisaged as well as transportation of their personal belongings to their place of return. Having developed a harmonized regime of assistance to refugee returns, UNHCR will actively pursue durable solutions for those groups of refugees from Croatia and the Federal Republic of Yugoslavia (FRY) who wish to return. UNHCR will continue financing projects offering durable solutions for persons accommodated in collective centres. At the same time, UNHCR will continue to assist asylum-seekers and refugees from FRY at the Reception Asylum Centres (RACs) maintained by the State Ministry for Human Rights and Refugees. UNHCR's assistance addresses the specific health, nutritional and educational needs of children and women in RACs." (UNHCR December 2002, pp. 241-242)

Budget (USD)

Activities and Services	Annual Programme
Protection, Monitoring and Co-ordination	4,634,648
Community Services	3,300,000
Domestic Needs	787,034
Food	611,203
Health	6,530
Legal Assistance	2,000,000
Operational Support (to Agencies)	1,232,802
Shelter / Other Infrastructure	1,128,931
Transport / Logistics	680,000

Total Operations	14,431,148
Programme Support	2,703,749
Total	17,134,897

(UNHCR December 2002, p. 243)

More detailed information on UNHCR activities in Bosnia and Herzegovina can be found on the website of UNHCR Chief of Mission in Sarajevo [Internet]

The Reconstruction and Return Task Force (RRTF): An inter-agency coordination body to implement return (1997-2003)

- Members also include the EU police programme and the SFOR
- The RRTF facilitates returns through initiatives aimed at providing returnees with housing, security and sustainable socio-economic conditions
- It coordinates the housing reconstruction efforts
- In 2003, the OHR is planning to transfer its return facilitation activities to the domestic institutions and limit its role to monitoring

“The OHR-led **Reconstruction and Return Task Force (RRTF)** is an inter-agency body that was established in 1997 in order to tackle return and reconstruction issues in an integrated manner. It brings together refugee return and human rights experts, donors, and EUPM and SFOR, whose role is to help provide security for returnees.” (OHR 2002)

“The RRTF facilitates returns through initiatives aimed at providing returnees with housing, security and sustainable socio-economic conditions, such as non-discriminatory access to jobs, education, public utilities and health care and representation in governmental and judicial bodies.

It co-ordinates the reconstruction of housing, and oversees the implementation of property legislation under which all refugees and displaced persons are entitled to repossess their pre-war homes. An inter-agency PLIP cell (Property Law Implementation Plan cell) in Sarajevo co-ordinates and supervises the implementation process and sets the strategic goals, while the country-wide PLIP field network translates this into concrete action at the local level. A Housing Verification & Monitoring Unit (HVM) verifies the status of reconstructed housing and ensures that reconstructed properties are used by the intended beneficiaries.

The RRTF also presses for regional returns between the FRY, Croatia, and Bosnia and Herzegovina through the Stability Pact’s Regional Returns Initiative and through initiatives of the BiH Government.

As BiH moves closer towards reaching a self-sustaining return it is predicted that by the end of 2003 the OHR will transfer its return facilitation activities to the domestic institutions. The OHR’s role will be to monitor the returns process, remaining in close contact with domestic and international actors engaged in overseeing return activities. The priority for return is to ensure that the domestic process is fully sustainable; ensuring jobs, education all social benefits, utilities and services and the justice system are equally accessible and efficient for all.

The RRTF comprises the OHR, the United Nations' High Commissioner for Refugees (UNHCR), the European Commission, the European Commission's Humanitarian Office (ECHO), the governments of Germany, the United States and the Netherlands, the World Bank, the European Union Police Mission (EUPM), the Organisation for Security and Co-operation in Europe (OSCE), the United Nations

Development Program (UNDP), the International Management Group (IMG), the International Organisation for Migration (IOM), the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) and SFOR.” (OHR 2002)

More information on the [Return and Reconstruction Task Force](#) is available on the website of the Office of the High Representative [Internet]

OSCE: support to the building of a democratic society (1995-2003)

- Initial mandate (December 1995) included the promotion of democratic political institutions at all level
- In 2002, a new division of labour among international organisations resulted in an enhanced role for the OSCE in the fields of human rights/rule of law, security co-operation and education reform
- The human rights programme supports the return of refugees and people displaced by the war to their former communities by helping them reclaim their pre-war property

Mandate

“The OSCE's mandate was established under the General Framework Agreement for Peace (GFAP), drawn up in Dayton in late 1995 to end 43 months of conflict. Since then, BiH has faced the daunting task of rebuilding itself as a multi-ethnic, democratic society. The OSCE is one of the key agencies responsible for helping BiH make this transition and began its work in December 1995. In order to do this, the Mission has established programmes to promote the development of democratic political institutions at all levels of BiH, from the local to the state level.

The OSCE Mission will continue to play a central role in the development of a stable, peaceful and democratic Bosnia and Herzegovina. Following an eight-month review, the International Community has refocused its efforts in the country. The core tasks have been redefined and assigned to the organisations best placed to implement them effectively and efficiently. In February 2002, the Peace Implementation Council (PIC) Steering Board, set up in the aftermath of the war to support the peace process, endorsed a new division of labour among these organisations, as well as the establishment of four task forces to co-ordinate the work.

The International Community's four key priorities have been defined as rule of law, institution-building, economic development and refugee return. Task forces to oversee and manage these issues, in co-operation with BiH counterparts, are operating. This readjustment has resulted in an enhanced role for the OSCE in the fields of human rights/rule of law, security co-operation and education reform. Within those areas, the OSCE's main priorities are to strengthen the legal system, assist in establishing firm democratic control over the armed forces, and co-ordinate efforts to bring about a modernised, non-discriminatory education system.

As work continues towards meeting these priorities, in line with the rest of the International Community, the OSCE will work to handing over more and more responsibility to the citizens of BiH. The long-term goal of all the members of the International Community in Bosnia and Herzegovina is to leave in place a fully functioning, sustainable democracy that can take its place in the family of European states.” (OSCE 2003, OSCE Mission to Bosnia and Herzegovina – Mandate)

Selected areas of activities

“Democratisation:

The goal of this department's activities is to encourage the development of democracy by establishing professional and transparent political practices and supporting the growth of democratic government institutions. The programme encourages citizens to become actively involved in the life of their country. This is done through a number of projects, which the OSCE's field offices implement. “ (OSCE Mission to Bosnia and Herzegovina 2003, Programmes and activities)

“Human Rights:

The aim of the OSCE's human rights programmes is to improve the human rights of everyone in Bosnia and Herzegovina. Human rights officers investigate and report on allegations of human rights violations and, if necessary, intervene in individual cases. The work is extremely varied. For instance, the programme supports the return of refugees and people displaced by the war to their former communities by helping them reclaim their pre-war property. Facilitating return also means ensuring that returnees are safe, that their children have access to education and that they do not face discrimination in terms of employment, access to services, utilities and pensions.

Another aspect of the work of human rights officers is to identify and address discrimination against national minorities, especially the Roma. The programme supports legal and judicial reform and the rule of law by monitoring trials and other activities. The Mission works closely with domestic human rights institutions, including the Entity Ombudsmen and the State level Ombudsman for BiH, the Human Rights Chamber and the BiH Ministry for Human Rights and Refugees.” (OSCE Mission to Bosnia and Herzegovina 2003, Programmes and Activities)

Other areas of activities include education, elections and security cooperation. More details can be found on the website of the [OSCE Mission to Bosnia and Herzegovina \[Internet\]](#)

The European Union: from humanitarian assistance to police reform (2003)

- One key objective of the EU assistance is to help ethnic reconciliation and the return of refugees and displaced persons
- The EU funds a comprehensive housing reconstruction programme, with a particular focus on areas where return is difficult and in integration with development activities
- It also provides financial support to the Commission for Real Property Claims
- EU humanitarian assistance was phased out in 2000
- Support to the police reform was taken over from the United Nations in January 2003

“Main objectives of European Union assistance

To support BiH in the framework of the Stabilisation and Association Process. In particular:

- To help consolidate the peace process and foster inter-Entity co-operation.
- To help ethnic reconciliation and the return of refugees and displaced persons to their homes of origin.
- To establish functioning institutions and a viable democracy, based on the rule of law and respect for human rights.
- To lay the foundations for sustainable economic development and growth.
- To bring Bosnia and Herzegovina closer to EU standards and principles. “ (EU March 2002)

“Return of refugees and displaced persons

The European Union has funded and continues to fund a comprehensive housing reconstruction programme covering all parts of the country. Working closely with the other parties supporting return, the Commission defines each year its strategic priorities. The concentration now is on regions where return is difficult (breakthrough returns). Over 31.000 houses have been rebuilt so far. The approach taken by the EU is an integrated one where the reconstruction of dwellings goes hand in hand with rebuilding health centres and schools and the revival of small businesses. New roofs are not enough for long term sustainable return: people need jobs, schools for their children, health care, social security. Last year the EC developed a flexible reaction mechanism as part of its return programme in order to be able to support unexpected return movements. This proved to be highly successful and is being continued this year. Of particular importance this year is increased return to places previously considered locked, mainly in Eastern Republika Srpska. Minority return movements have been increasing year on year. For the first quarter of this year minority returns have almost doubled when compared with the same period last year.

The EU has also set up a housing finance programme in collaboration with BiH commercial banks. Although the EU has devoted e319 million to its return programmes in the period 1996-2000, there are still not enough reconstruction grants for all the families that wish to return. Through the housing finance programme, individuals can have access to loans to rebuild their homes. The programme serves the dual purpose of increasing the supply of houses and developing a sustainable financing system for housing construction in BiH.

The EU has been supporting efforts to tackle one of the most difficult problems associated with the return process, namely how the rightful occupiers of property can regain possession of their homes. The EU funds a substantial part of the costs of the Commission for Real Property Claims. This was created under the Dayton Agreement to deal with the claims of dispossessed occupiers and is pivotal in the process of restoring homes to refugees and displaced persons.” (EU March 2002)

“Humanitarian assistance

Through its humanitarian arm, ECHO - Humanitarian Aid Office, the European Union was active in BiH throughout the war. ECHO was responsible for the largest humanitarian operation ever mounted in Europe. From 1995 until it closed its operations in BiH in 2000, ECHO continued to fund projects in Bosnia and Herzegovina in the absence of adequate social security systems to protect and support the most vulnerable. ECHO concentrated on food aid and health. It also actively participated in the return process. Its flexible procedures allowed it to intervene quickly in support of spontaneous minority return movements. The improvement in the humanitarian situation in BiH allowed ECHO to phase out completely in 2000.” (EU March 2002)

Other areas of activities include the reconstruction of infrastructure, democratization, social cohesion and development, institution building and economic regeneration.

See also:

“Bosnia and Herzegovina Country Strategy Paper 2002-2006”, European Commission [Internet]

“EU Helps Bosnia and Herzegovina manage refugees’ return”, UNDP [Internet]

The EU Police Mission (EUPM)

“The European Union Police Mission commenced operations on 01 January 2003 . Its mission is to help the BiH authorities develop local police forces that meet the highest European and international standards and to ensure that sustainable institutional structures are in place by the end of its mandate on 31 December 2005 . The EUPM will do this through monitoring, mentoring and inspecting BiH police managerial and operational capacities.

On 4 March 2002 , the authorities of Bosnia and Herzegovina invited the European Union to undertake its police mission. On 11 March 2002 , the General Affairs Council established the European Union Police Mission in Bosnia and Herzegovina.” (EUPM 2003, home page)

For more information, consult the website of the EU Police Mission [Internet: <http://www.eupm.org/>]

The EU Police Mission took over the support to police reform from the United Nations Mission in Bosnia and Herzegovina from 1 January 2003. For a comprehensive review of the activities of the United Nations Mission in Bosnia and Herzegovina, see the "Report of the Secretary General on the United Nations Mission in Bosnia and Herzegovina", S/2002/1314, 2 December 2002 [Internet]

US assistance: support to minority return (1991-2002)

- The U.S. Government has delivered over \$1 billion in humanitarian assistance to the former Yugoslavia since 1991
- In 2002, US aid agency funds projects for community rehabilitation and stabilization in support of minority return
- Support to the economic transformation and to democratic reforms is also provided

Overview (as of February 2000):

"The United States Government has pledged \$767 million to date for the reconstruction of Bosnia-Herzegovina. In support of the Dayton Peace Accords, USAID assistance is helping to create a stable, democratic post-war Bosnia-Herzegovina with a functioning free market economy. Other U.S. support is being provided in the areas of demining, police training, national and municipal elections and the War Crimes Tribunal. In addition, the U.S. Government has delivered over \$1 billion in humanitarian assistance to the former Yugoslavia since 1991." (USAID 11 February 2000)

2002 activities:

"USAID's BiH Program

FY 2002 SEED Total: \$65 million, USAID Managed: \$46.8 million

- ***Community Rehabilitation and Stabilization Program (CRSP) (\$11.8m):*** CRSP is a \$75 million three-year follow-on program to the successful \$265 million Municipal Infrastructure and Services program (MIS). CRSP aims to rehabilitate basic infrastructure in support of minority returns.
- ***Economic Transformation (\$18.3 m):*** USAID provides technical assistance (TA) to help BiH establish a policy and institutional framework conducive to the emergence of a market economy. TA supports key economic institutions implementing macroeconomic policy, including the formation and operation of the unified government treasuries and the modernization of tax administration. USAID also supports commercial law and banking reform, corporate governance, private sector accounting reform, promotion of small land medium enterprises, and real estate ownership reform.
- ***Democratic Reform (\$16.7m):*** Provides support for an independent media to allow open access and information to all citizens and candidates; political party building to encourage the emergence of moderate parties; legislative training for elected officials; civic education to encourage citizen participation in the democratic process; judicial reform and local NGO support to create a vibrant civil society. " (USAID 2002)

For more details on USAID activities, you can consult the website of the USAID Mission in Bosnia and Herzegovina [Internet: <http://www.usaid.ba/>]

Red Cross in Bosnia and Herzegovina: emergency appeal to support 30,000 vulnerable returnees during winter (December 2002)

- Support is needed to assist the most vulnerable returnees with food and hygiene items, firewood and stoves

- The Red Cross also plans to continue to advocate on behalf of the returnees with a special, but not exclusive, focus on minority returns

“The minority returnees are one of the most vulnerable groups in a society in which 19% of the households exist below the poverty line and the unemployment rate is more than 40%. They are particularly affected by poverty, since the majority of them lack an adequate income and are faced with numerous obstacles during the reintegration into their pre-war communities. The remaining international assistance is directed to reconstruction of houses for a small number of returnees, while humanitarian needs are neglected. The local social infrastructure is still too weak to give any substantial support to those returning.

With the onset of winter, large numbers remain at risk, in need and isolated, particularly the elderly, disabled, single mothers, the internally displaced and returnees. The Red Cross focuses first on those no one else is assisting, the forgotten, and people who returned to settlements where few donors are active.

In this situation the Red Cross Society of Bosnia and Herzegovina (RCSBiH), with its network of local branches throughout the BiH, and the International Federation are launching this winter appeal to address the humanitarian needs. As a leading humanitarian organisation in the country the Red Cross’s BiH has decided to react promptly in order to fulfil its mandate and bring assistance to the most vulnerable returnees throughout the country.

The needs

Immediate needs

Based on information coming from the RCSBiH grass-root volunteers network the immediate needs include food and hygiene items, firewood and stoves for the most vulnerable returnees and local population identified by Red Cross and relevant institutions. 30,000 welcome parcels (combination of food and hygiene items) for those who have returned in the last six months are envisaged. In addition up to 1,000 beneficiaries are to be assisted with 3m³ of firewood and stoves. The humanitarian assistance is planned for a period of six months within this appeal. Up to 20% of the relief will go to the identified local population in order to ease tensions and to provide assistance in a community-based manner. CHF 50,000 has been allocated from the Federation’s Disaster Relief Fund (DREF) to immediately start the operation.

The Proposed Operation

Objectives and activities planned

This appeal calls for the provision of emergency assistance to the minority returnees in the selected priority areas determined by the highest number of minority returns and available Red Cross capacity. These priority areas include: Una-Sana Canton, Tuzla Canton, Glamoc/Grahovo, Prijedor, Dobo, Bratunac/Srebrenica, Visegrad and Gorazde.

Relief distributions

Objective 1: To distribute one-off welcome parcels to 30,000 of the most vulnerable minority returnees with up to 20% of the relief going to local vulnerable population in a community-based manner. In addition, to distribute 1,000 stoves and 3,000 m³ of firewood to the most needy.

[...]

Objective 2: To establish 6 Red Cross mobile/social integration teams in 6 of the above-mentioned selected priority areas.

Dissemination

This Appeal is meant to highlight the specific and critical situation faced by the returnees. The proposed emergency operation is very much in accordance with the regional Population Movement Programme implemented in FRY, BiH and Croatia. This regional programme is focussing on assisting national societies in dealing with displacement issues through programming development. Its trained staff (Population Movement Coordinators, Mobile Teams) together with the Disaster Management team will be used to carry on the implementation of the emergency operation.

During this emergency operation, the RCSBiH will continue to maintain regular contact with Red Cross National Societies in neighbouring countries and countries of asylum concerning the return process. The RCSBiH will also continue to focus on the establishment of operational agreements with the relevant Government bodies in BiH as well as for the establishment of a legal base for its operations in the field pertinent to the return process.

Objective 1: To advocate on behalf of the returnees with a special, but not exclusive, focus on minority returns and to raise the RCSBiH profile in the society and towards all stakeholders in the field relevant to population movement (PM). (IFRC 23 December 2002, pp. 2-3)

Response to reconstruction needs: national actors and international financial institutions take over from bilateral donors (2002)

- Availability of funds to support the return movements has declined since 1999
- Bosnia's state, entity and cantonal budget need to shoulder an increasing share of the financial burden for reconstruction
- However, the RS and Federation devote only about 2 per cent of their respective budgets to refugee and return-related issues, far behind spending on war veterans and invalids (2002)
- Development assistance in the form of soft loans and direct investments has expanded with the support of international financial institutions
- International organisations need to monitor the selection of beneficiaries and other aspects of project implementation to prevent diversion of aid for political purposes

“[W]hile returns have risen steadily since 1999, the availability of funds to support this movement has declined just as steadily. Major donors such as the U.S. State Department's Bureau of Population, Refugees and Migration (BPRM) and UNHCR have recently stopped money for reconstruction altogether. The European Commission (EC) cut its yearly allocations from € 69 million in 1999 to € 23.5 million in 2002; and USAID's programs for infrastructure to support return have dropped in similar proportions since 2000. Fortunately, some bilateral donors – like the Swedish International Development Agency (SIDA) – have bucked the trend, maintaining or increasing their financial support for return-related projects in the face of overall declines in international assistance to BiH. Last year's announcement of the creation of a Unified Islamic Return Fund, managed by a board of six bilateral donors from Muslim countries, is another helpful development. But disbursements from this fund have been slow and cumbersome to date. Nor have they been co-ordinated with OHR and UNHCR.

It seems inevitable that Bosnia's state, entity and cantonal budgets will need to shoulder an increasing share of the financial burden for reconstruction of housing and infrastructure, as well as for sustainability projects. In 2002, the Federation and RS governments allocated, respectively, KM 32 million (€16 million) and KM 10 million (€5 million) for reconstruction projects to support return into and out of their jurisdictions. The state, the resources of which are significantly smaller than those of the entities, committed only KM 3.6 million (€1.8 million) for return projects. The Federation cantons and Brcko District, together, set aside some KM 45 million (€22.5 million) for refugees, though this figure includes the costs of alternative housing for displaced persons as well as for returnees.

While these allocations may seem generous at first glance, they represent but a small fraction of the various Bosnian governments' total budgets. In 2002, the RS and Federation devoted about 2 per cent of their respective budgets to refugee and return-related issues. When compared to their spending on war veterans and invalids (13 per cent in the RS and a whopping 23 per cent in the Federation), it is clear where political priorities lie. In the cantons of the Federation, the absolute and relative levels of assistance to returnees vary wildly, but meanness is the rule. The richest canton, Sarajevo, spends about 3 per cent of its budget on

refugees and returnees. On the other hand, Canton 1 (Bihac) provides a meager KM 715,000 (or about 0.5 per cent of its KM 100 million plus budget) on alternative accommodation for individuals who vacate housing reclaimed by returnees.

The recent constitutional changes will permit previously powerless national groups to influence budgetary allocations when their 'vital interests' are at stake. In 2002, Bosniak and Croat members of the RSNA Constitutional Commission held up passage of the year's budget until the Assembly agreed to increase its allocation to support the return of non-Serbs. On the other hand, some Federation-based Serb groups have accused the RS of failing to support the return of Serbs to the Federation in a manner commensurate with what the Federation does to back Bosniak and Croat returns to the RS. This is not surprising, for as the RS government has come under increasing international pressure to tolerate the return of Bosniaks and Croats, it has sought to keep displaced Serbs in the RS.

Annex 7 of the DPA mandated the creation of a Refugees and Displaced Persons Property Fund in the Central Bank of BiH. It was to be administered by the Commission for Displaced Persons and Refugees and financed both by the acquisition and disposal of real property (a task which fell instead to the Commission for Real Property Claims) and by direct payments from the 'Parties' (including Croatia and Yugoslavia) and other donors. No such fund was established. This is regrettable. A common fund, managed by a board of representatives from the entities, Brcko district and the state – and possessed of a joint account at state level – would have served both to reduce overhead costs and to enhance transparency. Instead, the current process means that beneficiaries are selected, allocated support and the works monitored by the fourteen separate levels of government that encumber BiH.

The State Commission for Refugees and Displaced Persons, made up of representatives from the state Ministry for Human Rights and Refugees, the entity and Brcko refugee ministries and UNHCR, did eventually set up a Joint Project Fund of KM 15.8 million (€ 8 million) for agreed priority projects in 2002. But under this scheme the state and entities still maintain separate accounts and can refuse to spend the sums agreed. The BiH authorities are unlikely to create a common pot unless and until the High Representative imposes such a solution, since the current lack of transparency permits them to use funds for unintended purposes such as political patronage and majority relocation. This situation should be rectified before the international community hands over the management of reconstruction funds to the local authorities, which is planned to take place at the end of 2003. Otherwise, the rampant abuse of humanitarian funds that characterised the early years after Dayton can be expected to return.

As donations to BiH continue to fall, development assistance in the form of soft loans and direct investments will also be needed to pick up the slack. International financial institutions (IFIs) like the World Bank have expressed a willingness to offer soft loans for this purpose, and the Council of Europe Development Bank could also assist, now that Bosnia is a member of that body.

An Austrian housing association, allied to that country's Social Democratic Party, has recently demonstrated another possible solution by investing KM 7.5 million (€ 3.8 million) in Sarajevo Canton under an agreement brokered by the Stability Pact's Regional Return Initiative. This money will be used to construct housing for socially vulnerable persons, including returnees. The canton will service and maintain the envisaged bloc, and repay the investment over 25 years at a low rate of interest.

International organisations will need, however, to monitor the selection of beneficiaries and other aspects of project implementation to ensure that the local authorities do not allocate dwellings to politically-connected individuals or use them to encourage the permanent relocation of refugees who could otherwise return to their former homes. A similar project, financed by GTZ (The German Society for Technical Co-operation) in Bijeljina, backfired when the unsupervised municipal authorities allotted flats to members of the local SDS establishment. Another option would be to increase the availability of low-interest reconstruction loans to individuals. UNHCR's experience with micro-credit schemes implemented through a variety of local and foreign NGOs has shown a high level of repayment." (ICG 13 December 2002, pp. 7-8)

Development initiatives linked to sustainable solutions (an overview by the Stability Pact for Southeastern Europe)(August 2002)

- Various international or regional programmes of development assistance have an impact on the issue of return and the integration of the displaced
- The private banking sector and private investments also contribute to the response to housing reconstruction needs

“A number of political initiatives are underway to facilitate the process of social and economic stabilization in South-Eastern Europe, and which provide the political framework in which regional and crossborder cooperation is rapidly improving. A wide range of international, regional and local actors are involved in their implementation. Given the links between the stability of populations and political stability, it is crucial that the return and local integration of the displaced is kept high on the agenda of these initiatives. The most important of these are set out below.

The EU Stabilization and Association Process (SAP), provides the political vision for the future of the region and is today the most considerable incentive to adhere to the rule of law and international human rights standards, and foremost for economic reform. European standards are being introduced in all fields and are certainly the most important factor influencing policy decisions. The SAP is a long-term commitment to the region both in terms of political effort and financial and human resources with a credible prospect of EU membership. The EU, through the Sap, has committed itself to provide assistance according to a flexible formula, tailored to the needs and priorities of each of the countries moving ahead at its own pace, while anchored to a common set of political and economic conditions (conditionality). The process is supported by a substantial financial assistance programme (Community Assistance for Reconstruction, Development and Stabilization - CARDS).

[For more information on the EU Stabilization and Association Process, see “[The EU’s relations with Bosnia and Herzegovina](#)”, Website of the European Commission [Internet]

The Stability Pact, which operates in complementarity to the SAP and aims at promotion of regional and transborder cooperation, includes a range of initiatives, besides the RRI and AREA framework, addressing issues of immediate concern contributing to the long-term resolution of displacement matters.

Under Working Table I, issues of democratic stabilization are addressed through working groups and TF on crossborder cooperation, reconciliation and ethnic minorities, while the “Youth & Education” Taskforce is reviewing education standards in the region and focuses through the enhanced Graz Process on education at large. The activities under Working Table II of the Stability Pact are of great importance to the long-term resolution of impediments to successful (re)integration of displaced populations. Initiatives such as the “Social Cohesion Initiative”, which is engaging regional governments in developing health and housing policies, labour legislation and social dialogue. The investment component addressed in the Business Advisory Council, Investment Compact, Trade Liberalization and a range of other working groups is most crucial to economic sustainability. Results and timing of enhanced and successful economic cooperation is directly influencing the choice of displaced populations and will determine the success of all return and (re)integration efforts.

Further key elements necessary for a stable environment in the context of return and local integration, especially in BiH and Croatia, are addressed in other initiatives such as the Anti Corruption Initiative, and work being done under Working Table III on demining and security issues. The issue of border management & control and easing of visa regimes further ensures freedom of movement, necessary for populations to explore their options. The “Migration and Asylum Initiative” encompasses a range of issues of immediate concern for the resolution of displacement matters.

[For more information, consult the website of the Stability Pact for Southeastern Europe [Internet: <http://www.stabilitypact.org>]

The “South Eastern European Cooperation Process” (SEECPP), which is entirely owned and driven by the region, is encouraging efforts to deepen the processes of democratic reform, respect for the rule of law and human rights, including the rights of persons belonging to national minorities, as a fundamental prerequisite to the overall development of South-Eastern Europe and for the prevention of further conflict. It also encourages action to address the plight of refugees and displaced persons in the region.

The number of other regional and sub-regional initiatives such as the SECI, CEI, Black Sea/Ionic Initiative or the Danube Cooperation Process and other smaller mechanisms for dialogue further add to the ongoing constructive cooperation processes. Institutions and organizations such as The Council of Europe and the OSCE contribute to regional dialogue and cooperation providing institutional platforms for discussion as well as respect for the rule of law and the promotion of human rights.

[For more information on the OSCE, consult the website of the OSCE Mission to Bosnia and Herzegovina [Internet: http://www.oscebih.org/oscebih_eng.asp]

National governments have assumed increasing responsibility for the resolution of displacement matters. Inclusion of measures in support of sustainable return and integration into national planning has been enhanced. Reform in the social sector, although at varying stages of progress, is well underway, policy and legislation are under review, and economic recovery processes in progress. The Croatian government has, within the context of its national action plan, established joint working groups with key international actors and is financing the Croatian reconstruction programme with some 150 Meuro in 2002 alone (while still requiring additional resources); the FRY Government, within the context of its National Strategy to identify solutions for the displaced, is establishing an inter-ministerial taskforce and secretariat and seeking co-financing of the programme; and the National Refugee Commission in BiH has assumed an important coordination role involving State and Entities as well as UNHCR and OHR. Some 45 Meuro are budgeted by BiH and its Entities in 2002. These national initiatives will require considerable international financial support in addition to the national effort.

International Financing Institutions (IFIs) such as the World Bank, European Bank for Reconstruction and Development, Council of Europe Development Bank (CEDB) and European Investment Bank, are engaged with a wide range of programmes addressing structural adjustment, infrastructure development and social reform in support of national governments. The ongoing loan programmes by the CEDB to Croatia (with over 70 Meuro for refugee/returnee/alternative housing and social infrastructure such as schools and health facilities, and additional loans planned of approx. 60-70 Meuro for Croatia, FRY and later BiH) provide a good example. Other examples are the World Bank’s programmes on employment and pension fund reform in the region. The role of IFIs in supporting housing and employment programmes through government budgetary support or investment support should be enhanced.

[For more information you can consult the following websites:

- *World Bank in Bosnia and Herzegovina [Internet: <http://www.worldbank.org.ba/>]*
- *European Bank for Reconstruction and Development (page for Bosnia and Herzegovina) [Internet: <http://www.ebrd.com/country/country/bosnherz/main.htm>]*
- *Council of Europe Development Bank [Internet: <http://www.coebank.org/>]*

Long-term multilateral development agencies (UNDP, UNCHS) and bilateral development cooperation mechanisms are increasingly active in national capacity and institution building, but still lack secure and adequate funding; this despite recently received funding support with 15 Million Euro to the UNHCS housing programme in Serbia (Italian Government funding), to the UN/UNDP led Srebrenica Regional Recovery Programme (SRRP) in BiH (+ 5 Mio.Euro), or to the Podgorica water & sanitation project (connection of 3,000 refugee/DP households to the municipal system) with 1 Meuro co-financing from the

municipality and the German Government. USAID, the Swiss Development Cooperation (SDC) and the Swedish International Development Assistance (SIDA) are involved in important infrastructure and municipality development or social welfare projects and programmes. The EU CARDS programme provides besides direct reconstruction assistance for the 2 years to come, funding for a range of sectors of utmost importance to the economic recovery process.

[For more information, consult the website of the UNDP in Bosnia and Herzegovina [Internet: <http://www.undp.ba/onevs.asp>]

The private banking sector is another vital actor in the context of the sustainability of returns and the local integration. This sector has undergone very rapid development in the past 18 months and is beginning to respond to some of the challenges related to economic recovery of the region. It is starting to facilitate self-assistance schemes, which will gradually replace donor and state driven assistance to a large extent, although where applicable governments should continue to assume their responsibility. The Kreditanstalt fuer Wiederaufbau (KfW) credit programmes in BiH, already implemented through local commercial banks, are an example for donor-cum-commercial approaches from which returnees, the displaced and the local population can equally profit, although still at conditions, preventing access for most. Commercial banks have also begun mortgage lending and savings schemes but could increase the loan portfolio if adequate risk insurance systems are put in place, supported by State or inter-bank guarantees.

Private investment in the region will develop if supported by state co-financing and guarantees, and is expected to move to the Housing and Small & Medium Enterprise Sector, offering promising prospects for the return and local integration programmes. Public-private partnerships are key to raise the considerable capital still required to address the most urgent gaps in the housing and employment market. The recent investment of 7 Million Euro by an Austrian Trade Union and its affiliated housing development cooperative in the construction of initial 164 apartments in Sarajevo is a model for transfer of Western European (social) capital to South Eastern Europe and can be replicated elsewhere. Western Housing Cooperatives can not only provide the transfer of know-how, but foremost the necessary access to capital through guarantee mechanisms and direct financing. Another model is the confirmed offer by one of the largest European commercial banks to assist with financial expertise to governments to finance refugee-related investment programmes in the housing sector, but also directly invest in the development and management of water and sanitation systems. A group of Scandinavian companies has also offered through its own regional housing initiative to provide expertise and improved building technologies to the region.”(Stability Pact 31 August 2002, pp. 14-16)

Indispensable SFOR presence (2000-2002)

- The primary mission of SFOR is to contribute to the safe and secure environment necessary for the consolidation of peace, including through the support to civilian activities
- However, with fewer forces at its disposal since 1999, SFOR has had to prioritise its efforts and select carefully where they will be applied
- SFOR is continuing to support UNHCR in its supervising tasks for the return of refugees and displaced persons
- ICG report confirmed the correlation between successful refugee returns and the degree of SFOR's engagement (2000)
- However, it has been stated that SFOR's presence on the ground is no longer everywhere needed to support return movements (May 2002)

For the mandate and the composition of the SFOR, please consult the SFOR webpage "[History of the NATO-led Stabilisation Force \(SFOR\) in Bosnia and Herzegovina](#)" [Internet]

Total troops number: Initial SFOR - 32,000 approx. Following 1999/2000 restructuring - 20,000 approx.

"SFPR's role and mandate

Under UN Security Council Resolution 1088 of 12 December 1996, SFOR was authorised to implement the military aspects of the Peace Agreement as the legal successor to IFOR. Like IFOR, SFOR operates under Chapter VII of the UN Charter (peace enforcement). SFOR has the same robust rules of engagement for the use of force, if it should be necessary to accomplish its mission and to protect itself. The primary mission of SFOR is to contribute to the safe and secure environment necessary for the consolidation of peace. Its specific tasks are:

- To deter or prevent a resumption of hostilities or new threats to peace.
- To promote a climate in which the peace process can continue to move forward.
- To provide selective support to civilian organisations within its capabilities.

Initially, SFOR's size was around 32,000 troops in Bosnia and Hercegovina - approximately half that of IFOR. Building on the general compliance with the terms of the Dayton Agreement, the smaller-sized SFOR was able to concentrate on the implementation of all the provisions of Annex 1A of the Peace Agreement, i.e.:

- Stabilisation of the current secure environment in which local and national authorities and other international organisations can work.
- Providing support to other agencies (on a selective and targeted basis, in view of the reduced size of the forces available). "

(NATO 2000)

"Civilian aspects

For lasting peace in Bosnia and Hercegovina, full implementation of the civilian aspects of the Peace Agreement is crucial. By continuing the implementation of the military aspects of the Dayton Agreement, NATO is helping to ensure a secure environment conducive to civil and political reconstruction. The civilian aspects of the Agreement are being carried out by appropriate international organisations, under the co-ordination of the High Representative. In view of the importance of the civilian aspects of the Peace Agreement, SFOR continues to provide support for civilian tasks. However, with fewer forces at its disposal, SFOR has had to prioritise its efforts and select carefully where they will be applied. To be effective, SFOR and the other organisations will continue to plan together and identify objectives to ensure that SFOR support is applied where and when it is needed.

Among the institutions and organisations implementing the civilian aspects of the Peace Agreement are the Office of the High Representative, the UN International Police Task Force, the UN High Commissioner for Refugees, the Organisation for Security and Co-operation in Europe and the International Criminal Tribunal for the former Yugoslavia. Many other inter-governmental and non-governmental organisations are also playing an important role.

Directed by the North Atlantic Council, SFOR provided a secure environment for the national elections in October 1998, municipal elections in 1997 and April 2000, and special elections in Republika Srpska in 1997. It has also provided support to the OSCE in the preparation and conduct of these elections. SFOR will also, for example, continue to support the OSCE in its role of assisting the Parties in the implementation of the Confidence-and Security-Building Agreement and the Sub-Regional Arms Control Agreement. The latter Agreement limits the holdings of heavy weapons by the Parties in order to eliminate the danger of a sub-regional arms race and to bring about an overall reduction of heavy weaponry in the area. SFOR is also continuing to support UNHCR in its supervising tasks for the return of refugees and displaced persons. Returns to the Zone of Separation were negotiated among the various organisations concerned and the Parties to the Peace Agreement. SFOR is helping to implement procedures designed to facilitate these returns, for example by ensuring that no weapons other than those of SFOR itself are brought back into the Zone of Separation. Any exceptions need specific SFOR approval. SFOR aims to prevent any conflict with regard to the return of refugees and displaced persons. However, it is the

responsibility of the Parties to restore order and normal conditions if an incident takes place. SFOR continues to work closely with the UN International Police Task Force (IPTF), like its predecessor IFOR. It is available to support the IPTF in its role of promoting local law and order, which is essential for establishing a lasting peace. SFOR worked with the authorities of BiH to ensure a secure environment for the important Balkan Stability Pact Summit held in Zetra Ice Stadium, Sarajevo, 29 to 30 July, 1999. This Summit brought together many key world leaders and all those involved or interested in helping the Balkans find the level of stability needed to rebuild and become a full partner in Europe and the world. The implementation of the Brcko Arbitration Agreement of 15 February 1997 was fully supported by SFOR, by providing a secure environment in and around Brcko and by supporting the Brcko Supervisor, the IPTF, UNHCR and other agencies involved in the implementation.

SFOR oversaw the complete de-militarisation of the Brcko District. These combined efforts led to the official of the Brcko District on 8 March 2000. SFOR has also continued to support the International Criminal Tribunal for the former Yugoslavia (ICTY). This includes the provision of security and logistic support to ICTY investigative teams, and surveillance and ground patrolling of alleged mass grave sites. The North Atlantic Council has authorised SFOR to detain and transfer to the ICTY persons indicted for war crimes, providing SFOR personnel come into contact with them while carrying out their duties." (NATO 2000)

Review by the International Crisis Group

"SFOR increasingly sees its role as maintaining both a safe and secure 'micro-climate' necessary for sustaining refugee return and a 'macro-climate' conducive to cooperation by indigenous political forces. The former is ensured by highly visible local patrols, the latter by retaining the capacity to show overwhelming force. ICG interviews with a senior SFOR officer (18 February 2002) and political advisor (23 April 2002). However, other ICG interlocutors have opined that SFOR's presence on the ground is no longer everywhere needed to encourage and sustain refugee return. In Canton 7, for example, a Return and Reconstruction Task Force (RRTF) official argued that 'it is a myth and SFOR is needed.' ICG interview, 20 February 2002." (ICG 10 May 2002, footnote 179, pp. 26-27)

"Since the war, SFOR's record on security has been uneven. Different national contingents have favoured different policies and degrees of involvement in local security matters. Not surprisingly, there appears to be a direct correlation between successful refugee returns and the degree of SFOR's engagement.

According to RRTF, OSCE, and IPTF field officers, those contingents with the best records of involvement are the British, Canadian, Czech, Danish, Finnish, German, and Norwegian contingents. Those with less good records are the French, Italian, Russian, Spanish, Ukrainian, and U.S. contingents.

It follows, therefore, that the areas where those contingents with good records are located - Dobož, Drvar, Prijedor, Modrica, Teslic - have seen some of the highest levels of spontaneous returns. In one incident, the Czechs responded to local trouble with a show of force that included tanks. The British contingent has the highest number of war criminal arrests, more than double the number of the U.S. and French contingents combined. In Novi, Dubica and Sanski Most, SFOR is very active, visiting returnees and checking on them³⁹. The German SFOR contingent is providing high visibility assistance to returnees in Kozja Luka, where they are engaged in repairing roads and a bridge, reconstructing homes, and stringing electric lines.

Where SFOR is less willing to provide security, refugees have greater difficulties. The most recent example is the unwillingness of an Italian Multinational Special Unit (MSU) to provide security to a convoy of Bosniak women returning to visit graves in Bratunac. Although the Italian MSU was assigned to protect the bus, they did not intervene when it came under attack by an organised group of stone-throwing Serbs. Among those injured in the attack were thirteen women, the bus driver, and four local Serb police, who attempted to protect the women. Not surprisingly, there have been no returns to Bratunac." (ICG 31 May 2000, sect. 2)

See also "No early exit: NATO's continuing challenge in Bosnia", a report by the International Crisis Group, 22 May 2001 [Internet]

See also Declaration of the Peace Implementation Council (Brussels, 23/24 May 2000) supporting the role of the SFOR in the return process [Internet]

See also Monthly reports to the UN Security Council on the operations of the Stabilization Force [Reliefweb]

ICRC primary focus remains the search for missing persons (2002)

- ICRC programmes also includes mine-awareness, the promotion of international humanitarian law, relief assistance, and a primary health-care programme
- The Swiss Red Cross will continue its programme of institutional support to 1,300 displaced residents of Mihatovici

"Mission statement

The International Committee of the Red Cross (ICRC), in partnership with the Red Cross Society of Bosnia-Herzegovina (RCSBiH), supports the people of the country in their efforts to recover from the emotional and physical wounds of the conflict. It acts independently, but in close cooperation with the authorities and relevant national and international organizations. It supports initiatives aimed at upholding the dignity and well-being of the most vulnerable. The ICRC works to strengthen the Red Cross within the country, to enable it both to respond to immediate needs and to assume its longer-term responsibilities in society.

ICRC presence and structure in Bosnia-Herzegovina (BiH)

The ICRC has been present in BiH since 1992. During the war it carried out a countrywide programme of protection, tracing and family reunification, medical and relief assistance, and promotion of international humanitarian law. Today, protection and the search for missing persons are still its primary focus, alongside cooperation with and support for the RCSBiH. A substantial mine-awareness programme, the promotion of international humanitarian law in the armed forces and civil society, relief assistance, and a primary health-care programme are among its other activities.

[...]

Protection

In accordance with its mandate under the Geneva Conventions, the ICRC has carried out a countrywide programme of protection, tracing, and family reunification since the beginning of the war in Bosnia-Herzegovina. Under the terms of Annex 7, Article 5 of the Dayton Agreement, the signatories are obliged to cooperate fully with the ICRC in its efforts to determine the fate of more than 20,000 persons whose families have submitted tracing requests.

[...]

Mine awareness

Mines are the most serious of the many problems that resulted from the war in Bosnia-Herzegovina. Indeed, BiH is one of the most mine-infested countries in the world. Mine clearance is extremely expensive and slow. It will be years, perhaps even decades, before mines no longer threaten people's lives. According to ICRC statistics, of the 4,697 recorded mine and unexploded ordance (UXO) victims, 84 were injured or killed in the sixth post-war year.

In view of this danger, and in line with its support to the Ottawa treaty campaign, the ICRC set up a mine-awareness programme in 1996 as an emergency plan to reduce the number of accidents from mines and UXO. [...]

Primary health care

The primary health-care programme builds on the relationship established between the UCRC and health professionals in an earlier medical and surgical-supply programme. It aims to facilitate reform within the primary health-care system by working directly with health professionals, representatives from different health sectors at municipal and community level, and the general public. Participants work together to identify, analyse, prioritize and take action on health issues according to locally identified needs.

[...]

Cooperation with Red Cross organizations in BiH

[...]

The Swiss Red Cross will continue its programme of institutional support to 1,300 displaced residents of Mihatovici into the coming year, along with an additional programme of assistance to local branches for 'small projects'." (ICRC January 2002)

More details on the [programmes of the Swiss Red Cross in Bosnia and Herzegovina \(in French\) are available on the website of the Swiss Red Cross \[Internet: http://www.redcross.ch\]](http://www.redcross.ch)

UNHCR supports the self-reliance capacity of women through the Bosnian Women's Initiative (BWI) (1996-2002)

- Most projects supported by the Bosnian Women's Initiative have focused on income-generation, training and community development
- The number of direct beneficiaries is estimated at over 60,000 women
- Plans have been made to ensure the sustainability of the Bosnian Women's Initiative after UNHCR's withdrawal

"Since 1996, the Bosnian Women's Initiative (BWI) has been a significant component of the UNHCR programme in Bosnia and Herzegovina. BWI has focused on the reintegration and empowerment of women by improving their social and economic skills. It has mainly developed small-scale projects which have been implemented by local women's associations and NGOs under the umbrella of UNHCR implementing partners. Most projects have focused on income generation and educational and vocational training, with some contributing to community development. In general terms, the BWI can be said to have improved living standards and to have strongly promoted the empowerment of women.

Since the establishment of the Bosnian Women's Initiative five years ago, over 650 projects have been implemented throughout Bosnia and Herzegovina, to the value of over 10 \$ million. Local NGOs and associations working under the umbrella agencies have implemented some 99 % of approved projects. The number of direct beneficiaries of the Bosnian Women's Initiative projects is estimated at over 60,000 women.

In 2001, all four UNHCR Regional offices (in Banja Luka, Tuzla, Mostar and Sarajevo) have signed separate sub-agreements with the umbrella agencies and their corresponding implementing agencies. These agencies developed projects with the support of the umbrella agencies who submitted the projects to a Selection Committee which UNHCR chaired. The umbrella agencies monitored implementation under UNHCR's general supervision.

With the reduction of UNHCR funding in Bosnia and Herzegovina, the question has arisen whether the BWI can continue to operate even after UNHCR withdraws. As a first step, it has been confirmed that women's associations and NGOs within the BWI project, as well as associations interested in women's advocacy in general, strongly support the idea that the BWI be maintained. Confirmation was provided during a number of events, which the umbrella agencies organised during 2000 and 2001. During the events, some associations even expressed a willingness to assume ownership of the BWI and to become involved in its management.

Against this background, UNHCR has formulated the idea of a 'new' BWI concept with major donors and key actors, and found strong support for the concept." (UNHCR November 2001)

"The Bosnian Woman's Initiative (BWI) project will receive substantially decreased support from UNHCR in 2002. The initiative will be handed over to a Steering Committee, including representatives of development-oriented organizations." (UNHCR November 2001, p. 194)

For information on planned developments, see "[The New Bosnia and Herzegovina Women's Initiative](#)" on the website of UNHCR mission in Sarajevo [Internet]

Support to return to and from Srebrenica: a UNDP led initiative (2002)

"Since the end of the war, the international community has made a major contribution to the reconstruction and rehabilitation of Bosnia and Herzegovina. However, the wider Srebrenica area, in the Republika Srpska entity, is a special case. It remains the area that is the most tragic emotionally, unreconstructed physically and devastated economically in the entire country. Local extremism and obstruction led the international community to place the Srebrenica municipality and much of eastern Republika Srpska under a funding embargo until 1999. Consequently, Srebrenica was frozen in its 1995 context with no rebuilding, no recovery, no development and no returns. In the past year, as a result of intensive work by international organizations, the security and political situation has stabilized and a promising start was made on Bosnia returns to the region and Serb returns to their homes outside the area. The continuation and acceleration of this process depends on additional international support. Following a thorough assessment of the region, the United Nations Development Programme (UNDP), in cooperation with UNMIBH, designed a comprehensive economic and social development plan – the Srebrenica Regional Recovery Programme.

On 13 May [2002], a donor conference for the Srebrenica Regional Recovery Programme was held in New York, co-chaired by my Special Representative and the Administrator of the United Nations Development Programme. The Recovery Programme focuses on two-way return, employment generation, social and community needs of the region, and effective local governance to build a sustainable future for the area. It was prepared by a UNDP team of experts, in conjunction with UNMIBH over the last few months. While falling short of targets, initial donor response was encouraging. Pledges of some \$9.9 million were made at the conference, although only \$3.6 million was pledged specifically for the Recovery Programme itself. Further contacts with potential donors are ongoing." (UNSC 5 June 2002, paras. 22-23)

More detailed information on the Srebrenica Regional Recovery Programme is available on the website of UNDP mission in Bosnia and Herzegovina [Internet: <http://www.undp.ba/>]

More donor support needed to support increasing return movements (2000-2001)

- Target for house reconstruction in 2000 meet only 20% of the assessed needs
- One approach that donors should consider is increasing the use of self-help projects

- With the "return season" resuming during spring 2001, UNHCR appeals to international donors to provide sufficient reconstruction assistance

"Reconstruction assistance: There is a severe lack of reconstruction and reintegration assistance in rural areas in particular. While some 4,700 houses will be reconstructed throughout the country during 2000, this will meet only 20 per cent of the assessed needs. [...] UNHCR estimates that over 18,000 additional house repairs are needed to provide shelter for those who have already returned this year, or are in the process of returning. [Note 4] As another winter approaches, many who have returned or are in the process of returning are living in extreme conditions, in tents, garages, and other makeshift accommodation, often without electricity, heat and, in many cases, running water. As a result, a large number of returnees are becoming increasingly disillusioned and frustrated by the fact that no reconstruction assistance has been provided, and are actively considering going back to their places of displacement. It is expected that with the coming winter, such return to displacement will be inevitable.

One approach that donors should consider is increasing the use of self-help projects, where construction material, technical support and supervision are provided, but where the returnees reconstruct their homes themselves. This approach, already applied by some donors, could reduce the actual cost per housing unit by approximately 30 per cent.

The international community has made an enormous investment, both financial and political, in making minority returns a reality for almost five years. Just at the time when these efforts are bearing fruit, and the long-awaited returns are substantially increasing, return and reintegration budgets in the context of the Dayton Agreement of many important donors are being reduced, resulting in a widening gap between the rate of return and the availability of assistance to support it. For its part, UNHCR is providing immediate, temporary assistance, such as providing tents and emergency shelter repairs, as well as domestic items to those in the process of return. But much more is needed to make returns sustainable in the longer-term. To maintain the momentum of minority returns for the remainder of this year and the coming one, immediate pledges for reconstruction assistance are urgently needed.

Note 4: Meaning that the head of household has already moved, while the family waits behind until the house is repaired." (HIWG 1 September 2000, paras. 17-19)

"With the arrival of spring, the 'return season' is about to start in Bosnia and Herzegovina. UNHCR continues to appeal to international donors to provide sufficient reconstruction assistance to match the rate of returns. Many who have returned are still staying in tents next to their destroyed houses, waiting for reconstruction assistance. UNHCR also continues to highlight the need for construction of alternative accommodation for those evicted as part of the property law implementation process." (UNHCR April 2001, p. 5)

See also:

- ICG report *Bosnia's Refugee Logjam Breaks: Is the International Community Ready?*, 31 May 2000 [Internet]
- UNHCR press release "*UNHCR alerts donors to winterization needs of returnees in Bosnia and Herzegovina*", 4 September 2001, "*2000 - Minority returns: The highest number since Dayton*", 6 February 2001 and "*UNHCR Chief of Mission in Fojnica and Kiseljak*", 26 April 2001 [Internet]
- International Management Group report on "*Reconstruction Needs in Bosnia and Herzegovina*", January 2001 [Internet]

A regional initiative: the Stability Pact for South Eastern Europe (1999-2001)

- The Stability Pact for Southeastern Europe aims to create an environment for peace, democracy, respect for human rights and economic prosperity with a view to achieving stability throughout the region
- It was endorsed on 30 July 1999 in Sarajevo by the European Union and the Balkan countries as well as other supporting governments, and international organizations
- Principles and areas of action include the return and protection of refugees and displaced persons under the leadership of UNHCR
- Stability Pact assistance projects are intended to facilitate not only return but also reintegration
- The Stability Pact brokered an agreement on regional return, the 'Agenda for Regional Action' (AREA) which was launched on 27 June 2001

Background

"The Stability Pact for Southeastern Europe aims to create an environment for peace, democracy, respect for human rights and economic prosperity with a view to achieving stability throughout the region. It was adopted in Cologne, Germany on 10 June 1999 and endorsed on 30 July 1999 in Sarajevo by the European Union and the participating countries (Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Hungary, Romania, Slovenia and the Former Yugoslav Republic of Macedonia), as well as other supporting governments, and international organizations.

The Stability Pact's objectives include the safe and free return of all refugees to their homes, and it has been working towards this goal all its working tables." (AI July 2000, p. 15)

The Stability Pact is a political declaration of commitment and a framework agreement on international co-operation to develop a shared strategy among all partners for stability and growth in South Eastern Europe. The Stability Pact is not a new international organisation nor does it have any independent financial resources and implementing structures.

Organisationally, the Stability Pact relies on the Special Co-ordinator, Bodo Hombach, and his some 30-member team.[...]

The Special Co-ordinator chairs the most important political instrument of the Stability Pact, the Regional Table. There are three Working Tables which operate under the Regional Table:

Working Table I: Democratisation and Human Rights;
 Working Table II: Economic Reconstruction and Development;
 Working Table III: Security Issues [...] (Stability Pact November 2001)

Funding

At a funding conference organized by the Stability Pact for Southeastern Europe [in Brussels] at the end of March 2000, donor countries pledged to contribute large amounts of money towards reconstruction of houses and infrastructure aimed at enabling the minority return of tens of thousands of refugees and internally displaced persons in Bosnia and Herzegovina. Yet although donor countries pledged approximately US\$239 million to refugee returns for Bosnia-Herzegovina and Croatia (of which US\$ 180 million is intended for Bosnia and Herzegovina), only approximately US\$ 60 million constitutes "new" pledges (nota bene: for both Croatia and Bosnia-Herzegovina). (AI July 2000, p. 14)

"The focus of this engagement is on identified groups of refugees and displaced persons who have chosen return as their preferred solution and the assistance foreseen is not merely intended to facilitate return but also reintegration. Furthermore, the Stability Pact assistance project will almost exclusively focus on returns to villages in rural areas; return to urban areas are seen as being dependant on implementation of property laws." (AI July 2000, p. 15)

During the regional conference held in Bucharest on 25-26 September 2001, donors announced significant new funding for refugee matters amounting to Euro 500 million, in addition to contributions from the countries themselves. (Stability Pact 26 October 2001)

"Resolving Refugee Matters: The Agenda for Regional Action (AREA)

Under the auspices of the Stability Pact, Croatia, Bosnia and Herzegovina and Yugoslavia agreed to jointly resolve the fate of the more than 1.2 million refugees and displaced persons. On 27 June 2001, a Stability Pact brokered agreement on regional return, the 'Agenda for Regional Action' (AREA) was launched. The document, a roadmap for international assistance and activities, provides for a comprehensive framework and timetable for resolving, among other issues, housing and property, citizenship, and economic reconstruction in the coming 2-3 years. Since June 2001, partners have engaged in further elaboration of national strategies and more detailed work plans". (Stability Pact November 2001)

The documents relating to the Agenda for Regional Action can be found on the website of the Special Coordinator of the Stability Pact [Internet]. See in particular:

- ***[The Agenda for Regional Action \(AREA\) 2001-2003, 20 June 2001 \[Internet\]](#)***
- ***[The Regional Return Initiative \(with annexes\), October 2001 \[Internet\]](#)***

See also the webpage for the [Brussels Regional Funding Conference, 29-30 March 2000 \[Internet\]](#)

For more information see also the website of the [Special Coordinator of the Stability Pact for South Eastern Europe \[Internet\]](#)

UN consolidated appeal for 2002: creating the context for development strategies (2001)

- Strategic goal for humanitarian agencies for the next 2-3 years will be to hand over most activities to local authorities and development actors
- Main humanitarian objectives for 2002 are the provision of relief to vulnerable groups, the support to sustainable return and reconciliation and UN preparedness measures

"Strategic goals of the international community over the next two-three years are: constitutional and political stabilisation; removal from positions of authority of those implicated in 'ethnic cleansing'; progress in the establishment of the rule of law, return process completed; equitable and structured economic growth (sufficient creation of employment opportunities pending the effects of successful privatisation); state activities funded with minimal resort to multilateral and bilateral donors. In this context, the strategic goal of the humanitarian Agencies will be to hand over most of the activities to the local authorities and development actors. Exit strategies will depend on progress made in achieving the above mentioned strategic goals, thereby creating the context for development strategies such as provided by UNDAF.

Main goals for the CAP 2002 programmes are:

- To provide relief for the most vulnerable groups, including the provision of essential support to returnee families, especially over the winter of 2001-2002 (Indicator: number of families receiving food and emergency shelter assistance).
- To enhance peace and stability through measures that foster sustainable return and reconciliation within BiH and the region, and respect for human rights and the rule of law. (Indicators: number of minority returns with children; employment for returnees; improved level of services in return areas; increase in demining activities and the reduction in number of victims; successful work of multi-ethnic police and acceptable school curricula; access to health services; implementation of non-discriminatory activities and law reform).

To ensure capacity for effective response by the UN agencies to the evolving humanitarian situation in the Balkans. (Indicator: the UN agency preparedness measures)." (UN November 2001, pp. 35-36)

Conditions to European integration include the implementation of conditions conducive to return (2000)

- Preparation for the integration into the European Union is made conditional upon a stronger engagement of Bosnia and Herzegovina for the creation of conditions for sustainable returns
- Requirements for the admission into the Council of Europe include: compliance with the European Human Rights Convention, cooperation with the ICTY, adoption and implementation of property laws, and a non-discriminatory education system

"EU Consultative Task Force: The European Union has identified a number of steps which should be taken by BiH in order to prepare for the launch of a feasibility study which would lay the groundwork towards eventual integration into the European Union. The steps identified include tasks within the political realm, economic developments and steps in the field of 'Democracy, Human Rights, and Rule of Law.' Within the latter, the EU has prioritized: implementation of property laws; stronger engagement for the creation of conditions for sustainable returns; implementation of decisions and reports of the human rights institutions; adoption and implementation of laws on judicial and prosecutorial service in both entities; and cooperation with OHR regarding implementation of public broadcasting at both the state and entity levels.

Progress towards meeting CoE Accession Requirements: In May 1999 the Council of Europe identified 13 requirements for BiH to be admitted into the Council of Europe, of which 7 accession requirements pertain to human rights (totaling 40 separate tasks). These include tasks pertaining to domestic human rights institutions, judicial reform, compliance with the European Convention on Human Rights, cooperation with the ICTY, adoption and implementation of property laws, and the establishment of a non-discriminatory education system. The HRCC has been monitoring progress on these criteria in each entity as well as at the state level, and has found that progress is very slow. Of the 40 tasks specifically related to human rights, as of today, only 10 tasks have been achieved, six of these through imposition of legislation by the High Representative. During the reporting period and after the issuance of the last HRCC report on accession of BiH to CoE, two additional tasks were fulfilled: the passage of the Law on Courts and Court Service and the Law on Public Prosecutors Office in the RS, and the imposition by the High representative, of the Law on Judicial and Prosecutorial Service. Other completed tasks include adoption of various property laws (through imposition by the High Representative), adoption of the revised Law on Citizenship, and adoption of the Law on Immigration and Asylum." (OHR HRCC 15 May 2000, paras. 101-102)

See also the [Progress Review Reports prepared by the Human Rights Coordination on the progress of Bosnia and Herzegovina towards meeting the accession requirements identified by the Council of Europe \[Internet\]](#)

Donor fatigue obliges the international community to restructure its presence in Bosnia and Herzegovina (2001)

- Donor fatigue is exacerbated by the lack of progress in civilian peace implementation while Bosnia has been eclipsed by other crises
- There is a clear downward trend in budgets of all international agencies
- The ministerial meeting of the Contact Group, the High Representative was tasked with submitting proposals to improve the coordination and efficiency (11 April 2001)

"Reshaping has been an issue facing the international community since about 1997, when it became clear to some officials in Bosnia that overlaps, 'ad hocery' and lack of coordination were dissipating the effectiveness of the international effort. In May 1999, the then head of the OSCE mission, Ambassador Barry, argued in print that '[t]he [OSCE] Mission to Bosnia and Herzegovina should be merged with the Office of the High Representative under a prominent official with the broad powers conferred by the Dayton agreement. This will provide better focus for international efforts at much reduced cost.'

Barry noted later that such a merger would take considerable time and become possible only after the High Representative's powers had withered away. Later still, he concluded that OSCE's and OHR's incompatible mandates, reporting lines and funding mechanisms made any such merger impossible. Barry's progressive abandonment of his own proposal was indicative of the lack of will or capacity - or both - by the IC to tackle a long-standing but intractable issue.

Reshaping has risen to the top of the international agenda in 2001 for several reasons. There is pronounced donor fatigue, exacerbated by international organisations' disquiet at the lack of progress in civilian implementation. Every putative success seems to lead not to an earlier exit, but to the revelation of yet more problems to be solved. At the same time, Bosnia has been serially eclipsed as a major preoccupation by events in Kosovo, Belgrade and Macedonia. Moreover, since 11 September there is a whole new international agenda. The war on terrorism and the prospect of reconstituting Afghanistan have pushed BiH even lower down the list of international concerns, notwithstanding its own vestigial terrorist threat.

The downward trend in international agencies' budgets speaks for itself. OHR –the least costly of the principal organisations –has had its budget cut from Euro 32 million in 1999 to Euro 25 million in 2001. UNMIBH's budget has been reduced from U.S.\$ 189 million in 1998-99 to U.S.\$ 140 million in 2001-02. The OSCE budget has seen a 43 per cent reduction in 2001, and a further 23 per cent cut is planned for 2002 (U.S.\$ 18 million). The budget for the first three years of the World Bank's mission in Bosnia was U.S.\$ 500 million; for the following three years it was U.S.\$ 300 million; but for the next three years it will be \$180 million. The EBRD's budget decreased from Euro 60 million in 2000 to Euro 50 million in 2001; it will decline to Euro 30 million in 2002. UNHCR's budget has shrunk from U.S.\$ 139 million in 1996 to just U.S.\$ 8 million in 2001.

As an OSCE official observed, 'there are no longer the resources for the international presence to be unfocused.' The absence of conspicuous progress to show for all the money spent to date only increases the pressure to cut budgets and programs. This trend has certainly been reinforced since 11 September. In any case, the election of the Alliance for Change coalition in the Federation in November 2000, followed by its establishment of a coalition at state level, have set the stage for a change in the way the IC operates, or at least would like to be able to operate. The IC has come out of 'war mode' and now stresses its commitment to 'partnership' with the Bosnian authorities: communicating, negotiating and bargaining rather than conspiring, commanding and imposing. The IC may have put the Alliance together, but to help make non-nationalist government a success, the IC will need both give its partners more responsibility and demand more responsibility of them - while also still reserving the right to take more robust measures if softer ones fail.

Finally, there is growing foreigner fatigue in Bosnia: the international community and the civilian peace implementation process are coming under increasingly critical scrutiny. While the Alliance seeks to work with the international community on terms of equality, also shores up its political credibility by exploiting tensions and disagreements with the foreigners. Again, this militates in favour of an overhauled IC presence and a tighter program peace implementation.

The real push for reshaping came in spring 2001. As a result of mounting concern among several Contact Group states, on 19 March 2001 the EU General Affairs Council 'encouraged High Representative Petritsch to review current international civilian implementation structures in BiH and to make proposals as to their streamlining with a view to ensuring the most effective coordination of all actors.' At the 11 April Paris

ministerial meeting of the Contact Group, the High Representative was tasked with submitting proposals to improve the 'coordination and efficiency of the international community's actions in the civilian field.'" (ICG 29 November 2001, pp. 9-10)

WFP: phase-out of emergency food aid by mid-1999

- WFP provides a final six months of food assistance for up to 200,000 socially vulnerable beneficiaries before handing responsibility for the support of this caseload over to the competent social welfare institutions in both the Federation and Republika Srpska.
- WFP also carries out a variety of small-scale income generating rehabilitation activities in an effort to help displaced and war-affected persons make the transition from dependence towards self-sufficiency

"In the expectation of a lessened need for international food aid as a result of the enhanced coping mechanisms developed by many of the long-term refugees in FRY, WFP will scale-back assistance during the latter half of 1999 to include only those identified as extremely vulnerable. In Bosnia and Herzegovina, WFP plans on providing a final six months of food assistance for up to 200,000 socially vulnerable beneficiaries before handing responsibility for the support of this caseload over to the competent social welfare institutions in both the Federation and Republika Srpska. Additional to the general distribution programme in Bosnia and Herzegovina, 3,870 MTs of food aid will be utilised to support a variety of small-scale income generating rehabilitation activities in an effort to help displaced and war-affected persons make the transition from dependence towards self-sufficiency." (UN December 1998, p. 139)

"Over the past two years, WFP has successfully used food aid in activities throughout Bosnia and Herzegovina which promote income and employment-generation in industry and agriculture, support the return of IDPs and refugees to their homes, and assist the development of psycho-social programmes for those most affected by the war. Such programmes have helped to decrease dependence upon international food aid and facilitated the phase-down of WFP's targeted distribution programme in Bosnia and Herzegovina." (UN December 1998, p. 141)

Mid-term review (July 1999)

"In accordance with the 1998 food needs assessment mission to Bosnia and Hercegovina (comprising representatives from WFP, UNHCR, USAID, ECHO and IFRC), it was recommended that there be a phase-out of emergency food aid by mid-1999. Accordingly, it was planned that the remaining caseload of beneficiaries at the end of June 1999 would be incorporated into the local social welfare system. This plan is being adhered to." (UN July 1999, p. 56)

For a comprehensive review of WFP assistance in Bosnia and Herzegovina, see [WFP assistance to internally displaced persons: Country Case Study on Internal Displacement - Displacement in Bosnia-Herzegovina, May 1999 \[Internal link\]](#)

Other responses to human rights concerns

The Office of the UN High Commissioner for Human Rights: promotion of all human rights for all displaced persons (2002-2003)

- OHCHR serves as a catalyst for the international community to incorporate international human rights protections, with a particular emphasis on non-discrimination

- The Office underlines the absolute necessity to protect and promote all human rights for all displaced persons regardless of their status
- Through a joint program with the UNDP, the Office is implementing a Rights-based Municipal Assessment Programme to comprehensively assess protection of all human rights at the municipal level

“Terms of Reference

[...]

The role of OHCHR in BiH is to bring expertise commensurate with the changing needs of the country - to serve as catalyst in respect of the promotion and protection of human rights and the rule of law, with a particular focus on those aspects not directly addressed through the mandates of others - and to ensure human rights promotion and protection becomes nationally sustainable. To achieve this, the Office utilises the following approach:

- To identify the situation on the ground in critical human rights areas of concern;
- To analyze the legislative and policy framework relating to the issue in light of relevant human rights standards;
- To work toward human rights compliance, including legislative and policy reform, and implementation.

Therefore, OHCHR serves as a catalyst for the international community to incorporate international human rights protections, with a particular emphasis on ensuring a gender analysis and non-discrimination. To ensure the sustainability in the promotion and protection of rights, the Office works with the government and the NGO community, thus moving towards the stage where human rights protection is advocated at the national level by government and civil society.

OHCHR has operated in Bosnia and Herzegovina on the basis of resolutions of the Commission on Human Rights establishing the mandate of the Special Rapporteur, and since April 2001 the Special Representative, with the consent of the Government. Under Annex 6 of the General Framework Agreement for Peace, the Parties invited the OHCHR to closely monitor the situation of human rights in BiH and committed themselves to providing full and effective facilitation, assistance and access in the conduct of OHCHR's duties.

Mandate/functions & main activities

OHCHR is reorienting its activities in South-Eastern Europe from predominantly country-specific programs towards five issues of region-wide concern, namely: trafficking/smuggling/organized crime; impunity, including missing persons; refugees/IDP and vulnerable categories of migrants; human rights education and promotion; and rights-based approaches to development. This will result in OHCHR field offices in BiH and the Federal Republic of Yugoslavia taking a common and unified approach to issues, based on expertise developed through its long-term presence in former Yugoslavia.

The regional approach will subsume the priorities on which OHCHR BiH continues to focus: (1) gender mainstreaming, (2) economic and social rights, (3) protection of minorities and vulnerable groups, and (4) human rights assessments at the municipal level, cross-cutting all priorities of the Office. Further, OHCHR services the Special Representative of the Commission on Human Rights in carrying out his mandate.” (UNHCHR 2003)

“Discrimination and Protection of Minorities

In addressing the protracted situation of refugees and internally displaced persons, OHCHR focuses on sustainable solutions that emphasise genuine choices in decisions to return or locally integrate. In so doing, the Office underlines the absolute necessity to protect and promote all human rights for all displaced persons regardless of their status.

As BiH overhauls its migration framework, OHCHR is providing expertise on human rights standards applicable to aliens within the country. This assistance targets protection of vulnerable categories of aliens, such as torture victims, the stateless, smuggled migrants, and victims of trafficking in persons, as well adherence to other treaty obligations. In addition, the Office has been working to ensure that measures to combat terrorism are compatible with human rights standards and the rule of law.

Human Rights at the Municipal Level

Through a joint program with the UN Develop Programme, the Office is implementing the Rights-based Municipal Assessment Programme (RMAP) to comprehensively assess protection of all human rights at the municipal level. Through rights-based assessments, the RMAP provides reports including analyses, baselines, and indicators specifically relevant to the municipality, against which progress can be measured and targeted programming designed and implemented.” (UNHCHR 2003)

The Rights-based Municipal Assessment Programme will also document the situation of displaced persons and returnees. 6 initial reports are planned to be released in February 2003. For more information, see “Bosnia and Herzegovina anticipates human rights survey”, UNDP, 18 July 2002 [Internet]

The Commission on Human Rights: implementation rate of decisions improving (2000-2002)

- The Commission on Human Rights was created under Annex 6 of the Dayton Agreement and consists of two parts: the Office of the Human Rights Ombudsman and the Human Rights Chamber
- The Commission considers alleged or apparent violations of the human rights set out in the European Convention on Human Rights and its Protocols and other international instruments
- Implementation of the Human Rights Chamber increased from 33% at the end of 1999 to 79% as May 2002
- Compliance in the RS remains unsatisfactory
- On 3 January 2001, the Law regulating the activities of the BiH Human Rights Ombudsman, including its relationship with Entity Ombudspersons, entered into force
- The Human Rights Ombudsman opened one office in the Brcko District on 15 December 2000

"The Commission on Human Rights is an independent institution of the State of Bosnia and Herzegovina created under Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina, and, consists of two parts: the Office of the Human Rights Ombudsman, and the Human Rights Chamber.

In a general sense, the Commission will consider alleged or apparent violations of the human rights set out in the European Convention on Human Rights and its Protocols. Furthermore, the Commission will consider any alleged discrimination in the enjoyment of rights, set out in a number of other international instruments. Aforesaid relates to the Parties to Annex 6 of the Peace Agreement (Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska) or to any officials, at whatever level, of the Parties. The Commission will give particular priority to allegations of especially severe or systematic violations, as well as those founded on alleged discrimination on prohibited grounds.

Complaints should normally be directed firstly to the Ombudsman, who will consider the complaints in accordance with her Rules of Procedure. If the conditions are met to open an investigation, the Ombudsman's priority is to settle the case in an amicable way. If this fails, she will issue her findings in the

form of a report. When the respondent Party chooses not to comply with the Ombudsman's recommendations from the report, the latter will be forwarded to the High Representative and referred to the President/Presidency for further action. Alternatively, where a relevant case law is needed, the proceedings before the Human Rights Chamber will be initiated on the basis of the report. Article 5 para 5 of Annex 6 empowers the Ombudsman also to present special reports at any time to any competent government organ or official. (Office of the HR Ombudsperson for BiH, website November 2000)

"My Office has supported the Annex 6, 7 and 8 institutions and, throughout my tenure, this has resulted in a significant increase in compliance with the decisions of these Human Rights Institutions to an implementation rate of 75% in the RS and 92% in the Federation. In particular, soliciting domestic financial and political support and aggressively addressing non-compliance has resulted in an increase in implementation of the BiH Human Rights Chamber decisions from 10% in early 1999 to the current 79%. With respect to Ombudsman cases, whilst progress continues to be made, the overall situation as regards compliance in the RS remains unsatisfactory." (OHR 14 May 2002, para. 22)

"On 3 January 2001, the Law on the Human Rights Ombudsman of Bosnia and Herzegovina entered into force following the ordering of the publication of the Law by the High Representative on 11 December 2000 (Official Gazette of BaH, No. 32/00). The Law regulates the activities of the Institution, including the relationship between the BiH Ombudsman and the Entity Ombudsman Institutions. All three Ombudsman Institutions are now governed by legislation drafted with the assistance of the Venice Commission, the European Commission for Democracy through Law." (OHR/HRCC April 2001, para. 205)

"New Brcko Office:

The Human Rights Ombudsman of Bosnia and Herzegovina opened the office in the Brcko District on 15 December 2000. The Office has been available to prospective complainants only each Wednesday, due to financial constraints. However, any person claiming that his or her human rights have been violated, may approach Ombudsman by a simple letter describing her or his problem.

To date, the Office, consisting of one lawyer and one administrative worker, has interviewed 243 complainants and received 163 complaint forms. A vast majority of the received complaints relates to improper implementation of the applicable property legislation both of the RS and the Federation. Pursuant to Chapter VI – Investigation Procedure of the Law on the Human Rights Ombudsman, the Ombudsman may conduct an investigation into each case, offering his good offices and mediation in resolving the individuals' problems.

In fulfilling the tasks and goals entrusted to him by the Law, the Ombudsman's staff in the Brcko office established links with the respective District authorities and international community present in Brcko District." (OHR April 2001, paras. 207- 209)

Chamber decisions and reports are available on the Internet at <http://www.gwdg.de/~ujvr/hrch/hrch.htm>.

More information about the work of the Ombudsperson is available at <http://www.ohro.ba/index.htm>.

See also "Courting Disaster: The Misrule of Law in Bosnia and Herzegovina", a report by the International Crisis Group, 25 March 2002 [Internet]

Entity Ombudsmen institutions (1994-2001)

- Ombudsmen of the Federation were established under the Federation Constitution of 1994

- The Ombudsmen of Republika Srpska were established through legislation adopted in February 2000
- The Ombudsmen in both Entities function as multiethnic institutions
- 2001 annual report of the Federation Ombudsmen review the return process
- RS Ombudsmen have received cases relating to property repossession

Federation

"The Ombudsmen of the Federation of BiH, established under the Federation Constitution of 1994, are entrusted with the defense of human rights and freedoms within the Federation. They work, more specifically, for the removal of the effects of violations of these rights and freedoms, and particularly to remove the effects of ethnic cleansing. They are required to report regularly on the status of their efforts. These reports represent the most detailed picture available of human rights problems and progress within the Federation." (OHR May 2000)

More information may be found at: www.bihfedomb.org/ "

"On 29 July 2000 the Federation Parliament adopted the Organic Law on the Federation Ombudsmen. This law will regulate the appointment, powers and responsibilities of the Ombudsmen in accordance with the Federation Constitution. The law, which was drafted with the assistance of the Venice Commission of the Council of Europe, conforms to European and international standards and its adoption fulfils one of the criteria for membership of Bosnia and Herzegovina in the Council of Europe. Twelve months after the law has entered into force, the Federation Parliament will for the first time be entitled to appoint the three permanent Ombudsmen to serve four-year terms. The current Ombudsmen have been appointed by the OSCE." (OHR HRCC 31 August 2000, para. 86)

In March 2001, the Federation Ombudsmen adopted their Report on Human Rights Situation in the Federation of Bosnia and Herzegovina for 2000. In this valuable document the Federation Ombudsmen outline the human rights situation in the Federation, and provide an overview of problems in the functioning of the government structure in the Federation, judicial authorities, return of refugees, social rights, protection of the right of the child, endangerment of media freedoms.

[...]

The second part of the Report is dedicated to a detailed review of the return process set out in Annex VII of the General Framework Peace Agreement for Peace in Bosnia and Herzegovina and the situation of social rights protection in the Federation." (OHR HRCC 18 October 2001, paras. 186-189)

Republika Srpska

"The Ombudsmen of Republika Srpska were established through legislation of the National Assembly of the Republika Srpska, adopted in February 2000. Their task is to receive claims regarding maladministration and violations of human rights. The Ombudsmen were appointed in late April 2000, and anticipate being able to receive claimants in the fall of 2000." (OHR May 2000)

"On 30 November 2000, the RS Ombudsmen officially opened their headquarters in Banja Luka, and four field offices in the municipalities of Prijedor, Doboj, Bijeljina, and Foca/Srbinje. During the reporting period (1 April - 30 June 2001), the RS Ombudsmen obtained further equipment and training of the staff of the Offices.

In the period from November 2000, when they initially started to receive individual cases, to 30 June 2001, the Ombudsman of the RS received 1492 cases, of which 4980 have been completed.

Out of the total number of cases, 504 are related to socially owned property repossession, 635 private property repossession, 35 to labour relations, 96 to courts, 222 other matters. The Ombudsman had 2763

oral contacts during which the applicants were given local advice and 798 telephone contacts with the applicants." (OHR HRCC 18 October 2001, paras. 191-193)

Funding level for the Human Rights Chamber, the Ombudsperson and the Commission for Real Property Claims remains inadequate (1999-2002)

- State budget is insufficient to cover the expenses of human rights institutions
- The year 2000 budget provides for KM 400,000 per institution, which remains below KM 600,000, deemed to be 'adequate funding'
- Disbursements for the year 2000 have not been paid, due in part to a failure on the part of the Federation to pay its full contribution to the State

"Although funding of the [human rights] institutions is primarily responsibility of the Parties so far the OHR has, in large part, assumed responsibility for attracting external donors and pressurizing the State into financially supporting the institutions. To date, the State budget is insufficient to cover such expenses. Sustainability of the institutions must be ensured through adequate State funding." (OHR HRCC 17 April 2002, p. 26)

"The Council of Ministers of BiH proposed in October 1999 (for the first time) that the funding levels for the Institutions in Annex 6 and 7 be raised from the current KM 200,000 to the level of KM 600,000. The year 2000 budget provides for KM 400,000 per institution, which remains below KM 600,000, deemed to be 'adequate funding'. Note that the latter sum is less than each Institution pays for local salaries at BiH salary levels.

By 3 March 2000, the State government had completed outstanding payments towards the total funding committed for 1999 to the Human Rights Chamber, the CRPC, and the Ombudsperson. The total amounts are still below KM 600,000 per institution, but do at least fulfill the amount of KM 200,000 per institution, which the state itself budgeted for 1999. As of 26 May, the institutions did not receive any payment for 2000, yet. ® Disbursements for the year 2000 have not been paid, due in part to a failure on the part of the Federation to pay its full contribution to the State." (OHR HRCC 28 July 2000, sect. 3)

Protection against ethnic discrimination: the "Constituent People Case" (BiH Constitutional Court, 1 July 2000)

- The Court ruled that no ethnic group, constituent on the territory of BiH, shall be excluded from exercising its rights in the Entities
- Entity Constitutions have been amended to ensure that Bosnia and Herzegovina's people and citizens are represented at all levels of government and public administration in both Entities (2002)

"The State-level Constitutional Court declared during the year that a number of provisions of the entity constitutions were unconstitutional; they had been challenged in a lawsuit filed by President Alija Izetbegovic in 1998. The court ruled unconstitutional provisions in both entity constitutions that designated a specific ethnic group of groups as 'constituent' in that entity, making clear that the three major ethnic groups -- Serbs, Croats, and Bosniaks -- as well as 'others', are constituent in both entities. The decision also invalidated parts of the entity constitutions that named an official language or script, or that called for government support for one church, among other provisions. The decisions established the principle of ethnic equality in the country; however, this decision of the court has not yet been implemented in practice." (U.S. DOS February 2001, Introduction)

"Constituent Peoples Case": On 11 January 2001, the High Representative issued a Decision restructuring the Constitutional Commissions in the Federation and the RS Parliaments. These Commissions were established to propose amendments of the RS and Federation Constitutions, to ensure implementation of the ruling of the BiH Constitutional Court, regarding the 'Constituent Peoples Case'. The Court ruled that no ethnic group, constituent on the territory of BiH, shall be excluded from exercising its rights in the Entities. Until the RS and Federation Constitutions are amended, the Commission is obliged to provide protection for the vital interests of Constituent Peoples and Others, ensuring that citizenship rights and rights protected under the European Convention on Human Rights are not infringed. Such rights are to be ensured protection via review of laws, decisions and government regulations that must be received by the Commissions 10 days prior to debate in the respective Entity Parliaments. The Commissions fully respect the principle of parity, with four members from each Constituent People and Others. If less than 3 members agree after review, the High Representative is responsible for the final decision." (OHR/HRCC April 2001, para. 143)

"In partnership with Bosnia and Herzegovina's political leadership and the governments of the two Entities, the High Representative, Wolfgang Petritsch, has today completed the long process of constitutional change in BiH's Entities by issuing three Decisions. By closing a small number of gaps in the constitutional amendments, the High Representative has ensured that these amendments are fully in line with the Mrakovica-Sarajevo Agreement on the Implementation of the Constituent Peoples' Decisions of the BiH Constitutional Court, which was reached by BiH's political leaders on 27 March 2002. Through these Decisions, the High Representative has also ensured that resistance by nationalist opposition parties in the Federation does not prevent the amendments from taking effects. The High Representative has also amended the BiH Election Law, placing it in accord with the new Entity Constitution.

The new Entity Constitutions, fully incorporating the Mrakovica-Sarajevo Agreement, ensure that Bosnia and Herzegovina's people and citizens are represented at all levels of government and public administration in both Entities, and provide them with far-reaching rights in the decision-making process." (OHR 19 April 2002)

See the full text of the decision on the website of the [Constitutional Court](#) [Internet]

International initiatives relating to the situation of the Roma communities (2001)

- The protection of Roma has been prioritised by the Stability Pact in the year 2001
- A Round Table organised by the OSCE and the Council of Europe recommended that Entity Constitutional Commissions review the constitutional status of Roma (March 2001)

"The South-East Europe Stability Pact has suggested, that in the year 2001, which has been declared the International Year of the Roma, both governmental and non-governmental organisations in the Region focus their efforts upon the plight of the Roma. Under the Stability Pact, within the Task Force on Human Rights and Minorities, protection of the rights of Roma has been prioritised.

The Roma Coordination Group (RCG), a sub-group of the Coordination Group on Social and Economic Rights, met in March 2001. Prior to the next meeting, mechanisms to restructure the RCG will be considered, such as the creation of sub-committees to address specific issues (such as education, employment and housing) and the possible transformation of the RCG into a National Advisory Board with representation from the relevant Ministries (as recommended at the 28-29 March Roundtable, *see below*).

Implementation of Framework Convention for the Protection of National Minorities: On 28-29 March, the OSCE and the Council of Europe organised a roundtable on the status of Roma and the implementation of the Framework Convention for the Protection of National Minorities. The event was part of the joint

Council of Europe-OSCE/ODIHR 'Roma under the Stability Pact' Project. The roundtable aimed to raise awareness of the situation of Roma in BiH and provide a forum for Roma NGOs to voice their concerns. Participants included representatives of the State Ministries for Human Rights and Refugees and European Integration, the RS Ministry for Refugees and Displaced Persons, the FBiH Ministry for Education, Science, Culture and Sport, Romani organisations, the State and FBiH Ombudsmen, International Organisations and local NGOs. Romani participants presented a number of recommendations, which will be distributed to the relevant Ministries and International Organisations for consideration and action. Participants recommended that the current constitutional status of Roma be included in the discussions of the FBiH and RS Constitutional Commissions. They also supported the establishment of a National Advisory Board for Roma Issues with representation from the relevant State/Entity Ministries, Romani communities, local NGOs and International Organisations. The OSCE will follow up the recommendations at the next meeting of the Roma Coordination Group and through scheduled meetings with the aforementioned State and Entity ministries.

The European Roma Rights Centre reports upon the widespread discrimination against, and violent attacks upon, Roma throughout Europe, maintaining that Roma continue to be the most disadvantaged minority group in Europe. In BiH, Roma constitute a large minority group, and yet are often overlooked in all spheres of public life. In particular, Roma are discriminated against in the fields of employment and housing. Furthermore, the absence of 'national minority status' for the Roma and often lack of awareness that the Roma constitute an ethnic minority group adds to the difficulties and prejudices encountered. See the European Roma Rights Centre (ERRC) web page – <http://www.errc.org>" (OHR/HRCC April 2001, paras. 145-148)

Monitoring of the judicial system: Comprehensive mandate given to the Independent Judicial Commission (December 2000)

- The Independent Judicial Commission (IJC) was established by the High Representative, following the end of the UN Judicial System Assessment Programme (December 2000)
- The IJC is the lead international agency for judicial reform and promotion of the rule of law, in particular through the reviewing candidates for judicial and prosecutorial posts

"On 1 December 2000, the High Representative established the Independent Judicial Commission (IJC) to provide a consolidated, comprehensive and assertive approach to the identification and implementation of reforms to the justice sector. This was essential in the wake of the end of the UNMIBH/JSAP mandate. While the IJC together with OHR judicial reform staff is functional, full deployment including all field offices is expected for early April.

The IJC received a new and comprehensive mandate with the Decision of the High Representative of March 14. This Decision further defined the responsibilities of the IJC, granted it authorities needed to carry out its expanded mandate and rendered it fully functional and formally institutionalised within the legal framework of BiH.

Under its new mandate, the IJC has become the lead international agency for judicial reform and promotion of the rule of law throughout BiH, and will co-ordinate, consolidate and accelerate reform activities. The Plans and Policy Department within the IJC is currently conducting a comprehensive assessment of all judicial reform activities undertaken by international organisations in preparation of formulating and implementing a comprehensive strategy.

The IJC is also guiding and monitoring the work of the Entity and Cantonal commissions and councils of prosecutors and judges. These commissions and councils have the important tasks of:

- Reviewing candidates for judicial and prosecutorial posts and recommending the most qualified candidates to the appointing authorities;

- Disciplining judges and prosecutors who commit ethical violations;
- Conducting a comprehensive review of judges and prosecutors in order to determine their suitability and fitness to hold office." (OHR 12 March 2001, paras. 46-49)

See full text of the [Decision of the High Representative "providing the Independent Judicial Commission with a comprehensive mandate"](#), 14 March 2001 [Internet]

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Reference to the Guiding Principles in the national legislation

None

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None

Availability of the Guiding Principle in local languages

The Guiding Principles have been translated into Serbo-Croat with the support of the ECRE focus group on South Eastern Europe and UNHCR.
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Date: 2000

Documents:

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| <ul style="list-style-type: none"> • GP in Serbo-Croat [Internet] |
|--|

Training on the Guiding Principles

None

ABBREVIATIONS AND ACRONYMS

ABD	Area-Based Development
ACF	Action Contre la Faim
ARDPBH	Association of Refugees and Displaced Persons of the Republic of Bosnia-Herzegovina
ASP	Associated Schools Project
BH	Bosnia and Herzegovina
BiH	Bosnia and Herzegovina
BWI	Bosnian Women's Initiative
CC	Collective Centres
CIDA	Canadian International Development Agency
CoE	Council of Europe
CRP	Cantonal Return Plan
CRPC	Commission for Real Property Claims of Displaced Persons and Refugees
DANIDA	Danish International Development Agency
DP	Displaced Person
DPA	Dayton Peace Agreement
DPKO	Department of Peace-keeping Operation
DRC	Danish Refugee Council
EASC	Election Appeals Sub-Commision
ECHO	European Community Humanitarian Office
ECMM	European Community Monitoring Mission
EU	European Union
FAO	Food and Agriculture Organization
FBH	Federation of Bosnia and Herzegovina
FMSA	Federation Ministry for Social Welfare, Displaced Persons and Refugees
FYROM	Former Yugoslav Republic of Yugoslavia
GARP	Government Assisted Repatriation Programme
GFAP	General Framework Agreement for Peace in Bosnia and Herzegovina
GTZ	German Technical Cooperation (Deutsche Gesellschaft für Teschnische Zusammenarbeit)
HDZ	Croatian Democratic Union
HIV/AIDS	Human Immuno-deficiency Virus (HIV/AIDS)
HRCC	Human Rights Coordination Centre
HRO	Human Rights Officer
HVO	Croatian Defence Council
ICMP	International Commission on Missing Persons
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
ICVA	International Council of Voluntary Agencies
IDP	Internally Displaced Person
IEBL	Inter-Entity Boundary Line
IFOR	Implementation Force
IHRLG	International Human Rights Law Group
IMG	International Management Group
IO	International Organisation
IOM	International Organization for Migration
IPTF	International Police Task Force

JNA	Yugoslav National Army
JSAP	Judicial System Assessment Programme
KCD BiH	Coalition for a Whole and Democratic Bosnia
KM	Convertible Marka
MAC	Mine Action Centre
MFR	Ministry for Refugees and Displaced Persons of the Republika Srpska
MRO	Municipal Return Office
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
NHDR	National Human Development Report
NORAD	Norwegian Agency for International Development
NHI	Novi Hrvatska Inicijativa
OCHA	Office for the Coordination of Humanitarian Agencies
ODPR	Office for Displaced Persons and Refugees
OSCE	Organisation for Cooperation and Security in Europe
OHCHR	Office of the High Commissioner for Human Rights
OHR	Office of the High Representative
OMI	Municipal Office of the Ministry for Refugees and Displaced Persons
PEC	Provisional Election Commission
PHC	Primary Health Care
PIC	Peace Implementation Council
PLIP	Property Law Implementation Programme
PMG	Property Media Group
RADS	Return Application Database System
RIC	Repatriation Information Centre
RIR	Repatriation Information Reports
RS	Republika Srpska
RRTF	Reconstruction and Return Task Force
SDA	Party for Democratic Action
SFOR	Stabilization Force
SFRY	Socialist Federal Republic of Yugoslavia
SIDA	Swedish International Development
SMEs	Small and Medium Enterprises
SMSG	Special Rapporteur of the Secretary-General
SSKIP	Serb Party for Krajina and Posavina
SNS	Serb National Union (Srpski narodni savez)
SRS	Serb Radical Party (Srpska radikalna stranka)
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Fund
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNMIBH	United Nations Mission in Bosnia and Herzegovina
UNPROFOR	United Nations Protection Force
UNV	United Nations Volunteers
USAID	United States Agency for International Development
UXO	Unexploded Ordnance
VRC	Bosnian Serb Army
WFP	World Food Programme

WHO	World Health Organisation
ZOS	Zone of Separation

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