



PROFILE OF INTERNAL DISPLACEMENT : BOSNIA AND HERZEGOVINA

Compilation of the information available in the Global IDP
Database of the Norwegian Refugee Council

(as of 24 March, 2005)

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PROFILE SUMMARY

Bosnia and Herzegovina: state-building key to overcome ethnic division and solve displacement issue

Nine years after the signing of the Dayton Peace Agreement, there are still some 310,000 people internally displaced in Bosnia and Herzegovina. One million internally displaced people (IDPs) and refugees have returned to their homes since the end of the conflict in 1995, representing half of those displaced during the war. But state institutions are still divided along ethnic lines and the political debate is dominated by ethnic issues. This perpetuates an environment of widespread discrimination in virtually all areas of public life, which in turn constitutes a serious obstacle to return. As a result, the access of IDPs to employment, education, social and economic rights and justice in return areas remains affected by their ethnicity. On the other hand, considerable progress has been made during the past years, albeit under heavy pressure from the international community. The property restitution process has been almost completed, and the education reform has reduced the level of discrimination in schools. The State Ministry for Human Rights and Refugees is now fully responsible for the implementation of Annex VII, the Dayton provisions for the right of return and the coordination of reconstruction assistance. The remaining displaced persons are among the most vulnerable in the country and their return requires particular support and assistance. Having supported the return process since 1995, donors are increasingly directing funds to other priorities. The continued involvement of the international community is still required to ensure the sustainability of returns in Bosnia and Herzegovina. At the same time, it is now up to the national authorities to take their fate in their own hands and lead the country in the interests of all its citizens. This requires the strengthening of state-level institutions, going beyond the interests of the ethnically-based entities, and the establishment of a genuinely self-sustainable state.

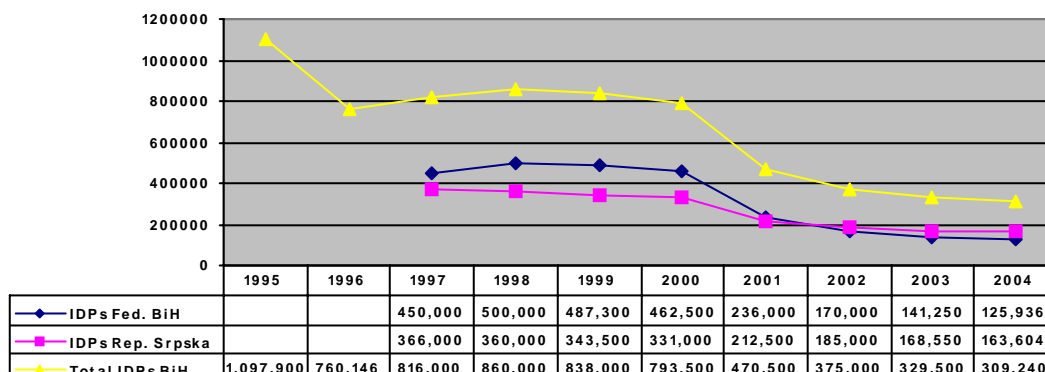
Background and main causes of displacement

Large-scale displacement in Bosnia and Herzegovina (*Bosna i Hercegovina*, BiH) resulted from the conflict that erupted in 1992, following the collapse of the Socialist Federal Republic of Yugoslavia. Refusing to live with other ethnic groups in an independent Bosnia and Herzegovina, Serb forces (paramilitary units, militia and police) supported by formations of the mainly Serb Yugoslav Army, conducted an integrated campaign of ethnic cleansing across the country. The objective was to create 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, systematic rape, 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 (Bosniacs) also attempted to create homogenous ethnic areas through the forced displacement of civilians.

By the end of the conflict in 1995, more than two million people had been uprooted (UNHCR, 6 February 2003). Approximately half of them fled abroad, while the other half became internally displaced (OHCHR, 16 June 2003, para.21). Additional displacement of over 60,000 people occurred between 1996 and 1999 following the transfer of territories between the two entities that now make up Bosnia and Herzegovina, the Republika Srpska (RS) and the Federation (OHCHR, 17 March 1998).

The Dayton Peace Agreement, signed in December 1995, enshrined the right of the displaced persons to return to their homes of origin (Annex VII). 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 called for the creation of a mechanism to ensure the enforcement of the property rights of the displaced, namely the Commission for Real Property Claims.

IDPs in BiH 1995-2004



Source: UNHCR statistics

The number of displaced decreased significantly the first year following the war, reflecting mainly the large-scale return of IDPs to areas where their ethnic group constituted the majority. As conditions were not conducive for so-called minority returns, i.e. the return of IDPs to areas where they would live as a minority, the decrease of the displaced population slowed down during the following years. The improvement of the security situation and the acceleration of property repossession process from 2000 on led to a short but dramatic increase in the pace of returns, before the return rate levelled off again in 2003 and 2004, mainly due to the fact that the remaining cases are the most difficult to solve and many IDPs may not want to return any longer. At the end of 2004, an estimated 309,000 people remained internally displaced in Bosnia and Herzegovina: approximately 163,000 IDPs in Republika Srpska, 126,000 in the Federation, and 20,000 in the Brcko District (UNHCR, December 2004; HRW, January 2004, p.2).

Return decreases amidst nationalist obstruction of reforms

In 2004, the number of returnees (IDPs and refugees) reached the landmark of one million, or half of those displaced during the war. As of December 2004, the return figure stands at approximately 1,005,000, including 565,000 internally displaced persons. Half of those who returned have done so in areas where they are in a minority. These minority returns have been among the most difficult challenges faced by the international community in its efforts to reverse the ethnic partition of the country. In that light, the overall minority return figure can be considered an achievement even though the decrease in return movement continued in 2004. Out of a total of 20,390 returns in 2004, some 12,000 IDPs were able to go back to areas where they did not belong to a dominant ethnic group, compared to 30,000 in 2003. (UNHCR, 31 December 2004, UNHCR November 2003). It is, however, important to note that return in 2004 took place to areas of RS worst hit by the conflict such as Srebrenica, Bratunac and Zvornik. The decrease of the return rate suggests that most of those who wanted to return have done so (UNHCR, 21 September 2004; HRW, 1 January 2004, p.2). After long years of displacement many have integrated locally but are still registered as IDPs. A new registration exercise to be completed early in 2005 should give a better estimate of the number of IDPs still in need of durable solutions.

Those still wishing to return are among the most vulnerable (the elderly, female heads of household, traumatised individuals) for whom the decision is much more difficult to make in view of the current obstacles to sustainable return. Funds for durable solutions such as reconstruction or income-generating activities are essential for these vulnerable individuals. However, the availability of such funds is falling every year, threatening to undermine the return movement and its sustainability (UNHCR, COP, 2005, p.3).

The country's overall positive record on return can largely be attributed to the determination of the international community to overcome political obstruction from nationalist forces. The High Representative frequently had to impose legislation or remove officials to ensure implementation of the Dayton agreement. However, almost ten years after the signing of the peace agreement, the international community is in the process of preparing its exit strategy. This process needs to be accompanied by the strengthening state institutions and the transfer of certain powers to the federal level. The Dayton peace agreement assigned state-like powers to the two ethnically-based entities. But this arrangement, seen as expedient at the time, is now proving to be an obstacle to further reconciliation and the building of a state developing and implementing policies that benefit all citizens regardless of their ethnicity. The current concentration of competences at the entity level also directly affects the displacement situation, as it leads to an ethnic bias in key policies areas such as defence, education and police, which constitutes a serious obstacle to minority returns. (Solioz, 2003, Ducasse-Rogier, 2004, USDOS, 28 February 2005, Section 2. d). Several reforms reinforcing state competencies and undertaken as part of the European accession process have started to address these obstacles in the areas of justice, defence and education. However, this process had to be driven by the international community amidst strong internal opposition. Bosnia and Herzegovina is at a turning point, and it is essential that its politicians finally take ownership of the reforms. This is the only way to "close the regional and internal displacement chapter in the region" as promised in February 2005 by the authorities of Bosnia and Herzegovina, Croatia, and Serbia-Montenegro.

Overall security improves but precarious living conditions hinder return

The living conditions for IDPs and minority returnees are generally precarious. National authorities have identified displaced persons as one of the groups most vulnerable to poverty. According to a Poverty Reduction Strategy paper drafted by Bosnian authorities and adopted in February 2004, displaced persons constitute around 45 per cent of the extremely poor in the Federation, while in the RS the proportion is 21 per cent (PRSP, 30 May 2003, Sect. 2B, UNHCR, October 2004, p.6). Vulnerable segments of the IDP population include those whose property has not been rebuilt and who are unable to access reconstruction assistance. Many IDPs have had to vacate properties they temporarily occupied in order to allow for the return of the original owners of the property without having a solution of their own (UNHCR, July 2003, para.23). In the absence of a functioning social housing system, many of these people end up in critical situations.

The displaced population, particularly female-headed households and Roma as well as minority returnees, have faced particular difficulties in asserting their social and economic rights during the post-war years (UNHCR, December 2004, p.279). Another category at risk are refugees who were sent back by their asylum countries but have been unable to return to their place of origin. They are de facto displaced persons but do not have the corresponding status and are therefore denied access to the rights and entitlements of IDPs (UNHCR, January 2005, p.10)

Though the necessary legal framework is in place, enforcement of the respective laws and agreements remains limited (OHR, 13 October 2003, para.50). The IDP population in particular lacks information regarding their rights and how to exercise them (UNHCR June 2003). The existence of separate welfare systems in each entity has created immense difficulties for returnees who run the risk of losing their entitlements or receiving lower benefits upon return to an entity different from the place of displacement. Lack of inter-entity cooperation on pension and health insurance systems, for example, remains a problem that hinders return (Federation Ombudsman, March 2003, OHCHR, 22 September 2004, p.5).

For many displaced persons and minority returnees, limited access to employment opportunities is a factor in the decision not to return to their pre-war community (OHR, 13 October 2003, para.51). In 2004, the unemployment rate stood at 50 per cent (UNHCR, January 2005, p.10). Limited employment opportunities are compounded by widespread discrimination based on ethnicity, political affiliation, national origin and gender.

Physical security has steadily improved over the years and is satisfactory in most return locations. In 2004, 135 return-related incidents were reported; 56 in the RS, 73 in the Federation and six in Brcko. However displaced persons continue to mention security as an issue and serious incidents continue to occur against minority returnees and their property in various areas of the country. There are concerns that the local police and the judiciary are often slow to investigate and punish such incidents. Even though the situation improved in 2004, efforts are still required, in particular in RS, to reinforce the multi-ethnicity of police forces in order to develop trust between potential returnees and law-enforcement officials. The failure of the authorities, especially in the RS, to arrest and prosecute war criminals affects the sense of security of potential returnees. The lack of effective witness protection for those intending to testify before court and the presence of war criminals freely moving around and sometimes working for local administrations constitutes a clear deterrent to return, particularly for witnesses of war crimes and traumatised individuals (UNHCR, Country operation plan, January 2005, p.3; USDOS, 28 February 2005, HRW, 1 January 2004). It was only after intense pressure by the High Representative that the RS transferred its first war criminal to The Hague in January 2005. On the positive side, an important step towards reconciliation was made with the publication of a report on the Srebrenica massacre, in which the RS authorities acknowledged their responsibility and apologised to the victims' families (USDOS, 28 February 2005).

Land mines pose a significant barrier to the safe return of displaced persons and refugees, as well as to the development of economic activity and reconstruction of the country. The majority of current returns are taking place to rural areas where agriculture and cattle-breeding are essential means of subsistence (MHRR, December 2004, p.68). In 2004, 41 mine accidents took place, 18 affecting returnees (UNHCR, January 2005, p.6). The authorities in Bosnia and Herzegovina have identified 18,600 minefields, only 60 per cent of the actual number of mined areas (Landmine monitor report, 18 November 2004). The Ministry of Civil Affairs is responsible for the implementation of the BiH mine action plan which intends to prioritise de-mining in return areas. However, funds allocated to de-mining are clearly insufficient for the scope of the problem and international financial support is strongly needed (UNHCR, January 2005, p.6).

Property and education: two key reforms to encourage return

The repossession of properties occupied during and since the war has been instrumental in unlocking the return process. Property repossession has been a success story underlining the determination of the international community to overcome nationalist obstruction. Amendments to property legislation were imposed by the High Representative on several occasions on both entities in the country. The High Representative has also made use of his power to remove local officials obstructing the implementation of the property legislation. A more systematic monitoring of the implementation of property laws by local authorities was launched in 1999 when all relevant international organisations agreed to coordinate their efforts by setting up the Property Law Implementation Plan (PLIP). Property repossession gave a strong signal to those occupying property that accommodation rights acquired during the war were void and would be reversed, while opening new perspective of return for the displaced. As of the end of 2004 the repossession process was almost completed. More than 99 per cent of first instance decisions have been issued (OHR, 13 April 2004) and 120 of 129 municipalities have now finished property restitution in their jurisdiction. However, some problems have been reported in the implementation of sensitive cases such as military apartments. There are also concerns with the cases that the Commission for Real Property Claims could not solve before it was closed at the end of 2003.

For years the situation in the education sector has represented a serious obstacle to return. Schools have had classes where children are separated based on their ethnicity. Separate curricula with strong nationalist contents were taught in different places of the country. As a result, many families would split, with one parent returning and the children staying in the place of displacement to be able to follow the curriculum corresponding to their ethnicity. Or else children would return with their parents and travel long distances by bus to attend school for the same purpose. Since 2002, serious efforts have been made to address discrimination at school and develop an egalitarian education system, with curricula designed at state level away from the "ethnic" influence of the entities. An "Interim agreement on accommodation of specific needs and rights of returnee children" was signed in March 2002 between Entity Ministers of Education,

and an education reform was launched the same year. In 2004, these initiatives increased the number of returnee children attending school in their place of return thanks to teaching of national subjects, recruitment of minority teachers and establishment of a common core curriculum.

However many challenges remain. Even though authorities stopped financing bussing of children to other entities by the end of the 2003-2004 school year, some parents have organised transportation themselves. Education is still organised along ethnic lines and there are still 52 “two schools under one roof” where children are segregated according to ethnicity (CoE, 4 February 2005, par.81). The implementation of a framework state-law on primary and secondary education was faced with such strong opposition in certain (mainly Croat) Cantons, that the High Representative had to impose the necessary amendments in July 2004 (OHR, 8 July 2004). Bosnian Croat representatives then challenged the amendments before the Constitutional Court alleging a violation of their “vital interests”. In November 2004, the Court ruled that the amendments were not violating any vital interests and the amendments finally entered into force (OSCE, 17 February 2005, p.5).

National Response

The primary responsibility for implementing the Peace Agreement lies with the authorities of Bosnia and Herzegovina. Under Annex VII of Dayton, the two entities and national and local authorities are responsible for upholding the right of displaced people to return and repossess their pre-war homes, as well as ensuring suitable conditions for return. However, the international community has had to intervene repeatedly over the years to overcome local obstruction to return. Since January 2004 Bosnia and Herzegovina took over full responsibility from the international community for implementing Annex VII. A “Strategy of Bosnia and Herzegovina for implementation of Annex VII” was adopted by the Peace Implementation Council and BiH Council of Minister early in 2003. According to the Office of the High Representative, the authorities are successfully implementing the strategy (OHR, 18 November 2004, par.16). A return fund has been established at state level where entities and the state contribute in order to finance return projects in municipalities selected by the BiH State Commission for Refugees (SCR). The “Strategy” has reinforced the competencies of the state on return-related issues. In order to determine priority areas, the state Ministry for Human Rights and Refugees has launched a public call to refugees and displaced persons to apply for support for reconstruction and return. As of November 2004, over 23,000 families had registered, which indicates interest in return and a significant need for reconstruction assistance. In 2004, the authorities provided around €18 million to rebuild 2,000 housing units in 42 municipalities. Thirty will be financed as joint projects (Bosnia and Herzegovina funds) and 12 through SUTRA projects (*see below*). With regard to the requirement to create sustainable conditions for return, the Ministry for Human Rights and Refugees authorities acknowledge their difficulty in harmonising social welfare entitlements due to the resistance of the two entities (MHRR, December 2004, pp. 9, 20, 41).

International response: from humanitarian assistance to development

Since 1995, the international community has maintained 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 made UNHCR the lead agency for the return of refugees and displaced persons. A strong coordination effort through an inter-agency framework, the PLIP, allowed achieving considerable success in the property restitution process. The overall coordination of return and reconstruction was ensured, until 2003, through the Reconstruction and Return Task Force, which comprised humanitarian and human rights agencies, development actors such as UNDP and the World Bank, and key donors.

Nine years after the signing of the peace agreement, the focus of the international community has clearly moved from a humanitarian to a development agenda. This process is supported by the SUTRA Framework, a UNDP/EU initiative aim at handing responsibility for all aspects of return to the local authorities (UNDP, January 2003).

The steady decrease in the involvement of the international community and in the provision of international funds since 2002 has resulted in the reduction of programmes that specifically provide support to IDPs

wishing to exercise their right to return. There is concern that the international community in Bosnia and Herzegovina may be prematurely wrapping up the return process precisely at a point when reconstruction and reintegration assistance is most needed (IHF, 6-7 October 2003, p.64; UNHCR, 1 September 2003, p.1; HRW, 1 January 2004, p.4). As donor funds decline, it is likely that the available resources will not be sufficient (PRSP, 30 May 2003, Section 5.4.3). International organisations have stressed the necessity of donor funding for the reconstruction of housing, infrastructure, schools and health facilities to meet the needs of vulnerable displaced individuals (AI, 1 October 2003, Reuters 17 December 2003). The continued involvement of the international community is crucial to ensure the sustainability of returns in the country.

(Updated March 2005)

CAUSES AND BACKGROUND

Causes of displacement

Displacement during the armed conflict (1992-1995)

- The most ethnically mixed country of former Yugoslavia was the worse affected by the break up of the Former Republic of Yugoslavia
- Most of current displaced and refugee population forced to leave in early months of the war (1992) by the Bosnian Serb forces
- In 1993, a new round of ethnic cleansing starts in Central Bosnia when Bosnian Croats turn against the Bosniaks (Muslims)
- At the end of the war 1.300 000 million persons were internally displaced by the conflict
- The pattern of systematic human rights abuses and displacement of minority population gave rise to a new concept: "ethnic cleansing"

"The violent break-up of the Socialist Federal Republic of Yugoslavia, which began in June 1991 when Slovenia and Croatia both declared independence, resulted in the largest refugee crisis in Europe since the Second World War. [...] In 1992, the war spread to neighbouring Bosnia and Herzegovina, with even more devastating consequences. Bosnia and Herzegovina was the most ethnically mixed of all the republics of the former Yugoslavia. According to a 1991 Yugoslav population census, the three main groups in Bosnia and Herzegovina were Muslims (44 per cent) Serbs (31 per cent) and Croats (17 per cent). When Bosnia and Herzegovina declared its independence in March 1992, the government of Serbia, led by President Slobodan Milosevic, vowed to fight on behalf of the Serb minority population there.

Within days, Serbian paramilitary forces moved into the eastern part of the republic and began killing or expelling Muslim and Croat residents. At about the same time, Serb forces from the Yugoslav army took to the hills surrounding the Bosnian capital Sarajevo and began attacking it with artillery. By the end of April 1992, 95 per cent of the Muslim and Croat populations in the major towns and cities of eastern Bosnia had been forced from their homes and Sarajevo was under daily bombardment. By mid-June, Serb forces controlled two-thirds of Bosnia and Herzegovina and approximately one million people had fled their homes.

In the early stages of the war, Muslims and Croats in Bosnia and Herzegovina fought together against the Bosnian Serbs, but in early 1993, fighting broke out between Bosnian Croats and Bosnian Muslims. Another round of 'ethnic cleansing' began, this time in central Bosnia. Bosnian Croat forces, backed by Croatia, attempted to create an ethnically pure swathe of territory adjoining Croatia. Although tensions between them continued, fighting between Bosnian Croat forces and the mainly Muslim Bosnian government forces came to an end in March 1994, with the signing of the Washington Agreement and the creation of a Muslim–Croat Federation.

By the time the war ended in December 1995, over half the 4.4 million people of Bosnia and Herzegovina were displaced. An estimated 1.3 million were internally displaced and some 500,000 were refugees in neighbouring countries. In addition, around 700,000 had become refugees in Western Europe, of whom some 345,000 were in the Federal Republic of Germany." (UNHCR, 2001, p.218-219)

"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.

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)

"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.

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 hemorrhage 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)

Ethnic cleansing confronts humanitarian assistance to serious dilemma

- Further to the request of the UN Secretary General, UNHCR accepts for the first time to assist IDPs in the midst of war.
- The absence of any strong political intervention of the international community to stop the conflict reduces humanitarian assistance to a "fig leaf" creating several dilemmas
- The "safe areas" which became open detention centres instead of safe haven illustrates the dramatic failure of the international community to act in a decisive way
- UN military forces were not given the adequate mandate nor logistic to make the "safe areas" secure
- In the absence of efficient demilitarization, the "safe areas" harboured national military forces which made them target of war
- Bosnian Serbs forces overran Srebrenica and Zepa in 1995 killing and displacing thousands of civilian IDPs. NATO reacted with a two week air campaign

These massive population movements and the extensive media coverage of the horrors of the war prompted one of the largest international relief operations ever mounted. In October 1991, in the midst of the population displacement taking place in Croatia, the Yugoslav authorities requested UNHCR's assistance. Then, in November, UN Secretary-General Javier Pérez de Cuéllar formally requested High Commissioner Sadako Ogata to consider lending her 'good offices' to bring relief to needy internally displaced people affected by the conflict and to coordinate humanitarian action in the region.[...] Following an investigative mission to the region, UNHCR accepted the role and officially took the lead in coordinating the

humanitarian assistance of the UN system in the region in November 1991.[...]UNHCR set up relief operations in all the republics of the former Yugoslavia, but the organization faced its greatest challenges in Bosnia and Herzegovina. For the first time in its history, UNHCR coordinated—in the midst of an ongoing war—a large-scale relief operation to assist not only refugees and internally displaced people, but also hundreds of thousands of other war-affected civilians.[...]

Unable to agree on how to end the conflict, the international community focused much of its energy on supporting the humanitarian relief operation led by UNHCR. Governments offered large amounts of funding for the relief operation, but were able to find a consensus on little else. The humanitarian operation increasingly became a ‘fig leaf’ and the only visible response of the international community to the war. [...]

Another difficult choice which UNHCR had to make was whether or not to assist in evacuating vulnerable civilians. Initially, UNHCR resisted evacuating civilians, but as it became apparent that the alternative for many was detention camps where they were often beaten, raped, tortured or killed, the organization began evacuating civilians whose lives were under threat. Such evacuations, however, led to an outpouring of criticism that UNHCR was facilitating ‘ethnic cleansing’.

In November 1992, High Commissioner Ogata described the predicament as follows: “In the context of a conflict which has as its very objective the displacement of people, we find ourselves confronted with a major dilemma. To what extent do we persuade people to remain where they are, when that could well jeopardize their lives and liberties? On the other hand, if we help them to move, do we not become an accomplice to ‘ethnic cleansing’?”.

The UNHCR Special Envoy for the former Yugoslavia, José-Maria Mendiluce, was even more blunt: ‘We denounce ethnic cleansing’, he said, ‘but with thousands of women and children at risk who want desperately to be evacuated, it is my responsibility to help them, to save their lives. I cannot enter any philosophical or theoretical debate now . . .’

As ‘ethnic cleansing’ continued to produce waves of refugees and internally displaced people, the international community looked for new ways of protecting civilians to avoid the outflows. At the beginning of 1993, a critical situation developed in eastern

Bosnia, which had largely been emptied of non-Serbs, except for three small pockets of territory around Srebrenica, Zepa and Gorazde. These enclaves were crowded with Muslims, many of whom had fled there from the surrounding countryside. They were defended by poorly armed Bosnian government soldiers and surrounded by Bosnian Serb forces.[...] *In April 1993* “after Bosnian Serb shelling had killed 56 people during a UNHCR-organized evacuation from Srebrenica, the Security Council adopted Resolution 819, declaring the enclave to be a UN-protected ‘safe area’ and, amongst other things, calling on UNPROFOR to increase its presence there. Three weeks later, the Security Council adopted Resolution 824, also declaring Sarajevo, Tuzla, Zepa, Gorazde and Bihac to be safe areas.

The safe areas were established without the consent of the parties to the conflict and without the provision of any credible military deterrent. Although the UN Secretary-General had warned that an additional 34,000 troops would be required ‘to obtain deterrence through strength’, governments were not willing to provide this number of troops and the Security Council therefore adopted an alternative ‘light option’ in which only 7,500 peacekeepers were to be deployed for this task. UNPROFOR troops were permitted to use force only in self-defence, and not in defence of the civilians they had been sent to protect. This was eventually to prove entirely inadequate. As UN Secretary-General Kofi Annan later acknowledged, the areas designated by the UN Security Council as safe areas were in fact ‘neither protected areas nor safe havens in the sense of international humanitarian law, nor safe areas in any militarily meaningful sense’.[...]

Since the safe areas contained not only civilians but also Bosnian government troops, the Bosnian Serb forces considered them to be legitimate targets in the war. They often shelled them and subjected them to sniper fire. On many occasions, attacks carried out by Bosnian Serb forces were in response to attacks

made out of the safe areas by Bosnian government troops. The Bosnian Serb authorities denied the people living in the safe areas freedom of movement through Serb-controlled territory, and frequently prevented humanitarian organizations such as UNHCR from reaching them. The safe areas became crowded—predominantly Muslim—ghettos. While they provided some refuge for vulnerable civilians, they also became areas of confinement where civilians were trapped: in essence, open detention centres. Meanwhile, as the international community focused on the safe areas, little attention was given to the plight of any remaining non-Serbs living in Serb-held territory. As a result these people became even more vulnerable to ‘ethnic cleansing’.[...]

On 11 July 1995, the Bosnian Serb army overran Srebrenica, taking hundreds of Dutch peacekeepers hostage and forcing some 40,000 people to flee. Meanwhile some 7,000 people, virtually all of them men or boys and virtually all Muslims, were killed by Bosnian Serb forces in the largest massacre in Europe since the Second World War. [...] Days after the fall of Srebrenica, Serb forces overran Zepa, another so-called safe area. (UNHCR, 2001, pp. 219-225)

"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]*

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)

Background

The Dayton Agreement consolidates the cease-fire, September-December 1995

- In 1995, a new wave of ethnic cleansing, massacre and changes on the military ground led to a peace treaty: the Dayton peace agreement
- 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).

In early 1995, there was a new wave of 'ethnic cleansing' by the Bosnian Serbs in western Bosnia, particularly in the Banja Luka area, which the UNHCR spokesman at the time labelled the Bosnian 'heart of darkness'. In May, the United Nations' credibility in Bosnia and Herzegovina was further tarnished

when hundreds of UNPROFOR soldiers were taken hostage by the Bosnian Serbs following airstrikes carried out by NATO at UNPROFOR's request. Some of the hostages were chained by the Bosnian Serbs to potential air-strike targets as 'human shields', and television images of them were broadcast across the world. Then in mid-1995 a number of events dramatically changed the dynamics of the war. In July, the Bosnian Serb army overran the safe areas of Srebrenica and Zepa. In early August, the Croatian army launched 'Operation Storm', a massive military offensive involving more than 100,000 troops, in which it overran all Serb-controlled areas in the western and southern Krajina region of Croatia. As a result, some 200,000 Serb civilians fled, the majority of them going to the Federal Republic of Yugoslavia, while smaller numbers remained in Serb-controlled parts of Bosnia and Herzegovina. Then, on 28 August 1995, Bosnian Serb forces fired a shell into a busy market place in Sarajevo, killing 37 people and injuring dozens more.

NATO responded by launching a two-week intensive air campaign against Bosnian Serb targets. Bolstered by the air strikes, Croatian and Bosnian government forces mounted a joint offensive in Bosnia and Herzegovina to recapture Serb-held territory, taking back a third of the territory held by Bosnian Serb forces. Aware that they were losing territory by the day, Bosnian Serb officials accepted a ceasefire and agreed to attend peace talks in Dayton, Ohio. The Dayton Peace Agreement which resulted from these talks was signed in Paris on 14 December 1995 by the presidents of the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia. (UNHCR, 2001, pp.228-229)

"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 for Peace](#)" (Office of the High Representative Website) [Internet].

Nationalist obstruction lead successive High Representatives to make strong interventions on the political scene, 1999-2002

- Nationalistic forces dominated the political scene until the General Elections of November 2000 requiring frequent use by the High Representative of the "Bonn powers" to protect the implementation of the Dayton peace agreement
- The victory of moderate parties in the 2000 elections raised hopes that Bosnian authorities were ready to assume stronger ownership in political affairs

- Relations with neighbouring countries have normalized
- Threats against Dayton continue with the establishment of an agreement between Republika Srpska and the Former Republic of Yugoslavia (FRY), and attempts by Bosnian Croats to create a third entity.
- October 2002 general elections show mixed results
- The votes of returnees and potential returnees, voting in absentia, have begun to affect politics locally

In 1997 the Peace Implementation Council (PIC) meeting for its annual meeting in Bonn, requested the High Representative to take decisive action in order to overcome obstruction to the implementation of Dayton. According to these new “Bonn powers”, the High Representative could impose compelling decisions and remove from public office officials violating legal commitments and Dayton (even in the case of elected officials).

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 11 epce. 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)

Beyond Dayton: Reinforce state-level institutions to go beyond the ethnically based entities created by the agreement, 2002-2004

- Dayton agreement reached its main goal which was to put an end to the conflict
- The Constitution included in the agreement reflected the weak consensus over a BiH state and the strength of the partisans of ethnic division
- Dayton created a state with weak competencies and gave wide powers to two entities divided along ethnic lines
- Strong opposition to Dayton and the reform process lead the High Representative to increase its involvement in several areas of political and civil life
- The international community is now trying to reinforce state competencies to counter-balance the nationalist influence of the entities and prepare its exit strategy

Many people inside and outside Bosnia believe that the 1995 Dayton peace agreement has outlived its usefulness. There is, however, no consensus on what to put in its place, or on whether fundamental changes in Bosnia would have a negative impact on the rest of the Balkans (see "RFE/RL Balkan Report," 5 September and 19 December 2003, and 16 April and 8 October 2004).

The Dayton agreement unquestionably served its immediate purpose of ending the fighting in Bosnia-Herzegovina and preventing a resumption of hostilities. In the past few years, however, a debate has ensued both in Bosnia and abroad over the allegedly dysfunctional nature of the constitutional system set down in the treaty.

It provided for a loose central authority over two separate "entities," the Muslim-Croat Federation and the Republika Srpska. The federation is further divided into 10 cantons, which are more or less ethnically based. In addition to the two entities there is the internationally run district of Brcko, which was the one part of Bosnia that proved impossible for all concerned to agree on at the Dayton conference or even later.

Throughout Bosnia, political power at most all levels is carefully divided according to ethnic criteria. This nationally oriented approach is reinforced by the fact that most elected officials, at least since the 2002 general elections, come primarily, if not exclusively, from the three main nationalist parties. They are the Muslim Party of Democratic Action (SDA), which was long linked to the name of the late President Alija Izetbegovic; the Serbian Democratic Party (SDS), which was formerly headed by wartime leader and indicted war criminal Radovan Karadzic; and the Croatian Democratic Community (HDZ), which was an offshoot of the Croatian party of the same name, particularly until the death of President Franjo Tudjman in late 1999. (RFE/RL, 17 October 2004)

[T]he problematic "divided" nature of the Bosnian state does not refer to the mere existence of two entities, but to the ethno-territorial principle which is at the basis of that division. By "ethno-territorialism" is meant

the establishment of a link between a given community (or “ethnic group”) and a specific territory. That linkage, which is unprecedented in Bosnia and Herzegovina’s history, is the direct translation into political terms of the results of ethnic cleansing carried out during the conflict. But ethno-territorialism is also enshrined in the Dayton agreement and derives in particular from two aspects of the Constitution: the perpetuation of the name “Republika Srpska” for one of the entities and the political representation system adopted for the Presidency and the House of Peoples of Bosnia and Herzegovina. (...) Moreover, that principle also implicitly innervates other provisions, such as those granting state-like prerogatives to the entities. (Helsinki Monitor, December 2004)

On top of this complex structure is the international community's unelected high representative, who has the right to legislate and remove elected officials at will without any right of appeal. (RFE/RL, 17 October /04)

The Office of the High Representative has the paradoxical task to enforce Dayton through the use of extended coercive powers while at the same time trying to promote ownership of reforms with Bosnian authorities and people. The new role of the High Representative as EU special Representative provides him with a critical role in the strengthening process of the state required by the EU for future accession.

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 domestic responsibility. This concept calls on the officials and citizens of Bosnia and Herzegovina to take responsibility for the peace process and the problems that their country faces.

In February 2002, the European Union’s General Affairs Council (GAC) appointed the High Representative the EU’s Special Representative in BiH. The High Representative maintains an overview of the whole range of activities in the field of the Rule of Law, including the EUPM, the IPTF follow on mission. In this context, the High Representative provides advice to the EU Secretary General/High Representative and the Commission itself. (OHR, General information, December 2004)

“Preparation of a future Stabilisation and Association Agreement (SAA) with the EU remains a political priority for BiH and the prospect of further European integration continues to be the strongest incentive to accelerate reforms in the country, However, the consensus on further European integration does not always translate into political action.” (CoE, 4 February 2005, par.13)

“[The] 2004 Stabilisation and Association Report for BiH, issued by the European Commission on the 30 March 2004, concludes that the “Government at State level remains under-developed, while tensions between State and Entities still affect government business and reform. Reforms such as that of the public administration and of the defence sector have the potential, if fully implemented, to move BiH towards self-sustainability.” (CoE, 18 June 2004, Par.13)

“ The consolidation of the State-level institutions and implementation capacity cannot be totally dissociated from a reflection on the evolution of the present constitutional system. However, as mentioned in previous reports, there is still no consensus on the content of such a reform. There is only one agreed basic principle: it should be the result of the decision of all citizens and parties of BiH and not be imposed by the international community. The CoE, in particular its Venice Commission, stands ready to provide advice and assistance whenever there is an agreement on the revision of the present constitutional arrangements. In this respect, it is worth recalling that, following the PACE’s request in Resolution 1384(2004)m, the Venice Commission is preparing an Opinion on three related issues: (a) the efficiency and rationality of the constitutional arrangements in BiH; (b) the compatibility of the BiH Constitution with the ECHR and the

European Charter of Local Self-Government and (c) the compatibility of the powers of the High Representatives with CoE standards, mainly the ECHR.” (CoE, 4 February, par.16)

The paradoxical role of the High Representative

The ambiguity enshrined in the Dayton agreement, coupled with the complex institutional structure described above, fed an ever-growing dependency towards international organizations. [...]. However, the dependency syndrome that subsequently materialized was probably not foreseen at the time of the Dayton negotiations and resulted more from the subsequent inability of local actors to implement the reforms that would ensure Bosnia’s stability and prosperity. [...] This local obstructionism compelled international actors to become always more involved in Bosnia in order to compensate for the national authorities’ inaction. This in turn would lead to sustained dependency as local leaders became used to resting on the shoulders of international staff, while they would themselves spend most of their time criticizing the international community or reviving nationalism. (Marianne Ducasse-Rogier, Helsinki Monitor, December 2004)

“The problem in Bosnia and Herzegovina is the simultaneous intervention of the international community and the affirmation of a new state. It is, in effect, not one of the slightest paradoxes in the transition process in Bosnia and Herzegovina that outside intervention, which has as its declared objective the establishment of an autonomous state, is also simultaneously the origin of reforms, with the negative consequence of limiting or marginalizing the sovereignty of the state and the responsibility of the politicians of the designated state. [...]. [T]he future of this country lies in its capacity to adapt the transition and democratization processes (in some respects, both of which are already well on their way), the central aims being the restoration of the state and the reinforcement of its institutions. [...]

While [the High Representative] must check that the entities act in the interests of the country and that they fulfil their obligations and commitments, he must at the same time, progressively strengthen the state-controlled institutions in order to counter centrifugal forces, to reinforce the official recognition of the state and most importantly, to carry out his primary duty to establish a viable state.”(Christophe.Soloz, HM, January 2003)

2004 municipal elections: first post-war poll to be entirely organized by Bosnian authorities (2004)

- The first elections fully organized by the Bosnian authorities were administered in line with international standards and without major incidents
- These municipal elections represent a progress in the domestic control of democracy
- Ethnicity remained the main underlying issue in the election campaign
- Nationalist parties won the majorities of the positions with the notable exception of Banja Luka and Trebinje
- These elections have been characterized by a very low turn out of 45.5 %
- The pre-election campaigns showed several examples of religious and political officials using violent speeches against member of other ethnicities

"The municipal elections in Bosnia and Herzegovina on 2 October were administered in line with international standards, taking into account the country’s unique, post-war political system. This was the conclusion of the International Election Observation Mission, which published its preliminary findings today, based on the work of some 200 international observers.

The mission was deployed by the OSCE Office for Democratic Institutions and Human Rights, (OSCE/ODIHR) and joined by representatives from the Council of Europe's Congress of Local and Regional Authorities of Europe.

"The successful conduct of these elections was a noteworthy achievement, which marks further progress towards democracy and the rule of law under domestic control," said Peter Eicher, Head of the OSCE/ODIHR mission. "However, these remain essentially transitional elections, since the ultimate authority over elections in Bosnia and Herzegovina still lies with the international community."

"Election day was peaceful and well ordered," said Stanislav Bernat, Head of the Congress delegation, adding: "Two particularly positive steps were the direct election of mayors for the first time in most places and the first democratic local election in the Brcko district, bringing democracy closer to voters." The overall campaign was calm. Voter turnout, however, was disappointingly low.

The IEOM regretted ethnicity remained the main underlying issue in the election campaign, although it noted the increased efforts of some political parties to appeal to voters of more than one ethnicity. While some parties made genuine attempts to address local issues, overall there was little meaningful debate on such issues and the campaign was dominated by national concerns such as unemployment and pensions.

Shortcomings included an unduly complicated electoral system. The failure by authorities to ensure timely funding for the elections caused problems for the election administration. The failure of public officials to fulfill their responsibilities under the General Framework Agreement for Peace led to a need for continuing international involvement in the elections, including in ways that were sometimes irregular, or even undemocratic, in terms of international election standards". (CoE/OSCE, 3 October 2004)

"Only in one municipality (Zvornik), were irregularities so flagrant as to compel the Election Commission to order a rerun of the polling. But it is a healthy development that the problems were discovered and addressed by the domestic authorities." (OSCE, 11 November 2004)

"Bosnia-Herzegovina held local elections for the mayors and town councils in 142 municipalities on 2 October. This was the first ballot since the 1992-95 conflict to be funded and organized by Bosnians themselves, and also the first in which mayors were directly elected.

Initial reports suggest that of the 122 municipalities where tallies are largely complete, 99 will likely be controlled by one or another of the three ruling nationalist parties, which were also the parties in power during the 1992-95 conflict: the Muslim Party of Democratic Action (SDA), the Serbian Democratic Party (SDS), or the Croatian Democratic Community (HDZ).

The only opposition gains were made by moderate former Bosnian Serb Prime Minister Milorad Dodik's Alliance of Independent Social Democrats (SNSD), which won in about 20 municipalities, including Banja Luka and the former SDS stronghold of Trebinje in eastern Herzegovina.

Many commentators attributed the nationalists' successes to the low 45.5 percent turnout, which is at least partly the result of voter apathy, particularly among younger voters in urban areas.

Complete results are expected in about one month because of the large number of absentee ballots yet to be counted. The international community's high representative for Bosnia-Herzegovina, Paddy Ashdown, said that "what is important now is that politicians put campaigning behind them, return to work, and concentrate on the necessary reforms...in order to give this country a future in Europe and NATO."

It is nonetheless worth noting that the continuing political domination by the nationalists is precisely what has been holding Bosnia back from Euro-Atlantic integration, particularly the reluctance of SDS officials in the Republika Srpska to cooperate with the Hague-based war crimes tribunal and bring indictees to justice (see "RFE/RL Newslines," 23 September 2004, and "RFE/RL Balkan Report," 28 May 2004). (Patrick Moore, RFE/RL, 6 October 2004)

"When it comes to the pre-election campaign, it needs to be said that representatives of political parties mostly used similar rhetoric. The topics were most frequently far from those that concern local communities.

The biggest blow to the fairness of the campaign was the pre-election gathering of the Serb Radical Party held in Bijeljina on September 3, during which the deputy party president, which is seated in Serbia, Tomislav Nikolic, held a speech imbued with hatred and intolerance while expressing unhidden territorial aspirations toward Bosnia and Herzegovina. Nikolic denied existence of the state of Bosnia and Herzegovina and conveyed that his followers will not rest until Serbia is established from Negotin to Banja Luka. At the gathering a song «Spremite se, spremite, cetnici» (Prepare yourself, prepare, chetniks) was sung which glorifies the chetnik units that collaborated with nazi-fascists during the Second World War. The Election Commission by a decision penalized the organizers of the gathering with 10,000 KM (about 5,000 euros).

The basic characteristics of the pre-election campaign constituted a high level of involvement of religions leaders who mostly implicitly directed electorate toward three national parties – the SDS, SDA and HDZ. The leader in this sphere were from the Islamic religious community reis Ceric and his deputy effendi Spahic. At the opening of a mosque in village of Miricina, near Gracanica, on September 6, naibu reis Ismet effendi Spahic said «...that he shall not stand beside the one who is ashamed to say that he is a Muslim» [...]

Reis Ceric at the opening of one of three religious facilities inaugurated in the region of Zenica on September 4 said: «In Bosnia this summer some fifty mosques were opened mostly where they slaughtered us and opened concentration camps. I recommend mosque destroyers not to do that ever again. Each time we make better, bigger and more beautiful mosques.»

In Dobrun, near Višegrad, on August 29, a monument to Serb leader Karadorde from the 18th century was uncovered, and also opened was a museum of the first Serb uprising making the two hundred years of this event related to the neighboring Serbia. The Serb patriarch Pavle conducted the religious ceremony. The event was in the spirit of a strong presence of SDS representatives (whose founder and longstanding president was Radovan Karadžic) and who used it in their pre-election purposes.

In early September, the cardinal and Bosnian archbishop Vinko Puljic repeatedly talked about ha conspiracy against the Catholics in Bosnia and Herzegovina, openly asking assistance from the Vatican and the Republic of Croatia. Puljic called for a gathering of all Croat officials, intellectuals and representatives of parties with the Croat sign. He advocated an establishment of Forum of Croats which should ensure equality of Croats who «on a daily basis face inequality in comparison with other two constituent peoples.»

The council for appeals and complaints passed a decision and the Election Commission approved the decision revoking the candidacy of Ljubiša Kragulj, candidate of eight political parties for Banja Luka mayor. This was done due to a violation of provisions of chapter 7 of the Election Law because in a program on TV Simic in the pre-election campaign, he used language that can incite others to violence or hatred. Kragulj, namely, in his statement, called on violence against Nezavisne Novine and RTRS. Along with the revoked candidacy, the SDS was fined with 10.000 KM. (Helsinki Committee, 3 January 2005

High representative's plan to strengthen BiH's security institutions and address RS's lack of cooperation with the ICTY creates a political crisis in the RS (2004)

- NATO's refusal to admit BiH in the Alliance's Partnership for Peace because of RS's lack of cooperation with the ICTY triggers strong reaction from the High Representative
- The High Representative removes 9 RS officials believed to have supported war criminals
- RS Prime Minister is instructed to study the documentation produced by the Sreberenica commission to identify and sanction those involved in the events
- Entity Ministry of Defense (MoD) must transfer its competence to the State MoD
- HR decision provokes a serie of resignation in the RS and a debate on Dayton's institutions

“The High Representative today announced the start of a process designed to address the systemic weaknesses in BiH’s law enforcement and security institutions. This follows last week’s announcement by NATO foreign ministers that for the second time running BiH has failed to make progress in its efforts to join the Alliance’s Partnership for Peace as a result of the continued failure of Republika Srpska’s authorities to comply fully with the ICTY.

“We are here today because yet again NATO has given this country a “No” to [Partnership for Peace] PFP membership because of its continued lack of co-operation with The Hague,” said the High Representative. The recent press reports of the RS Army continuing to employ Ratko Mladic until 2002, and VRS soldiers harbouring him in Han Pijesak in June-July 2004 were “shocking examples of the RS’s institutional complicity in the evasion of justice of ICTY fugitives.” He explained that today’s measures will remove individuals involved with helping war criminals and their networks, and begin to address the systemic weaknesses of the RS’s security institutions. This process will run into the spring of next year.

The measures include:

- The removal of 9 officials believed to have helped war criminals and their networks.
- The blocking of bank accounts of individuals for the same reasons.
- An instruction to RS Prime Minister Dragan Mikerevic to set up a group under the supervision of the EU Police Mission to study documentation produced by the Srebrenica Commission and identify those officials whose names appear in connection to the events of July 1995. The work of this commission should be complete by the end of February 2005 when a decision will be taken on further action, including if needed criminal prosecutions and suspensions.
- A request to BiH Defence Minister Radovanovic to investigate the assistance given by some in the RS Army to fugitives at large and to suggest concrete measures to prevent this happening again.
- An acceleration of Defence Reform. Functions currently carried out by the Entity Ministry of Defence’s (MoD) must be transferred to the State MoD, and the Entity MoD’s closed down. This process should be complete by the autumn of next year.
- The creation of a single system of policing as recommended by the Police Restructuring Commission, in accordance with the EC criteria laid out in its Feasibility Study. These reforms should also be adopted early next year.
- An amendment of the RS Law on Auditing to the payment provisions in the RS Law on Auditing and Public Sector of Republika Srpska to ensure that it will be possible to fund special audits of key companies in coming months and years. Six companies have already been identified. These are RS Telekom, RS Post, Elektroprivreda RS, RS Railways, Oil Refinery Brod, RS Post and Srpske Sume.
- An amendment to the BiH and Entity Criminal Codes to require all family members except the spouses, parents and children of the accused to co-operate with police investigations and to give evidence in war crimes trials.

If BiH fails to qualify for a third time for PFP then the High Representative said that he will not hesitate to take further measures that deal “directly and powerfully” with the assets and institutions of the RS. “I can tell you now, no options are currently ruled out if it comes to this,” said the High Representative. (OHR, 16 December 2004)

[Further to the High Representative’s decision, a] cascade of resignations followed in the second half of December 2004 by Bosnian Serb political leaders and members of the PDP, including the RS Prime Minister and the BiH Minister of Foreign Affairs; Mr Pero Bukejlovic was nominated RS-Premier designate on 8 January 2005 and given 40 days to form a government. (CoE, 4 February 2005, par.5)

These measures by the High Representative were the subject of very strong reactions by the highest officials in the Republic of Serbia (President, Prime Minister and Parliament Speaker) who warned against the risk to jeopardise the political stability in BiH and in the entire region. However, during his official visit to Belgrade in early January 2005, the High Representative received assurances from the Prime Minister of Serbia that he would actively and energetically support Banja Luka in the process of cooperating with The Hague and meet its international obligations. Serbian President Boris Tadic and the High Representative

agreed that the issue of co-operation with The Hague was holding up the European future of countries throughout the region and that in this sense intensive and concrete co-operation was needed. They also agreed that it was unacceptable to change the Dayton Agreement and the constitutional arrangements of BiH without the consensus of all three constituent peoples/nationalities. (CoE, 4 February 2005 par.43)

New regional context more favourable to durable solutions (2000-2003)

- Changes of leadership in the Federal Republic of Yugoslavia and Croatia create conditions for more constructive bilateral relations
- On 27 June 2001, Croatia, the Federal Republic of Yugoslavia and Bosnia and Herzegovina endorsed a 'regional action' programme to accelerate refugee returns
- On 29 June 2001, the Agreement on Succession Issues of the Former Socialist Federal Republic of Yugoslavia (SFRY) was signed in Vienna
- BiH and Serbia and Montenegro signed a bilateral agreement on refugee return (October 2003)
- An agreement on dual citizenship between BiH and Serbia and Montenegro was ratified in October 2003 by both countries and has now entered into force
- In January 2003, Croatia ratified the provisionally applied agreement on the determination of border crossings of 6 April 2001

"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)

Refugee Return Agreement between Serbia & Montenegro and Bosnia and Herzegovina (6 October 2003)

"OSCE would like to welcome the signing of a bilateral agreement between BiH and Serbia and Montenegro on refugee return. This agreement is a sign that the two neighbouring countries are ready to

invest joint efforts into finding a regional solution to the refugee problems. It is very important that the countries in the region exchange information on refugees in order to provide the full respect of their right to property and return.” (OSCE 6 October 2003)

BiH and Croatia: Border Crossing Agreement in Force and Citizenship Agreement Drafted

“A significant step was reached between BiH and Croatia when Croatia managed, in January 2003, to ratify the provisionally applied Agreement on determination of border crossings of 6 April 2001. This is the first bilateral agreement to enter into force in this field. The newly constituted BiH Presidency and President Mesic have agreed to do their utmost to complete pending procedures and negotiations regarding border issues and dual citizenship, and in early February, they initiated the draft Agreement on the local border zone regime and the three annexes to the Co-location Treaty of 17 June 2002. These documents are now waiting to be signed by both Foreign Ministers.” (OHR 13 October 2003, para.41)

BiH and FRY: Dual Citizenship Agreement in Force and Initialisation of Draft Border Agreements

“Two developments in the relationship between BiH and the then-FRY deserve a special mention. First, an Agreement on dual citizenship was signed on 29 October 2002 in Belgrade by the BiH Minister for Civil Affairs and Communications and the Yugoslav Minister of the Interior. This Agreement has been ratified in 2003 by both countries and has now entered into force in both countries. Second, both heads of delegations to the commissions dealing with border issues initiated in December the draft Agreements on the local border zone regime and on a simplified regime to be applied in a zone in the Eastern part of BiH enmeshed with the territory of Serbia and Montenegro.” (OHR 13 October 2003, para.42)

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

Ministers of refugee and DPs in Bosnia, Croatia and Serbia-Montenegro commit themselves to close the displacement chapter in their region by end of 2006 (2005)

- Ministers dealing with refugees and IDPs in Bosnia, Croatia and Serbia-Montenegro commit to solve the remaining population displacement in the region by the end of 2006 through return or local integration (2005)
- This commitment is one of the requirement included in the accession process to the EU
- Each country will design a country plan of action
- A task force will meet four times a year to unite individual actions plans in a joint implementation matrix
- EC, OSCE and UNHCR commends the process as an important step in the right direction

“We, the ministers responsible for refugees and internally displaced persons in Bosnia and Herzegovina, Croatia, and Serbia and Montenegro, met today in Sarajevo to identify our individual and joint activities that should be undertaken in the forthcoming period with the assistance of the international community in order to ensure a just and durable solution to refugee and IDP situation in our countries;

Considering that a just solution to this important issue must primarily be in the interest of safety, dignity and well-being of individuals and peoples, and should also contribute to peace and stability in Southeastern Europe, as well as to the efforts our countries are making to join the EU;

We have agreed as follows:

1. Pursuant to our country programmes, we are committed to solving the remaining population displacement by the end of 2006, to facilitating returns or local integration of refugees and internally displaced persons in our countries, depending on their individual decisions, without any discrimination, and

providing assistance and support to refugees and internally displaced persons in cooperation with UNHCR, the EU and OSCE;

2. Access to all rights and entitlements, including the right to accommodation, shall be ensured in a fair and transparent manner, while all social, legal, procedural or any other requirement for the implementation of the above-said shall be met in the spirit of the present Declaration.

3. Without prejudice to the precedence of the right to return, refugees who have chosen not to return will be assisted by their new host countries to locally integrate in accordance with their national legislation.

4. UNHCR, as well as the EU and OSCE are invited to assist our governments in the return process and local integration and to raise financial and other support and assistance from the international community;

5. Upon return or local integration, all refugees shall enjoy the same rights and shall have the same responsibilities as all other citizens, without any discrimination;

6. The above mentioned principles and goals shall serve as a basis for the development of individual action plans (“Road Map”) in our countries, including a comprehensive list of all the tasks that must be undertaken and each country shall bear the individual responsibility for the implementation. Those individual plans of activities shall be unified in a joint implementation matrix;

7. Each country shall prepare its own action plan within the next three months. During the same timeframe UNHCR is invited to assist in creating the necessary databases.

8. We commit ourselves to appointing the representatives of the responsible ministries and other relevant bodies, and we invite UNHCR, as well as the European Union and OSCE to appoint their representatives to the Task Force.

The Task Force shall meet at least four times a year to:

- unite individual action plans in a joint implementation matrix;
- review the data base referred to in paragraph 7 herein;
- review the remaining challenges from (i) repatriation programmes and access to the rights, (ii) economic development in the areas of returns and integration, (iii) exchange of data on durable solutions, and (iv) possible issues of local integration, including, *inter alia*, issues related to social protection of vulnerable groups, such as the elderly, patients and single mothers;” (MHRR, 31 January 2005)

“On 31 January, Chairman of the BiH Council of Ministers Adnan Terzic opened a ministerial conference on regional returns attended by representatives of the governments of Serbia and Montenegro, Croatia, Bosnia and Herzegovina and the international community. The conference produced a Declaration in which the three participating countries committed themselves to “solving the remaining population displacement by the end of 2006”. The governments, in co-operation with the United Nations High Commission for Refugees (UNHCR), the European Union and the OSCE, also pledged to increase their efforts to facilitate returns and local integration of refugees and internally displaced persons.

Over the next three months, the three countries are to develop individual action plans that will be united under a joint implementation matrix; a Task Force, in which representatives of the three international organizations will take part, are then to review these plans. A meeting of the region’s prime ministers, reviewing the progress of the initiative, is also supposed to take place yearly. The next is already scheduled for October 2005 in Sarajevo.” (OSCE, 17 February 2005)

“The principals of the European Commission (EC), OSCE and UNHCR from Bosnia and Herzegovina reiterated their support for the governments of Bosnia and Herzegovina, Croatia and Serbia and Montenegro in their efforts to enable refugee return in the region, and thus fulfil their responsibilities to the Dayton Peace Accord, at a conference held in Sarajevo yesterday.

Participating in the Regional Ministerial Conference, hosted by BiH Prime Minister Adnan Terzic, international community representatives were encouraged by the willingness of the three governments to openly discuss achievements and the outstanding challenges to conclusively tackle the remaining population displacement between these three countries.

UNHCR, EC and OSCE underline the importance of proceeding with the implementation of the Declaration adopted yesterday, within the timeframe agreed, and look forward to continuing our involvement in this process.” (UNHCR, 30/01/05)

Steps towards European integration (2003)

- The EU Commission has listed 16 policy areas in which the BiH authorities have to make tangible progress in the next year in order to begin Stability and Association negotiations
- By June of next year BiH authorities must fulfil EU conditions in a number of areas, including the rule of law, economic reform, and government efficiency
- BiH must also evidence compliance with international agreements, namely the Dayton Peace Agreement and the EU Road Map

“Bosnia and Herzegovina has reached a moment in its postwar history when critical choices will determine whether or not the people of this country are to enjoy a prosperous future inside Europe, the High Representative, Paddy Ashdown, said on Wednesday. The question facing the citizens of BiH is whether, and how quickly, the dream of a prosperous, secure future in Europe will become a reality.

[...]

The High Representative pointed out that this historic turning point demands fundamental changes in the conduct of governments, parliaments and institutions, the International Community and the OHR.

He said ‘the European Union has made it crystal clear that it wants BiH as a member,’ and that in the next six months BiH must move decisively from ‘post-conflict’ to ‘pre-accession’ mode, which will place the emphasis on economic transition and social reform. In this respect, he said, the last week’s parliamentary approval of defence and indirect tax reforms may be viewed as a promising sign of willingness to move BiH ‘down the path to European accession and NATO membership.’

The EU Commission has listed 16 policy areas on which the BiH authorities have to make tangible and verifiable progress during the next 210 days in order to begin Stability and Association negotiations.

[...]

Amid solid progress on refugee return, police retraining and restructuring of the judiciary, the International Community is moving from ‘doing’ to ‘monitoring’, the High Representative said, pointing out that in his first six months, he had to impose 70 laws or amendments to laws, compared to 34 such interventions in his second six months, and just two interventions in the last six months.

[...]

By the 30 June next year (in addition to completing the reform of the intelligence sector in the next couple of months) the BiH authorities must fulfil four EU conditions on the rule of law, including getting SIPA up and running, seven conditions on economic reform, including making the ITA operational, with a Director appointed, three conditions on government efficiency, including getting governments and parliaments to meet more frequently, one condition requiring the BiH authorities to take steps to ensure the long-term viability of a financially and editorially independent and state-wide public broadcasting service, and one condition requiring the country to comply with all international agreements, notably the Dayton Peace Agreement and the EU Road Map. This last condition includes full cooperation with the ICTY, which means the apprehension and transfer to The Hague of indicted war criminals.” (OHR 3 December 2003)

EC Overview

“The goal of integration into EU structures, and eventual EU membership, enjoys widespread support in BiH. To achieve this goal, however, the country will first need to demonstrate that it shares certain fundamental EU values and that it has the capacity to meet the obligations of a Stabilisation and Association Agreement (SAA).

[...]

The pace at which a country draws closer to the EU depends essentially on the pace at which it adopts and implements the necessary reforms.

[...]

[*The Feasibility*] study confirms that BiH has made considerable progress in stabilisation since the conflicts of the 1990’s were brought to an end. The country is a member of the Council of Europe and has established normal relations with its neighbours. It is a strong supporter of regional cooperation.

Many refugees have returned, and most property claims have been settled. Dialogue among the communities has been resumed and a measure of confidence re-established. Democratic elections have been held, political succession has occurred peacefully, and new laws have been adopted. Steps have been taken to strengthen the independence of the judiciary. On the whole, the State Border Service works well.

[...]

BiH’s economy remains weak. The persistent lack of self-sustaining domestic growth raises concerns, especially given the high current account deficits and declining foreign assistance. The country remains dependent on foreign aid and, with 50% of the populations at or near the poverty line, is still vulnerable to systemic shocks.

[...]

BiH has not yet assumed full responsibility for government. It still needs to show through its own efforts that the High Representative’s ‘Bonn Powers’ are no longer needed, particularly in areas to be covered by a SAA. The powers, functionality and co-ordinating capacity of central government must be strengthened. An appropriate balance of responsibility between Entities and State needs to be found. Moreover, BiH’s administrative base remains weak. It still needs to develop a professional, merit-based core of politically independent public servants. Some of BiH’s governmental institutions, notably in Republika Srpska, have not yet demonstrated full co-operation with ICTY. (European Commission 18 November 2003, pp.39-40)

“BiH’s political weaknesses are numerous and easily rehearsed. The divisions that were so clearly and tragically demonstrated during the 1992 – 1995 war have not yet been entirely overcome. Dealing with these divisions and securing a functioning state is important in the context of a SAA, as **only coherent, functioning states can successfully negotiate an agreement with the EU**. SAA negotiations would require BiH to mediate its own internal options and preferences in order to present a single, coherent national position to EU counterparts. This requirement underlines BiH’s need to create internal consensus and pursue with urgency and determination further reform of government and administration. If reform has in the past moved slowly, this has been the result of a failure of political will and lack of reform “ownership”. While, it is not clear that this has been definitively overcome, there is some evidence that **a new dynamic may be emerging** within the BiH body politic.

BiH’s contribution to the preparation of this Feasibility Study demonstrated a unity of purpose and will which seemed earlier lacking. Further, the work of the reform commissions on indirect taxation and other issues, if successful and crowned with legislative approval may be evidence of an emerging culture of political consensus. This is a prerequisite for self-sustaining, BiH-driven reform.” (European Commission 18 November 2003, p.14)

See also, "EU Feasibility Study identifies conditions conducive to return among key requirements for European integration (2003)" [Internal link]

For a critical overview of the prospects for EU membership, see “Thessaloniki and After II: The EU and Bosnia”, International Crisis Group (ICG), 20 June 2003 [Internet].

See also other documents by the International Crisis Group:

ICG, *"Building Bridges in Mostar"*, 20 November 2003 [Internet].

ICG, *"Bosnia's Brcko: Getting in, Getting on and Getting out,"* 2 June 2003 [Internet].

Bosnia and Herzegovina :on the way to Europe (2005)

- In March 2004, the European Commission approves the first European partnerships for the Western Balkans
- Priorities identified by the European Partnership documents will help governments focus on most pressing issues
- The progress in implementing the priorities will be monitored through the structures set up under the SAp. (Council decision)
- The Stabilisation and Association process remains the framework for the accession to Europe.
- Stabilisation and association report 2004 acknowledges some progress but regrets that most of these are achieved mainly under international pressure
- Prospect of European integration remains the strongest incentive to accelerate reform in the country
- BiH's compliance to Council of Europe post-accession requirement is a pre-condition for the conclusion of the Stabilisation and Association Agreement

"The European Commission has today approved the first ever European partnerships for the Western Balkans. (...) Modelled on the Accession Partnerships developed to prepare past aspirants to EU membership, the European Partnerships represent a milestone in the relations between the EU and the Western Balkan countries. They are tailored to each country's specific needs, setting out priorities for the short term (12-24 months) and the medium term (3-4 years). The Partnerships will help governments concentrate reform effort and available resources where they are most needed. The competent authorities will be expected to respond with a detailed plan for the implementation of its European Partnership priorities, setting out the concrete measures to be taken, a timetable, and demonstrating what human and financial resources will be devoted to the tasks involved. The priorities identified in the European Partnerships will also influence the allocation of the financial assistance from the EU. (EC BiH, 30 March 2004)

"The Thessaloniki European Council of 19 and 20 June 2003 reiterated its determination to fully and effectively support the European perspective of the Western Balkan countries and stated that "the Western Balkans countries will become an integral part of the EU, once they meet the established criteria". It endorsed the Council's Conclusions of 16 June 2003 on the Western Balkans including the annex "The Thessaloniki Agenda for the Western Balkans: moving towards European integration", which aims at further intensifying relations between the European Union and the Western Balkans, building also on practices used in the enlargement process, inter alia through the introduction of European Partnerships. The Commission has been invited to submit the first set of European Partnerships to the Council for approval with the next Annual Reports on the Stabilisation and Association process (SAp) due end of March 2004.

The European Partnership for Bosnia and Herzegovina is based on the provisions of Council Regulation (EC) No. 533/2004. It lists short- and medium term priorities for Bosnia and Herzegovina's preparations for further integration with the European Union identified in the Commission's 2004 Annual Report and serves as a checklist against which to measure progress.

The European Partnership indicates the main priority areas for Bosnia and Herzegovina's preparations for further integration into the European Union, based on the analysis in the

Feasibility Study and the 2004 Annual Report.(...) The progress in implementing the priorities will be monitored regularly by the Commission, notably in the SAp Annual Reports and through the structures set up under the SAp. (EC, 1 January 2004)

The Stabilisation and Association process remains the framework for the European course of the Western Balkan countries, all the way to their future accession. [...]. As soon as it ascertains that significant progress has been made in meeting the 16 requirements established in the Feasibility Study, the European Commission will decide on a recommendation for a Council decision to open SAA negotiations.(EC, 1 March 2004, p.4)

Stabilisation and association report 2004:

“The 2004 Stabilisation and Association Report for Bosnia and Herzegovina concludes that the government at State level remains under-developed, while tensions between State and Entities still affect government business and reform. Reforms such as that of the public administration and of the defence sector have the potential, if fully implemented, to move BiH towards self-sustainability. Some progress in respect for human rights has been recorded since end of 2003. Co-operation with the International Criminal Tribunal, however, still falls short of requirements. [...]

Last November’s Feasibility Study recorded, “a pattern of intermittent progress, interspersed with areas where crucial reform has not been completed, or in some cases even begun”. This assessment remains valid, and recent successes in areas such as Council of Ministers’ approval of an Action Plan for Feasibility Study issues, first BiH convictions for human trafficking and initial steps in setting up the Indirect Tax Authority, are diminished by failures in other areas. It remains a concern that in too many areas where progress has been achieved, that progress has come only thanks to international pressure.

The Stabilisation and Association Process is underpinned by substantial EU financial assistance: over €5 billion for the period 2000-2006. The EU will deploy all means at its disposal – political, technical, financial – to support reform in the Western Balkans. However, the rate of progress within the Stabilisation and Association process will depend on the sense of political ownership for the reform process which the Western Balkan countries will show, and on the performance of the countries themselves in a wide range of reforms.

Progress of Western Balkan countries within the Stabilisation and Association Process.(...) A Feasibility Study into opening negotiations for an SAA with Bosnia and Herzegovina has been carried out, and BiH is working on implementing the priority areas identified in that report. (EC BiH, 30 March 2004)

“Preparation of a future Stabilisation and Association Agreement (SAA)[...] with the EU remains a political priority for BiH and the prospect of further European integration continues to be the strongest incentive to accelerate reforms in the country. However, the consensus on further European integration does not always translate into political action.

The first of the 16 preconditions for the conclusion of the SAA, includes the “implementation of BiH’s CoE post-accession criteria, especially in areas of democracy and human rights”[...]. In addition, a number of other EU preconditions are directly linked to concrete CoE post-accession commitments. Consequently, fulfilling CoE commitments is clearly a pre-condition for the conclusion of the SAA and the development of closer relations with the EU. The need to strengthen the action capacity of State institutions, in particular Ministries - including the Ministry of Foreign Affairs, which appears to be understaffed as far as co-operation with the CoE is concerned - must also be reiterated.

During its December 2004 meeting, the PIC Steering Board welcomed the considerable achievements made by the BiH Council of Ministers in addressing the EC’s Feasibility Study priorities and paid tribute to Prime Minister Terzic’s personal engagement. However, the PIC also urged all concerned to resolve rapidly all outstanding Feasibility Study issues and in particular to ensure full implementation of reforms. Among the core causes of the government’s inability to carry through the full range of its legislative commitments

on time was considered to be the irregularity of meetings of the BiH Council of Ministers.” (CoE, 4 February 2005)

On progress regarding strengthening of state institutions, EU, NATO and Council of Europe requirement

See also:

[Report to the European Parliament by the OHR and EU Special Representative for BiH, January - June 2004](#), OHR, 3 November 2004

. [Bosnia and Herzegovina: Compliance with obligations and commitments and implementation of the post-accession co-operation programme](#), Ninth Report (September 2004-January 2005), Secretary General, SG/Inf(2005)2 final 4 February 2005

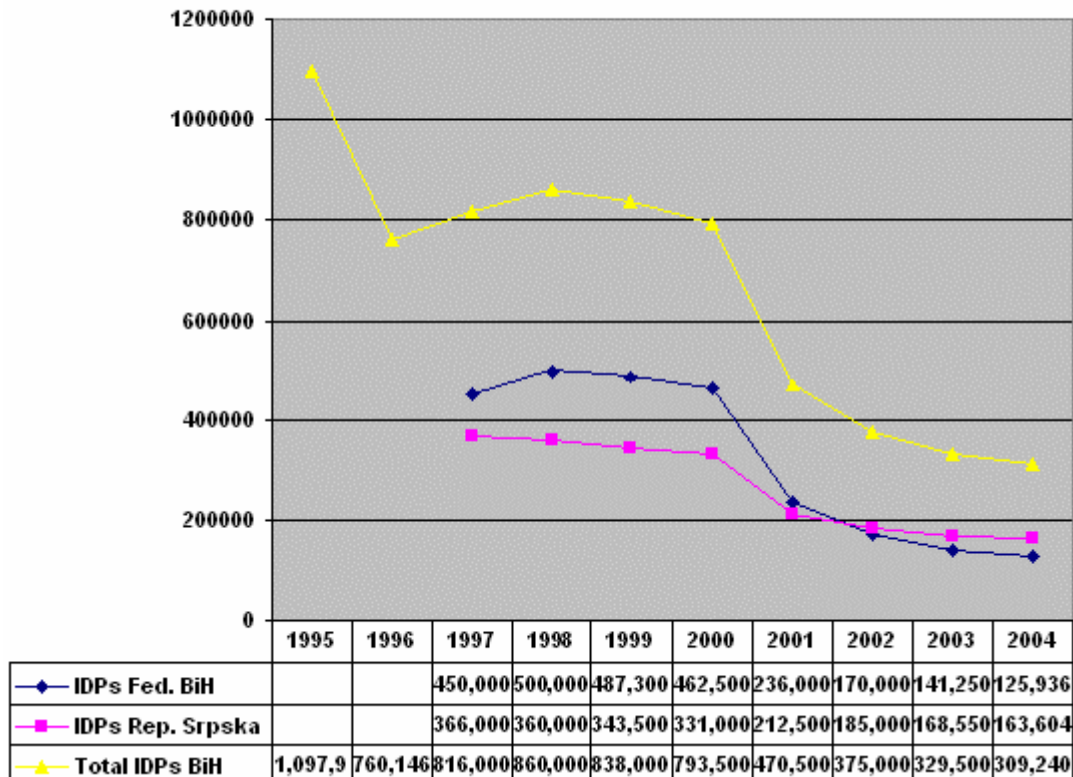
POPULATION FIGURES AND PROFILE

Global Figures

Internal displacement since Dayton (1995-2004)

- Rapid decrease in 1996 corresponds to massive majority returns in the immediate post-war situation (1996)
- Re-registration exercise in December 2000 shows a drop in IDP figures reflecting the intention of many to locally integrate
- Increased feeling of security and progress in property repossession lead to significant return in 2001 and 2002
- Slow decrease of IDP population in 2003 and 2004 corresponds to lower rate of return due to several reasons: certain IDP have locally integrated, lack of funding for reconstruction of houses, sustainability issues
- Ministry for Human Rights and Refugees gives a slightly lower estimates of IDPs in need of solution than UNHCR: 295.000 (14000 less)

IDPs in BiH 1995-2004



Source: UNHCR

Re-registration exercise of IDPs in December 2000

“According to the Office of the United Nations High Commissioner for Refugees (UNHCR), as of October 2000 there were still some 793,000 internally displaced persons (IDPs) in Bosnia and Herzegovina and 300,000 Bosnian refugees abroad. Under the new laws on refugees and IDPs, all displaced persons have to re-apply to maintain their status (as displaced persons). It is expected that this re-registration exercise, the results of which were expected in early December 2000, will determine more precisely the current number of displaced persons, as well as their aspirations for the future. The number is likely to be somewhat lower than the UNHCR figure and many IDPs/refugees may declare that they no longer wish to return to their pre-war homes.” (Commission for Human Rights, 2001)

Progress of property repossession helps many IDP to return (2001-2002)

“The decrease in the regional displaced population during 2002 as shown in the above table is a continuation of the decrease in 2001. This progress is summarily analysed below. 2001-2002 saw rapidly decreasing numbers (compared to previous years) of refugees and DPs. Many found durable solutions by returning: over 120,000 returns have been recorded in 2001 in Croatia (23,100) and in BiH (98,900); some 100,000 were so-called minority returns of refugees and DPs. In 2002 17.600 returns have been registered in Croatia and 108.000 including over 102.000 "minority returns" in BiH by 31 December (Total: 125.600). (...)

Actual property repossession in BiH through the Property Legislation Implementation Plan (PLIP) at mid-March 2003 stood at 74% of the submitted requests for property repossession. Property repossession in Croatia has progressed since the 2001 revision of occupied private property. By 1 February 2003 some 8,600 housing units have been repossessed, while 10,300 units are yet to be returned to their owners.” (Housing conference, 2003)

IDP figures stagnates (2003-2004)

“[UNHCR representative, Udo]Janz also said the figure halved in 2003 from the previous year's 107,000 people, an indication that the bulk of the people who wanted to return have done so by now” (Reuters, 2003)

In 2004 the Ministry for Human Rights carried out a re-registration exercise to identify the IDP in need of durable solutions. Those who have benefited from reconstruction assistance of have repossessed their property are not considered as IDPs in need of solution.

“Ministry for Human Rights and Refugees, in cooperation with competent Entity Ministries and UNHCR, during 2004 carried out revision of numerical situation of displaced persons in BiH. In a systematic manner, and based exclusively on administrative measures, number of displaced persons has been corrected from 570,000 displaced persons registered in 2000 to some 470,000. Then comparison has been conducted of indicators from database on displaced persons with collected indicators on reconstruction and property repossession, land allocation and other indicators, and there is a conclusion that only some 295,000 displaced persons in BiH are in need of displaced person status.

This strengthened MHRR in conviction that it is necessary to carry out re-registration, and then revision of status, in order to arrange legally the status of all BiH citizens, who still have need for enjoying the status of displaced person in BiH. Therefore, the “Protocol on Implementation of the Process of Revision of Numerical Situation and Status of Displaced Persons in BiH” was signed between BiH Ministry for Human Rights and Refugees, RS Ministry for Refugees and Displaced Persons, FBiH Ministry for Displaced Persons and Refugees, and the District Brcko Government. Its implementation has been foreseen in two phases. Re-registration process in BiH is underway. It will be completed on 15 February 2005, and will give reliable picture in the field of displaced persons, as well as enable launching new process, since data collected during re-registration will be used for harmonized determination of legal status and determination of rights of displaced persons at the entire territory of BiH.” (MHRR, 2004)

National authorities estimate lower IDP figures (as of October 2003)

- The Ministry for Human Rights and Refugees estimates indicate 386,110 internally displaced persons as of 30 June 2003
- However, the Ministry for Human Rights and Refugees estimates that the actual number of displaced persons is less than 250,000
- Reasons provided for a lower number include, displaced persons who registered more than once and persons who are no longer displaced but have not legally de-registered

“Current Number Of Persons Displaced In BiH

When the number of displaced persons as at 31 December 2000 is reduced by the number of returns recorded from 01 January 2001 to 30 June 2003, there are about 386.110 persons currently displaced in Bosnia and Herzegovina. The breakdown of persons currently displaced in BiH according to national structure is presented in the charts to follow.

Displacement Figures as at 30 June 2003

Others	1,055
Serbs	207,955
Croats	29,489
Bosniacs	147,611
TOTAL	386,110

[...]

Projection Of Actual Number Of Displaced Persons In BiH

The Sector for Refugees from BiH and Displaced Persons in BiH estimates that the former presented figure of 386.110 displaced persons as at 30 June 2003 is both incomplete and inaccurate because after the census had been carried out in 2000 there was no de-registration in BiH. This clearly indicates that the number of displaced persons is considerably lower than calculated while the reliable figure would be established upon the status revision exercise.

A lot of displaced families have in the meantime repossessed their properties or occupancy rights following the implementation of property laws. Additionally there is a large number of families who have been assisted in reconstruction for return and a significant number of those who have sold out either/or exchanged their housing units and settled elsewhere too. All the listed situations are according to the Law reasons for cessation of a displaced person's status [1]. For the establishment of an accurate numerical indicators on current displacement in BiH it is necessary to carry out a de-registration exercise of all those who durably resolved their status.

Besides, a technical control of the Central Database on Displaced Persons (CDDP) has resulted in the verification of a large number of double-entries due to the fact that some families have applied for status for two or more times and even in two or more municipalities at the same time.

The Strategy of Bosnia and Herzegovina for the Annex VII (GFAP) Implementation recognized the completion of a database on refugees and displaced persons as one of the most important preconditions for a successful proceedings on Annex VII (GFAP) provisions. The Ministry for Human Rights and Refugees in co-operation with UNHCR is considering the legal provisions for the realization of this process.

It is marked that not only displaced persons who are still in the need for durable solutions would benefit from this activity, but all national and international subjects providing for the reconstruction and Annex VII

(GFAP) implementation too. This would result in directing the reconstruction assistance to priorities and eliminating double beneficiaries.

It is our understanding proved by the collected indicators that around 140.000 persons should be additionally de-registered in relation to the currently stated figures of displacement, as follows:

- 35.000 persons who are in the database recorded two or more times,
- 105.000 persons who durably resolved their status in some other way,

Explanation:

A lot of families have durably regulated their status on individual bases or have been assisted by various national and international organizations upon the registration exercise had been carried out.

- Some of displaced families have purchased or exchanged properties and thus decided to live elsewhere.
- A large number of families had been allocated construction land and either by self assistance or donations have built housing units.
- The implementation of property laws resulted in large number of displaced persons' repossession so the voluntary return to former places of residence in safety and with dignity is feasible but either the whole families or some of their family members are not willing to return. A lot of them are just waiting for a good opportunity to sell, exchange or rent their housing units.
- Additionally, a large number of housing units have been reconstructed but the prewar owners or individual members of their families are not returning. However, when applying for assistance in reconstruction at the same time they submitted the applications for voluntary return yet they had not left their temporary accommodation and have not returned.
- Unfortunately, some of displaced persons took the opportunities of various resettlement programmes and left abroad thus "de facto" losing a displaced person's status but these circumstances have never been regulated "de jure".

All listed situations represent the legal basis for a cessation of a displaced person's status.

Referring to the aforementioned we estimate that less than 250.000 persons in BiH still need the status of displaced persons.

This short review does not include the social or some other aspects and dimensions on the issue but aims at the presentation of the present understanding and estimations of the Ministry for Human Rights and Refugees with regard to the current and actual number of displaced persons in BiH." (Ministry for Human Rights and Refugees October 2003, pp.23-24)

[Footnote 1] *Article 6 of the Law on Refugees from Bosnia and Herzegovina and Displaced Persons in Bosnia and Herzegovina* ("Official Gazette" of Bosnia and Herzegovina, 23/99)

For further information, see the full report, "Comparative Indicators On Refugees, Displaced Persons and Returnees Property Laws Implementation and Reconstruction in BiH From 1991 to 30 June 2003", October 2003, Ministry for Human Rights and Refugees, linked in the sources below.

Gender disaggregated data is needed (2003)

- There is no available data to indicate how many displaced or returnees are women
- Gender disaggregated data is needed to ensure a gendered analysis of the return process
- UNHCR has no gender specific data on return, although their collection is planned

“Stronger liaison is needed between the international agencies, local NGOs and the refugee and IDP women themselves, in order to ensure a gender analysis of the social and economic aspects of the return process. Organised collective plans for returning should be introduced ensuring provision of special support to single female heads of households. To get a true profile of the refugees and displaced population, gender disaggregated data is needed.

[...]

Since the signing of the Dayton Peace Agreement, UNHCR has registered around 907 000 returns (2002), both from abroad and within BiH. 367 000 of those were minority returns[...]. Available data is telling us how many of the displaced or returnees were Serbs, Croats or Bosniaks, but there is no official information on how many of them are women. International and national organisations, however, have data that show that the majority of the returnees are women, mainly single mothers.” (UNDAW 5 November 2003, p.11-15)

“UNHCR has no gender specific data on return, although their collection is planned, which makes it impossible to detect potential gender differences in the return process.” (UNDP June 2003, 35-36)

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 Herzegovina: 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-Herzegovina: 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

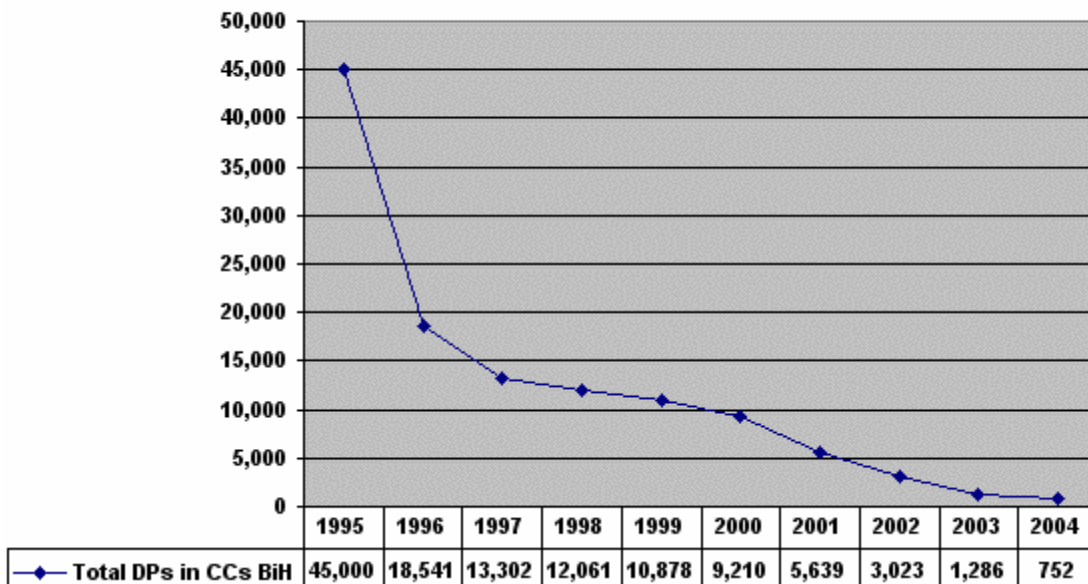
(UNHCR 1995, table 6)

Disaggregated data

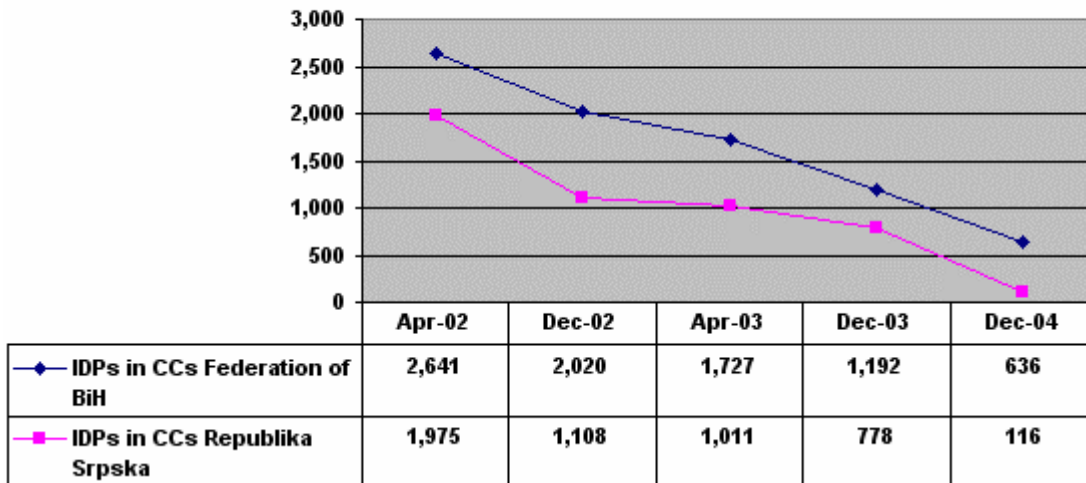
Internally displaced persons in collective centres (1995-2004)

- Statistics show a sharp decrease in the first years due to the first post-war returns
- In subsequent years the population only decreased gradually thanks to reconstruction or property repossession
- Several assistance projects have contributed to decrease the number of collective centre residents through reconstruction of their houses.
- Only the most vulnerable cases remain in the collective centres. Some of them unable to return (elderly, traumatized) require institutional care.

IDPs in Collective Centres in BiH



IDPs in Collective Centres - Republika Srpska & Federation of BiH



Source: UNHCR statistics (www.unhcr.ba)

“At the end of the war in December 1995, some 45,000 displaced resided in such centres. The number of residents in these centres declined drastically to 18,500 at the end of 1996, after the majority returned to their pre-war residences. Since then, however, the number of persons still requiring assistance provided in these centres has only reduced gradually. (...) In April 2000, UNHCR discontinued most material assistance and focused its activities to the identification of durable solutions for the residents, 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. Since 2001, the Federal Ministry for Social Affairs, Displaced Persons and Refugees made attempts to close some collective centres by accommodating the individuals concerned in reconstructed houses. The Ministry for Refugees and Displaced Persons in Republika Srpska continued its strategy of housing collective centres residents in newly constructed apartments for a one year tenancy period. UNHCR is strongly advocating proper institutional care, in close co-ordination with the respective Ministries of Health, to be offered where possible and necessary to the elderly among the centres’ residents.

Late in 1998, in partnership with the Government of Switzerland, UNHCR started with the implementation of projects to provide lasting solutions for Collective Centres residents. The Swiss Humanitarian Aid (SHA) programme ‘Durable Solutions for Collective Centres Residents’ (DuSoCC) was thus established. Project costs are covered by UNHCR and administration costs are borne by the Government of Switzerland (Project Manager and seven local staff). SHA’s staff has been based in UNHCR offices in BiH since February 1999 to enable them to work closely with UNHCR’s field colleagues.

From the beginning of 1999 to date, some KM 6, 5 million has been spent on this project, and some 1,520 beneficiaries found durable solutions returning to their reconstructed pre-war homes. As a consequence of diminishing financial resources and the rapidly deteriorating living conditions in the Collective Centres, the residents remain of primary concern to UNHCR in terms of providing protection and assistance to this vulnerable group. Although Swiss Humanitarian Aid (SHA) is striving to provide durable solutions wherever possible, no other donors are providing contributions to this project. UNHCR’s ultimate goal is to eliminate the need for collective centres altogether by end 2005. UNHCR and SHA will maintain and update the database of individual residents in all the Collective Centres. Efforts will have to be made to target the most vulnerable individuals, while reviewing changing circumstances in property repossession. Donors funding reconstruction projects throughout BiH has been drastically diminishing since 2002, and at the same time it is focused predominantly on repairing and rebuilding houses for other beneficiary groups. UNHCR would like to see these efforts complemented with a contribution in aid of collective centre residents. Such resources could not only be used for constructing housing units, but also for economic assistance through income generation projects and agricultural initiatives to ensure sustainability of these

returns. UNHCR urges donors to either fund already prepared projects in order that solutions for these most vulnerable displaced persons can be identified and implemented in a timely manner. (UNHCR, CC report)

In 2004, a project financed through a grant of the Council of Europe Development Bank (CEB) was implemented in cooperation with UNHCR to support the most vulnerable residents of the remaining collective centres by supporting return or institutional care. In November 2004, the CeB approved a loan of USD 8.000.000 to rehabilitate houses of 1100 families living in collective centres or temporary accommodation.

See below, UNHCR Map "Collective centres in BiH", November 30, 2003.

PATTERNS OF DISPLACEMENT

General

Increased deportations of BiH citizens lead to further internal displacement (2005)

- Deportees are rejected asylum-seekers, or persons whose temporary protection status have ceased
- Some of the deportees are former IDPs who sought asylum abroad after the war because they were unable to return to their home
- This phenomenon was prompted by the late progress of the property repossession process
- Application by asylum countries of the “internal flight alternative” contributes to swell IDP numbers

“The number of deportations to BiH has increased in the past three years. According to the BiH State Border Service (SBS), 3,398 persons were deported from European countries during the year 2003, nearly double the number of deportations in 2002 (1,716 persons). Another 2,199 persons were deported to BiH in 2004. The highest number of deportations came from Sweden (611), Germany (465), Croatia (411) and Denmark (165). While the percentage among the deportees who appear to have gone through an asylum procedure is limited, some are persons whose temporary protection status ceased, and others are rejected asylum-seekers who left BiH after the war.

UNHCR has observed that among the deportees are former IDPs in BiH who were seemingly not able to return to their homes of origin because of their continuing protection needs and who decided to seek asylum abroad. This is prompted by the fact that, with the relatively late implementation of the property laws, many IDPs in recent years had to vacate the properties they were temporarily occupying to allow the return of the original property right holder. This, coupled with the lack of appropriate alternative solutions, may have led some of the evictees who fear to return to their pre-war place of residence or who do not have habitable property to return to deciding to seek durable solutions abroad. (UNHCR note: The Property Law Implementation Plan (PLIP) was conceived in 1999 as a tool for enabling the right to return to one's home, a right enshrined in Annex VII of the GFAP. PLIP in fact helped hundreds of thousands of refugees and IDPs to return home since. Implementation implied, however, that the right to property repossession could ultimately be enforced through the forcible eviction of the current occupant who refuses to vacate the property of another rightful owner. Under the domestic DP legislation, BiH authorities are required to provide often basic accommodation to IDPs who had to vacate the occupied properties but have a genuine need for housing. In practice, such accommodation may be limited to the neediest and is not always adequate in terms of standards.)

UNHCR remains concerned that such cases are summarily dismissed, on the presumption of the overall improved conditions in BiH, and without proper consideration of the individual claim. As some of these new asylum-seekers might have been unable to return to their area of origin because of concerns for their safety, past persecution or severe trauma, or fear of persecution by non-state agents (such as war criminals still at large), there is a continuing need for a case-by-case assessment of their claims.

An increasing number of asylum countries have started to apply the so-called “internal flight or relocation alternative” (IFA) to asylum-seekers from BiH, be they “new” asylum seekers who left BiH after the war or persons whose temporary protection status has ceased. The application of the IFA implies that persons who have a well-founded fear of persecution in one place may be able to settle safely in other parts of the country and live a normal life there.

As indicated in UNHCR's Guidelines on the internal flight alternative, (...) the concept should not be used to bypass a comprehensive assessment of the asylum claim. Before it can possibly be considered to expect a refugee whose well-founded fear of persecution has been established for one part of the country of origin to relocate to another, careful analysis as to the *relevance* and to the *reasonableness* of such relocation should be applied. It is UNHCR's assessment, that in view of the current conditions in BiH, internal flight or relocation may not be an option for many individuals, who instead swell the numbers of IDPs in the country (UNHCR, January 2005).

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?", (Sarajevo), 14 May 1998, section 2 "The Spectre of Mass Relocation" [Internet].

Remaining IDPs and current returnees are among the most vulnerable (2005)

- IDP figures reduce slowly as the remaining candidates for return are the most vulnerable
- A re-registration exercise to be completed early 2005 should give a better estimate of the number of IDPs in need of durable solutions
- Returnees are also among the most vulnerable

“[T]he number of returning refugees and IDPs is lower than expected. It is anticipated that 2005 will see a continuation of refugee and IDP returns, albeit on a reduced scale. During 2005, UNHCR will continue working towards the completion of its obligations under Annex VII of the Dayton Peace Agreement.

The continuation of the re-registration exercise begun in 2004 will yield a clearer picture of the number of those still displaced who wish to return. Although the overall number of returns is likely to be modest in comparison with those of recent years, the undiminished attention of the humanitarian community will be required, as a number of those who do choose to return will be particularly vulnerable. Legal advice and

basic assistance will be required by households headed by single females, people who have been languishing in sub-standard collective facilities (including the handicapped and elderly) and those traumatized by war.” (UNHCR, 2005)

“The category of internally displaced persons is getting smaller – not because they are returning to their pre-war homes, but because their property is being reinstated and they lose the status of being displaced. In the previous and this quarter, the number of reinstatements grew considerably; what is worrying is that return is being reduced to the return of the poorest and socially vulnerable categories, who become even more vulnerable in their new-old environment, since they cannot count any longer with the assistance of international and entity institutions, or social or neighborly solidarity. International organizations and entity ministries complete their work on the return by reinstating refugees and displaced persons or by constructing housing facilities. It turns out that this is only a smaller part of the work, since the returnees, usually without any savings and means to start a private business, continue to depend on assistance. Thus, returnee settlements turn into isolated and introvert enclaves, without social links with their surroundings.

Numerous groups of the Roma communities, scattered around BiH, are in a similar position. Members of this population begin returning to their country, too, but they meet with a worse reception than other categories of the population. Social work centres do not even keep records of their number or these records are totally unreliable because of the great movability of Roma families. In any case, the Roma can count less than other inhabitants of BiH with social welfare, and by all accounts, efforts of the international community to implement projects of assistance for the Roma minority have not yielded significant results.” (UNDP April – June 2003, pp.21-2)

Displaced Roma, a particularly vulnerable group (2005)

- Bosnian war affected Roma like other groups of the country
- Dayton peace agreement while trying to protect the three main ethnic group marginalized Roma
- Bosnian war has altered demography of Romani settlement in the country
- Marginalisation of Roma has made their return more difficult

“The break-up of the former Yugoslavia and the wars that ensued had a devastating effect on Romani individuals and communities in Bosnia and Herzegovina. Roma were brutally treated by all parties to the conflict, and it is feared that as many as 30,000 Roma were subject to ethnic cleansing. Many Roma were also detained and severely ill-treated in concentration camps, particularly Serb-run concentration camps. Roma and Romani communities were reportedly particularly targeted in Prijedor and the surrounding villages of Kozarac, Hambarine, Tukovi and Rizvanovici. Horrific atrocities were also committed against Roma from Vlasenica, Rogatica and in Zvornik and surrounding villages. At least seventy Roma were killed in the infamous massacre at Srebrenica in 1995. Romani men were also forcibly conscripted and made to perform slave labour in the armies of all sides to the conflict. Many Romani women were raped and/or forced to perform sex labour,. The 1992-1995 war saw the wholesale destruction of a number of Romani communities. To date, justice has yet to be provided to Romani victims of actions during the 1992-1995 war. [...] (ERRC, February 2004, p.10)

“The ethnic tensions that surfaced in 1980 and which, in 1992, culminated in three years of bitter ethnic civil war, have contributed significantly to the social exclusion of Roma in Bosnia and Herzegovina. The relatively small Romani minority was not formally allied with any of the parties to the war and at no point during the civil war did Romani groups attempt to constitute themselves as a fourth combatant group in Bosnia’s ethnic war.[...] When the terms of the peace settlement were negotiated, the situation of Roma was not taken into account. Indeed, the resulting peace treaty designed at Dayton and the post war Constitution institutionalize a state of Bosnia and Herzegovina which recognizes three groups - Bosniaks, Croats and Serbs-as hegemonic, to the exclusion of other ethnic groups” (ERRC, February 2004, p.21)

The genocidal civil war fought in Bosnia and Herzegovina fundamentally altered the demography of Romani settlement in Bosnia and Herzegovina. Perhaps more importantly for individuals concerned, vast number of Roma have been to date unable to claim pre-war property and have remained without adequate compensation for property confiscated or destroyed during the war.” (ERRC, February 2004, p.10)

“As for the current situation, the London-based Minority Rights Group considers the number of Roma to be around 40-50,000, and according to the Organisation for Security and Co-operation in Europe (OSCE) Mission to Bosnia and Herzegovina, there are “10,000 to 40,000 Roma in BiH, although there could be as many as 60,000”. Local Romani activists put the number of Roma in Bosnia and Herzegovina even higher, estimating it to be 80,000 to 120,000 persons. The distribution of the Romani population is uneven, where the highest concentration is in the Tuzla Canton in the Federation, home to some 15,000 Roma. Before the Bosnian war, many of the Tuzla Canton’s Roma lived in the territory that now belongs to the Republika Srpska entity, but were forcibly displaced during the war as they fled persecution as Muslims in this predominantly Serb region. In comparison, the number of Roma in all of Republika Srpska today do not reach 10,000 persons, whereas it is considered that before the war the majority of Bosnian roma lived on this territory. The Tuzla Canton is followed by Zenica-Doboj and Sarajevo cantons in terms of numbers of Roma living in them.” (ERRC, February 2004, p. 19-20)

See also:

Education Section, Envelope "Efforts to facilitate the integration of Roma children at schools"

Documentation Section, Envelope "Roma excluded from fundamental political and social rights because of lack of personal documents"

Subsistence Needs Section, Envelope "Displacement aggravates the living conditions of Romas"

Self-Reliance and Public Participation Section, Envelope "BiH and Entity Constitutions link access to many aspects of public life to ethnicity"

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 \(1999\)"](#)

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 remain impossible because 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

Physical security

Security situation has constantly improved in the past years but significant concerns remain in certain areas in particular for vulnerable persons (2005)

- Security has steadily improved in the last three years but return related incidents still occur in various part of the country especially
- The most serious violence occurred in Herzegovina, and the Eastern Republika Srpska (RS)
- There is reluctance on behalf of the police to investigate return-related incidents and a low number of convicted perpetrators
- . Potential returnees are among the most vulnerable for whom security is an essential element of return

“In comparison with previous years, the security situation has improved. It does not mean that in 2004 we did not register occurrences of discriminatory behaviour based on the ethnicity. There were case of physical assault on returnees, their property, and national and religious monuments.” (Helsinki Committee, 3 January 2005, p.8)

“Reports of violence against minority communities continued in several areas, particularly in the eastern RS and Herzegovina; however, police investigation of these incidents and police protection in general remained at the same level as in 2003” (USDOS, 28 February 2005)

“Security is still an important concern for returnees in BiH and continues to constitute an obstacle to return for some returnees. In most return locations, the security situation has steadily improved and many returnee communities report that relations with local residents are good and that the local police are acting professionally. However, as evidenced by the continued presence of over 7,000 international troops under the EU Force (EUFOR) command after the hand-over from NATO’s Stabilization Force (SFOR) in December 2004, significant concerns remain. Serious incidents continue to occur in certain areas, including killings and beatings, violence directed against properties as well as incidents of harassment and vandalism of religious premises. The presence of suspected war criminals and failure to arrest and prosecute them constitutes an important obstacle to return and affects the sense of security of many returnees.” (UNHCR, January 2005, p3-4)

See also: “Impunity for war crimes and lack of efficient witness protection hinders minority return.” [internal link]

Overview of security situation 2002-2004

“Throughout 2002, some 430 security incidents related to return or directed against ‘minority’ returnees were reported, based on information from UNHCR field offices, offices of the Organisation for Security and Co-operation in Europe (OSCE), the International Police Task Force (IPTF) and the United Nations Mission in Bosnia and Herzegovina (UNMIBH). This represents an average of 35 return-related incidents per month. [...] Return-related incidents are reported from across BiH, but the most serious incidents took place in Cantons 7 (Herzegovina-

Neretva) and 9 (Sarajevo), and the Eastern Republika Srpska (RS). The locations with the highest number of cases reported are Zvornik, Bijeljina and Bratunac in the RS, and the Cantons of Mostar and Sarajevo..” (UNHCR July 2003, p. 1-4, 6-7)

In **2003**, 277 return-related incidents were reported, based mainly on information from UNHCR field offices and the European Union Police Mission (EUPM), which took over from the IPTF in January 2003 with a mandate among others to ensure a safe and secure environment for returnees. On average there were 23 incidents per month in 2003, which is lower than the average during the year 2002 (35). The overall decrease in reported security incidents is encouraging but should not be overly relied upon as it coincides with the departure of the IPTF at the end of 2002 (to which citizens used to directly report, a role not taken over by the EUPM), and also with a gradual decrease in monitoring and field presence by UNHCR and others due to the down-sizing of their missions. As a result, returnees may feel inhibited to report incidents of intimidation or harassment to the local police whom they may perceive as being hostile towards returnees and potentially even know from war times. The below numbers should therefore only be interpreted as examples, but cannot provide an exhaustive picture of the overall security situation.

Moreover, the security situation varies greatly throughout the country and should always be assessed on a case-by-case basis before considering return.

Of the reported number of incidents in 2003, 38 consisted of assault or other actions affecting the physical integrity of persons, five leading to the death of returnees. There were 54 incidents entailing threats, insults or harassment. Incidents that were clearly intended to intimidate or insult returnees more commonly consisted of graffiti, verbal harassment and attacks on property – including at times with the use of explosives. 103 incidents in 2003 were directed against the property of returnees or IDPs. 82 incidents were directed against memorials or religious objects belonging to a “minority” (or non dominant) constituent people.

In **2004**, 135 return-related security incidents were reported over the year, 56 in the RS, 73 in the Federation and six in Brcko District. In December 2004, a returnee leader in Teslic was killed by an unknown perpetrator which created fear and anger among the returnee community. Apart from being a returnee leader, the victim was also witness to a cantonal court trial against an individual charged for war crimes.[...]

It remains a significant concern that the local police are often reported to be slow in responding to incidents affecting returnees and that few return related incidents result in adequate sentences or even identification of the perpetrators. In certain instances, serious negligence and mishandling during the examinations have cast serious doubts on the ability and willingness of the local police to identify and arrest suspects. Prosecutors have also on several occasions been reluctant to act upon cases, as was the case in the Eastern RS in March 2004, when hateful messages and posters of Radovan Karadzic were driven around in open vans and no investigation related to Article 390 of the RS Criminal Code (inciting or promoting national, racial or religious hatred) was being launched.

The number of perpetrators convicted remains extremely low, and the sentences imposed are often lenient in spite of the seriousness of the crimes. Additionally, local authorities often do not sufficiently condemn return-related incidents and if so, their statements are frequently the result of strong encouragement from international organizations.

The recruitment of additional “minority police officers” still needs to be actively pursued and the proper conditions for them to fulfil their duties need to be put in place. In Srebrenica, for instance, less than 10% of the local police force are ‘minority officers’ and it has been very difficult to retain them due to the salary differences in force across Entities. It is hoped that the European Union Police Mission (EUPM) despite its limited mandate will continue to exert efforts in ensuring the recruitment of “minority police officers” within the context of a transparent police reform process and in securing the safety of returnees.” (UNHCR, January 2005, p. 3-6)

“Within discussion on **security issues** as elements on sustainability of return, it has been stated that security is less and less a reason which negatively affect reintegration of returnees and adoption of final decision on return. During last two years property laws implementation has been accelerated, and almost all property and occupancy rights have been repossessed by pre-war owners and occupancy rights holders. This has given great stimulus to creation of good atmosphere among people, very accelerated freedom of movement and opening of all parts of BiH for free access and movement of pre-war population.

However, in the sense of overall situation in the segment of security, it is necessary to work further on institutional building of this sector. Employment of representatives of so-called «minority peoples» in the police and Ministry of Interior is certainly the priority on which not enough has been done.” (MHRR. December 2004)

“During 2005, UNHCR will continue working towards the substantial completion of its obligations under Annex VII of the GFAP. While the number of returns is expected to be modest when compared with those of earlier years, among those who do choose to return inevitably will be some of the most vulnerable of the displaced. Single female-headed households, the war-traumatized and those languishing in sub-standard collective facilities, including the handicapped and elderly, will require legal advice and basic assistance in their search for durable solutions. As the number of agencies prepared to provide such assistance to the vulnerable returnee population is ever dwindling, UNHCR’s continued attention, albeit with reduced human and financial resources, to these populations will be critical. Additionally, geographic focus for such assistance will be placed on those areas where minority returns began only in recent years and returnees did not receive assistance that was more readily available in the earlier years of the return (e.g. in Eastern Republika Srpska). Apart from providing assistance to the most vulnerable of the returning population, UNHCR staff will continue to be active in the field albeit with reduced human and financial resources, monitoring the overall return and reintegration process and intervening in critical protection related matters.” (UNHCR, COP, January 2005, p.3)

Landmines continue to pose barrier to safe return of displaced persons and refugees (2005)

- Lack of funding for demining hinders sustainable return
- Demining is particularly difficult in BiH due to the absence of mines map
- 128 municipalities are affected by mines
- BiH Ministry of Foreign Affairs coordinates demining activities, a mine action strategy was adopted in 2003
- Between 1996 and 2002, the mine incident rate has fallen from an average of 52 casualties per month to six casualties per month

- In the first 4 months of 2003, 14 of 27 fatal mine accidents were returnees
- Land mines pose a significant barrier to the reconstruction of BiH, to the safe return of IDPs and refugees and to the development of economic activities

“Land mines are still a significant barrier to the reconstruction of the country, the safe return of IDPs and refugees and the development of economic activity in BiH, which remains the most heavily mined country in South Eastern Europe. According to figures provided by the BiH Mine Action Centre in 2003, 670,000 mines and 650,000 unexploded ordnance (UXOs) remain in roughly 10,000 sites. Twelve (12) per cent of these explosive devices are located in zones of everyday use, reconstruction and economic activities.

Low resources allocated to demining activities negatively impact the possibility for the safe return of IDPs and the creation of job opportunities. At the current speed of demining (currently almost totally funded by international donors), it is estimated by the BiH Mine Action Centre that it will take around 10 years to demine these priority areas, excluding the clearance of UXOs.

In 2003, a total of 54 persons were victims of mine accidents, out of whom 9 were children, 19 were returnees and 5 were IDPs.¹² During 2004, a total of 41 mine accidents were reported by the ICRC, 18 of which involved returnees. Two 10-year-old boys were killed in an UXO explosion in a return area near Mostar when playing outside in October 2004.” (UNHCR, January 2005, p.6)

“Mine clearance is certainly important precondition of return, especially if we know that at the moment of current interest is return in villages and places where agriculture and cattle breeding represent basis for securing existence of returnees.

This field is being coordinated with Ministry of Civil Affairs, in a manner that return plans and projects are forwarded to it, after which they are harmonised with mine clearance plans through Mine Action Commission and bilateral donors. Bosnia and Herzegovina is a country with the biggest and the most complex mine problems in Europe and is in the group of the most endangered countries in the world. This situation is made more complex by nature of mine problems in Bosnia and Herzegovina, whose main characteristics are the following: lack of minutes on minefields, unreliable information on minefield locations, their forms and disposition of mines, laying of mines individually or in a relatively small number over large area, which has large suspicious area as a consequence.

Mines restrict access to natural and other resources necessary for country development, particularly for sustainability of population return.

Total suspicious area is 2,481 sq.m. or some 4 % of the territory of Bosnia and Herzegovina. Number of local communities endangered by mines in BiH is 1,366, which is 1/5 of total number of all communities. Some 1,300,000 people reside in mine-struck communities, out of which some 100,000 are directly endangered. A total of 128 municipalities have been affected by mine contamination.

In the previous period significant progress has been achieved in building of the antimine actions in Bosnia and Herzegovina. This progress is reflected in building onto Standards for mine and UXOs clearance, and adoption of new Demining Strategy in Bosnia and Herzegovina till 2009.” (MHRR, December 2004, p.67-69)

“There are 18,600 recorded minefields, which is said to represent only about 60% of the actual number of mined areas. [...] The increase [compared to previous years] is attributed to identification of new suspected mined areas by the Landmine Impact Survey and by systematic survey in Republika Srpska.” (Landmine Monitor Report, 18 November 2004, p.5)

“As of 9 May 2003, the ICRC database contained information on 4,798 landmine/UXO casualties since 1992, of which 927 were killed and 3,871 injured. Between 1996 and 2002 the mine incident rate fell from

an average of 52 casualties per month to six casualties per month. [...] BHMIC reports that the mine/UXO suspected areas cover about 12 percent of Brcko, in comparison with 1.6 percent of Republika Srpska and 6 percent of the Federation. Brcko is an area from which there was substantial population displacement during the war and to which refugees are actively returning, despite the mines and UXO.” (Landmine Monitor Core Group 25 August 2003)

“From 1996 to November 2002, 1,423 persons were victims of mine accidents (out of which 480 were fatal accidents). In 2002, 72 mine accidents were reported, 18 of which involved IDPs or returnees. According to the ICRC, a total of 27 persons were victims of fatal mine incidents in the first four months of 2003, 14 of whom were returnees.” (UNHCR July 2003, para.14)

Key developments since May 2002 include: “A national Landmine Impact Survey began in October 2002 and is due to be completed in December 2003. In May 2003, the area suspected to be contaminated by mines and unexploded ordnance was estimated at more than 2,000 square kilometers. The Council of Ministers in April 2003 approved a demining strategy for BiH for 2002 to 2010, which has the objective of freeing BiH from the threat of mines and UXO by 2010. Six million square meters of land was cleared in 2002.

[...]

[M]ine risk education in BiH was carried out by the entity/cantonal ministries of education, entity Civil Protection and Red Cross organizations, SFOR, BHMIC and its regional offices, the ICRC, UNDP, UNICEF, APM and Handicap International, Genesis, and PRONI. The community-based MRE program is implemented through a country-wide network of trained BiH Red Cross mine awareness instructors working at grass roots level on projects targeting high-risk groups of local residents (such as farmers, hunters, fishermen and woodcutters), returnees, internally displaced persons (IDPS) and children.” (Landmine Monitor Core Group 25 August 2003)

See also

["Canada contributes USD 3,3 million for mine action in Bosnia and Herzegovina"](#), UNDP, 12 May 2004

["USD 11.8 million project to help Bosnia and Herzegovina end landmine threat"](#), UNDP, 10 March 2004

["Mine action plan of Bosnia and Herzegovina for the year 2005"](#), Ministry for Civil Affairs and Communications, 2005

[Mine action web page](#)

Law enforcement and judicial institutions contribute to impunity in certain areas (2002-2003)

- Police and judiciary response to minority-related violence and harassment remained inadequate
- Follow-up investigations were problematic and police failed to apprehend offenders
- Federation Canton governments have agreed to an ethnically mixed police, yet there continues to be resistance in practice
- Ethnic imbalances in police force still need to be redressed to ensure safety of minority returnees
- Police and judiciary reforms were underway in 2003

“Members of ethnic minority groups who returned to their pre-war homes faced violence and harassment. The response of the police and the judiciary remained inadequate and proceedings were subject to delays.

Even in cases where the IPTF provided considerable support, perpetrators responsible for organizing and committing serious violent acts continued to escape justice.” (AI 2003)

“[F]ollow-up investigations in a number of cases were problematic, and police consistently failed to apprehend offenders.

Authorities began to deploy minority officers in areas with minority returns; however, the lack of housing for returning police officers hindered this process. The RS Ministry of Refugees committed to provide reconstruction material to a total of 20 Bosniak minority police during the year. Eighteen packages had already been delivered by year's end. NGOs provided the majority of this assistance, but the RS assistance was an improvement over last year. In Prijedor 42 of the 747 area police officers were Bosniak, and a number of senior positions were set aside for Bosniaks.

All Federation Canton governments have agreed to an ethnically mixed police force in principle; however, many Cantonal governments continued to resist integration in practice. The Neretva (Mostar) Canton was an exception; the Interior Ministry in this Canton made significant progress in unifying the police force, including co-locating offices, shedding Croat nationalist insignia, and unifying portions of the budget under its direct control. In other cantons of Herzegovina, there has been far less progress in depoliticizing the police forces. Although Western Herzegovina (Livno) Canton hired significant numbers of police from among Serb returnees in several municipalities, Croat nationalists still dominated the command structure and budget process. A Serb appointed in late 2001 as police chief in the town of Drvar resigned in September. Both the Livno and Siroki Brijeg Cantons failed to remove Croat nationalist insignia from police uniforms, and they continued to fly Croat nationalist flags on police and Interior Ministry buildings. On the other hand, due to IPTF pressure, Livno's Interior Ministry began flying the Federation flag, alongside the Croat nationalist flag, in September. (Drvar had already begun flying the Federation flag.) Drvar was also the site of an incident involving the destruction of a Catholic cross, allegedly by local Serbs, but police reinforcements from Livno defused the situation without any violence.

Police in the RS generally did not meet target standards of ethnic representation, as mandated by various agreements. An interentity agreement negotiated under U.N. auspices allows the voluntary redeployment of officers across entity lines to redress ethnic imbalances. There were over 1,600 minority police throughout the country by year's end. This represented approximately 10 percent of the total police force. In general, while new officers were accepted into the police academies under strictly observed ethnic quotas, it will take years of concentrated effort to establish effective, professional multiethnic police forces throughout the country.” (U.S. DOS 31 March 2003, Sect.5)

“The recruitment of minority police officers still needs to be actively pursued and the proper conditions for them to fulfil their duties need to be put in place. In Srebrenica, for instance, 8.6% of the local police force are minority returnees, and there have been many difficulties in retaining them due to the salary differences across entities. It is hoped that the European Union Police Mission (EUPM) will continue to exert efforts in ensuring the recruitment of ‘minority’ police officers and in securing the safety of returnees, despite their limited mandate and means.” (UNHCR July 2003, para. 13)

“With significant international input and support, BiH has begun to address the weaknesses of its various system(s) of justice and home affairs. For too long, ethnicity, geography and personal contacts were the major determinants of justice in a fractured legal system. Crime, both opportunist and organised, became widespread, and corruption put deep roots into the social, economic and political fabric of society. The full implementation of the **legal and judicial reforms** currently underway will determine whether BiH can establish rule of law and due process.

[...]

In both Entities and Brcko District, police **reform is ongoing**. Since January 2003 an EU Police Mission (EUPM) has worked to establish and consolidate sustainable policing arrangements under BiH ownership in accordance with best European and international practice. The EUPM mentors, monitors and inspects with the aim of enhancing police managerial and operational capacities. The exercise of appropriate

political control over the police is monitored. In operational terms, EUPM priorities are to develop an intelligence-led approach to fighting organised crime and to reinforce returnee security. As a result, BiH policing has improved: professionalism has increased, management capacity has grown and co-operation between police services and other enforcement agencies (e.g. SBS and customs authorities) has developed. The creation in 2003 of a new State-level Ministry of Security is also welcome. Though still in its infancy, the ministry will have responsibility for State-level concerns such as border control and counter-terrorism (i.e. SBS, SIPA and Interpol).

[...]

A reform leading to the creation of a State-level intelligence and security service is underway.

[...]

The **judicial system** in BiH was long sub-standard. In contrast with Brcko District where the entire legal and judicial system was relatively quickly overhauled, both FBiH and RS persistently accommodated incompetence and corruption within their legal and judicial systems. Judges and prosecutors were subject to pressure both from political leaders and from criminals. Basic judicial infrastructure was poor, lacking proper equipment, records and access to information and modern legal practice. Moreover, since the BiH legal space was split between Entities and Brcko, justice was easily avoided; judicial decisions in one jurisdiction were seldom enforced in another.

Reform has begun. In February 2002 a comprehensive **judicial reform strategy** was inaugurated. Despite a constitutional challenge by the RS National Assembly, High Judicial and Prosecutorial Councils (HJPCs) at State and Entity levels with both national and foreign members were established with the task of overseeing the appointment of judicial staff. Simultaneously, a reform of the court structure and of prosecutors' offices was inaugurated, cutting the number of courts and judges. [...]

A further important reform was the creation of a **BiH State Court and State Prosecutor** (again initially challenged by the RS). The State Court has criminal, administrative and appellate divisions and a number of Special Panels, including those for Organised Crime, Economic Crime and Corruption. It is staffed by both national and international judges. First cases have already been transferred to the Court. The Court will fill a legal lacuna by dealing with issues (e.g. asylum and immigration cases) which are within the competence of the State. Also, it should create a further bridge between the judicial and legal systems of the Entities. The 2003 creation of the State Ministry of Justice charged with ensuring international and inter-Entity co-operation on legal matters is also significant, although this ministry also faces personnel and resource shortages.

The highest level of judicial authority is the **BiH Constitutional Court**. Despite Road Map recommendations, the Constitutional Court has been persistently short of resources and for more than a year it was reduced to inactivity because of the failure of RS to appoint Serb members. Despite these difficulties, the Court enjoys authority and has become a respected arbiter." (European Commission 18 November 2003)

For more information on concerns relating to violations of international human rights law by security forces in Bosnia-Herzegovina, see pp. 79-81, "Anti-terrorism Measures, Security and Human Rights: Developments in Europe, Central Asia and North America in the Aftermath of September 11", International Helsinki Federation for Human Rights, April 2003 [Internet].

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

Establishment of a special War Crime Chamber in a context of widespread impunity for war crimes (2005)

- The Internal Tribunal for Yugoslavia is due to end investigations end of 2004
- A special War Crime Chamber of the BiH State Court will be established to take over cases from the International Tribunal.
- International presence within the War Crime Chamber is foreseen during the first few years
- Majority of war crime cases will still have to be judged by local courts known for their ethnic bias
- Despite a state-level law that provides for protection of vulnerable witnesses issued by the High Representative, there remains inadequate protection of vulnerable witnesses
- Lack of adequate witness protection does not encourage victims to testify and risks to perpetuate impunity
- Thousands of perpetrators continue to enjoy impunity for war crimes, crimes against humanity and genocide, committed during the war in Bosnia-Herzegovina

<http://web.amnesty.org/report2004/bih-summary-eng>

“As part of its completion strategy, the Yugoslav tribunal is scheduled to end investigations this year, trials by 2008, and appeals by 2010. Recently, the tribunal’s prosecutor moved to refer cases back to the courts in Croatia and Bosnia as part of that strategy” (HRW, 14 October 2004)

“The package of laws regulating the establishment of the War Crimes Chamber within BiH and the transfer of cases from ICTY to the BiH Prosecutor and the State Court officially came into force on 6 January 2005. A Registry will provide independent administrative support to the Court. Only highly sensitive war crimes and organised crime cases will be tried by the BiH State Court while other cases will proceed before the Entity (local) courts. To make sure that the new Chamber gains the benefit of years of international war crimes tribunal experience a strong international presence is foreseen for the first two years. This presence will gradually decline during years three to five and thereafter this specialised Chamber and the corresponding Department in the BiH Prosecutors Office will be fully BiH staffed institutions. Although it was foreseen that the War Crimes Chamber would be operational in January 2005 and start its first trials, the required reconstruction work and building of secure pre-trial detention facilities are now expected to be completed by the end of February 2005. As also requested by PACE (see PACE Recommendation 1664(2004), adopted in June 2004), the CoE member States are invited to consider assistance to the new War Crimes Chamber by way of human, material and financial resources. In this respect, the OHR has already indicated that substantial additional funds will be required to continue work of the Chamber into the future. International donors have pledged to revisit this requirement once the Chamber has been set up.” (CoE, 4 February 2005)

“Setting up specialized war crimes chambers—as they have done in these three countries [Bosnia and Herzegovina, Croatia, Serbia and Montenegro]—is a good thing, but there will still be hundreds of cases in Croatia and Bosnia that will need to be tried by ordinary local courts,” explained Richard Dicker, director of the International Justice Program at Human Rights Watch. “In local courts, we see bias against ethnic minorities, intimidation of witnesses, and police stonewalling investigations.” (HRW, 14 October 2004)

“In June the PIC endorsed a proposal by a joint OHR/Tribunal working group to establish a special chamber for war crimes in the new State Court, to be operational from 2004. This was the latest development in a protracted process which aimed to set up a judicial mechanism which would be capable of taking over cases from the Tribunal and other sensitive and complex cases from the Cantonal and District Courts.[...] However, AI remained concerned that the proposed solution would prove inadequate to address the vast legacy of outstanding cases of war crimes and other crimes under international humanitarian law. Given the problematic and flawed trials for war crimes conducted so far before the entity courts, the organization had serious concerns that a short-term solution which would only deal with a fraction of the outstanding caseload would not provide justice to the tens of thousands of victims of these crimes, nor would it benefit the longer-term process of truth-seeking and reconciliation between various communities. The proposal also did not take into account the regional nature of the war and the fact that

many perpetrators as well as material evidence relating to these crimes remained in neighbouring states, beyond the reach of the Bosnian criminal justice system. Another issue of crucial importance, the protection of vulnerable witnesses from attacks and intimidation, was not adequately addressed: although a new state-level law was imposed by the High Representative in January, in practice there was no effective protection inside the country and AI was informed that no international protection scheme, along the lines of the one used by the Tribunal, was foreseen.” (AI, 26 May 2004)

“Some initiatives have, in the meantime, been taken to establish a legislative and administrative framework for witness protection in BiH.[...] The new War Crimes Chamber of the BiH Court, for example, will also include a Victim and Witness Management Section. While this is in itself a positive development and shows acknowledgment that the protection of citizens providing testimony in war crimes trials is the responsibility of domestic institutions, the fact that the Victim and Witness Management Section itself has already been discussing with selected states about the potential relocation of war crimes witnesses and their families to third states, is testimony to the country’s accepted lack of ability to ensure the safety of some witnesses, as the implementation of laws that provide for the protection of war crimes witnesses has also been hampered by the lack of financial resources for technical requirements for the courts to provide proper protection.” (UNHCR, January 2005)

“Thousands of perpetrators continue to enjoy impunity for war crimes, crimes against humanity and genocide, committed during the war in Bosnia-Herzegovina. The official number of persons still unaccounted for is around 16,000 (including thousands of unresolved ‘disappearances’). Rape and sexual abuse of women and girls occurred on a massive scale. However, most of the vast number of case files, recorded and investigated by Bosnian police and prosecutors, are gathering dust in the criminal justice system’s offices and archives, instead of generating active and effective prosecutions before the country’s courts. At the Tribunal, proceedings have been completed or are continuing for about 90 persons, most of whom were in leadership positions or responsible for large numbers of these crimes. Thus, many thousands of persons responsible for the worst possible crimes in Bosnia-Herzegovina still have got to be brought to justice in any court.” (AI 12 November 2003)

See also “Justice at risk: War crimes trials in Croatia, Bosnia and Herzegovina and Serbia and Montenegro”, Human Rights Watch, 14 October 2004
and “[Foca confronts its past](#)” HRW, 15 October 2004

Republika Srpska recognizes its responsibility in the Srebrenica massacre (2005)

- In 2003, the Human Rights Chamber requires RS to give information on Srebrenica events and the fate of the victims
- Close monitoring and pressure of OHR ensures efficiency of the Srebrenica Commission
- A first report is produced in June by the Srebrenica Commission whereby authorities of RS recognizes responsibility for the massacre
- A final report is released in November 2004
- Resolving the fate of missing persons is key to reconciliation and stabilization of the country
- RS continues to be reluctant to identify, try and remove from office persons mentioned by the Srebrenica Commission

“A suit brought by a group of relatives of those still classified as missing following the fall of the Srebrenica “safe area” in July 1995 led, in 2003, to a judgement by the Bosnia and Herzegovina Human Rights Chamber requiring Republika Srpska, inter alia, to conduct an in-depth investigation to discover the fates of these missing persons and to issue a report on its efforts and findings.

Although the Human Rights Chamber's judgement did not task the Office of the High Representative with any particular action, it was clear that international monitoring and stimulus to this process was necessary if it was to have the outcome sought by the Human Rights Chamber. I therefore requested the Senior Deputy High Representative, Bernard Fassier, to monitor the activity of the Republika Srpska Commission. Following the Commission's belated establishment in January 2004, it became apparent that the role of the Senior Deputy High Representative would need to involve more than mere monitoring if the Commission were to produce a meaningful report that disclosed hitherto unknown facts relevant to the chamber's judgement. [...]

The eventual result of these efforts was a report in June that, for the first time, constituted recognition by the Republika Srpska of the origins, nature and extent of the atrocities committed in and around Srebrenica. The report also disclosed the location of previously unknown primary and secondary mass graves, documents and other evidence that may serve as bases for further prosecutions of war crimes.

The report established that, between 10 and 19 July 1995, some 8,000 Bosniaks were liquidated in a manner that constituted a severe violation of the international laws of war and that the perpetrators and others took elaborate measures to conceal these crimes by relocating the bodies.

Moreover, the report:

- Identified 32 locations of mass graves, 11 of which were not previously known;
- Elaborated upon the participation of particular Republika Srpska military and police units;
- Alluded to participation by army and police units from "Republika Srpska Krajina" and Serbia in the action and aftermath.

The report cites documents making clear that "Operation Krivaja" had three planned phases: the attack on Srebrenica, the separation of women and children, and the execution of males.

The Srebrenica Commission promised to produce a consolidated list of all the persons still unaccounted for after the July 1995 events in and around Srebrenica, but stressed that it would have achieved better results if it had had access to other relevant documentation of the competent Republika Srpska institutions, as well as to records of the Federation." (OHR, 18 November 2004)

"On 22 June 2004, the RS President addressed the Entity's population on TV and endorsed the Srebrenica Commission's report as a shocking confirmation of crimes and human suffering on a massive scale. The publication of the Interim Report and RS President subsequent public statement have contributed to breaking the taboo surrounding war crimes, which may make political and executive cooperation with the ICTY less controversial. (CoE, 13 October 2004)

"[T]he authorities should be urged to take more active measures on the issue of missing persons. As underlined by the International Commission on Missing Persons (ICMP), a large number of missing persons often means that a significant part of the population does not, or does not fully, identify with the peace process. It also undermines trust in government and democratic institutions. Resolving the fate of missing persons is a crucial humanitarian and political task. It is a *sine qua non* to reconciliation and to the building of a peaceful future in common.

In this respect, the RS Srebrenica Commission is a key test for the RS: according to the High Representative, the Interim Report published on 14 April 2004 highlighted "sustained and systematic obstruction and inaction by the government of RS". Consequently, he dismissed a number of RS officials, including the RS ICTY Liaison Officer and decided to hold RS Ministers of Interior and Defense personally "responsible for ensuring a sea change in the cooperation and support offered by their institutions" and has required RS President and RS Prime Minister to take direct personal responsibility for ensuring the work of the Commission. He will also hold them ultimately responsible for ensuring that the Human Rights Chamber's legal requirements are met and that BiH's reputation and future are restored. " (CoE, 18 Jun 2004)

“On November 15, the Commission released the final portion of its report. The Commission found that there were 7,806 confirmed victims. A classified annex of documents implicating an unknown number of war crimes suspects was turned over to the RS authorities for investigation. Former RS Prime Minister Mikerevic and RS President Cavic acknowledged publicly for the first time that large-scale war crimes took place in Srebrenica and apologized to the relatives of the victims on behalf of the RS government. The families' associations reiterated their desire to see the perpetrators of the massacre brought to justice as soon as possible.

By year's end, 1,438 victims of the Srebrenica massacre had been buried; 1,304 of them were interred at the Srebrenica-Potocari Memorial and Cemetery.” (USDOS, 28 February 2005, section 1.b)

“The High Representative expressed concern that the RS Government has to date taken no action to form a group which will analyse the documentation produced by the Srebrenica Commission and to identify all officials , with empasis still in the employment of the RS authorities, whose names appear in the confidential annexes. This is critical to demonstrate the commitment of the RS to build a future for all Bosnia's citizens. The High Representative reminded PM Mikerevic that he "expects the work to be completed, and a report delivered both to the State Prosecutor and to the OHR, by the end of February".

Then RS Government has publicly pledged to bring those responsible for war crimes to justice. This review is amongst the measures designed to remove from the RS institutions - and especially from the RS security structures - those who bear individual responsibility for the RS' non co-operation with the ICTY and bring to justice those directly responsible for these crimes

The High Representative reaffirmed that the actions he set out in his press conference on 16 December must be followed up by the RS and BiH. It is the obligation of all countries in the region to fully co-operate with the ICTY.

The High Representative also informed PM Mikerevic of the personal assurance given to him yesterday in Belgrade by Vojislav Kostunica, the Serbian Prime Minister, when PM Kostunica said he would do everything possible to assist the RS to extradite individuals indicted by the ICTY to the Hague.” (OHR, 7 January 2005)

Determination of international community against RS lack of cooperation with ICTY leads to first transfers to the Tribunal (2005)

- Current assessment of war crime accountability in Bosnia and Herzegovina shows that RS has the worse record in terms of cooperation with the International Tribunal
- RS lack of cooperation with the Hague leads to a serie of dismissal in the RS in June 2004.
- Cooperation with ICTY is Council of Europe commitment and one of the conditions for further European integration
- NATO refuses BiH's participation to Partnership in Action because of RS lack of cooperation with ICTY
- Radical measures adopted by the High Representative's provoke political crisis in RS
- IC's determination bears fruit: RS finally transfers its first 3 suspected war criminals to the Hague (January-March 2005)

“War crime accountability

For the first time in years, the NATO-led Stabilization Force (SFOR) did not arrest a single Bosnian citizen indicted before the International Criminal Tribunal for the former Yugoslavia (ICTY) in 2004. Nevertheless, SFOR intensified efforts to arrest Bosnian Serb wartime leader Radovan Karadzic, conducting several operations near Sarajevo and in remote mountain villages in the east of the country, where Karadzic was believed to be hiding. SFOR also arrested several individuals believed to belong to the network of persons who were helping Karadzic hide. Still, Karadzic remained at large as of October 2004.

Leading political and military figures in the wartime Croatian Republic of Herzeg-Bosnia – Jadranko Prlic, Bruno Stojic, Slobodan Praljak, Milivoj Petkovic, Valentin Coric, and Berislav Pusic – surrendered to the Tribunal on April 5, 2004. They are charged with crimes against humanity and war crimes committed against Bosnian Muslims in Western Bosnia and Herzegovina during the early 1990s. [...]

Local officials in each entity of Bosnia remain unwilling to prosecute members of the ethnic majority in their region for war crimes. Hundreds, possibly thousands, of war crimes committed in Republika Srpska have yet to be investigated and tried before the Republika Srpska courts. In May 2004, Republika Srpska opened the first war crimes trial ever against ethnic Serbs; eleven Serbs are accused of the illegal detention of Catholic priest Tomislav Matanovic in 1995, who was later found murdered. In the Federation of Bosnia and Herzegovina (the Bosniac majority area), there have been more indictments against members of the local ethnic majority, but these efforts have been plagued by a lack of support on the part of police and political elites, as well as poor cooperation between the countries in the region and entities in Bosnia and Herzegovina on judicial matters, and a lack of witness protection mechanisms.” (HRW, 14 Janvier 2005)

“During an exchange of views with the CoE Ministers’ Deputies on 7 May 2004, the President of the ICTY, Mr T. Meron welcomed the joint statement made on 14 April by State and Entities’ authorities, in which they committed themselves to making a maximal effort to bring all indicted war criminals to justice and cooperate fully with the ICTY. However, Mr Meron also underlined a number of problems with the RS and called upon the RS authorities to strengthen their efforts in locating and apprehending individuals indicted by the ICTY, as mandated by the Security Council Resolution 1534. Concrete results are still expected. He also urged the RS to increase their efforts to investigate and try individuals responsible for war crimes within their domestic judicial system and emphasized the importance of the creation of a War Crimes Chamber within the BiH Court. In this respect, he underlined that the ICTY would not transfer any case to national judicial authorities as long as there was any doubt about their capacity to make impartial judgment. In a press statement on 12 May 2004, Judge Meron warned that the ICTY should not close before Messrs Karadzic and Mladic are tried.” (CoE, 18 Juin 2004)

“Co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY) is an unambiguous obligation under the Dayton Agreements and under international and domestic law. It is also a CoE post-accession commitment identified as a priority matter by the CoE Ministers’ Deputies back in 2003, as well as one of the 16 conditions of the EU Feasibility Study. Consequently, the Secretariat delegation repeatedly pointed out that the road to further European integration goes via real cooperation with the ICTY, especially in the RS.” (CoE, 13 October 2004)

June 2004: the High Representative dismisses RS officials to clear obstruction to cooperation with the Hague

On 30 June 2004, the High Representative dismissed 59 RS senior officials, including the RS Parliament speaker and RS Interior Minister, from their political, administrative or economic posts, in order to “clean the corrupt and obstructionist structures in the RS and especially the SDS, and to root out those people who bear the heaviest responsibility for creating a climate of secrecy, intimidation and criminal impunity that allows indicted war criminals to evade justice”[...] “11 of them have been removed indefinitely and 48 may return to public life once Radovan Karadzic is in the Hague and BiH and its entity the RS complies with its international obligations towards the ICTY”[...]. The High Representative announced other measures, in particular the establishment of a Commission on Police restructuring. On 9 July 2004, the UN Security Council also

reiterated its call on the BiH authorities to fully cooperate with the ICTY[...]. Subsequently, the BiH Prime Minister proposed an increased cooperation between intelligence and security agencies of BiH and Serbia-Montenegro and a joint police team. The RS National Assembly also adopted a Resolution inviting the indicted persons to voluntarily surrender.” (CoE, 13 October 2004)

December 2004: NATO’s refusal to let BiH within the Partnership for Peace on account of bad cooperation with the Hague triggers a new set of measures by the High Representative, including new dismissals of RS officials:

“On 16 December 2004, following a second refusal by NATO to admit BiH into its Partnership for Peace programme because of continued lack of co-operation with the ICTY by the BiH authorities, especially those in RS, the High Representative, Lord Ashdown, announced a series of measures “to address the systemic weaknesses in BiH’s law enforcement and security institutions” (see below, under IV, B). His announcements were accompanied by those of the US government to freeze the assets of the Serb Democratic Party (SDS), founded by war-crimes fugitive Radovan Karadzic, and impose a visa ban on the leaders of the SDS and its coalition partner, the Party of Democratic Progress (PDP).

Twenty-four hours later [*after the announcement of the HR’s decision*], the RS Prime Minister and member of the PDP, Mr. Dragan Mikerevic, resigned in protest. He was followed by the BiH Minister of Foreign Affairs, Mr. Mladen Ivanic, founder and leader of the PDP. The BiH Minister of Transport and Telecommunications (PDP) resigned on 20 December and the Minister of Defence submitted his resignation on 29 December 2004. The BiH Minister of Justice stated he would only resign if asked to by all the RS political parties.” [...]

“The first transfer of a war crimes suspect to The Hague, with the co-operation of the Republika Srpska (RS) authorities in mid-January 2005, is a significant step in the right direction. However, as most wanted war crimes suspects remain at large, much is still needed to ensure full co-operation with the ICTY, a priority matter for the CoE and a pre-condition for progress towards further Euro-Atlantic integration. The decision of the High Representative mid-December 2004 to dismiss several high officials of the RS testifies that obstacles still exist in this respect.” (CoE, 4 February 2005)

After 9 years of inactivity, RS transfers three indictees for war crimes to the ICTY

“Welcoming the transfer of Gojko Jankovic to the ICTY today the High Representative, Paddy Ashdown said:

“I welcome the fact that Gojko Jankovic is finally in The Hague after nearly a decade on the run, and that the RS authorities have carried out his transfer. He stands accused of grave crimes for which he will now answer before a court of law.

Jankovic is the third indictee transferred to the ICTY this year by the Republika Srpska authorities, and the second in a period of three days. These are welcome steps forward by the RS authorities, and in notable contrast to their previous nine years of inactivity and obstruction in relation to the ICTY.

But these steps represent the start of a process. The international community will now be watching closely to see that this process on which the RS authorities have embarked continues and picks up pace. That means that the remaining indictees - including Radovan Karadzic and Ratko Mladic - must be transferred to The Hague without delay. The first steps on the road towards cooperation with the ICTY have been taken: but the journey will not be complete until every indicted war criminal from BiH is in The Hague.” (OHR, 14 March 2005)

See also: “Statement: HR welcomes Stanistic transfer to the Hague”, OHR, 11 March 2005 and “Statement by the High Representative for BiH, Lord Paddy Ashdown, with regard to the transfer by the authorities of Republika Srpska (RS) of ICTY indictee Savo Todovic”, OHR, 18 January 2005)

Freedom of movement

Improving freedom of movement despite continued influence of ethnic separatists (2002-2003)

- 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
- There were improvements to facilitate freedom of movement during 2002
- The High Representative continued to remove local officials obstructing the return of refugees and IDPs in 2002
- Many problems remain to prevent returns, including political pressure for individuals to remain displaced to increase ethnic homogeneity in specific areas
- Though trends of intimidation for displaced persons to stay in their place of displacement decreased in 2002-2003, they were still practiced in some areas

“The Constitution provides these rights, and freedom of movement, including across the Inter-Entity Boundary Line, continued to improve; however, some limits remained in practice.

Pressure from evictions, combined with an increased sense of security in most areas of the country and awareness that international assistance was limited, prompted the increase in returns.

[...]

There were some improvements during the year that facilitated returns. In January the High Representative promulgated the ‘Vital Interest’ Decision, which provided a clearer accounting of Refugee Ministry budgets used to support return. In the RS, the Refugee Ministry followed the initiative begun in 2001 and supported the return of Bosniaks and Croats by providing reconstruction assistance to both of these groups. As of September, a total of 460 Bosniak and Croat families received such assistance. As of October, the RS Refugee Ministry had spent \$3.2 million (KM 6.4 million) on the initiative. The RS Refugee Ministry also agreed to provide reconstruction assistance to approximately 20 minority police officers returning to the RS, and deliveries were made to 18 of these officers as of the end of October. The increased number of ethnically integrated police forces helped improve the climate for returns, although security remained inadequate in some areas [...].

Serbs continued to return in greater numbers to the Federation. In October the Federation Refugee Minister, after some delay, paid funds promised for joint reconstruction and return projects. The town of Drvar, a previously Serb town which was ‘ethnically cleansed’ during the war by Croats, was by year’s end again majority Serb, with a rate of compliance with property laws of 90.27 percent. In early June, the High Representative removed the hard-line Bosniak mayor of Donji Vakuf for obstructing the return of refugees and IDPs. The mayor had publicly opposed the return of Serbs. In December preparations were made for a plan to hand over the responsibilities of OHR’s Reconstruction and Return Task Force to the BiH

Government. Because no government was formed from the October elections by the end of the year, these plans were delayed.

Many problems remained that prevented returns, including: Hard-liners obstructing 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. Lack of housing also contributed to the problem; the needs continued to far outweigh available resources. Municipal administration taxes on documents that are necessary for return, such as birth or land certificates, remained 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. All of these problems decreased from the previous year, yet still persisted in hard-line areas. In October members of the Federation Ministry for Refugees and Social Welfare were subjects of allegations of corruption; the High Representative determined that an audit of the Refugee Ministry's budget needed to be undertaken. Auditors initially commented that fraud and misuse of funds were likely involved. The audit was ongoing at year's end. The Federation Ministry was unable or unwilling to keep financial commitments in support of returns throughout the year, and this caused many IDPs, particularly Bosniaks, to remain displaced or continue living in deplorable conditions as a result of the Ministry's failure to provide support.

The continued influence of ethnic separatists in positions of authority hindered minority returns. Government leaders in both the RS and the Federation often used a variety of tactics, including public statements, to inhibit the return of IDPs. Municipalities in the RS continued to allocate illegal land plots in areas such as Zvornik and Bratunac, in eastern RS, altering prewar demographics and intimidating potential returnees. 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 in a manner that consolidated the results of ethnic cleansings ceased for the most part. IDPs living in those areas, even those who privately indicated interest in returning to their prewar homes, frequently had been pressured to remain displaced, while those who wished to return had been discouraged, often through the use of violence [...]. These trends of intimidation for displaced persons to stay in their place of displacement decreased, although they were still practiced in the staunchest hard-line areas of the RS and Herzegovina." (U.S. DOS March 2003, sect.2d)

"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." (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 (1996-2002)

- 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 were fully commercialized by the end of 2002

"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)

The UNHCR bus lines operated through December 2002. The bus lines have now been fully commercialized.

See [Map of UNHCR bus lines as of December 2002](#) (website of UNHCR Office of the Chief of Mission in Bosnia and Herzegovina) [Internet].

Vulnerable groups

Ensuring witness protection to address war crimes (2005)

- Successful prosecution of war crimes depends on availability of credible witnesses
- Monitoring of war crime trials shows that inadequate witness protection hamper trials and put witnesses at risk
- There are several reports of harassment of witnesses leading to withdrawing of statements
- Adequate witness protection should ensure physical and psychological situation of the witnesses

"The successful prosecution of war crimes cases depends on the availability of credible witnesses, which in turn requires that witnesses are confident that they can testify truthfully without fear of retribution. Achieving accountability through national war crimes trials, therefore, requires measures to protect witnesses prior to, during, and after trials. In some cases, effective witness protection requires a long-term witness protection program or resettlement in another country.

Governments in the region should develop mechanisms to resettle witnesses in other countries, in cooperation with the international community, as a complement to effective in-country witness protection programs. Many crimes will be impossible to prove unless former members of the military, paramilitary, or police units that perpetrated the crimes testify against their comrades. The international community must undertake to facilitate the relocation of such witnesses, including arrangements for them to reside outside the former Yugoslavia.

Ultimately, the small size of many Balkan states sets an objective limit to the usefulness of witness protection measures. In the long run, the best defense against witness intimidation is the creation of a climate conducive to war crimes prosecutions throughout the Balkans, by developing a political consensus about the importance of war crimes prosecutions, as well as independent and professional legal systems. Unfortunately, the actual climate is far from ideal. It is crucial that the governments show leadership and speak clearly in favor of accountability.

Human Rights Watch's monitoring of recent war crimes trials in the Balkans indicates that the lack of adequate witness protection is hampering trials and forcing witnesses to take unnecessary risks.

The Ilijasevic trial in Bosnia and Herzegovina makes clear that where witnesses share the same ethnicity as the accused they are often afraid or otherwise unwilling to testify in war crimes trials. The three ethnic Croats who testified for the prosecution in the trial between December 2002 and October 2003 stated that they did not know the accused. A former prison guard in the Croat-held Vares detention facility, testifying on March 25, 2003, even claimed that he did not know the name of any other guard who worked in the same shift with him in the prison.

Trial observers and journalists from the area have repeatedly suggested to Human Rights Watch that fear of retribution prevented some Bosniac (Bosnian Muslim) witnesses in the Ilijasevic trial from telling the court all they knew and, in some cases, from coming forward at all. A majority of the Bosniac witnesses in the trial are returnees to the locations mentioned in the indictment against Ilijasevic. Although it is difficult to establish whether or why witnesses were unwilling to provide complete and accurate evidence, fear of retribution is certainly a plausible explanation.

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"The issue of protecting the security of victims and witnesses as a result of testifying at war crimes proceedings has been the subject of protracted discussion in Bosnia-Herzegovina. Reports of harassment and intimidation of trial witnesses have emerged during virtually all war crimes trials that have taken place to date, often resulting in the collapse of prosecution cases or the significant reduction of evidence as witnesses changed or revoked statements given earlier. While the adoption of witness protection legislation (currently only in force on the state level, and to a limited extent in the Federation) goes some way towards resolving the problematic situation, much more needs to be done on the practical and legal level in order to ensure adequate protection of witnesses testifying in war crimes trials before all courts in the country.

[...]

[T]he point needs to be made that the protection of vulnerable witnesses must take account of other needs apart from their physical security. These politically-charged trials have a profound social impact - both at the general level of the community at large and at the level of those participating in the proceedings. They do not take place in an academic, judicial vacuum but are very much part of the dynamics of political and social developments, as many proceedings so far have taken place against a backdrop of mass publicity. Practical, psycho-social and medical support should be offered to all vulnerable witnesses, in particular with regards to the high risk of re-traumatisation as a result of giving testimony and being subjected to cross-examination. The need for such support is expressly recognized in international law. Article 68(1) of the Rome Statute requires the Court and the Prosecutor to take such measures.[...]

The dire economic and social living conditions of many witnesses (in particular former detention camp inmates, rape victims, displaced persons, single parents and the elderly - categories which obviously to a large extent overlap) need specific attention as well. Therefore, it is recommended that witness protection schemes work in close cooperation with the local health and social service system, as well as with

organizations with experience in working with vulnerable and traumatized individuals.” (AI 12 November 2003, p.19)

“Special attention must be paid to witnesses testifying before the International Criminal Tribunal for the former Yugoslavia (ICTY), because of the number of suspected and/or indicted war criminals still at large and the fact that a fully functional witness protection programme is not yet in place in BiH. For example, in 2002, ICTY witnesses were on at least two occasions the target of violence. In two separate incidents, the house of an ICTY witness was damaged by explosives and a war crime witness found an explosive device under his car. In May 2004, the brother of a war crimes suspect allegedly in the process of providing information on the former Bosnian Serb leader Radovan Karadzic and his network to the ICTY, was mistakenly killed in a raid by the Republika Srpska (RS) police. It is being argued² that the informer was targeted in order to silence him before he was able to say more. Increasing numbers of cases have become known where war crimes witnesses

have been threatened and in several instances they were reported to have withdrawn their statements. As an indication for the prominence with which war crimes suspects still move around BiH with impunity, it was revealed in December 2004 that the RS Army had until summer 2004 been harboring and protecting prime war crimes suspect Ratko Mladic, despite repeated and public pleas to collaborate with the ICTY and apprehend war criminals.[...] In December 2004, a witness to a local war crimes trial in Zenica who had recently made two statements was killed by an unknown perpetrator in Teslic.[...] This situation of intimidation and harassment of trial witnesses may be further exacerbated when cases begin to be transferred from the ICTY to domestic courts.(UNHCR, January 2005)

See also “ [Justice shelved: impunity for rape in Bosnia-Herzegovina](#)”, [Amnesty international](#), 12 October 2004

“[Decision enacting the Law on protection of witnesses under threat and vulnerable witnesses](#)” OHR, 24 January 2003

Impunity for war crimes and lack of efficient witness protection hinders minority return: (2005)

- Presence of suspected war criminals in the place of return constitutes a serious obstacle to return
- War criminals are moving freely and occupying position in local administration
- Impunity associated with psychological and material vulnerability of war crime victims makes return even more difficult
- Impunity continues for those responsible of widespread rape campaigns
- In general, BiH cooperation with ICTY has been less than satisfactory, especially in the RS
- RS Authorities have transferred their first case of war crime indictee in 2005 after heavy pressure from the international community

“The presence of suspected war criminals and failure to arrest and prosecute them constitutes an important obstacle to return and affects the sense of security of many returnees. Moreover, it is not only that the local police has often not been able to arrest war criminals, but the continued presence of suspected war criminals in the local administration which hampers trust of the local population and particularly returnees into the justice system.[...] Despite the efforts made in the context of the decertification process undertaken by the International Police Task Force (IPTF) before the end of 2002 as regards police

officers against whom there was evidence of wartime crimes, considering the magnitude of war crimes committed in Bosnia and Herzegovina, and the active role of local administrators in the execution of these crimes, it is unlikely that all war criminals have been removed from local administrative bodies. In cases where officers have been decertified, IDPs and returnees have come across them in other central roles in their former municipalities, either as experts or consultants to the Ministry of Interior, in the judicial systems and other central parts of the local administration, including in schools.” (UNHCR, January 2005)

[T]he point needs to be made that the protection of vulnerable witnesses must take account of other needs apart from their physical security. These politically-charged trials have a profound social impact - both at the general level of the community at large and at the level of those participating in the proceedings. They do not take place in an academic, judicial vacuum but are very much part of the dynamics of political and social developments, as many proceedings so far have taken place against a backdrop of mass publicity. Practical, psycho-social and medical support should be offered to all vulnerable witnesses, in particular with regards to the high risk of re-traumatisation as a result of giving testimony and being subjected to cross-examination. The need for such support is expressly recognized in international law. Article 68(1) of the Rome Statute requires the Court and the Prosecutor to take such measures.[...]

The dire economic and social living conditions of many witnesses (in particular former detention camp inmates, rape victims, displaced persons, single parents and the elderly - categories which obviously to a large extent overlap) need specific attention as well. Therefore, it is recommended that witness protection schemes work in close cooperation with the local health and social service system, as well as with organizations with experience in working with vulnerable and traumatized individuals.” (AI 12 November 2003, p.19)

“Entrenched ethnic divisions among the political elites in Bosnia continue to shape political and human rights developments in the country. While ethnic violence has for the most part ended, ongoing ethnic divisions among Bosnia’s constituent peoples – Bosniacs (Bosnian Muslims), Serbs, and Croats – continue to impede progress in key human rights areas, such as war crimes accountability and the return of refugees and displaced persons.

An example of impunity: sexual war crimes

“Bosniak, Croat and Serb women who endured horrendous crimes of sexual violence have still to obtain justice. Nearly a decade after the armed conflict in Bosnia-Herzegovina of 1992-95, only a handful of those responsible have been brought to justice for the widespread rape and sexual abuse of women. Women were held in sexual slavery and subjected to repeated rapes and other forms of torture by armies and paramilitary groups on all sides of the conflict.

Vigorous campaigning by women’s organizations, which first revealed to a shocked world the extent of the abuses in 1992, has made a crucial contribution to the recognition of rape as a war crime. Prosecutions for rape and sexual enslavement as crimes against humanity took place at the International Criminal Tribunal for the former Yugoslavia, and the Rome Statute of the International Criminal Court subsequently recognized rape, sexual enslavement and other crimes mostly committed against women and girls as war crimes and crimes against humanity.

Despite this, virtual impunity continues. There have been almost no prosecutions for rape and other crimes of sexual violence before domestic courts in Bosnia-Herzegovina, denying most women access to justice, redress and reparation. The men who raped them enjoy continuing impunity, while the lives of the victims remain socially and economically blighted. Apart from services provided by women’s organizations, appropriate medical and psychosocial support remains generally unavailable.

In June 2003, as the Tribunal began to prepare for its closure in 2010, the international community proposed the establishment of a State Court with a War Crimes Chamber in Bosnia-Herzegovina, which is

expected to start proceedings in early 2005. However, moves to create a national war crimes court in Bosnia-Herzegovina have not satisfied doubts that the perpetrators will ever be brought to justice.

The new court – created in a process that appeared driven by international financial and political factors – will fail to deliver justice and redress unless women feel that it is safe to testify. There would have been even fewer prosecutions at the Tribunal if it were not for the courage and determination of women who have stood up to threats and intimidation.

There is no effective protection for witnesses from attacks and intimidation inside the country or under an international protection scheme such as that in place at the Tribunal. Women prepared to testify at the State Court need to be guaranteed protection of their physical safety and access to psychological, social and economic support both during trial proceedings and afterwards.” (AI, 12 October 2004)

War crime accountability

Local officials in each entity of Bosnia remain unwilling to prosecute members of the ethnic majority in their region for war crimes. Hundreds, possibly thousands, of war crimes committed in Republika Srpska have yet to be investigated and tried before the Republika Srpska courts. In May 2004, Republika Srpska opened the first war crimes trial ever against ethnic Serbs; eleven Serbs are accused of the illegal detention of Catholic priest Tomislav Matanovic in 1995, who was later found murdered. In the Federation of Bosnia and Herzegovina (the Bosniac majority area), there have been more indictments against members of the local ethnic majority, but these efforts have been plagued by a lack of support on the part of police and political elites, as well as poor cooperation between the countries in the region and entities in Bosnia and Herzegovina on judicial matters, and a lack of witness protection mechanisms.” (HRW, 14 Janvier 2005)

“The first transfer of a war crimes suspect to The Hague, with the co-operation of the Republika Srpska (RS) authorities in mid-January 2005, is a significant step in the right direction. However, as most wanted war crimes suspects remain at large, much is still needed to ensure full co-operation with the ICTY, a priority matter for the CoE and a pre-condition for progress towards further Euro-Atlantic integration. The decision of the High Representative mid-December 2004 to dismiss several high officials of the RS testifies that obstacles still exist in this respect.” (CoE, 4 February 2005)

**See also “Justice at risk: War crimes trials in Croatia, Bosnia and Herzegovina and Serbia and Montenegro”, Human Rights Watch, 14 October 2004, [link below](#)
“Foca confronts its past” HRW, 15 October 2004**

For more information on the need for continued international protection of witnesses of war crimes, see Section 3, UNHCR, July 2003, “UNHCR’s Concerns with the Designation of Bosnia and Herzegovina as a Safe Country of Origin”, [link below](#)

For more information regarding the general problems with justice and reconciliation in Bosnia, see “Bosnia: Massacre Trial Highlights Obstacles to Justice in the Balkans,” Human Rights Watch, 16 January 2004, [link below](#)

Reintegration of vulnerable groups can prove very difficult (2000-2003)

- Discrimination based on ethnicity, political affiliation, national origin and gender impact more severely on vulnerable groups, including minority returnees, Roma and female-headed households
- 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

“It is still the case that the majority of human rights concerns are rooted in some form of discrimination based on ethnicity, political affiliation, national origin, gender, or various intersections thereof. Difficulties experienced by the entire country due to economic hardship or the aftermath of the conflict impact more severely on vulnerable groups, for example minority returnees, Roma and female-headed households. The pervasive influence of political parties in areas which should be free of any influence, such as employment and access to housing, is to be deplored and must be remedied. [...] **It is hoped by the Special Representative [of the Commission on Human Rights to examine the situation of human rights in Bosnia and Herzegovina] that the new gender law, when implemented, will address some of the inequalities, but he urges much greater efforts to analyse the full ramifications of all forms of discrimination to ensure that positive steps are taken towards their removal.**” (OHCHR 21 January 2003, para.6)

"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 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]

SUBSISTENCE NEEDS

Shelter and non-food items

Reconstruction efforts do not keep up with the needs of IDPs and returnees (2003)

- It is estimated that about 140,000 houses and apartments are still in need of reconstruction, amounting to US\$ 2 billion (May 2003)
- The reconstruction of 30,000 housing units is planned for 2003-2004 and 20,000 more in 2005-2006
- With decreasing international assistance, there will not be sufficient resources to meet reconstruction needs
- UNHCR expressed concerns about the estimated 350,000 persons who remained internally displaced, and who had little or no prospects for a durable solution
- UNHCR emphasised the need for donor funding for the reconstruction of housing, infrastructure, schools and health facilities to meet the needs of vulnerable displaced individuals
- Bosnia and Herzegovina will receive donor funds through the Council of Europe Development Bank

“It is estimated that, within the overall remaining demands for reconstruction, it would be necessary to reconstruct about 140,000 houses and apartments, which would require about US\$ 2 billion. The Commission for Refugees and Displaced persons has adopted the list of about 65,000 houses in the priority areas of return, for the following four years, which is the result of the consultations, between the RRTF, UNHCR and line ministries on the state and entity level. In the first phase – until the end of 2004, while BiH can still expect more significant inflows of international aid, the reconstruction of about 30,000 housing units is planned, and in the second phase, until the end of 2006, the remaining 20,000 units from this priority list need to be reconstructed.

About 100 million KM was allocated in 2002 for the return purposes from the budgets of all levels of government in BiH, and it is estimated that the resources used by the international community were at the same level. Within the Agreement on Association and the Method of Use of Funds for the needs of reconstruction and return to BiH in 2002, 15.8 million KM was allocated (3 million KM from the BiH budget, and 6.4 million each from the entity budgets) for joint projects based on the criteria defined by the Commission for Refugees and Displaced Persons.

According to the information available to date, in 2003 and in the subsequent years, the resources available will not be even nearly sufficient for meeting the above needs, as the inflows of foreign donation will decline ever more significantly.” (Poverty Reduction Strategy Paper Team 30 May 2003, Section 5.4.3)

“According to the United Nations High Commissioner for Refugees (UNHCR) field mission in Bosnia-Herzegovina, in the first six months of 2003 some 28,000 returns were registered throughout the country, including over 25,000 minority returns, bringing the total number of returnees since the war close to one million (almost half of the estimated 2.2 million persons forcibly displaced during the war). In late May, the implementation rate for the repossession of private and socially-owned housing reached 82 per cent country wide. However, at the same time, UNHCR expressed concerns about the estimated 350,000 persons who remained internally displaced, and who had little or no prospects for a durable solution through either return to their pre-war homes or effective resettlement. In particular the agency stressed the need for donor

funding for the reconstruction of housing, infrastructure, schools and health facilities to continue and to be more targeted to the needs of vulnerable displaced individuals.” (AI 1 October 2003)

At the National Level

“During year 2003 in overall investments for reconstruction of housing stock and infrastructure in BiH, and with a view of easier return of displaced persons and refugees, the following institutions were participating:

SOURCE	AMOUNT (KM)	REMARK
Council of Ministers Budget	2,500,000	Planned budgetary resources for the year 2003, direct and through Project SUTRA
F BiH Government	31,000,000	Planned budgetary resources for the year 2003, direct and through Project SUTRA
RS Government	22,500,000	Planned budgetary resources for the year 2003, direct and through Project SUTRA
Cantons, municipalities and Brcko District	18,000,000	OHR source
Republic of Croatia Support Programme	6,500,000	R of Croatia Programme, source: BiH Project Coordinator
OIC Support Program	4,700,000	Source MHRR – Department for Projects
Other donor sources	97,200,000	OHR sources
NGO sector and personal returnees investments	34,300,000	Insight into situation in the field and assessment for the year 2003
TOTAL	216,700,000	

[...]

[B]iH has ensured through donors **funds for membership to the Council of Europe Development Bank**. That will enable access to significant funds of favourable Development Bank credit lines, and guarantee ensuring of additional funds for the implementation of envisaged reconstruction in the framework of Annex VII.” (Ministry for Human Rights and Refugees December 2003, p.p.7-8)

See also,

“Church World Service Emergency Appeal: Balkans rehabilitation programme”, Church World Service, 16 January 2003 [Internet].

“The Continuing Challenge of Refugee Return in Bosnia & Herzegovina, Balkans Report No. 137” ICG 13 December 2002 [Internet].

"2001 the highest number of returns since Dayton", United Nations High Commissioner for Refugees (UNHCR), 15 February 2002 [Internet].

HR decision extends use of collective and transit centres as alternative and emergency accommodation for six months (2003)

- In January 2003, the High Representative extends by six months the requirement that domestic authorities ensure use of collective and transit centers as alternative accommodation

“The High Representative, Paddy Ashdown, on Wednesday issued a Decision extending by six months the requirement that domestic authorities take steps to ensure that all collective centres and transit centres in Bosnia and Herzegovina are used as both alternative and emergency accommodation.

Substantial progress has been made on implementing a plan adopted by the State Commission for Refugees and Displaced Persons on 11 September 2002, whereby a list of around 600 families still living in transit or collective accommodation, and who have unsolved property claims, was created. Over 60 percent of these cases have now been solved. The High Representative's Decision will cease to apply when all the remaining cases from the list, affecting around 250 families, are solved.

The High Representative has issued this Decision in order to ensure that no one is left without adequate protection while this plan is being implemented.

This type of accommodation is needed in order to provide for those who would otherwise risk becoming homeless upon leaving claimed property. As many facilities as possible should be devoted to this purpose, in accordance with the property laws. As one of the largest potential resources for such accommodation, collective centres must remain open and be converted into alternative and emergency accommodation, to ensure that as the property laws are implemented in chronological order and within the legal deadlines, the risk of anyone being left unprovided for is minimised." (OHR 2 January 2003)

Housing shortages affect displaced persons who are being evicted as a result of the property restitution process (2000-2003)

- Human rights organizations document problems in accessing accommodation for displaced persons due to the acceleration in property implementation process in certain municipalities (2003)
- 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

Višegrad Municipality

"Successful implementation rate of property legislation and accelerated evictions of the Serb families from apartments and houses owned by Bosniaks additionally aggravated the status of refugees and displaced Serbs in Višegrad. Along with the piece of information that between 7,000 and 8,000 exiled and displaced persons live in Višegrad the Mayor also said that "quite a good number of them" in the meantime resolved the issue of a roof over their heads either by buying or exchange of property, that a number lives in collective centres and that the Municipality pays alternative accommodation for some of them. According to the same source at one moment in time 4,500 Serbs were placed in collective accommodation centres which were absolutely inhabitable. At present around 450 persons are forced to live in this kind of accommodation while the governmental bodies promised that their problems would be resolved by the end of the year. A particular problem represents settlement Nezuci whereto open misunderstanding exists between the governments and displaced Serbs. The Mayor also outlined illegal construction, a huge number of illegally constructed objects during the war and post-war period as a problem for which they still did not have adequate solution.

Displaced Serbs publicly /on the street/ protested against evictions from temporary accommodation during October.

There is also an open issue of dissatisfaction of exiled and displaced Serbs regarding construction of settlements on Bikavac and Garca. Originally allocated rulings asserting the right to ownership over these

residential units were annulled due to new legal regulations and the purpose of these residential units was altered. The displaced persons referred to the right to be entitled to compensation since they invested tens of thousands of labour hours into the construction of the settlement.” (Helsinki Committee for Human Rights in Bosnia and Herzegovina 2003)

Zvornik Municipality

“According to the data in possession of Šaban Redžić, Chair of the Municipal Assembly, between 12,000 and 13,000 of Bosniaks returned to Zvornik. It approximately represents one-third of its pre-war population of the Bosniak ethnicity. Those who wished to return exert a huge pressure but there were no donations for the reconstruction of destroyed residential units.

On the other hand around 20,000 displaced Serbs live in Zvornik who, as Redžić said, in the largest number so far refused to return to their pre-war places of residence. The implementation of property legislation / decisions on more than 90 percents of claims were passed by the end of September, and more than 80 percents was implemented / as a consequence brought a huge number of evictions so that current issue is how to resolve the problem of accommodation of the displaced persons.

The Commission for Return, Development and Integration was recently established within the Municipal Assembly of Zvornik, which by means of donor-funded projects would offer assistance to the most vulnerable returnee and displaced families. With the help of donors the Commission was supposed to engage in reconstructing houses of returnees and displaced persons, reconstruction of school buildings, roads and other infrastructure-related projects.” (Helsinki Committee for Human Rights in Bosnia and Herzegovina 2003)

2001 – 2002

"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]

Housing-related issues and constraints (1996 – 2003)

- The predominant need has been reconstruction for returnee refugees and IDPs and repossession by rightful owners of housing units illegally occupied
- Housing issues have a regional dimension; many Croatian Serbs refugees occupy Bosniac or Croat-claimed property in the RS
- Other constraints include, limited institutional capacity, lack of comprehensive policy and financial sector limitations

“[I]n BiH the predominant need has been the reconstruction of housing for returnee refugees and IDPs, along with the repossession by their rightful DP or refugee owner of housing units illegally occupied (mainly by other IDPs).

[...]

However, there is a strong regional dimension to the housing dimension of the returns issue. For example, currently, 21,000 Croatian Serbs with pending refugee status revision are still present in BiH, in many cases occupying Bosniac- or Croat-claimed property in the RS. Their prospects of return to Croatia are complicated by the absence of a regional property exchange information mechanism, as well as by the limited facilitating property legislation in that country - in particular legislation enabling the return of former socially owned property [...]. This population is an added burden on the BiH authorities, since it adds to their already pressing obligations to provide alternative accommodation for BiH citizens who must leave claimed property, in accordance with the BiH property laws[...].

[...]

Limited institutional capacity

In their attempts to resurrect the housing sector and integrate concerns with refugee and IDP-related housing issues, the first concern of governments and the international community has been to remedy war damage, to a large extent supported by international donations. From 2001 such immediate support action has begun to make way for the development of more structural approaches to housing. However, this requires housing policy makers to consider the housing market in supply and demand terms in all its segments. It also requires a changeover from grant financed housing support for refugee and IDP related housing projects (as well as for housing for the locally needy population) to programmes supported through local and international loans, with appropriate repayment and cost-recovery provisions.

Central government institutional capacity to develop appropriate enabling instruments to support market-based housing development is still limited (or absent in the case of Bosnia-Herzegovina, where housing is not a subject of State concern, but of Entity concern). This relates to the development of enabling national legislative frameworks and institutional mechanisms, calibrated and effective (national) subsidy schemes, appropriate divisions of roles and responsibilities between central and local government, support to the development of housing finance through private sector financial institutions, land information systems, and the development and implementation of housing programmes and projects which integrate refugee and IDP-related housing with housing for locally needy population.

[...]

Lack of comprehensive policies

As noted above, housing development in the post-conflict period [has] been characterised by ad-hoc decisions and isolated projects, mainly geared to reconstruction. From 2001 onwards an awareness emerged that such interventions are not sustainable and that there is a need for a more comprehensive policy framework, but this has not yet led to the development of comprehensive housing policies.

In Bosnia-Herzegovina this has been complicated by the legal fact originating from GFAP that housing is a subject for Entity concern, not State concern. This hampers the development of a comprehensive national housing policy. However, as resolution of refugee and IDP issues is a subject of State concern, refugee and IDP related housing have begun to be addressed comprehensively in the framework of the State Commission for Refugees and Displaced Persons, through the establishment in October 2002 of an Expert Group on Housing Issues in regards to refugees and returnees. The Expert Group, however, has just started its work by preparing its 2003 Action plan and is short of resources to implement it.

Financial sector limitation

A significant constraint in the development of a market-based housing finance system is the relative underdevelopment of the financial sector [...].

[...]

In Bosnia-Herzegovina, [...] in addition, there are as yet not many viable financial institutions that can comfortably develop such financial products (particularly in the RS). The KfW managed European Fund for Bosnia and Herzegovina's Housing Construction Loan Programme plays a major role in the development of the banking sector's capability to service this market, through its combination of refinancing housing loans from the collaborating (12) originating banks, due diligence and capacity-building. Its operation deserves to be reviewed to assess to what extent it could be expanded and/or developed into a more sophisticated set of housing finance instruments (in as far as refugee-and IDP related housing possibly backed up by the Return Fund envisaged in the Annex VV (GFAP) Strategy, for which a basic regulatory framework is already in place).

Cross-border property issues

Due to the still large number of unresolved cross-border property claims of refugees, property titles in one country cannot be used in support of housing action in another. This forms a significant problem in resolving refugee and IDP -related housing problems in a market-based way, as, effectively, these assets across the border remain 'dead capital'." (Council of Europe 28 March 2003)

Overview of refugee and displaced persons return-related housing initiatives (1996 – 2003)

- One of the main areas of focus of the international community since 1996 is on reconstruction of returnee housing units

- Since the war, it is estimated that some 500,000 displaced persons have returned and been re-housed in their original residence (end 2002)
- The State Ministry for Human Rights and Refugees estimates about 25,000 properties of returned refugees/DPs with damage of 20% or more have been reconstructed during 1996-2000
- Of this total, about 13,600 housing units have been repaired or reconstructed as estimated by the International Management Group in 2001

“Since the cessation of war some 424.000 refugees have returned (up to end-2002 - largely because of external push, so some of them will have added to the displaced persons (DP) problem), while some 506.000 DPs have returned to and have been (re-) housed in their place of original residence.

The return patterns over time for these two groups differ markedly: refugee returns swelled to very high levels in 1997 and 1998 (120,300 and 110,000 persons respectively), and then declined rapidly, reducing to some 18,500 persons in 2001. The year of 2002 saw some 37.000 refugee returns. This is likely to taper off further during the next few years. On the other hand, DP returns, after the initial surge in 1996 (164,700 persons), declined sharply to a low of 29,600 in 1998 and then increased again to 59,400 persons in 2000, 70,000 in 2001 and some 70.700 in 2002.

The international community (IC)'s efforts in refugee-related housing support have served the primary objective to reverse the demographic impact of the war in accordance with the Dayton Peace Agreement Annex VII provisions. The IC effort in housing from early 1996 onwards has therefore focused on promoting and facilitating refugee and DP returns, particularly minority returns. In housing terms, this has led to a focus on two major areas of operational concern: a) reconstruction of returnee housing units; UNHCR has been the lead agency in this IC effort, and b) the property law implementation programme (PLIP), to ensure that returnees can repossess their property illegally occupied by others during the war; OHR, OSCE and UNHCR are the main IC proponents in this programme .

The caseload of claims filed under PLIP was about 232,000 by end-January 2003. On these, a decision had been taken in 195,700 cases, and 171,500 properties have been repossessed during October 1999 - January 2003.[...] At end-December 2002 some 41,000 repossession cases were still in various stages of legal process, while another 36,000 still required a decision, for a total of 77,000 as yet unresolved cases at end-2002 (ultimately leading to the eviction of the illegal occupants of those units).

According to the State Ministry for Human Rights and Refugees, some 25,000 properties of returned refugees/DPs with damage of 20% or more have been reconstructed during 1996-2000.[1] Of this total, about 13,600 housing units have been repaired or reconstructed through IC efforts, as estimated by the International Management Group (IMG - see below) in early 2001.[...] The IMG also estimated on the basis of a nation-wide survey of destroyed and damaged properties that at end-2000 some 15,000 units of returnee housing still needed repair or reconstruction at a total cost of KM 265 million.[...] By August 2001 the net additional reconstruction requirement (accounting for on-going reconstruction) at mid-2000 was estimated by the national level Reconstruction and Return Task Force (RRTF - see below) to be 22,000 units.

In the early years of the reconstruction efforts, there was insufficiently tight management of the process, as a result of which it is estimated that at least 2,000 to 3,000 reconstructed units remained unoccupied, as they did not match the revealed aspirations of the returned refugees/DPs for whom they were intended. It is thought that this, at least in part, is related to the lack of employment opportunities and infrastructure availability in the locations of origin where their housing was reinstated.[2]

Early experiences with reconstruction during the war led to the establishment in 1994 of the International Management Group (IMG) for reconstruction (at the initiative and under the auspices of UNCHR), which included a housing unit, that i.a. developed a data base on housing reconstruction requirements and on-going efforts (generally implemented through a variety of NGOs with different approaches), proposed

common reconstruction standards for various levels of damage recommended to be used by all IC efforts[...], provided a forum for sharing experiences and approaches[3], and for monitoring achievements. In early 2001 the IMG ceased to function. In recognition that the housing reconstruction effort needed a broader support mechanism, UNHCR and OHR established the Reconstruction and Return Task Forces (RRTFs), which operate at State, Entity and Canton level. Participation is limited to IC and NGO members.

From FY 2001 the State and the Entities are contributing to the reconstruction effort in a major way for the first time, to the tune of a budget provision of KM 55 million per annum, mainly for the provision of building materials on site, leading to an additional self-help reconstruction of some 6,500 units per year. This represents a very positive step forward, which should be built upon. The IC housing reconstruction effort amounted to an annual delivery of about 3,700 units in 2001.

There is an urgent need for co-ordination between the IC effort on the one hand and the State/Entities effort on the other, as the above RRTF delivery estimates did not fully consider the Entities reconstruction delivery to date. Projecting the mid-2001 RRTF requirement estimates to end-2001 by including the IC and Entities funded 2001 output, suggested that remaining reconstruction needs on that basis will be about 15,000 additional units at that time. This was seen as the minimum reconstruction requirement for 2002 and beyond (given the unexpectedly large number of returns in 2001 and 2002, this is probably still a reasonable estimate today).

As noted above, the IC approach to reconstruction evolved over time, as concerns with cost-effectiveness increased. In the process, some IC members piloted with more clustered approaches, as well as with attempts to link reconstruction to the property repossession programme [...]. Some of the IC supported reconstruction effort currently incorporates a gradual shift over to programmes offering reconstruction loans at hard (Prizma) and soft (World Vision) terms as support mechanism, rather than grants [4], as well as to programmes which endeavour to address other issues along with housing (employment through provision of equipment and/or SME loans, development/rebuilding of education and health care facilities).” (Council of Europe 28 March 2003, Annex A)

[Footnote 1] In addition, the Ministry estimated that all properties with damage of less than 20% had been repaired.

[Footnote 2] Quantitative estimates of the number of units involved vary significantly; some sources suggest that, based on a limited geographical sample, the number of unoccupied units may be as high as 36,000 nation-wide. It is clearly important to carry out a comprehensive national survey to establish the actual number of unoccupied number of units, the reasons why they remain unoccupied, and how these units can still be used productively in resolving housing shortage issues.

[Footnote 3] E.g. the Norwegian and Swedish supported projects in Zenica and Tuzla, which clustered reconstruction in larger number of units to make it more cost-effective and to reconstruct communities rather than individual housing units, but which generated much discussion about the interpretation of reconstruction, as it clearly meant that a number of families were not re-housed at their very places of origin.

[Footnote 4] The volume of these efforts is still small; the shift in approach is inspired by the perceived donor fatigue related to refugee-related reconstruction (RRTF, 10 October 2001)

General

Persisting problems of access to utilities for returnees and other vulnerable persons (2005)

- Ministry for Human Rights and Refugees coordinates efforts to reach agreement on electricity between responsible Ministries and Directors of electricity companies
- MoU harmonises procedures for reconnection in favour of returnees
- Reconstruction of electricity network will focus on return areas
- Some areas of Croat controlled Herzegovina and Eastern RS still deny returnees access to electricity
- Problems in access to utilities for returnees and other vulnerable persons continued to be reported in 2002-2003 in a number of municipalities
- 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
- 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

UNHCR welcomes the MOU on Reconnection of Returnee Housing Units to the Electricity Networks, signed today in Sarajevo between the responsible BiH ministries and the electricity companies in Bosnia and Herzegovina. The MOU and its future implementation represents significant progress in the BiH authorities taking over the responsibilities for the creation of suitable conditions for the return of all peoples who wish to return in line with Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina.

Returnees have faced a myriad of problems with the reconnection of their properties to the electricity network since the very beginning of the return process in Bosnia and Herzegovina. Returnees as one of the most economically vulnerable groups in BiH, were thus also heavily burdened by taxes and fees for the electricity reconnection.

As a result of the MOU, all three BiH electricity companies will take over the responsibilities for the reconstruction of the electricity network with an emphasis on return areas and returnee households as a priority for reconnection. Municipal authorities and MHR Regional Centres will closely cooperate with the electricity companies in order to ensure full transparency in the use of funds allocated for this purpose. The most important provision in the MOU is the harmonization of an exemption of reconnection taxes and fees for returnees throughout Bosnia and Herzegovina. UNHCR will continue to monitor its implementation until the rights of all returnees to again have access to vital services to be provided by the authorities, is ensured. (UNHCR, 26 January 2004)

Some areas of Croat-controlled Herzegovina and some towns in eastern RS remained resistant to minority returns. This was most often expressed through official obstruction of returnees' access to local services (i.e. municipal power and water, education, and health care). For example, the government-owned RS electric company was obliged to connect residents who live within 50 meters of an existing power line. Despite repeated requests, they consistently failed to connect many eligible returnee households, especially in the Srebrenica-Bratunac area. (US DOS, 28 February 2005)

In a number of municipalities problems of access to utilities for minorities were reported in 2002 - 2003

Article 11 of the International Covenant on Economic, Social and Cultural Rights recognises the right of every citizen to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

However, there is a huge rift between standards defined by international conventions, which bodies of governance committed to comply with, and the actual state of social rights of citizens in the Federation of BiH.

Wartime devastation and reduced donations by the international community cannot be used, seven years since the end of the war, as valid justification for the arrogant attitude of authorities towards the socially most vulnerable categories of the population. There continues to be a disproportion between the living standard of the majority of the population, who are on the verge of poverty, and the fees burdening them for utility services, which are an essential requirement for life.

[...]

An example that illustrates social poverty are numerous addresses by citizens over lawsuits brought against them by public enterprises for failure to pay utility bills. Although sometimes these bills are around 10 or so KM, citizens are in a hopeless situation between an inability to pay and a possibility of being left without electricity or water, as the basic requirements for normal life.

In the area of Herzegovina-Neretva Canton, cases were reported of massive addresses by citizens who complained of water and electricity being cut off for entire buildings and settlements due to outstanding debts from the wartime and post-war period. Through mediation by the Office of Ombudsmen of FBiH in Mostar, in co-operation with responsible persons in the water company in Mostar, a fast and efficient solution was found to prevent water being cut off.

The problem of electricity cuts, however, remained unsolved. The power distribution company in Mostar, "Elektrodistribucija", namely, refuses to issue outstanding debt cards which would show which period outstanding debts refer to. This prevents citizens from checking individual monthly bills and their foundedness, or if they are possibly outdated. The board of "Elektrodistribucija" Mostar passed a decision that citizens themselves would have to cover the costs of issuance of outstanding debt cards, which is an additional fee for the already impoverished citizens." (Ombudsman of the Federation of Bosnia and Herzegovina March 2003, Violation of Social Rights of Citizens)

Bugojno Municipality

[...]

"Access to public utilities: Low confidence in the ability of potential returnees from rural areas to access public utilities undermines return. For example, Bosniak returnees to Bosanski Dubovac complain that municipal authorities by-passed their village when connecting telephone lines to a neighbouring Serb village. In the village of Zeravac, houses reconstructed by international donors are still without electricity. Reconstructed houses in Velika faced difficulties in connecting utilities, and the delivery of electricity remains unstable. Water supply is a problem for the whole population in Derventa Town, but is especially acute in rural areas. Such difficulties in accessing utilities can create a perception that the municipality does not encourage minority returns in rural areas where most return takes place." (UNDP 2003*)

Cazin Municipality

"The data from the NGOs and the municipalities related to the return of apartments show that the return was completed in 99% of the cases, while the return of private property was completed in almost 90% of the cases. They are planning to complete this task in hundred percent of cases by the end of the year. Such results are the consequence of strengthening of human resources in those municipal services that are in charge of return. Unfortunately, this is not the case with other municipal services and public institutions. For example, there are still cases where some people are favoured at the expense of others in getting phone lines, and where infrastructure and utility problems (water, electricity, roads) are being slowly or not at all resolved." (Helsinki Committee for Human Rights in Bosnia and Herzegovina, 2003)

****Please note, this information is cited from a DRAFT in progress, and is subject to change pending publication by UNDP/OHCHR. For more information, see UNDP B&H website[Internet].***

See also the section on Violations of Social Rights, in the "Report on Activities of the Ombudsmen and situation of human rights in the federation of B&H for 2002", March 2003 [Internet].

"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 (2004)

- Mono-ethnic composition of medical institutions negatively affects minority returnees' confidence in these institutions
- The state of health of the population of BiH has been deteriorating since the war
- Inequalities in access to, and receipt of, health care are particularly acute for returnees due to political and administrative barriers
- Due to lack of harmonization of entity laws on health insurance, returning IDPs frequently lose health insurance and face difficulties in accessing health institutions
- 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

“While access to healthcare is reported to be problematic for many of the citizens of Bosnia and Herzegovina, it has been reported to ECRI that minority returnees encounter even more serious difficulties in accessing health services. Contrary to the pre-war situation, which was characterized by the existence of a single nation-wide health insurance scheme, there are at present three separate basic health insurance schemes in Bosnia and Herzegovina: one in the Federation, the responsibility for the operation of which has effectively been delegated to the ten Cantons; one in Republika Srpska; and one in Brcko District. The complexity of this institutional framework results in a number of difficulties—including the inability to transfer coverage from one location to another and the absence of inter-Entity co-operation on health insurance issues—compounded by non-payment of contributions into the different health funds. It has been pointed out to ECRI that some of these difficulties, and notably the impossibility to transfer coverage between cantons and between entities acts a deterrent to potential returnees and that it also constitutes a powerful obstacle for those who have already returned, since many of them are required, in practice, to travel to the other Entity to access health services. ECRI notes that an inter-Entity Agreement on Health Insurance has been concluded with the aim to overcome the difficulties in accessing healthcare faced by insured people, mostly returnees, who have had to move from one Entity to the other. However, the implementation of the Agreement is reported to be not satisfactory. ECRI strongly urges the authorities of Bosnia and Herzegovina to thoroughly implement the inter-Entity Agreement on Health Insurance. In addition ECRI has received numerous reports according to which the mono-ethnic composition of the staff in health provision facilities in a number of municipalities negatively affects minority returnees' confidence in these institutions. It has also received some allegations according to which health care services are not equally provided to members of all ethnic groups. ECRI urges the authority of Bosnia and Herzegovina to ensure that all persons living in Bosnia and Herzegovina enjoy adequate access to healthcare in a manner that is not directly or indirectly discriminatory vis-à-vis particular ethnic groups.” (ECRI, 15 February 2005, par.28)

“The state of health of the population of BiH has been deteriorating steadily since the war. The reasons are [...]: socio-economic circumstances, unemployment, migration, the large number of displaced persons, lack of health insurance, unhealthy lifestyles, etc. As many as 22 percent of the BiH population aged over 17 report intermittent constraints on their daily activities as a result of health problems; 24 percent have chronic ailments and 4 percent suffer from serious ailments. [...] In addition, there has been a marked deterioration in population health as a result of long-term stress—post-traumatic stress disorder (PTSD).” (Poverty Reduction Strategy Paper Team, 30 May 2003, Sect. 2.2)

“Health insurance does not provide cover, even for those who have insurance, against having to make additional payments in the case of serious illness, while the uninsured are particularly at risk. Given the high costs of health care, this pushes households into poverty.[...] About 20 percent of the better-off have no health insurance, while as many as 36 percent of the poor are uninsured. There are also regional inequalities in access to health care, to the disadvantage of rural areas. The problem of access to health care in BiH as a whole is further exacerbated by the fact that the health care system is split between the two Entities (FBiH and RS), and between the cantons within FBiH, plus Brcko District. Inequalities in access to and receipt of health care are particularly acute for returnees, who are mainly unemployed or pensioners, and for whom political and administrative barriers mean they are almost entirely without health care. As a result, returnees have to make out of pocket payments for health care services, mainly in the private sector, which impoverishes this category of the population in BiH.” (Poverty Reduction Strategy Paper Team 30 May 2003, Sect. 3)

“Some serious problems have been identified, such as an inadequate registration and information system. Such a system is clearly required for the timely planning, implementation, and assessment of national immunisation activities. Moreover, significant and constant population migration contribute to flawed registration data, and thus lead to a low rate of vaccination coverage with Roma children, refugees, and displaced persons.

An agreement on the realisation of health care has been signed between the Entities and between the Entities and the Brcko District. However, this agreement has not been complied with, so that a relatively small number of beneficiaries end up exercising their right to health care as laid out in this agreement. Due to the fact that entity laws are not harmonised with respect to health insurance, the change of residence that occurs when displaced persons return results in the loss of health insurance and difficulties in accessing health institutions.” (UNDP June 2003, pp.62 -68)

“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 results 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." (UNHCHR 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: Consolidated report of the municipality assessments in Bosnia and Herzegovina, MHRR, UNDP, OHCHR, April 2004, p.56-61

See also, "Questionnaire on Economic and Social Rights Laws in Bosnia and Herzegovina", South Eastern European Legal Initiative September 2003 [Internet].

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

Vulnerable Groups

Displacement aggravates the living conditions of Romas (2005)

- Roma are one of the most vulnerable groups in society
- Most Roma live in informal settlements and have therefore been excluded from reconstruction assistance and are particularly vulnerable to evictions
- Roma live under very poor shelter conditions
- Lack of personal documents exclude Roma from access to health, education and public life
- Several projects are ongoing to improve the conditions endured by the Roma

“As the largest national minority in Bosnia and Herzegovina (BiH) and as a socially, economically and politically marginalized group, the issues of concern to Roma are diverse. They range from access to education to employment discrimination; housing and property needs to the revival of the Romani culture and language.

Roma in post-war BiH face a series of difficulties exercising the full range of fundamental human rights guaranteed under the BiH Constitution. Such difficulties have been compounded by the displacement caused by the war. Of particular concern are issues regarding property rights and access to personal documents. It is estimated that there are between 30,000 to 60,000 Roma in BiH. This figure was determined during a joint fact-finding project by the OSCE High Commissioner on National Minorities and the Council of Europe.

A continued lack of organized political representation, coupled with prejudice and discrimination, make Roma one of the most vulnerable groups in society.” Roma face a range of problems linked to the lack of respect for their human rights. Denial of the right to property stems from longstanding uncertainty about the legal status of Roma settlements. Denial of other rights, such as access to social welfare and education, in part stems from problems many Roma face in registering with the civil authorities. In turn, a lack of education creates an unfair disadvantage in finding a job – making it difficult or impossible for Roma to secure employment. Meanwhile, with little access to social welfare, unemployed Roma have become one of the poorest groups in society.

The OSCE has developed a phased programme of activities to remove the obstacles to recognition of property rights, and assist with civil registration of Roma as first steps in achieving full recognition of and respect for their rights. [...]

The lack of personal documents such as birth certificates, identification cards or registered residence further contributes to the exclusion of Roma from society. Failure to register a child at birth prevents enrolment in school and inclusion in the social welfare system. Lack of personal documents also influences their access to healthcare and the participation in elections. The inability to secure documents is related to poverty and the low social status in the Roma community.” (OSCE, “Overcoming exclusion”, 2004)

“At present, between 50 and 70% of the Roma of Bosnia and Herzegovina are estimated to live in informal settlements, where conditions are extremely poor and, in some cases, such that the health and lives of their inhabitants are seriously threatened. Many of these settlements lack basic facilities such as access to drinkable water, electricity, reliable sources of heating, sewage system or garbage disposal. Furthermore, people in settlements are vulnerable to forced evictions, following which, in a number of reported cases, alternative accommodation has not been provided. ECRI strongly urges the authorities of Bosnia and Herzegovina to address without delay the housing situation of the Roma population and to ensure in the short term, that all Roma dwellings meet, at the very least, basic standards of adequate housing. ECRI notes that, in some municipalities, such as in Sarajevo, and in Brcko district the authorities have taken some steps to legalise settlements or to provide alternative accommodation to their inhabitants and strongly recommends to the authorities of Bosnia and Herzegovina to extent these initiatives.” (ECRI, 15 February 2005, par.62)

“More than 85 % of Roma in the 15-65 age group do not enjoy social security or health care, while this percentage is lower in other age groups. Catastrophic statistics of this segment show a death rate among children that results from the lack of medical aid because of non-possession of health booklets or non-entitlement to medical care in some other way. A great number of Roma are refugees and displaced persons. However, owing to the lack of identification documents before the war, they have not been able to get the status of refugees or displaced persons and thereby they have not been able to get any health insurance. They might be entitled to health insurance through registration with the labor exchange office, but they are not able to register with it either, because they do not have permanent place of residence.” (Council of Roma, October 2004)

See also:

. *The non-constituents: rights deprivation of Roma in post-genocide Bosnia and Herzegovina, BiH Country report, European Roma Centre, February 2004, [Internet]*

. *Report on Bosnia and Herzegovina, European Commission against Racism and Intolerance, 15 February 2005, par.58-71, [Internet]*

. *See also*

Education section, Envelope “Efforts to facilitate the integration of Roma children at schools”

Documentation section, Envelope “Roma excluded from fundamental political and social rights because of lack of personal documents

Public participation section, Envelope “BiH and Entity Constitutions link access to many aspects of public life to ethnicity”

Patterns of Displacement section, Envelope “Displaced Roma, a particularly vulnerable group”

Property Rights section, Envelope “Roma continue to struggle to access property rights”

Property Rights section, Envelope “Some measures taken to legalise Roma settlements”

Female-headed households less likely to obtain secure housing or health care (2002-2003)

- Refugee and displaced female-headed households face greater difficulties in obtaining secure housing or enforcing health insurance
- 22 % of female headed households are housed in temporary, illegal or emergency accommodation
- 25% of women in the RS live in bad or worse conditions as opposed to 15 % in FbiH

A UNDP report on female headed households (2003) "examines the poverty condition for female heads of household on the basis of the data extracted from the Living Standards Measurement Survey (LSMS). The findings suggests that, in the generally impoverished situation for people in BiH, female headed households are usually worse off where they exhibit one or more of these traits:

- the heads are of pensionable age or older, which indicates that they receive relatively lower incomes,
- they are headed by widows living alone, which suggests an absence of family care,
- the household is made up of refugees or displaced persons, which indicates that they will face greater difficulties obtaining secure housing or enforcing health insurance,
- they are based in the RS, which makes them twice as likely to be living in poor housing.

[...]

Surprisingly, the results derived from the LSMS indicate that 81 percent of female heads of household consider that they live in basically good or good conditions. The majority of these households also appear to have access to electricity and running water of some sort. A substantial number also enjoy security of tenure. 65 percent of female headed properties are owner-occupied, and a further six percent are in the process of becoming acquired by a household member under privatization schemes for state-owned property. This situation compares well with male headed households, 68 percent of which are owner-occupied. By contrast with these home-owning households or households with rental agreements, only 22 percent of female headed households are housed in 'temporary', 'illegal' or 'emergency' accommodation. Presumably, this category of people in insecure housing would include most of the 18 percent of female heads who have indicated that they are displaced persons or refugees.

Also revealing is the fact that the percentage of female heads of households living in good accommodation is significantly lower in the RS. 25 percent live in bad or worse conditions as opposed to 15 percent in the FBiH. This means that the chances of living in bad accommodation in the RS are almost twice as high for female heads of household. The poverty gap between the entities widens further for women living alone. 31 percent of women living alone in the RS considered their accommodation poor, when only 15 percent of women living alone in the FBiH endured bad conditions. More persons in the RS do not have access to a telephone and it is unlikely that the situation will improve for older people after privatisation, particularly in respect of provision of telephones to impoverished rural households [...]" (UNDP May 2003, pp. 7, 12)

Forced evictions of Roma (2003)

- The European Roma Rights Center expressed concern over the eviction of Roma families and the failure of local authorities to provide alternative accommodation

"On August 28, 2003, the European Roma Rights Center (ERRC) sent a letter to Mr. Sabahudin Viso, Minister for Labour, Social Policy and Refugees in Zenica-Doboj Canton, Bosnia and Herzegovina, expressing concern that Bosnian authorities have failed to provide alternative accommodation to undertake measure to provide adequate housing to the already evicted Romani families and ensure security of tenure to all Roma on the territory of Bosnia and Herzegovina" (ERRC 1 September 2003)

See, "Bosnian Authorities Forcibly Evict Romani Community", European Roma Rights Centre, 1 September 2003, press release [Internet].

Members of Roma community continue to face discrimination upon return (2002 – 2003)

- According to the Council of Europe/OSCE, 40,000 to 60,000 Roma face discrimination, including limited access to health care and education, poverty and weak legal status
- In 2002, there was limited assistance to the Roma from national authorities and international organisations

"Roma in post-war Bosnia and Herzegovina (BiH)[1] face numerous difficulties in exercising the full range of fundamental human rights guaranteed under the BiH Constitution. These difficulties have been exacerbated by the displacement of about 2 million people, among them large numbers of Roma, during the conflict in BiH in 1992-1995.[2] Of particular concern are issues regarding property rights and access to personal documents. The issues affecting the Romani community have not been adequately addressed by the international community so far, as focus had been primarily on the concerns regarding displaced Serbs, Croats and Bosniaks." (ERRC No.3 2003)

“A Joint Council of Europe/OSCE-ODIHR report issued in June identified a number of problems regarding the social situation, discrimination, and human rights violations faced by the country's 40,000 to 60,000 Roma, such as limited access to health care and education, poverty, and weak legal status. Large segments of the Roma population were unable to substantiate their citizenship claims. Only a tiny number of Roma children and youth were enrolled at educational institutions; only a small number of Roma adults were in full time employment; and in spite of dire need, Roma were often denied social support. Nearly all Roma in the RS were expelled from their property during the war; very few have been able to reclaim it. These displaced Roma, as well as Roma in the Federation who have lost their property because of the ravages of war, lived in makeshift dwellings on abandoned property. Conditions for some were extremely poor, and many relied on begging to subsist. The situation was further complicated by the lack of relevant data on Roma. The Roma continued to be marginalized during the year, and neither the Federation, the RS, nor the BiH Ministry of Human Rights and Refugees took steps to assist the Roma population.

While Roma faced problems that many others in the country faced, they had far fewer social and charitable organizations interested in helping them, and faced widespread discrimination. However, some international NGOs began reconstruction programs for Roma. A lack of formal title to land in some instances greatly delayed these projects. There had been no reconstruction assistance by either the Federation or the RS for Roma by year's end.” (U.S. DOS 31 March 2003)

“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' of '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)

-[1] The exact number of Roma currently living in BiH remains unknown, but is estimated to be between 40,000 and 60,000. This amounts to between 1 and 1.5% of the population of BiH.

[2] There is no reliable estimate as to the number of displaced Roma. According to the United Nations High Commissioner for Refugees (UNHCR), to date over 875,000 refugees and displaced persons have returned to their prewar homes. However, while there are statistics measuring the return of Bosniaks, Croats and Serbs, there is no clear information on the return of refugee or displaced Roma. Most Roma are likely counted as 'others', of which only 6,700 have returned since the end of the conflict.

See also,

Section I on Tolerance and Non-discrimination in the report of the “OSCE Human Dimension Implementation Meeting: Interventions and Recommendations by the International Helsinki Federation for Human Rights” IHF, 6-17 October 2003 [Internet].

“Roma in Expanding Europe: Challenges for the Future,” a World Bank/Open Society Institute conference, Budapest, Hungary, 30 June – 1 July 2003, inaugurated the “Decade of Roma Inclusion” (2005 – 2015) [Internet].

“Access of Roma to Education and Health Care Services in Tuzla Canton, Federation of Bosnia and Herzegovina” December 2001 - January 2002, report published by the OSCE, the Council of Europe and UNICEF [Internet].

ACCESS TO EDUCATION

General

Education reform attempts to address discrimination at school (2002-2003)

- Education reform proposes to create modern education system based on non-discrimination
- The reform intends to de-politicise education and strengthen a feeling of citizenship towards the country
- Non-discrimination measures should encourage returnee children to attend school in their place of return
- State-level framework law on primary and secondary education should ensure recognition of diplomas throughout BiH and facilitate return and freedom of movement
- Development of a common core curriculum should provide common foundation of knowledge while offering safeguards to protect various culture and languages.

Education reform

“On 21 November 2002, BiH authorities presented the Education Reform Strategy to the Peace Implementation Council (PIC) in Brussels. The Education Reform Strategy is a comprehensive document, developed in co-operation between local stakeholders and the international community, listing goals for education reform and focusing on the action needed to realise those goals: Access and Non-Discrimination, Improved Curriculum and Teacher Training in Pre-, Primary and Secondary Schools, Vocational Education, Higher Education, Finance and Legislation” (OSCE, Key areas, 2004)

“Our overriding objective is to depoliticise education, while creating the conditions that will ensure equal access to a high-quality, modern education throughout BiH.

Quality education is needed:

For the individual. It brings confidence and personal growth, as well as the skills, knowledge, values and attitudes that are critical for a young person to become a good and successful citizen.

For the community. It produces an aware and engaged citizenry, an enhanced potential for prosperity, and a society that is both fair and just.

For the country, As BiH strives to become a modern European state, quality education is essential to prosperity and progress.

We aim to put an end to segregation and discrimination through education, and to encourage returnees with school-age children to continue to go back to their homes.

We aim to de-segregate education, while respecting the rich cultural diversity that is the hallmark of our country.

[...]

“We will ensure that all children have access to quality education, in integrated multicultural schools, that is free from political, religious, cultural and other bias and discrimination and which respects the rights of all children. We will accomplish this by:

Providing returnee children with ready access to education, in integrated multicultural schools in their area of return, that is free from political, religious and cultural bias and discrimination.

. Implement the March 5th 2002 Agreement on Accommodation of Specific Needs and Rights of Returnee Children (February 2003)

. Develop long-term solutions for the education of all constituent peoples and persons belonging to national minorities (August 2003)” (Education reform)

“Implementing a state-level law on education in primary and secondary schools, as prescribed in the Council of Europe post-accession commitments, and implementing the Human rights and educational principles embedded in this law by adopting laws in the Entities and Cantons that are consistent with it.

[...]

Establish a high-level expert working group, bringing together the OSCE, Council of Europe and OHR in co-ordination with the Ministries of Education at all levels of competence, to begin developing a common core curriculum (from 1 December 2002)

Establish an effective instrument to ensure that the common core curriculum and its implied European human rights standards, as prescribed by the state-level law on education in primary and secondary schools are implemented throughout BiH (September 2003 at the latest)

Develop, adopt and implement laws in the Entities and Cantons that are consistent with the human rights and education principles and standards embedded in the state-level law (at least two months before the beginning of the school year (2004-2005)

[...]

Obtain agreement of the cantonal authorities in the Federation to defer their powers in the area of higher education to the entity level, in accordance with the Constitution of the Federation of BiH, to achieve overall consistency in legislation for higher education.” (Education reform)

“Consistent with its mandate in the area of human rights and pursuant to the decision of the OSCE Permanent Council in July 2002, the OSCE Mission to BiH has assumed responsibility for the co-ordination and facilitation of the work of the International Community in the education sector in Bosnia and Herzegovina

[...]

A key priority of the OSCE Education Department was the development, and is now the implementation, of the BiH Education Reform Strategy” (OSCE, Reform, 2004)

Primary and secondary education

“As part of the Education Reform Strategy, BiH authorities adopted a State-level Framework Law on Primary and Secondary Education on 4 July 2003.

[...]

The Framework Law on Primary and Secondary Education in Bosnia and Herzegovina ensures greater mobility for all students across BiH and will facilitate wider recognition of school certificates. It allows for greater school autonomy and increased parent and teacher involvement and partnerships. It also put into place a Common Core Curriculum, which helps and make possible full and free access to schools anywhere in BiH.

The law establishes that every child has a right to access and equal participation in the educational process as a basic educational and human rights principle. It also ensures the priority in education is focused on the rights of the child. Legislation entails the following additional aspects:

affirms the primacy of children' s rights over any other rights;

ensures that all primary schools have a catchment area, which establishes that children will attend schools in their own communities. This eliminates the risk of children being bussed to other schools based on ethnic criteria; [...]

ensures that certificates and diplomas issued by verified educational facilities have equal status in the whole territory of BiH;

provides an indisputable basis for developing and adopting the Common Core Curriculum which was implemented starting in September 2003. This reform should lead to a large extent to the elimination of segregation through curriculum;

ensures that the educational process will contribute to developing a sense of commitment towards the State of BiH;

ensures that the languages of the three constituent peoples enjoy equal status throughout the territory of BiH, as guaranteed by the BiH Constitution.

In addition, legislation:

establishes a Curriculum Agency responsible for implementation, follow-up, evaluation, improvement and further development of the Common Core Curriculum;

ensures that the composition of school boards reflects the ethnic composition of the schools;

sets out that School Directors are to be appointed by the School Board – in effect giving greater autonomy to schools; and

foresees the establishment of parents' and students' councils with an advisory capacity." (OSCE, New law, 2004)

Common curriculum

"The Common Core Curriculum clearly sets out what is common in curriculum across BiH. It provides a broad core in all subjects, and also includes room for acknowledging different traditions and features of history, culture, and language from region to region. In these subjects, some 50 per cent or more of topics taught are the same. For science and mathematics, the common elements make up more than 80 per cent of the syllabi taught.

Why is a Common Core Curriculum needed?

to facilitate unrestricted access to any school in BiH;

to make it easier for students to change schools if they move to different parts of the country;

to provide a common foundation for the further modernisation of the education system (better quality and higher standards for all), while offering safeguards to protect everyone's culture and language;

to promote mutual understanding and respect for differences; (OSCE, Essence, 2004)

See also:

Just the FAQs: questions and answers on education reform, OSCE, Department for Education, December 2004, [Internet]

Implementation of the Education reform: progress under international pressure (2003-2005)

- Constitutional court confirms that the law on primary and secondary education does not violate the interest of Croat constituent people
- By-laws necessary to implement education laws should be adopted in all cantons and in RS
- Criteria on removal of offensive school names and symbols from schools have been adopted
- Guidelines for textbook on history and geography have been completed and contribute to ensure multi-perspective teaching on controversial points.
- Adoption of a common curriculum can be a powerful tool to address segregation at school
- Still 52 segregated schools or "two schools under one roof"
- Strong nationalist resistance against adoption of the law on higher education
- Some cantons refuse to transfer their competences in education policy to the Federation

"The picture in the field of education continues to be mixed. Since my last report, there has been improvement in some areas, but progress in others has been slow." (OSCE, 17 February 2005)

Primary and secondary education

“The State–level Framework Law on Primary and Secondary Education was adopted unanimously on 30 June 2003. Harmonised lower level legislation should have been adopted by the FBiH 10 Cantons, the RS and the District of Brcko. As of 8 June 2004, four Cantons have not yet fully harmonised their legislation with the State Law, thus bringing themselves into direct conflict with the State of BiH and its international obligations, in particular the CoE post-accession commitment to adopt legislation on education within two years after accession (i.e. 24 April 2004). On 25 May 2004, the FBiH Constitutional Court rejected the HDZ’s invocation of ‘Vital National Interest’ in one of these Cantons.” (COE, 18 June 2004, par.42)

“ In November 2004, the Constitutional Court of the Federation ruled that the amendments to the laws on Primary and Secondary Education in Central Bosnia Canton imposed by the High Representative in July 2004 do not violate the vital national interest of Croat constituent people. The decision further strengthened the principle that teaching exclusively in one language would in fact violate the right of other constituent peoples and contravene the principle that all languages in BiH are to be regarded as equal. Following the court’s ruling, the amendments entered into force on 31 December 2004, marking the end of the process of harmonization of lower-level legislation with the state-level Framework Law on Primary and Secondary Education. With new education laws now in place, all of the Ministries of Education must now adopt the relevant by-laws necessary for setting common standards on various issues such as the establishment and functioning of school boards, school directors’ appointment, or school names and symbols. The Mission has contributed to the development of prototype education by-laws for use by the Ministries of Education.” (OSCE, 17 February 05)

“Still, there is good news to report, too. With the assistance of the OSCE Mission, the Office of the High Representative, and the Council of Europe (CoE), all primary and secondary education laws in the country have been harmonized with the state-level Framework Law on Primary and Secondary Education.

Most BiH authorities have also developed and adopted Criteria on School Names and Symbols, which aim to ensure the use of appropriate, non-political, non-divisive names and symbols in schools.”(OSCE, 11 November 2004)

Common core curriculum and text books

The BiH Common Core Curriculum comprises all common elements taught in BiH schools and is an integral part of the state-level Framework Law on Primary and Secondary Education. It was adopted by all Education Ministers on 8 August 2003 and was introduced at the beginning of the 2003/04 school year.

A Common Core Curriculum Steering Board was established to develop the overall curriculum guidelines and to oversee the work of Subject-Specific Working Groups. The Subject-Specific Working Groups were comprised of experts in primary and secondary education coming from schools, Pedagogical Institutes, and universities. They compared the existing curricula, identified commonalities, and compiled the core syllabus for each subject for all years that the subject is taught.

Several key issues were addressed in the development of the common core curriculum:

Language: Language classes should highlight the similarities and differences between the three variants and teach both scripts.

History: The non–national or uncontested parts of history comprise the common core of history.

Geography: The key focus of the common core of geography/nature and society is on BiH with balanced representation of neighbouring states.” (OSCE, Essence, 2004)

“On the positive side, the Commission for the Development of Guidelines on Textbook Writing for the Subjects of History and Geography in BiH successfully completed its work by producing guidelines for textbook authors and publishers. These guidelines are designed to ensure that students, for instance, have a

basic understanding of the history and geography of all three constituent peoples and national minorities. Revision of the Common Core Curriculum for Foreign Languages also reached a successful conclusion in November 2004, thanks to a joint effort of the OSCE, the Council of Europe and the ministries of education. The new curricula, designed to bring foreign language learning in BiH in line with Europe-wide standards, now await the approval and subsequent endorsement of the country's many ministers of education."

(OSCE, 17 February 05)

Two school under one roof

"On the negative side, we have seen no progress on the issue of administrative unification of the remaining so-called "two schools under one roof". The cantonal authorities in question - in the Herzegovina-Neretva and Central Bosnia Cantons - have so far failed to take appropriate steps towards administrative unification. Hence these particular authorities remain deficient in their implementation of the newly harmonized education laws. The Mission continues to reiterate its expectations of forthcoming progress in time for the start of the 2005/2006 school year." (OSCE, 17 February 2005)

"In these schools, pupils of different ethnic origin use the same facilities. However, these facilities host, in actual terms, two schools segregated along ethnic lines. These two schools are administratively separate, and the children follow different curricula. In addition, pupils, teachers, and non-teaching school staff of different ethnic origins often go to the same school in different shifts or use separate entrances and occupy separate sections of the same building." (ECRI, 15 February 2005, par.33)

"There have been unfortunately no concrete developments since the previous report's finding that there are still 52 "Two schools under one roof" in the FBiH (separate classes for Croat and Bosniak children). The first step to unify these schools is for the municipal councils, with support from the relevant Ministries, to implement the decision on administrative unification of the schools (see doc. SG/Inf(2004)28, para. 64). It is still expected that the new (imposed) legislation should finally eliminate this situation. Implementation of the laws and the development of more specific by-laws continue to be the key issues." (CoE, 4 February 2005)

Higher education

The State-level Framework Law for Higher Education, drafted by BiH and CoE experts, should have been adopted by the end of March 2004 to secure a World Bank loan package. This draft law specifically guarantees, inter alia, the recognition of BiH diplomas according to the same standards throughout Europe and student mobility and quality assurance. However, the State Parliament failed to adopt the law following the invocation of the 'Vital National Interest' clause by BiH Croat representatives in the House of Peoples on 7 May 2004 on the ground that the draft law would not, in particular, guarantee that there will continue to exist at least one University in BiH with Croatian language as the official language. They also contest the transfer of competences of the Cantons to the Federation in the education policy. The BiH Constitutional Court must now rule on whether the Croat 'Vital National Interest' has been endangered. As a consequence of this delay, the World Bank suspended 12 million USD in funding that was earmarked for education restructuring projects. On 11 May 2004, the OHR, the CoE, the OSCE and the World Bank qualified the failure to adopt the law as a blow to the future of BiH: "either BiH moves forward without further delay toward a coherent, tolerant and enlightened public higher education system; or its young people, their families, and educators throughout BiH continue to pay an ever-increasing price for failure". (CoE, 18 June 2004, par.43)

"Regrettably, BiH continues to lack a Law on Higher Education offering a legal framework to regulate the country's higher education system in conformity with European standards. It remains thus one of the only two States to be part of the Bologna process but still lacking this crucial law.

Challenged by the Croat Caucus in the BiH House of Peoples, the BiH Constitutional Court ruled, in June 2004, that the Draft Framework Law on Higher Education endangered the vital interest not only of the

Croats, but of all constituent peoples. The Court made it clear that all three constituent languages must be respected at all universities in BiH, thus preventing ethno-centric higher education.

In July 2004, the BiH Parliament stipulated that a new draft be prepared as quickly as possible taking into account the ruling of the BiH Constitutional Court and the interests of all constitutional peoples in BiH. Also, the International Community has urged the Council of Ministers to raise the competencies in higher education, in particular financing, to the State level in the medium-term.

In the autumn of 2004, the Ministry of Civil Affairs set up a Working Group consisting of representatives of the three constituent peoples. The Working Group, however, failed to reach an agreement, *inter alia* as regards levels of financing (cantonal, entity or State level), licensing and the rights of the founders of universities. Therefore, the Ministry of Civil Affairs and international organisations, including the CoE, are currently working on a new draft which should be finalised by the end of January 2005.” (CoE, 4 February 2005)

“In the area of higher education, the Mission, the World Bank, the Council of Europe, the European Commission, and the Office of the High Representative continue to work together to provide technical as well as political support to the BiH Ministry of Civil Affairs (MoCA) in revising the draft higher education law in accordance with the BiH Constitutional Court ruling of 25 June 2004. In support of higher education reform, the Mission will in the coming months encourage more active student involvement in the reform process and, we hope, raise both a debate and the level of public awareness on the need for state-level responsibilities and co-operation if BiH is to align itself with Bologna principles governing the organization of higher education along common lines throughout Europe.” (OSCE, 17 February 2005)

Assessment of the reform and challenges ahead

“Despite considerable progress made in 2003 and early 2004 (i.e. introduction of common core curriculum and accession of BiH to the Bologna process), the reform of education is facing continuous obstructions in a number of areas resulting in the regrettable suspension of millions of dollars in international financial assistance.” (CoE, 18 June 2004)

“Unfortunately, the international community remains the main driving force behind education reform. In the coming months, this process will have to leap some crucial hurdles if reform is to continue. They include the establishment of a state-level Curriculum Agency; a revised Standards and Assessment Agency for primary and secondary education; as well as, upon adoption of a law on higher education, a Centre for Information, Recognition and Quality Assessment. Both the Curriculum Agency and Standards Assessment Agency are state-level institutions envisaged by the Framework Law on Primary and Secondary Education adopted in June 2003 and yet steps towards their creation have been halting at best.” (OSCE, 17 February 2005)

“The persistence of ethnically ethno-centric schools in BiH is still a matter of grave concern for the CoE. Elimination of all aspects of segregation and discrimination based upon ethnic origin is not only one of the post-accession commitments undertaken by BiH, it is of the utmost importance for the peoples concerned and for the further European integration of BiH.” (CoE, 4 February 2005)

“The educational sphere is, however, like other spheres of life in BiH, unfortunately not immune from political intervention. In fact, the recent failure to adopt the state-level Framework Law on Higher Education is a sad but illustrative example. Bosnia and Herzegovina has seen crucial reforms in higher education, most notably the long overdue mutual recognition of diplomas and qualifications with those of other European countries, postponed and ultimately undermined. Disappointing as this may be, formal and informal talks continue and the Mission, in co-operation with its partners in the international community, continues to work with BiH’s education authorities to break this political logjam. We are optimistic that, when it comes to higher education, thanks in part to our continued support, BiH will eventually join the rest of the family of European nations. (OSCE, 11 November 2004)

See also:

CoE, 8th report, par.66-68, see link below

OHR, press release, 8/07/04 “High representative enacts legislation harmonizing education laws in three cantons with BiH Education law”, [Internet]

OSCE, Citizens feel detached from their authorities, HoM interview, Dnevni list, 26/01/05, [Internet]

Implementation of interim agreement addressing discrimination against returnee children (2003)

- The Interim Agreement allows parents to choose the curriculum for certain subjects (2002)
- School boards must also reflect the composition of the population
- OSCE has been entrusted with monitoring of the education reform
- Statistical data indicates over 400 school-age returnee children were enrolled in schools in their area of return and over 150 returnee teachers were hired (2003)
- The total number of returnee children enrolled in schools is over 33,000 and the number of teachers is almost 1,800 (November 2003)
- The number of multi-ethnic school boards increased slightly (2003)
- The practice of bussing children outside of their catchment area decreased significantly in a number of cantons (2003)

“On March 5th 2002, Entity Ministers of Education signed the *Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children*. The aim of the Interim Agreement is to provide the necessary conditions in order to increase the enrolment of returnee children in schools throughout Bosnia and Herzegovina, particularly in schools where returnee children constitute a minority.

The Interim Agreement provides returnee parents with the possibility to opt to have their children taught the national subjects. (Language and literature, history, geography, nature and society, religious instruction) according to their choice of curricula. The Interim Agreement also provides conditions for the increased employment of returnee teachers to teach the national group of subjects and stipulates that the ethnic composition of School Boards shall reflect the composition of the school population where schools are located. The Interim Agreement also requires Ministers of Education to issue instructions on implementation and to appoint a representative from their Ministries to deal with the issue of returnee children.

In order to ensure full implementation of the Interim Agreement, a special working group comprised of representatives of all Entity and Cantonal Ministries of Education was established in order to draft a comprehensive Implementation Plan for the Agreement. On 13 November 2002, an Implementation Plan for the Interim Agreement was signed by Entity and Cantonal Ministers of Education. The Implementation Plan stipulates the conditions necessary for schools to organise and finance the teaching of national subjects for returnee children. Provisions for the hiring and recruitment of returnee teachers to teach the national group of subjects and for changing the composition of school boards to reflect the national structure of the student population are also included in the Implementation Plan.

In order to oversee implementation of the Interim Agreement, a Coordination Board comprised of representatives of all Entity and Cantonal Ministries of Education and the International Community (OSCE and OHR) was established. (OSCE Coordination Board for the Implementation of the March 5th 2002 Interim Agreement on Returnee Children 19 November 2003)

The Statistical report on the implementation of the Interim Agreement on Returnee Children

“[...] showed that this school year over 400 school-age returnee children enrolled in schools in their area of return and over 150 returnee teachers were hired. The total number of returnee children enrolled in schools in the area of return is now over 33,000 and the number of teachers is almost 1,800. The number of multi-ethnic school boards increased slightly, and the bussing of children outside of their catchment area decreased significantly in Una Sana, Posavina, Tuzla and Bosnia-Podrinje Cantons.” (OSCE 20 November 2003)

“The statistical data collected by the Entity and Cantonal Ministries of Education indicate the following trends:

In the FBiH, the number of returnee students increased by **0.69%** from **26,959** during the 2002/03 school year to **27,145** during the current school year. In the RS, the number of returnee students increased by **3.6%** from **6,051** during the last school year to **6,269** during the current school year.

In areas of high return, the number of the returnee students also increased significantly. In northeast Bosnia, between June and September 2003, the number of returnee students increased from **2,300** to **3,600 (56%)**.

As of the 2003/04 school year, **1,776** qualified returnee teachers were hired in schools throughout BiH. This increase was due largely to the efforts of education authorities to give priority to qualified returnee teachers and to advertise teaching vacancies in areas of displacement.

In the FBiH, the percentage of multi-ethnic schools boards decreased from **46.67%** during the 2002/03 school year to **44.93%** during the current school year. In the RS, the number of multi-ethnic school boards increased from **11.01%** in 2002/03 to **17.82%** during 2003/04.

The number of students being bussed to schools outside their catchment area decreased by **6.52%** in Una Sana Canton, **81.48%** in Posavina Canton, **26.44%** in Tuzla Canton and **5.15%** in Bosnia Podrinje. In Central Bosnia Canton and Zenica-Doboj canton, the number of students being bussed outside their catchment area increased.” (OSCE Coordination Board for the Implementation of the March 5th 2002 Interim Agreement on Returnee Children 19 November 2003)

“Many of the required steps for the implementation of the Interim Agreement have been successfully met, like the removal of inappropriate content from textbooks for the national group of subjects, and the development of criteria and an implementation plan to assist school authorities in removing or replacing school names and symbols that could be viewed as inappropriate.” (OSCE, Over 33.000, 2004)

In February 2005, guidelines for textbook on history and geography have been presented and endorsed by Ministers of Education. The guidelines aim at ensuring multiperspective teaching on controversial points.

A new report on the implementation of the interim Agreement on Returnee Children is expected to be adopted in March 2005

Assessment of the implementation of the interim agreement (2005)

Education in BiH continues to be divided along 'national' lines, as school curricula are used to reflect the nationalist ideology of the dominant national group in any locality. As assessed by UNHCR through an extensive return monitoring survey in 2002, even following the official 'return' of some families, their children often continue to reside with relatives or friends in their place of displacement or where they are in majority, or will travel great distances in order to attend school in an area where the curriculum taught is that of 'their' group.

In the interim, and building on the momentum set late 2002 and 2003, efforts continued in 2004 to fully implement the Interim Agreement on the Accommodation of Specific Needs and Rights of Returnee Children signed in March 2002. To accommodate returnees, a higher number of schools offered to their 'minority' returnee pupils separate classes for their religion and language. Returnee teachers were hired. In some areas, schools started to implement the measures adopted back in 2003 for ensuring better representation of the national composition of the student population on school boards. Already by the end of the 2003-2004 school year, authorities had ceased the official financing of transportation of children across cantons or Entities to attend schools where they are in the majority or where the favoured curriculum is taught. Also, some schools started to introduce the common core curriculum, agreed upon by the

education ministers in August 2003. As a result, certain areas in BiH recorded an increase in the number of returnee children attending school in their place of return.

Challenges remain. In 2004, although no longer officially supported by the authorities, there were still a number of cases of parents independently organising 'bussing' across the inter-entity boundary line. Although common criteria were developed, there is little change on the ground to remove offensive or inappropriate school names and symbols. More contacts with returnee communities, other confidence building measures and, most importantly, comprehensive changes to the curricula taught in schools are still called for to ensure that education in BiH is indeed non-discriminatory, inclusive and respectful of the rights and needs of all children in BiH.(UNHCR email correspondence with UNHCR Sarajevo, 18 February 2005))

See also:

“More returnee students enrolled in eastern RS”, OSCE, press release, 23 September 2003 [Internet].

“Bussing of children to mono-ethnic schools in BiH must stop”, OSCE, press release, 13 March 2003 [Internet].

“Interim Agreement on Accommodation and Specific needs and rights of returnee children, ” 5 March 2003 [Internet].

Office of the High Representative, “Entity Education Ministers sign interim agreement on education for returnee children”, press release, 7 March 2002 [Internet].

Efforts to facilitate the integration of Roma children at schools (2005)

- Discrimination and poverty are the main reasons for low attendance of Roma children at school
- A national plan on the needs of Roma and other minorities has been adopted
- Several positive example of integration show the impact of the increased awareness on the issue

“The Romani community in Bosnia and Herzegovina suffers from a legacy of discrimination that has contributed to widespread poverty, unemployment, homelessness and a lack of access to education. Currently, the presence of Roma in schools is sporadic at best and Romani children are nearly absent in the later grades of primary and secondary schools.” (OSCE, “Access to quality education”, 2004)

“Currently, the presence of Roma in schools is sporadic at best. Very few Romani children attend the later grades of primary and secondary schools. Extremely poor living conditions, lack of proper clothing and the inability to purchase required schoolbooks are the most common reasons for the exclusion of Roma from schools, despite a willingness of many parents to enroll their children.

As part of the Education Reform Strategy, a special Task Force has developed an Action Plan on the Educational Needs of Roma and Other National Minorities in Bosnia and Herzegovina and OSCE will work to oversee its implementation.” (OSCE, “FAQs”, 2004)

“In February 2004, Education Ministers adopted an Action Plan on the Educational Needs of Roma and Other National Minorities in Bosnia and Herzegovina which proposes concrete measures to address the social and economic barriers BiH’s largest minority, the Roma, often face by calling on authorities to provide financial assistance for textbooks and transport as well as to raise awareness among Roma parents and communities about the importance of schooling. The Action Plan also proposes steps to ensure that the language and culture of all national minorities is respected within BiH schools and that Ministries incorporate aspects of the culture, history and literature of national minorities into the existing curricula.” (OSCE, “access to quality education”, 2004)

“OSCE field staff, in close collaboration with school directors, municipal authorities and NGOs are working at the local level to provide solutions. In Modrica municipality, for example, 50 Romani children attended summer school classes out of which 39 children enrolled for the 2003/2004 school year. In Gradiška municipality, the mayor has supported families of Romani children with enrolment fees for Romani students in secondary school. Catch-up classes are being planned in two of the municipalities' main schools.

Another successful example from which education authorities can learn can be found at the Džemaludin Caušević Primary School from the municipality of Novi Grad in Sarajevo Canton.

The director of that school obtained permission to allow Romani children to retroactively take exams required to continue their education. After taking extra classes during the summer, 13 Romani children passed their exams and were able to continue their education, putting the total number of Romani students attending regular teaching at 65. Additionally, the school addressed the needs of those students - Roma and non-Roma - who could not afford lunch by providing a hot lunch through donor assistance.” (OSCE, “FAQs”, 2004)

The Council of Minorities, responsible for overseeing the implementation of the Action Plan, has not been appointed as of February 2005. However, OSCE indicates that the Action Plan has done a lot to raise awareness and create a positive atmosphere within the various authorities dealing with the issue (OSCE, email, 16 February 2005)

See also:

National action plan on the education needs of Roma and members of other national minorities in Bosnia and Herzegovina, February 2004, [Internet]

The non-constituents: rights deprivation of Roma in post-genocide Bosnia and Herzegovina, BiH Country report, European Roma Centre, February 2004, pp.178-201, [Internet]

Report on Bosnia and Herzegovina, European Commission against Racism and Intolerance, 15 February 2005, par.58-71, [Internet]

See also on Roma:

Documentation Section, Envelope "Roma excluded from fundamental political and social rights because of lack of personal documents"

Subsistence Needs Section, Envelope "Displacement aggravates the living conditions of Romas"

Public Participation Section, Envelope "BiH and Entity Constitutions link access to many aspects of public life to ethnicity"

Patterns of Displacement Section, Envelope "Displaced Roma, a particularly vulnerable group"

Property Rights Section, Envelope "Roma continue to struggle to access property rights"

Property Rights Section, Envelope "Some measures taken to legalise Roma settlements"

Obstacles to education

Persistent discrimination and segregation in the education system hamper return of displaced persons and refugees (2002-2003)

- Children of minority families often continue to live or attend school in the area of displacement
- There continues to be ethnically segregated schools in BiH

“Both Federation and RS Ministers on 10 May 2000 signed a Declaration and Agreement on Education in BiH. This 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.” (UNHCR September 2001, paras. 70-74)

“Major problems faced by returnee families with school-age children confirm the opinion of the Institution of Ombudsmen of the Federation of BiH that poorly organised and often discriminatory education is a big obstacle to the return of displaced persons and refugees.

Namely, how can children from returnee families be educated in conditions such as mono-ethnic curricula, provocative contents in classes, classes in the language of an ‘enemy ethnic group,’ constant attacks, threats and intimidation, mono-ethnic symbols in schools, unresolved problem of transportation of children, etc.

These are the causes of a new phenomenon: children, even after returning to their pre-war residences, continue to commute to the other entity to which they had been displaced in order to continue going to school.

Research done by the Division for the Rights of the Child shows that returnee children in the Republika Srpska commute up to 70 km to attend classes in the Federation surrounded by their own ethnic group and that some children do not go to school at all. Examples: in Srebrenica Municipality a total of 37 children attend classes, of whom 29 go to primary school, although the number of returnees is higher; in Vlasenica Municipality only four returnee pupils go to primary school, although a large number of families have returned, but other children attend classes in the Federation; in the area of Bratunac Municipality 60 pupils go to school in their places of return, and the rest in the Federation, while due to lack of resources 10 pupils of primary school age do not attend classes; from Klisa, in the Republika Srpska, 90 pupils commute to Sapna (Federation); from Snagovi 54 pupils commute to the Federation.” (Ombudsman of the Federation of Bosnia and Herzegovina March 2003)

ISSUES OF SELF-RELIANCE AND PUBLIC PARTICIPATION

Self-reliance

Displaced persons and refugees among four population groups at greatest risk of falling into poverty (2003)

- This is particularly the case in the Republika Srpska, while this risk appears to be lower in the Federation
- The position of displaced persons in the social welfare system and other social support systems has not been adequately resolved
- Displaced persons constitute approximately 45% of the extremely poor in the F BiH and 21% in the RS
- The most vulnerable are displaced persons living in collective centres, 40% of whom fall into the category of the poorest and 39% who are just over the poverty line
- Single mothers in displaced persons' or returnee households do not have adequate access to the basic forms of social welfare
- With radical cutbacks in humanitarian and international assistance, the system at the entity and cantonal level has been unable to take the role of financing the needs of the displaced
- Displaced persons and other vulnerable groups are often forced to pay for basic services

“Below the poverty line are most frequently children, persons with low education levels, the elderly and the disabled as well as the rural population. An 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.

[...]

Poverty of families with children is at its most pronounced where none of the family members are employed, and the situation is particularly difficult for displaced households, where the head of household is unemployed.

[...]

In all parts of the country, these categories, who are frequently without any stable source of income and not being covered by the existing social welfare systems, are considerably more vulnerable 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 exposed to the risk of poverty, while in the FBiH that risk is even lower than the average, which is certainly a result of different conditions for returns and differing attitudes towards returnees in the two entities.[...] 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 just above 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.[...]

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.[...]

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.

[...]

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.

[...]

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.

[...]

The most precise research on poverty in BiH to date has demonstrated, contrary to what was expected, that the poverty level is lower than anticipated, and that no one in BiH is below the lower limit of extreme poverty, i. e. unable to satisfy at least the minimum food needs. 19.5% of the BiH population is below the general poverty line. However, around 30% of the population are concentrated immediately above the poverty line and are vulnerable to falling below it.

More population is exposed to poverty in the RS (25%) than in the FBiH (16%). Inequality is also pronounced within each entity and there are major differences among areas populated by different majority peoples: Croat majority areas enjoy the highest standard of living, Bosniac majority areas are in between (with the exception of Goražde), while the living standard is the lowest in the RS. In Croat majority areas, 6.9% of households are in the group of the poor in terms of realized income, in the Bosniac majority areas this percentage varies between 22 and 25%, and in the Serb majority areas the percentage of such households is 40 -43%. In the RS, the living standard of the population is lower in the eastern parts than in the north-western parts around Banjaluka.

[...]

Violations of human rights, particularly in the case of minority returns, are one of the important causes of poverty. Returnees are frequently denied the right to personal safety, right to peaceful enjoyment of private property, right to work, right to education and access to health and social care services, as well as the right to equality before the courts of law. These citizens are frequently victims of discrimination, and their opportunities to influence the course of events in public life are almost nonexistent. As a result, returnees are one of the poorest and most vulnerable categories, especially in the RS.

[...]

The existing social welfare systems are completely inadequate to meet the greatly increased needs. The extremely limited means which the governments of the Entities can set aside for this purpose apart, the problem is compounded by the decentralization of responsibilities in the area of social policy. This in the end results in a large number of beneficiaries entitled to social assistance who do not enjoy these benefits.” (Poverty Reduction Strategy Paper Team 30 May 2003, Sect. 2B)

“Corruption, too, hits the poor especially hard, whether it is related to visiting a doctor, acquiring rights to some form of social assistance, obtaining documents, education, return of property or employment, because they often have no other way to ensure the necessary services. Displaced persons, the elderly, the rural population, children and young people are often forced to pay for such services because they are not properly accepted or recognized by their communities, and lack the channels of communication that could enable them to demand their rights.” (Poverty Reduction Strategy Paper Team 30 May 2003, Sect. 5D)

The vulnerability of displaced persons is underlined as well in "Social minimum and types of assistance", Section 3, of "July - September Early Warning System" United Nations Development Programme, 2003.

Drought affects displaced, refugee, and returnees (2003)

- A severe four month drought hit areas of Bosnia affecting already vulnerable displaced persons, refugees, and returnees
- A series of storms in July also caused severe damage to crops, buildings and infrastructure
- It is estimated that the damage to agriculture equaled approximately EUR 200 million
- Republika Srpska entity and Posavina Canton (BiH Federation) were especially badly hit

“Several communities in Bosnia and Herzegovina (BiH) are bracing themselves for a difficult winter after a bruising 2003. Already vulnerable communities have been hit by a four-month drought and a series of storms that have caused an estimated EUR 200 million damage to agriculture.

There are fears that up to 200,000 inhabitants could be affected this winter and spring, the worst situation since 1995, when war ceased. Many people in BiH live below subsistence level. Groups of displaced people, refugees, returnees, retired people, elderly, handicapped and unemployed are especially vulnerable. Many will be in need of food, hygiene items, cattle food, seeds and fertilisers for autumn and spring sowings.

The Republika Srpska entity and Posavina Canton in the BiH Federation entity have been badly hit. The authorities undertook measures to alleviate suffering. These included: repealing taxes on those affected; repair of roofs damaged; distribution of food parcels; and distribution of drinking water (8,000 litres). However, overall poor economic conditions and the extent of the problem meant all needs were not met.

The south (Herzegovina) has been particularly been prone to water shortages. In many villages, people, including the elderly, rely on local wells and cisterns (rain collectors) for their supply but these have dried up in several places.

Many people have been forced to travel many kilometres to find water. The cost of trucking water into communities is too expensive for most villagers.

[...]

To complicate matters, strong winds and hail in July 2003 caused damage to crops, buildings and infrastructure. It affected mainly:

- Tuzla and Zenica-Doboj Cantons in Federation BiH entity
- Prijedor, Zvornik, Doboj and Banja Luka regions in Republika Srpska entity

The main storms occurred as follows:

- On 4 July, damage to crops and infrastructure seven municipalities in the Region Prijedor estimated at EUR 1 million.
- Three separate storms in Region Zvornik, damaging crops and buildings, estimated to be EUR 40,000.
- On 4 and 23 July, damage to crops, buildings and infrastructure estimated at EUR 800,000 in four municipalities of Doboj region.
- On 4 and 23 July, damage to crops (EUR 1.5 million) and infrastructure (EUR 750,000) in four municipalities of Banja Luka region.
- On 23 and 25 July, damage to crops (EUR 1.5 million), buildings (EUR 135,000) and infrastructure (EUR 39,000) in four municipalities of Tuzla Canton.

On 23 July, damage to crops (EUR 150,000) and buildings (EUR 175,000) in Zenica-Doboj Canton. The cantons and regions ravaged by the hail storms were in regions where the main economy is agriculture and whose inhabitants mainly live from the land. The crops, already damaged by drought, were destroyed by the hail storms.” (IFRC, 17 September 2003)

Overstretched social welfare system and wide spread violation of social rights (2002-2003)

- Wide spread violations of social rights including discrimination at work, overdue salaries and back pensions were reported in 2002-2003
- Inadequacies in the social system often prevents displaced persons and refugees from returning
- Returnees and displaced persons are often forced to move to cantons that will grant them greater social protection or employment prospects
- The legal framework necessary to ensure returnees' unbiased access to socio-economic facilities and opportunities is largely in place, yet enforcement remains limited
- To increase returnees' awareness of their rights, the OHR has developed public information campaigns on access to employment opportunities, education, health, and utilities
- Social policy is the responsibility of Entities and Cantons, while social assistance in the Republika Srpska is provided by the municipalities
- Unemployment is at 40% and is expected to rise with the privatization of state owned enterprises
- According to the UNDP Human Development Report (2002), the country is 65% poorer than it was before the war

“As a result of slow economic recovery and detrimental effects of the transition process, the quality of life of many marginalised groups has deteriorated. The already high unemployment rate of more than 40 per cent is expected to rise in the forthcoming privatisation of giant stateowned enterprises. Impoverishment is widespread with 25 per cent of the population in Republika Srpska entity and 16 per cent in the Federation entity living below the poverty line. The situation is compounded by widespread corruption, low and irregular salaries and pensions that represent a huge burden for the fragile BiH economy. In addition, the complicated and overstaffed government structure at all levels consumes over 60 per cent of GDP. To change this, a radical reduction in government spending and shift to development and social sector spending is needed. In its Human Development Report 2002, the UNDP states that ‘on the basis of per capita GDP (USD1,206), the country is 65 per cent poorer than it was before the war and it is close to the bottom of all the regional rankings’.

Funds for humanitarian aid are decreasing dramatically and local authorities are unable to take over the responsibility for people in need.” (IFRC 1 January 2004)

“Representatives of the civil society in both Entities – NGOs and Ombudsmen - unanimously expressed their major concern with the social climate in BiH. They referred to widespread violations of social rights – including cases of discrimination at work- and to the increased protests by employees and retirees to request overdue salaries and back pensions. The situation of unemployed, elderly and ill persons, refugees and IDPs, as well as the health protection system was particularly critical.” (Council of Europe 1 October 2003, para. 57)

“The system of pension, disability and health insurance, which is divided by entity levels of authority and cantons, and in some cases is connected to ethnic background, prevents displaced persons and refugees from really returning to their homes. Even when they do go back to their pre-war properties, unsolved social issues often force them to sell them and to take up permanent residence in an area where they expect to solve them more easily.

This assessment is generally true of returnees from the Republika Srpska, as well as displaced persons in the Federation of BiH, who, after repossessing their properties, tie their existence to areas, i.e. cantons, which offer them a higher degree of social protection or an employment prospect.” (Ombudsman Institution of the Federation of Bosnia and Herzegovina, March 2003)

“As returnees attempt to reintegrate into society, combined domestic and international efforts must ensure that their individual choice is sustainable. The legal framework necessary to ensure returnees' unbiased access to socio-economic facilities and opportunities is largely in place, but information on and enforcement of the applicable laws and agreements remains limited. To increase returnees' awareness of their rights, my Office has developed a number of public information campaigns that provide information on access to employment opportunities, education, health, and utilities.” (OHR 13 October 2003, para.50)

“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.” (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)

See also, “Social and Pension Policy”, Poverty Reduction Strategy Paper Team, 30 May 2003, Development Strategy BiH – Poverty Reduction Strategy Paper (PRSP), Second Draft [Internet].

For more on economic and social rights, see paras. 15 - 19 in “Question of the Violation of Human Rights and Fundamental Freedoms in any Part of the World” Situation of human rights in parts of South-Eastern Europe, Report submitted by José Cutileiro, Special Representative of the Commission on Human Rights [Internet].

Inter-entity return still hampered by divided pension system (2002-2003)

- 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

“The different amount of pensions in the entities, with a different level of living costs, results in that displaced persons who are entitled to a pension in the RS, which as a rule is lower than the one they would be entitled to in FBiH, after exercising the right to return, cannot cover even basic livelihood needs. Attempts made by the entity governments to overcome these problems by way of protocols have not given result in practice.

[...]

The Ombudsmen of FBiH on several occasions pointed out the unfoundedness of the above agreement and violation of rights of numerous citizens, which the implementation of the agreement in practice leads to. Responsible bodies and responsible individuals in these bodies and institutions turned a deaf ear to all that, defending their position by referring to the unfounded document.

Finally, the Human Rights Chamber, deciding on complaints lodged by a number of citizens, took a stand identical to the stands and assessments of the Ombudsmen of FBiH and assessed that the above agreement was legally unfounded and that its implementation violated the rights of citizens.” (Ombudsmen Institution of the Federation of Bosnia and Herzegovina, March 2003)

“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)

See also,

“Report on Activities of the Ombudsmen and Situation of Human Rights in the Federation of B&H for 2002”, Federation Ombudsmen, March 2003 [Internet].

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].

Sustainable return continues to be hindered by high rates of unemployment amongst displaced and returnees (2000-2003)

- Lack of access to employment is a major factor in people’s decisions not to return
- Unemployment is most widely spread among the young people and displaced persons
- Of the overall number of unemployed persons registered at the Employment Bureau 10, 6% are displaced persons and 1, 8% are returnees (2002)
- Unemployment rate stands around 42.7% in the FBiH and 38.2% in the RS (December 2002)
- 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
- Sustainability of return to urban areas may be endangered by lack of land for subsistence farming
- To encourage DPs to consider return, the OHR developed media programmes that increase the visibility of successful returnees and provide information on return conditions

“Insufficient conditions for returnees in the place of their return continued to mar the sustainability of their return [*in 2003*]. In particular, the lack of access to employment was a major factor in people's decision not to remain in their pre-war community. Employment opportunities were scarce in general, reflecting the weak economic situation and the forced transition to a market-led economy through mass privatization, however those in ethnic minorities in addition faced discrimination when trying to find employment or get

rehired in their pre-war jobs, and had virtually no access to legal remedies or any other form of redress.” (AI 1 October 2003)

“Displacement 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.” (Poverty Reduction Strategy Paper Team 30 May 2003, Section B2)

“According to official statistical data, in December 2002 the official number and rate of unemployment (unemployed registered with employment bureaus) were 435,505, or 41.1% (42.7% in the FBiH and 38.2% in the RS) of active population.[...] Women represented 46,3% of the overall number of unemployed. Approximately one third of the unemployed were demobilized soldiers, while 4% were family members of killed soldiers and military war disabled.[...] About 34% of the population (38,6% of the FBiH population and 26,7% of RS population) regard unemployment as the single most serious problem faced by the country. As a result of cuts in military personnel, as already announced, as well as the impact of privatization, jobless numbers are expected to continue to rise

In December 2002 in the FBiH there were 21,711 more unemployed persons, or 8.1% more compared to December 2001. In the same period, the number of people in employment was 390.201, a drop of 15.488, or 4%.[...] The observed trend of rising unemployment can be attributed, in the long term, to privatization and the slow pace of economic reform and, in the period in question, to the demobilization of a part of the professional soldiers of the FBiH Army. Subject to certain conditions, the unemployed who previously had jobs have the right participate in the safety net which provides benefits of between 117 and 240 KM, payable for a period of between 6 and 12 months. Insufficiency of funds for this purpose led to only 3, 320 people receiving these benefits in 2002.38 Unemployed persons in the FBiH are entitled to health care on condition that they are registered with one of the cantonal employment institutes. The resources for paying health care contributions for this category are provided from part of the unemployment insurance contribution levied on wages.[...]

In the RS, at the end of 2001 there were 147.749 unemployed persons, i.e. 40%. In 2002, unemployment continued to decline gradually, falling to 144,790 or 38%.[...] It should be noted that the data of the RS Statistical Institute on the unemployed and the June data from the records of the RS Employment Institute, which point to a drop in the number of registered unemployed, are not confirmed either by the data on the real decline of industrial production in the RS, nor by the findings of polls carried out amongst the population.[...] Of the overall number of unemployed persons registered at the Employment Bureau, 43% are women. Demobilized soldiers account for 38.7% of registered unemployed persons, military war disabled 4, 5%, and members of families of killed soldiers 5.1%. 27% of the unemployed are refugees, 10, 6% are displaced persons and 1, 8% are returnees.[...] A further problem is the estimate that over 50% of the approximately 223,000 employees in RS are in fact on "wait-lists".[...]" (Poverty Reduction Strategy Paper Team 30 May 2003, Section B4)

“The consequences of the war have extremely complicated the situation in BiH and the position of its rural population, where the level of poverty is significantly higher. Although BiH has no pronounced potential for the development of agriculture, about half the rural population relies to a large extent on agriculture to survive. Many rural communities have been destroyed and their population displaced, either to third countries or within the country, where they are now largely living in cities. The slow pace of demining means that normal life is still impossible in many parts of the country, and a proportion of arable land cannot be cultivated.

[...]

The lack of a comprehensive agriculture development policy deters people from investing in that activity, while options for other types of employment in rural areas are minimal. All this prevents many displaced persons from leaving their temporary residences in the cities, which creates an additional pressure on the very small number of jobs, increases the cost of housing and gives rise to difficulties in the provision of

educational, health care and social services.” (Poverty Reduction Strategy Paper Team 30 May 2003, Section C4)

“Unemployment (coupled with inactivity or exclusion from the labour force) are among the major immediate consequences of the difficulties facing BiH in the process of post-war recovery and the transition to a market economy. At the same time, unemployment is a shock to society and the individuals, which brought poverty and inflicted it, directly or indirectly, on members of virtually all categories of the population, although it is most widely spread among the young people and displaced persons.” (Poverty Reduction Strategy Paper Team 30 May 2003, Section 5D)

“Many DPs still do not return to their pre-war residences because they feel they would be unable to rebuild their lives there. While many of the concerns are well grounded, some are based on incomplete information. To encourage DPs to consider return, my Office developed media programmes that increase the visibility of successful returnees and provide factual information on return conditions. In addition, my Office, SERDA and the country’s Employment Bureaus are jointly developing a system to make information on vacancies around the country more widely accessible.

Further, there are many employment creation initiatives around the country, often targeting returnees in particular, but no study ever compared the effectiveness and efficiency of the different approaches followed. To aid donor agencies in their programme designs for 2003, my Office conducted a survey among implementing organisations and provided donor agencies with their feedback on the advantages and drawbacks of the various types of programmes. These efforts are aimed at rebuilding BiH’s multiethnic society with opportunities for all citizens, including refugees, DPs, returnees and the domiciled communities.” (OHR 13 October 2003, paras. 51-52)

“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. Attempts by returnees to receive compensation for jobs illegally lost during the conflict years were largely unsuccessful. As a result, most minority returnees were elderly, which placed a burden on receiving municipalities. Younger minority group members, who depended on adequate wages to support their families, generally remained displaced, especially in cases in which they had managed to find work in their new place of residence. Some reports described younger returnees going back to their prewar homes, but no adequate statistics existed to determine the age of returnees.” (U.S. DOS 31 March 2003)

See:

[The Human Rights Chamber for Bosnia and Herzegovina and the Human Rights Ombudsperson for Bosnia and Herzegovina for decisions relating to employment discrimination catalogued on the web \[Internet\].](#)

["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 \(HRCC\)](#). In particular, see Paragraphs 108 to 113 of HRCC report covering the period between 1 April and 30 June 2001.

See also,

["Employment Discrimination in Bosnia and Herzegovina", OSCE report, June 1999 \[Internet\].](#)

Office of the High Representative, Reconstruction and Return Task Force (OHR/RRTF), March 1998, Report March 1998, An Action Plan in support of the return of refugees and displaced persons in Bosnia and Herzegovina[Internet].

“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].

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)

Public participation

Higher abstention rate among IDP population at October 2002 elections (2002-2003)

- The 5 October 2002 general elections were the first to be administered by the BiH authorities since the Dayton Peace agreement
- Most voters cast ballots at "regular" polling stations in their places of permanent residence
- To accommodate displaced persons, there were special polling stations for absentee voters or voters who reside in BiH but chose to have their ballots count for their place of permanent residence according to the 1991 census
- Internally displaced voters displayed a substantially higher abstention rate than those voting in regular polling stations

“The 5 October 2002 general elections in Bosnia and Herzegovina (BiH) were the first administered by the BiH authorities since the Dayton Peace Agreement. They were also the first in which all State and entity offices were elected for four-year terms.

The conduct of the elections was **largely in line with international standards** for democratic elections, when considering the country's unique legal and constitutional framework. They mark important progress toward the consolidation of democracy and rule of law under domestic control.

These were essentially **transitional elections**. Although administered by BiH authorities, they took place in a legal context in which ultimate authority still rests with the international community. As in previous elections, the international community took a number of steps affecting key aspects of the elections which, while in line with their mandate and in compliance with UN Security Council resolutions, were in some

instances irregular by international standards. Such measures will hopefully be unnecessary in future elections.

A wide range of candidates and political parties provided voters a **genuine choice**. The campaign was largely free of violence and intimidation, with general respect for freedom of movement, association, and expression. Nationalism was a less overt theme than in previous elections, although it remained a significant underlying issue. A notable positive trend was substantially more cross-entity politicking than in previous elections. However, the campaign was negative and often personalized, with little meaningful debate on key issues. An active broadcast and print media provided extensive and diverse election coverage.

[...]

Most voters cast ballots at 'regular' polling stations in their places of permanent residence. In addition, in order to accommodate displaced persons, there were special polling stations for absentee voters, meaning voters who reside in BiH but who chose to have their ballots count for their place of permanent residence according to the 1991 census. A third type of polling station was specifically for tendered ballots, which could be used only by persons who had returned permanently to their pre-war municipalities and not updated their voter registration details before the 20 June cut-off date for voter registration. BiH citizens still residing abroad could register and vote by mail.

[...]

Article 19.8 of the Election Law links the right of displaced persons to return freely to their homes - a key element of the peace process - to the right to vote. Under the Law, persons illegally occupying a residence and subject to a restitution order should have no right to vote in their current municipality of domicile. However, lack of clarity in Article 19.8 and difficulties of enforcement led to the application of the rule to just some 200 people out of the tens of thousands of registered voters who may be illegal occupants, raising concerns about the equitable application of the law.

[...]

The turnout at absentee ballot stations was strikingly low: 30.33% overall. Thus, internally displaced voters displayed a substantially higher abstention rate than those voting in regular polling stations." (OSCE 9 January 2003, sects. 1, 3, 14)

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]

Lobby groups for the displaced (1996-2003)

- 1996: Creation of the Coalition for Return, a multi-ethnic movement of displaced persons
- The 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
- The BiH Alliance of Associations of Refugees and Displaced Persons (SIRL) is an umbrella organisation that lobbies for the rights of displaced persons

"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.

[...]

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." (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)

The BiH Alliance of Associations of Refugees and Displaced Persons (SIRL) is a lobby group on behalf of displaced persons and refugees. It has been active in representing the rights of displaced persons in the return process in negotiations with national authorities and humanitarian organizations. (OHR 27 December 2000).

In January 2004, the associations of displaced persons and refugees organized a meeting with representatives of authority and humanitarian organizations, agreeing that internally displaced persons from the area of Sarajevo Canton require larger investments in the reconstruction of joint parts of housing buildings. (ONASA 19 January 2004)

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

DOCUMENTATION NEEDS AND CITIZENSHIP

Documentation 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)

Legal status of minorities

Roma excluded from fundamental political and social rights because of lack of personal documents (2004)

- Roma are deprived of health care, education, accommodation, and reconstruction and humanitarian assistance because of lack of birth and identity documentation
- Because of lack of documentation, many Roma have been unable to register for “displaced persons” status
- Initiatives aiming at facilitating registration of Roma are ongoing targeting local authorities and Roma themselves

“In addressing issues of displacement, the Special Representative[of the Commission on Human Rights to examine the situation of human rights in Bosnia and Herzegovina...] draws attention to the particular situation of Roma displaced persons whose numbers are impossible to estimate, as there are no available data. Lack of birth and identity documentation, discrimination, mistrust, prejudice and lack of awareness mean that many in the Roma community have not been able to register for ‘displaced persons’ status. They are thereby deprived of special entitlements such as health care, education, accommodation, and reconstruction and humanitarian assistance.” (OHCHR 21 January 2003, p.7)

“The lack of personal documents has led to the exclusion of many Roma from fundamental political and social rights such as the right to vote, to have access to health care, etc. The lack of personal documents has also created additional obstruction in the exercise of property rights. The inability to secure documents is related to poverty and low social status in the Romani community and leads to even further exclusion from public life. Both illiteracy and discrimination by public officials add to the problem. Because of illiteracy, many Roma are unaware of the steps necessary to obtain documents, nor can they fill out the necessary forms. Discrimination by public officials is another serious factor preventing Roma from enjoying fundamental rights. For example, anecdotal evidence indicates that many municipal officials are reluctant to allow Roma to register residence within their municipality. Without a registered residence, one cannot vote nor have access to social benefits.

In some cases, the lack of one document, for instance a birth certificate, can lead to a situation where other documents cannot be secured. When a child is born in BiH it must be registered. This registration allows for the issuance of a birth certificate. Both the parents and hospital authorities where the child is born are obliged to inform the local Birth Registry Office of the fact of the birth. Parents must then go to the Birth Registry Office with their personal ID documents to register the child. There is no fee for registration of the birth - fees are charged only for copies of the birth certificate. If the birth is not registered at the time of birth, it is possible to register the birth at a later date. However, such administrative procedures remain unclear. Many Romani children in BiH are not born in hospital due to the fact that their parents cannot afford to pay the hospital fees. If a birth is not registered, the child cannot receive a birth certificate nor a personal identification number (JMBG). In order to obtain an identification document, an individual must provide a birth certificate with a personal identification number imprinted on it. And an individual must present an identification document in order to register residence. Without a registered residence one cannot vote nor have access to utilities. It may also prevent the registration of children in schools. Lack of residence documents poses particular problems for Roma residing in informal settlements.” (ERRC, No.3 2003)

“The [OSCE] Mission [to BiH] is assisting the Roma in civil registration, through a pilot project implemented in Eastern Bosnia, by facilitating dialogue with local authorities to simplify the complex

procedures of late registration from one side, and to work on an information campaign to raise awareness of the Roma population about the importance of registration.” (OSCE, “Overcoming exclusion”, 2004)

See also:

[The non-constituents: rights deprivation of Roma in post-genocide Bosnia and Herzegovina, *BiH Country report, European Roma Centre, February 2004*](#)

[and Report on Bosnia and Herzegovina, European Commission against Racism and Intolerance, 15 February 2005, par.58-71](#)

See also in other sections of this country profile:

“Efforts to facilitate the integration of Roma children at schools” in the Education section

“Displacement aggravates the living conditions of Romas” in Subsistence needs section

“BiH and Entity Constitutions link access to many aspects of public life to ethnicity” in Self-reliance and public participation section

“Displaced Roma, a particularly vulnerable group” in Pattern of displacement section

“Roma continue to struggle to access property rights” and “Some measures taken to legalise Roma settlements” in Property issues

Minority Rights Law recognises minority groups (2003)

- The Law on the Protection of the Rights of the Members of National Minorities was passed by the Parliamentary Assembly of Bosnia and Herzegovina in April 2003
- Article 3 of the Law on the Protection of the Rights of the Members of National Minorities recognizes Roma as a minority group
- Article 4 bans discrimination against minority group members and their forced assimilation
- In its current form, the law is reserved for citizens which raises complex issues given the problem of statelessness among Bosnian Roma

“The Law on the Protection of the Rights of the Members of National Minorities (Zakon o zaštiti prava pripadnika nacionalnih man-jina), debated by the legislature in Bosnia and Herzegovina for a considerable time, was finally passed by the Parliamentary Assembly of Bosnia and Herzegovina on April 1, 2003 and came into effect in May 2003. Previously, the House of Representatives of Bosnia and Herzegovina adopted the draft Law on Minorities in June 2002. This version was then sent to the House of Peoples for approval, which however refused to debate the bill because the House of Peoples had one year earlier adopted a different version of the Law on Minorities. In accordance with the Rules of Procedure of Parliament, a Joint Commission was formed for the purpose of harmonising the two versions of the Law on Minorities into the version that was adopted.

The new minority rights law brings important changes to the legal status of Roma in Bosnia and Herzegovina. At Article 3, the law officially recognises Roma as a minority group and has thus changed the legal situation with regards to their rights and duties. The law bans discrimination against minority group members and their forced assimilation in Article 4. The law protects the rights of Roma and all other national minorities to preserve and develop their ethnic, cultural, linguistic and religious identity. National minorities have the right to use their language both publicly and privately, according to Article 11. Under Articles 13 and 14, national minorities have the right to set up their own private educational institutions, as well as to receive educational materials and teaching in their own language in public schools, if they so request. They would also have the right to be represented in public authority bodies and in all levels of the civil service, as defined under Article 19.

In its current form, however, the law reserves such rights for citizens of Bosnia and Herzegovina. This is particularly problematic taking into account the widespread problem of statelessness among Bosnian Roma.” (ERRC No.3 2003)

For more information, see the [European Center for Roma Rights website](#) [Internet].

ISSUES OF FAMILY UNITY, IDENTITY AND CULTURE

Family unity

Missing persons and disappearances: 16,000 cases have still not been solved (December 2003)

- Some 16,000 persons remain unaccounted for (2003)
- In 2003, the Working Group on Persons Unaccounted For reconvened for the first time since 1999
- Investigations continue to be hampered by lack of cooperation from local authorities, in particular in the RS
- 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 3,143 have been accounted for
- In 2003, the Human Rights Chamber ruled that by failing to disclose information to the relatives of the fate and whereabouts of their loved ones the RS violated their human rights

“Eight years after the Dayton Agreement, large numbers of people – some 16,000 according to information collected by the ICRC from close relatives – are still unaccounted for in Bosnia-Herzegovina.” (ICRC, 17 October 2003)

“‘Disappearances’ represent perhaps the largest unresolved human rights issue in Bosnia-Herzegovina. The number of victims and their relatives is huge. Virtually no cases have resulted in those responsible having been brought to justice and the trauma of relatives and dependants left behind has not healed.

[...]

Most ‘disappearances’ took place in the context of armed conflict or related military operations in areas that were bordering on areas of direct fighting. Though many of the ‘disappeared’ were members of one of the armed forces active in the conflict, civilians – including women and children – equally became victims of this violation. The fact that ‘disappearances’ occurred in the context of a devastating and multi-sided war has made it even harder to establish the fate and whereabouts of most of these people. At the end of armed conflict in Bosnia-Herzegovina, an estimated 27,000 people from all sides to the conflict, but predominantly Bosniak (Bosnian Muslims) remained unaccounted for,[...] a number considered to be among the highest in the world.[...]”(AI 5 March 2003, p.1-2)

“Under an OHR-mediated agreement reached in 1996, exhumations were carried out by the Bosniak, Bosnian Croat, and Bosnian Serb commissions for missing persons. The commissions were 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 operated in all countries of the former Yugoslavia, reported that the remains of an estimated 750 persons had been recovered in the country as of mid-October, and an additional 60 or more sets of mortal remains were exhumed in the intraentity process. The largest gravesite to be uncovered during the year was found in Kamenica and was believed to contain, along with other gravesites in the area, approximately 1,000 sets of mortal remains of victims from Srebrenica, which were expected to be recovered by the end of the year.

The ICMP continued developing its centralized system of DNA identification, finishing construction of its DNA laboratory in Banja Luka. The ICMP collected 9,729 blood samples by the end of September and was

expected to have collected 13,000 samples by the end of the year. During the year, 18,838 DNA blood profiles were obtained. ICMP also received 4,000 bone samples resulting in 2,519 DNA bone profiles during the year. By the end of the year, 1,250 DNA matches had been made that should result in the identification of approximately 750 missing persons.

The Missing Persons Institute (MPI) is a state institution that opened in August 2000 to serve as a working platform for entity-level commissions on missing persons under guidance from the ICMP. During the year, ICMP instigated the separation process of MPI from ICMP, as MPI will eventually take over responsibility 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 had received requests from family members to trace 20,845 persons missing from the war years, including 17,330 Muslims, 740 Croats, 2,643 Serbs, and 132 others. A total of 3,143 of these persons had been accounted for (318 of whom were found alive) by year's end. The ICRC reconstituted the Working Group for Tracing Missing Persons, which was created by the Dayton Peace Agreement to serve as a channel for passing tracing requests to local authorities. This group had been suspended in 1999 due to lack of cooperation from local authorities.

RS compliance with the Human Rights Chamber's decisions ordering full investigations into several wartime disappearance cases improved somewhat during the year [...]. For example, the RS fully complied with the 1997 Human Rights Chamber's order to conduct a full investigation into the disappearance of Father Tomislav Matanovic from Prijedor in 1995 [...]. Pressure from the IPTF was a factor in the successful conclusion of this investigation. However, the RS authorities ignored requests for investigations in numerous other cases." (U.S. DOS 31 March 2003, sect 1b)

"On 7 March [2003] the Human Rights Chamber of Bosnia and Herzegovina, a domestic court including international judges, issued its decision in a case brought by 49 relatives of missing men and boys from Srebrenica. The Chamber ruled that by failing to disclose any information to the relatives of the missing of the fate and whereabouts of their loved ones the RS violated their human rights. The RS authorities were ordered to immediately disclose such information as well as the location of mass grave sites and to open a comprehensive investigation into the events in Srebrenica. In addition, the authorities were ordered to pay a total of 4 Million Konvertible Marks (approximately 2 Million Euros) for the collective benefit of all applicants and families of Srebrenica victims to the Foundation of the Srebrenica-Potocari Memorial and Cemetery." (AI 31 March 2003)

See, "Bosnia-Herzegovina: Honouring the ghosts – challenging impunity for 'disappearances,'" Amnesty International, 5 March 2003 [Internet].

See also, the full text of the Human Rights Chamber decision in the "Srebrenica Case" (7 March 2003) [Internet].

Households exposed to domestic violence as a result of displacement and return (1999-2003)

- Roma and refugee children are particularly vulnerable to violence
- Violence against women is not adequately addressed by the authorities

"With regards to the rights of the child, instances of violence against children in BiH – or more specifically the disrespect of fundamental rights of the child such as the right to education in the case of Roma children – are striking. One study pointed to violence against children as a sociological phenomenon that has been on the rise after the war, and to refugee and Roma children as particularly vulnerable sub-categories.[1]" (UNDP June 2003, p.39).

[Footnote 1] See 'Sa one strane tišine', Izvještaj o istraživanju na temu nasilja nad djecom u BiH ["Beyond Silence: A Study of Violence against Children in BiH"], Save the Children, Sarajevo, 2002.

"Continued abuses of the rights of women and children, often resulting in the break-up of family units and related displacement, as a result of lingering war scars and the lack of a legal protection framework, is also of priority concern." (OCHA 31 December 2002)

"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 (2002-2003)

- A variety of incidents directed at religious targets were reported throughout 2002 and in the first half of 2003
- Administrative and financial obstacles to rebuilding religious structures impeded the ability of religious minorities to worship freely and delayed the return of minority refugees in many areas
- Following the October 2002 elections, which returned nationalist political parties to power, the number and severity of violent incidents directed against refugee returns have increased sharply
- Local authorities frequently allowed or encouraged an atmosphere in which abuses of religious freedom could take place

"The State Constitution of Bosnia and Herzegovina and the entity constitutions of the State's two constituent entities, the Federation of Bosnia and Herzegovina and the Republika Srpska, provide for freedom of religion, and individuals generally enjoy this right in ethnically mixed areas or in areas where they are adherents of the majority religion; however, adherents of minority religions in non-ethnically mixed areas have had their right to worship restricted, sometimes violently.

There was no change in the status of respect for religious freedom during the period covered by this report. After a significant increase in 2001-2002 in the number of refugees returning to areas in which they constituted a religious minority, the number of returns sharply declined during the first 5 months of 2003. This decline likely resulted from a combination of factors, including the success of nationalist parties in the October 2002 elections, poor economic conditions, an increase in return-related violence, deaths and injuries caused by landmines, and frustration over problems with property restitution.

Religious intolerance in the country directly reflects ethnic intolerance because of the virtually indistinguishable identification of ethnicity with one's religious background. Ethnic Bosnian Muslims (Bosniaks) generally are associated with Islam, ethnic Croats with the Roman Catholic Church, and ethnic Serbs with the Serbian Orthodox Church. Despite the constitutional provisions protecting religious freedom, some discrimination against religious minorities occurs in virtually all parts of the country. In

some communities, local religious leaders contributed to intolerance and an increase in nationalist feeling through public statements and on occasion in sermons. Following the October 2002 elections, which returned nationalist political parties to power, the number and severity of violent incidents directed against refugee returns have increased sharply.

[...]

Ethnic cleansing during the 1992-1995 war caused internal migration, which almost completely segregated the population into separate ethno-religious areas. Increased levels of returns in 2001-2002 slowed markedly in 2003, leaving the majority of Serbian Orthodox adherents still living in the RS and the majority of Muslims and Catholics still living in the Federation. Within the Federation, distinct Muslim and Catholic majority areas remain. Returns of Serbian Orthodox adherents and Muslims to their prewar homes in Western Bosnia Canton and Muslims to their prewar homes in eastern Bosnia near Srebrenica have shifted notably the ethno-religious composition in both areas.

[...]

The weak administrative and judicial systems effectively restrict religious freedom and pose major obstacles to safeguarding the rights of religious minorities. In some cases, the RS Government, local governments, and police forces made some improvements in protecting religious freedoms, although problems remained, including an atmosphere in which abuses of religious freedom may occur.

[...]

The RS Government, local governments, and police forces frequently allowed or encouraged an atmosphere in which abuses of religious freedom could take place, although there was some improvement from previous years. The absence of a police force willing to protect religious minorities and a judicial system willing to prosecute crimes against them posed major obstacles to safeguarding the rights of religious minorities. While new officers continue to be accepted into the police academies under strictly observed ethnic quotas, the goal of establishing effective, professional, multiethnic police forces throughout the country will take years of concentrated effort. Administrative and financial obstacles to rebuilding religious structures impeded the ability of religious minorities to worship freely and delayed the return of minority refugees in many areas.

Thirteen Croats who in December 2001 had attacked the site of a mosque being reconstructed in Stolac received fines of \$113 (250 KM) per person for disturbing the public order, a petty offense. Two Bosniaks who had attempted to defend the mosque site received fines of \$91 (200 KM) each for the same violation. Reconstruction of the Stolac mosque continued without further problems and should reach completion by the end of 2003.

In October 2002, after many delays, 14 persons received sentences of 2 to 13 months in prison for their role in a violent demonstration by Serb nationalists in May 2001 that disrupted a cornerstone laying ceremony on the site of the destroyed Ferhadija Central Mosque in Banja Luka. The demonstration had resulted in injuries to approximately 30 individuals, as well as the destruction of Bosniak-owned businesses and other property.

A significant number of citizens remained internally displaced or as refugees abroad following the 1992-1995 war. Virtually all had fled areas where their ethno-religious community had been in the minority or had ended up in the minority as a result of the war. Although organized and spontaneous returns significantly increased in 2001-2002, they began to fall sharply in 2003.

A variety of incidents directed at religious targets in all three ethnic majority areas were reported throughout 2002 and the first half of 2003. In March a booby-trapped hand grenade killed a Muslim and seriously injured his son as they tried to repair an apartment in the Croat-controlled part of the ethnically divided town of Mostar. The apartment belonged to someone other than the two victims, making the intended target of the attack unclear.

In January local police arrested two suspects for breaking the windows in the houses of two Bosniak returnees in Srebrenica.

Incidents directed at Bosniak Muslims during the last months of 2002 included: The December 19 bombing of the house of a Bosniak returnee near Bijeljina, the December 23 desecration of two Muslim tombstones in a graveyard in Prijedor, the December bombings in Dobož of a mosque and two houses belonging to Bosniaks, and a November bomb attack against a mosque in Prijedor.

In September 2002, a powerful explosion completely destroyed the minaret and damaged the roof and windows of a newly reconstructed mosque in Gacko, only 3 months after the inauguration of the mosque in June 2002. During the same month, police arrested two Serbs for breaking the windows of a mosque in Dobož.

There were also incidents directed at Bosnian Croats during the last months of 2002. In December 2002, vandals in Mostar burned the municipal creche; police arrested several suspects in connection with the incident. Later that month, Muamer Topalovic, a Bosniak, attacked a Croat family that had recently returned to Konjic, killing three and severely injuring another. Topalovic, who apparently had carried out the attack for religious reasons, was sentenced to 35 years in prison.

A Croat family in Mostar received a threatening, racist letter with slogans praising Hamas, Islamic Jihad, and al-Qa'ida, attached to a hand grenade. Unknown culprits stoned the reading room and headquarters of the Croat humanitarian-cultural association "Danica" in Banja Luka. In November 2002, vandals sprayed the walls of Saint Joseph's Catholic Church in Drvar with insulting graffiti.

Roman Catholic Church authorities in Sarajevo reported vandalism to cars belonging to church workers and other church property, the overturning of gravestones in Catholic cemeteries, and church entrances stained by urine. In April 2002, stone throwers attacked St. Anthony Church in Sarajevo during Easter week services.

There were incidents directed against members of the Bosnian Serb Orthodox community during the period covered by this report. Federation police arrested three suspects for attacking a Serb returnee family in Lukavac. In May the Orthodox Church of St. Peter and Paul in Kozarac repeatedly was stoned; police arrested four minors in connection with the incident, and the investigation continued at the end of the period covered by this report." (U.S. DOS 18 December 2003)

PROPERTY ISSUES

Overview of restitution process

War time and early post-war property legislation contributes to ethnic cleansing (2005)

- During the war, homes left empty by their inhabitants were allocated to displaced persons
- Legal provisions to allocate empty properties aimed at facing housing needs of vulnerable displaced but mostly benefited to the elites
- Immediate post-war legislation attempted to consolidate the rights acquired by temporary occupants
- Local authorities tried to cancel the rights of displaced persons to socially owned apartments
- Socially owned property was a type of strong tenure specific to former Yugoslavia countries
- Authorities who had allocated housing to DPs strongly opposed to any restitution process

"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. (OHR, 15 May 2000)

“During and in the aftermath of the Bosnian war, property laws were used by all three sides as a tool for furthering ethnic cleansing. Within the three separate political entities which emerged at the outset of the conflict, war-time regimes seized control of property “abandoned” through the displacement of other ethnic groups, initially on a temporary basis to meet the humanitarian needs of incoming displaced persons. These emergency measures later created an array of legal and administrative obstacles to displaced persons returning to their homes, and over time developed into a legal basis for the permanent dispossession of other ethnic groups.” [...] (Marcus Cox, Madeleine Garlick, 2003)

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, 15 May 2000)

Not surprisingly, in the aftermath of the war, no political authority was willing to contemplate the eviction of members of its own ethnic group in favor of returning minorities. According to one observer, the view that members of other ethnic groups had forfeited the right to their homes was so widespread that “it pass[ed] as respectable in political society everywhere in Bosnia”. [...] The Bosnian authorities, who retained a broad political commitment to a multi-ethnic Bosnia, fought for the right of Bosniac displaced persons to return to Republika Srpska, but made no effort to support the return of Serbs to Sarajevo and other Bosniac-majority urban centers. The Serb and Croat regimes engaged in aggressive campaigns to encourage their own populations to settle permanently in areas under their control, so as to cement their territorial claims. (Marcus Cox, Madeleine Garlick, 2003, pp.67-69)

“The immediate post-war period, rather than seeing a reversal of wartime allocations, witnessed their consolidation.”[...] In the case of socially-owned property, authorities used the absence of those who had fled or been expelled during the war as a pretext for canceling their occupancy rights under the pre-war legislation (Article 47, Law on Housing Relations, Official gazette of the Socialist Republic of Bosnia and Herzegovina, No 14/84). In other cases, occupancy rights were cancelled *ex lege*. In particular, in the Federation, an amendment to the wartime Law on Abandoned Apartments [...] allowed displaced occupancy right-holders only seven days (15 days for refugees) to return or face permanent cancellation of their occupancy right. [...]. In the meantime, local authorities busied themselves handing out new ‘permanent’ occupancy rights to the abandoned flats, mainly to members of the ethnic group that dominated the area-post war.[...]Without an effective mechanism by which to repossess their occupied real property, the right to return set out in Annex 7 of Dayton was an empty promise for most IDPs and refugees.” (Charles Philpott, Journal of Refugee Studies, February 2005)

Dayton’s provision on the right to pre-war home face strong obstruction from authorities 1996-1999 (2005)

- 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
- Annex 7 calls the Parties to repeal domestic legislation with discriminatory intent or effect
- Following intense pressure from the international community, new property laws were passed by the Federation in April 1998 and by Republika Srpska in December 1998
- 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
- Faced with obstruction from authorities, the Office of the High Representative takes legislative measures in 1999 to harmonise and improve efficiency of property laws passed in 1998
- Property laws provide that claims for repossessions will be processed by the municipality where the property is located.

- Local authorities have to determine in their decision the rights of the claimant and the right to alternative accommodation of the temporary occupant
- Legal requirement to provide alternative accommodation to vulnerable temporary occupants is abused by authorities to obstruct property repossession
-

“In Annex 7 of the Dayton Peace Agreement (DPA), Article I states that “all refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them their property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them.”

For the first time, it was stated that not only should refugees be able to repatriate to their country of origin but also that IDPs should be able to return to their pre-war homes. Such an ambitious explicit commitment to ensure that each refugee or IDP is able to return to pre-war accommodation was made in the aftermath of ethnic cleansing which resulted in the creation of almost entirely homogenous territories in communities which had been ethnically mixed. An implicit objective of the DPA has been the reversal of ethnic cleansing via promotion of the return of populations forcibly displaced during the war. (Catherine Phuong, FMR, April 2000)

“Annex 7 establishes not only individual rights for refugees and displaced persons, but also includes certain obligations on the Parties to ensure the return of refugees and displaced persons. [...]Article I(3) obliges the Parties to, among other things, take the necessary steps to prevent any activities which would impede safe return of refugees and displaced persons. Most importantly for the right to repossess lost property, this article specifically obliges the Parties to undertake “the repeal of domestic legislation and administrative practices with discriminatory intent or effect.” This provision was used as a basis to adopt post-conflict legislation that annulled legislation used to deprive refugees and displaced persons of their property during the conflict. In addition, the right to repossess property or be compensated is elevated to a constitutional right of refugees and displaced persons. ”(Paul Prettitore, World Bank, June 2004)

“In 1996, the international community in BiH initiated a sustained campaign to repeal wartime laws on abandoned property, and create a legal framework for property repossession. The campaign met with intense resistance, and required all of the political leverage of the international community over an extended period of time to achieve results. In April 1998, the first legal framework for property repossession was adopted in Federation legislation, followed in December 1998 by like legislation in Republika Srpska. A further intensive campaign, involving the use of the High Representative’s Bonn powers, was required in order to strengthen and harmonise the laws. In their current form, the laws have been in place since October 1999.” (OHR/OSCE/UNHCR/UNMIBH/CRPC, October 2000)

“From December 1998 onward, the international mission in Bosnia began a belated but dramatic process of evolution. Originally strong on the military side but weak and disorganized in its civilian functions, it began to develop certain attributes of a protectorate. In particular, the High Representative, nominated as the leading civilian official under the Dayton agreement, was granted the authority to overcome obstacles to the peace process by imposing laws and dismissing domestic officials. These powers allowed for a new strategy on property repossession. Through an extensive legislation reform campaign, the High Representative repealed discriminatory rules, reaffirmed the rights of the pre-war owners and occupants and established an administrative property claims process at municipal level, under close supervision. (Marcus Cox, Madeleine Garlick, 2003)

“In April 1999, [the High Representative] over-ruled decisions taken during and after the war to permanently reallocate some flats which had the effect of preventing the return of the former occupant. In October 1999, he made a series of major amendments to property legislation” (Catherine Phuong, FMR, April 2000)

Key aspects of the property laws as amended in October 1999:

Note: the property laws adopted in 1998 in Federation and RS are called “Laws on Cessation” (in Federation: Law on cessation of the application of the law on abandoned real property and Law on cessation of the application of the law on abandoned apartments. In RS, Law on cessation of application of the law on use of abandoned property)

“The claims process follows an administrative, rather than a judicial process. A large number of claims for repossession of property would have overwhelmed BiH’s judicial system, and claimants would be forced to wait for years for resolution of their cases. In addition, the BiH court system at the end of the conflict was viewed as ethnically biased, in particular as some refugees and displaced persons had been deprived of their property through court proceedings.[...]

First and foremost, the Laws on Cessation cancelled the further application of laws on abandoned property. They also obliged the competent authorities to issue decisions on both the rights of owners to repossess the property, and the rights of temporary occupants. The temporary occupant is entitled to remain in the property under the applicable legal conditions until a decision has been issued in favor of the claimant. In order to process the claims, Bosnian authorities established housing offices in every municipality in BiH. Claimants could submit claims for private property to either the municipal housing office or CRPC. Claims for socially-owned property were to be made to the municipal housing office, but CRPC would also accept claims if the claimant could demonstrate the municipal housing office did not accept the claim or did not issue a decision with the legally prescribed time period.” [...]

“The rights of the temporary occupants responded to the need to protect vulnerable displaced persons but were often abused by authorities to refuse to implement property legislation and consolidate ethnic cleansing.

“The deadline for the vacation of property subject to a claim for repossession under the Laws on Cessation depends on the housing needs of the temporary occupant. Such a determination was necessary for a number of reasons. Since a number of temporary occupants were not vulnerable persons, there was no reason to provide them with alternative accommodation.[...]

In addition, as a result of damage caused by the conflict and the fact that little new housing was constructed during this period, there was housing shortage in most parts of BiH. This housing shortage was exaggerated in most cases by housing officials as an excuse not to return abandoned property. For these reasons, available housing space had to be prioritized for the most vulnerable persons. Temporary occupants that never received a decision on allocation of the property are considered illegal occupants, and have no rights to alternative accommodation. However, if the current user is a registered refugee or displaced person, they may still be entitled to a form of emergency accommodation under the relevant legislation on refugees and displaced persons. In cases where the housing needs of the temporary occupant are otherwise met, the deadline for vacation of the property in the decision is fifteen days. [...]

If the housing needs of the temporary occupant are not otherwise met, a decision is given with a ninety-day period to vacate the property. In such cases the current user is entitled to alternative accommodation to be provided by housing authorities, but the burden of proof of demonstrating eligibility is on the temporary occupant.[...]

In practice, the rights of temporary occupants became the primary obstruction to implementation of the Laws on Cessation in BiH. In general, housing authorities issued decisions granting the right to alternative accommodation to temporary occupants without any real investigation as to whether their housing needs were otherwise met. At the same time, housing officials did little to secure space to serve as alternative accommodation.[...]

This combination led to an incredible strain on the overall system, such that decisions obliging the temporary occupant to vacate the property within ninety-days were almost never enforced within the ninety-day period. In some cases temporary occupants with decisions to vacate the property within ninety-days remained in the property for several years. Due to these obstructions, it was necessary to amend the provisions of the Laws on Cessation relating to alternative accommodation several times. Most importantly, the right to alternative accommodation was further restricted to ensure space would be available for the most vulnerable individuals. A provision was added that provided for the eviction of the temporary

occupant at the end of the ninety-period even if housing authorities fail to secure alternative accommodation." (Paul Prettitore, World Bank, June 2004)

"Local authorities do not carry out evictions, on the pretext that no alternative accommodation is available for the current occupants. Often, the local police force does not attend evictions or only offers limited support." (Catherine Phuong, FMR, April 2000)

A coordinated attempt to unlock the return process and restore property: the Property Law Implementation Plan (PLIP) 1999 (2005)

- The High Representative launched the PLIP with the support of OSCE, UNHCR and UNMIBH to show the determination of the international community towards implementation of property laws
- The PLIP is an effort by the international community to support and monitor implementation of property law in a consistent manner throughout the country
- A network of international focal points covering each municipality monitored the progress of local authorities, reported abuses to the PLIP cell in Sarajevo and advised local authorities on legal issues.
- The PLIP cell, coordinating mechanism gathering officials of organizations involved in implementation of property law issues legal clarification and joint letter to respond to problems reported by focal points.
- PLIP also includes capacity-building of local authorities and financial support
- Publication of monthly statistics showing progress of property law creates a sense of competition between municipalities

"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)

"The Property Law Implementation Plan (PLIP) has developed from collaborative relationships between OHR, UNHCR, OSCE, UNMIBH and CRPC. It was conceived in October 1999 as a means of gathering the whole range of property related activities of the different agencies into a coherent, goal-oriented strategy for securing implementation of the new laws.[...] This is the most complex legal component of the implementation of Annex 7, and accordingly requires dedicated resources and thorough management." [...]

At the heart of this approach is the bedrock principle that the same pressures, demands and expectations must be applied to all of the officials and municipalities of BiH. This standardisation in itself will serve to undermine the narrow collectivism and nationalist exclusion that has prevailed in Bosnia and Herzegovina.[...]

The PLIP approach is designed to be applicable throughout Bosnia and Herzegovina. This represents an evolution from earlier return strategies, which focused on selected return locations mainly in rural areas (target areas; destroyed villages, empty space) or modalities of return (political declarations; reciprocal agreements; return quotas). This was necessary at the time in order to initiate the process of return.

The PLIP varies from these earlier policies by promoting the neutral application of the law across the board, rather than the notion of 'minority return' to rural areas. By insisting that no deviation is permitted from the strict requirements of the law, it ensures that equal standards, procedures and international pressure are applied throughout the country.

The PLIP is a mechanism for developing a common stance of the international community towards political problems in the return process. On a number of occasions, the PLIP has co-ordinated joint letters from the Principals in order to place combined pressure on state and entity authorities, and to express the international community's common expectations in the property law implementation process. This has proved to be an effective way of resolving problems, and should be continued. The same policy can be followed down the command structure, at regional and even local level, in responding to problems that occur in the field. (OHR/OSCE/UNMiBH/UNHCR/CRPC, October 2000)

"This mechanism included: administrative reform; capacity-building of local administrative and judicial bodies; de-politicization of the property issues; and establishment of the rule of law. (Paul Prettitore, World Bank, June 2004)

" There were training programs for local officials in the new laws, and extensive public information campaigns. Field officers at the local level were well placed to identify over obstruction and mobilize various intervention strategies, including letters of protest from international agencies, visits from high-ranking international officials, conditionality on local aid projects and liberal use of the High Representative's dismissal powers" (Marcus Cox, Garlick, 2003)

"To measure implementation, monthly statistics are produced by monitors detailing the number of claims, decisions and implemented decision in each municipality. These statistics have been highly publicized, and for a time the full statistics list was published in local newspapers. One lesson from the PLIP project is that the process became truly effective when it moved from a political process driven by political forces to a rule of law process based on individual rights.
(Paul Prettitore, World Bank, 2004)

"The main value of PLIP lay in its public relations value. Four years after Dayton, a year and a half into property restitution, and after a succession of failed 'years of return', international enthusiasm was waning and donors looking elsewhere, New packaging for old strategies and aims, a hint of progress, and a catchy new acronym rekindled interest. The principal international organizations publicly affirmed their commitment to full property restitution.

As important, previously ad hoc strategies were regularized and co-ordination was improved. These included the monthly collection and publishing of statistics on property restitution for each municipalities and regions, and the exchange of information about reinstatements. Such 'Information Exchange' sought to prevent IDPs who had had their own property restored to continuing to occupy property in another municipality.

Each municipality in the country was assigned an international 'focal point'. The majority of focal points were UNHCR and OSCE field officers, with RRTF (OHR Return and Reconstruction Task Force) covering a small number of municipalities. A focal point collected statistics and channeled Information Exchange data for the MHO and OMI's [Federation and RS local bodies in charge of property implementation] to act upon. A focal point was also responsible for delivering PLIP guidelines and instructions to the authorities and co-ordinating the activities of international field staff-in order to avoid a situation in which the local authorities were spending all their time in meetings with different organizations delivering the same or, worse, a different message." (Charles Philpott, Journal of Refugee Studies, February 2005, pp. 9-10)

Overview of PLIP progress and legislative amendments: 1999-2004 (2005)

- At the time the PLIP was launched in 1999 only 15% of claims had been solved
- 2000: progress but wide discrepancies throughout the country with RS and Croat majority areas clearly lagging behind
- Looting of properties and violence against housing officials increase
- 2001: The High Representative imposes an important set of amendments to accelerate property repossession
- 2002: Implementation of claims reaches 64%. A New Strategic Direction is launched emphasizing chronological processing of claims to limit discretion of authorities and corruption
- 2003: 92,5% of claims implemented by year end.
- Publications of guidelines for substantial completion of property laws
- 2004: Property law near completion. Only Banja Luka in RS is still processing claims

1999

“At the time the PLIP strategy was developed, the rate of implementation of the property laws was so slow that it was estimated that the full resolution of all claims would have taken at least 30 years, a time period unacceptable for the international community. [At the beginning of PLIP] only fifteen percent of claims for repossession of property had been resolved.” (Paul Prettitore, 18 June 2004)

2000

OHR, UNHCR, OSCE, UNMIBH and CRPC have consolidated the results of the efforts to monitor property law implementation throughout BiH during the year 2000, the first full year of property law implementation. As of 31 December, the rate of implementation (the total number of repossessions versus the number of claims for residential non-destroyed properties) for BiH stands at 21% - with an implementation in the Federation of 29% and in the RS 13%. Of a total of roughly 249,000 claims, 111,500 have received decisions (45%) and 51,500 have been implemented.

From May through December of 2000, the rate of implementation in BiH grew approximately 1% per month. At this continued rate of implementation, it would take roughly six more years to fully implement the property laws. This is not acceptable, especially as some municipalities have shown that it is possible to reach better implementation rates by consistently increasing it by over 3% per month. Given the resources directed at increasing the rate of implementation, we expect a considerable improvement in the monthly implementation rates during 2001.

We remain concerned that the rate of implementation varies widely throughout BiH. As both Entities have the full legal framework to ensure repossession, there is no reason for implementation rates to vary between below 5% and over 50%. In Cantons 4 (Zenica Doboje) and 6 (Central Bosnia) several municipalities are nearing completion of the implementation process - if it can be achieved there, it can be achieved elsewhere.

These results are in direct contrast to areas where progress remains slow. We have not seen adequate progress in the Croat-majority areas in Cantons 7 (Herzegovina Neretva) and 10, nor in areas of the Eastern RS including Bratunac, Foca/Srbinje, Srpsko Gorazde and Visegrad. In the five municipalities that account for 40% of the claims for repossession in the RS - Banja Luka, Prijedor, Doboje, Bijeljina and Zvornik - the average rate of implementation stands at merely 10%. We expect better progress in each of these areas.

We are also concerned the RS implementation rate continues to lag behind that of the Federation of BiH. Although property law implementation began in the RS after it did in the Federation, the RS has received considerable assistance from the International Community, most notably the over USD 1 million in budget

assistance to the Ministry for Refugees and Displaced Persons to hire additional staff and upgrade housing offices. There is no reason for this gap to remain, and we expect the RS to make quick progress towards full implementation.

While progress slowly increased throughout 2000, several obstacles stemming from the failure of local authorities to take full ownership of the implementation process prevented a country-wide breakthrough in repossessions. In many cases, local authorities have still not provided adequate resources for the full functioning of housing offices. We also expect that they will take special measures to employ returnees/minorities in the housing offices. Although the State-level Ministry for Human Rights and Refugees was created, a stronger role in the co-ordination of property issues between the Entities is necessary.

There continue to be many illegal acts encountered in implementation of the property laws, including illegal allocations of private property, looting, violence against housing office employees and illegal revalidations/privatisations, which have not been adequately addressed by local officials. There also remains a considerable problem with public officials occupying claimed space. These shortfalls must be corrected in 2001.

Another important obstacle to increased implementation is the failure of local officials to secure alternative accommodation. Local officials are responsible for ensuring that everyone with the right to alternative accommodation receives it. Inexcusably, these legal obligations remain mostly unmet. Only few municipalities have produced lists of unclaimed socially owned property, and many state owned companies have not provided records on property where occupancy rights changed during the war. Little effort has been made to use other structures as possible alternative accommodation, such as hotels, schools, army barracks and any other adequate structures as permissible under entity property legislation. On this issue, we expect immediate progress. The International Community will not recommend assistance to municipalities unless all steps to secure space have been taken.” (OHR, OSCE, UNHCR, UNMIBH, CRPC, 19 February 2001)

2001

“The Agencies involved in the Property Law Implementation Plan (OHR, OSCE, UNHCR, UNMIBH and CRPC) announced today that, as of the end of October, the overall implementation rate of the property laws has risen to 37% in BiH. 46% of cases have been solved in the Federation, 27% in the Republika Srpska and 33% in Brcko. In other words, out of 129.366 households that filed a claim in the Federation, 59.543 have repossessed their property and out of 120.087 claims in the Republika Srpska, 31.896 have been solved. In total, 93.698 out of 256.328 have repossessed their property.” (OHR, OSCE, UNHCR, UNMIBH, CRPC, 11 December 2001)

December 2001 Amendments

The High Representative, Wolfgang Petritsch, yesterday issued a package of **thirteen decisions** comprehensively amending the property laws of both Entities. Changes were urgently needed, as the increase in the pace of property law implementation has stalled over recent months, forcing many people to wait before repossessing property, often in makeshift shelters. Many others are being prevented from privatising their apartments. The amendments will reduce the possibility of manipulation and delay, 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.

The amended laws specifically take account of the fact that many categories of persons may be considered to have had their housing needs met, including those who accept land plots or housing construction assistance and have sufficient time to build, and those who show no interest in filing a claim for their property, or in pursuing enforcement of their claims.

The new law sets a specific income threshold, which defines whether families may or may not claim that they have insufficient income to meet their housing needs: this threshold will be based on the standard "consumer basket" set by the Entity statistics institutes.

All purchases of apartments where the purchase is based on a 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 privatise. Thus a large source of alternative accommodation for vulnerable individuals was lost. The new amendments provide for stricter review of all revalidations and subsequent privatisations.

People who are unable for reasons of their own to repossess their property in person do not have to miss the deadline for repossession but can send a proxy instead.

The deadline for repossession of apartments will be reduced from 90 days to 30 days.

Fines for multiple occupancy will be introduced.

The appeals process has been tightened, with the claimant's case upheld if the appeals body does not respond before expiry of the deadline. This will eliminate the long periods -- in some cases as much as a year or more - which some claimants have had to wait for cases to come back from the second instance body.

The burden of proving that someone meets the criteria for alternative accommodation will be placed upon the current occupants. If they cannot prove they meet all criteria, they will be issued with 15-day decisions. This will also reduce the time previously spent by housing authorities attempting to document occupants' cases.

Problems arising from property exchanges will be regulated. Contracts on exchange will be confirmed in cases where both parties agree the exchange was voluntary. If only one party claims, the other party will be deemed to have claimed even if a deadline has passed. And in cases of exchanges of property outside of BiH the party outside of BiH will have to prove that the property they currently possess can be returned to the pre-war owner/occupant.

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/OSCE/UNHCR/UNMIBH/CRPC, 5 December 2001)

2002

“The overall implementation ratio reached 64 percent in October, which is an increase of two percent from last month throughout the country.

In Brcko District, 70 percent of properties have been repossessed with an increase of four percent in October, while the Federation ratio has risen by two percent to 68 percent, and the RS recorded a one percent increase since September, to 57 percent in October. Out of a total of 254,730 claims in the whole of BiH, around 92,000 claims are still to be resolved.” (OHR/OSCE/UNHCR/UNMIBH/CRPC, 3 December 2002)

Launch of the New Strategic Direction (see envelope on NSD)

“SDHR Gerhard Enver Schrömbgens, OSCE Head of Mission Robert Beecroft, UNHCR Deputy Chief of Mission Udo Janz, CRPC Executive Officer Steven Segal and UNMIBH Head of Civil Affairs Jaque Grinberg today announced a New Strategic Direction for the full implementation of the property laws by end 2003.” (OHR/OSCE/UNHCR/UNMIBH/CRPC, 12 September 2002)

2003

“The PLIP agencies (OHR, UNHCR and OSCE) announced today in Sarajevo that the implementation of the property laws in Bosnia and Herzegovina (BiH) is nearing its completion.

The Office of the High Representative, the United Nations High Commissioner for Refugees and the OSCE Mission to BiH, said that the property law implementation ratio in the country at the end of December had reached 92,5 per cent. The three agencies said that local housing authorities had finalized 201,902 of a total of 218,310 property claims registered and issued almost 99 per cent of first instance decisions. A total of 41 municipalities have been verified as having substantially completed the implementation, and 88 municipalities which have completed all pending cases have established concrete timetables to demonstrate their substantial completion of all legal obligations under the property laws, in accordance with the Municipal Guidelines for Substantial Completion of Property Law Implementation.” (OHR/OSCE/UNHCR, 11 February 2004)

A new serie of amendments to property laws were imposed by the High Representative in May 2003. Guidelines to assess completion of property laws were established to define conditions under which a municipality can consider that the repossession process is completed(see envelopes on these subjects for further details)

2004

“Property law implementation is nearing completion across BiH. Since November 2004, the OSCE, OHR and UNHCR have verified that a further sixteen municipalities have completed their property work. All told, 120 of 129 municipalities have now finished the property restitution process in their jurisdiction. Of the remaining nine municipalities, eight have finished processing claims and are preparing their final reports. Only the Banja Luka housing authority is still processing claims. Inadequate staffing and resources and a lack of political support have delayed its work. [...]

In the Federation of BiH, local authorities are currently considering legislation that would regulate the final disposition and use of unclaimed apartments. The Mission has been actively engaged with the Ministries of Refugees and Displaced Persons, as well as of Labour and Social Policy, to ensure that housing entitlements are protected and that some of these apartments are set aside for the most vulnerable individuals and families.” (OSCE, 17 February 2005)

First phase of PLIP characterised by prioritisation of cases and monitoring of public official's housing situation, 1999-2001 (2005)

- As PLIP member, UNMIBH decides to monitor the property situation of police officials and condition their certification on regularisation of their housing situation
- 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)
- In 1999, OSCE attempts to prioritise the return of minority councilors but finally renounces
- Provisional Election Commission bar officials from office if they are occupying property
- OSCE monitors housing situation of judges and prosecutor to ensure that officials representing the law are in compliance with it. In 2002, The High Representative decides to prioritise property repossession of minority police to increase sense of confidence among returnees.

"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. (OHR, 18 October 2001)

Elected Officials:

“The OSCE, pursuant to its elections and election-result implementation mandate, initially sought to prioritize the return of minority councilors to their pre-war homes in the municipalities they represented. This policy was abandoned by early 1999, when the restitution process was bogged down generally, having largely failed to accelerate the restitution of property of many councilors. Even when successful, and after intensive effort, few of the councilors actually returned.” (Charles Philpott, *Journal of Refugee studies*, February 2005)

"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]

The New Strategic Direction: emphasise the rule of law approach 2002 (2005)

- After focusing on cases easy to solve such as double occupants, a more systematic approach is adopted to address all cases in a just and consistent manner
- The New Strategic Direction emphasises the chronological processing of claims
- Chronological processing of claims ensures transparency and protects officials from corruption and political interference.

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)

"To further strengthen the PLIP process, the same agencies adopted the New Strategic Direction in September of 2002. The strategy built on that of PLIP, but focused more on the chronological processing of claims rather than the creation of special categories of refugees and displaced persons for prioritization of claims.[...] This amendment was necessary in regards to provide more fair and transparent procedures, as opposed to the old system that left more discretion to local authorities and was open to corruption and political interference. It also protected housing officials from political pressure to address, or not address, certain cases, and provided clearer insight of claimants as to when their specific claims would be resolved." (Paul Prettitore, World Bank, June 2004)

Property law amendments passed by High Representative accelerate resolution of property disputes (2003)

- High Representative imposed property law amendments with the "Laws on Construction Land" on May 16, 2003 to speed up the final stages of the property implementation process
- The amendments address a number of important issues, including multiple occupants and alternative accommodation availability
- Multiple occupants face heavy fines if they do not leave illegally occupied property
- Measures were taken to facilitate the provision of alternative accommodation to temporary occupants within the RS
- The amendments also transfer valid wartime and postwar property allocations of land back to local authorities

- Administrative proceedings for reclaiming properties have been simplified

“High Representative, Paddy Ashdown, [...] imposed 'Law on Construction Land'. This law ensures that all future transfers of land under the domestic legal process will be non-discriminatory, and will provide a framework for resolving disputed land allocations made after the start of the war in Bosnia and Herzegovina on 6 April 1992.

The decision comes three years after High Representative Wolfgang Petritsch first asked the local authorities to provide a framework for resolving disputed land allocations for refugees and displaced persons. It also brings the law into line with a ruling of the Constitutional Court by redefining specific categories of Construction Land, including socially-owned property, into either State owned or Privately owned property, as required by the Constitution of Bosnia and Herzegovina.

The High Representative also enacted corrective technical amendments to the property repossession laws, the need for which was identified during the implementation of those laws, and in the decisions of the Human Rights Chamber. These amendments will help refugees and displaced persons by preventing unnecessary administrative proceedings both when an exchange contract is presented to a housing body, and when enforcing CRPC decisions. This will apply to both private and socially owned property.

[...]

OHR expertise will be available to assist in the training of local authorities to implement these laws quickly and accurately.

Decision follows extensive consultations within the international community, including the UNHCR and OSCE and CRPC, and with the competent Entity and State Ministries.” (OHR 16 May 2003)

“The Amendments introduce a number of significant changes on issues such as multiple occupants and alternative accommodation availability in order to speed up the final stage of property law implementation.

[...]

The amendments address the following issues in both entities:

- All multiple occupants now face fines if they fail to vacate within the deadline set out in the original administrative decision against them. When implemented, these provisions will ensure that housing authorities no longer have to waste time and resources carrying out evictions of multiple occupants.
- The authorities will no longer be responsible for damage made to vacated private property where they have taken all legal steps to notify the owner.
- If the municipal housing authorities find that alleged wartime or postwar exchanges or transfers of property meet the formal legal conditions to be found valid, they must suspend the administrative decision-making process, and refer the parties to the competent court for a final decision. If the municipal housing authorities find that the exchange or transfer is not formally valid, they must issue and enforce an administrative decision on repossession of the property.
- Municipal offices of the Republika Srpska Ministry of Refugees and Displaced Persons may now provide alternative accommodation anywhere in Republika Srpska to entitled temporary occupants displaced in the municipalities they are competent for. This harmonizes the RS Law with similar Federation BiH provisions.
- The provisions on applicability of the minimum space requirement for alternative have been harmonized. Specifically, this limitation will only apply in cases where alternative accommodation has been provided by the competent authorities, or where members of the temporary occupant’s 1991 family household have accommodation in the entity of displacement or municipality of 1991 residence.” (OHR 17 June 2003)

See Decisions in the Field of Property Laws, Return of Displaced Persons and Refugees and Reconciliation, Office of the High Representative, May 2003 [Internet].

See also, “Housing Officials to Fine Double Occupants”, 26 June 2003, Office of the High Representative (OHR), press release [Internet].

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].

Uniform criteria established for the completion of the property law implementation process (2003)

- The Property Law Implementation Plan (PLIP) is a collaborative operation formed in 1999 by OHR, UNHCR, OSCE, UNMIBH and CRPC to address all property related issues in the country
- PLIP Municipal Guidelines for Substantial Completion of Property Law Implementation set out primary requirements on each municipality
- Finalizing property laws implementation is one step towards the full realization of Annex VII of the Dayton Peace Agreement
- One of the criteria includes solving all pending property claims
- Alternative accommodation should also be provided to those who are entitled to it
- Information on solved claims should be shared with the municipalities of displacement and with the CRPC
- International agencies together with the housing bodies assess that all requirements have been met

"The Property Law Implementation Plan (PLIP) has developed from collaborative relationships between OHR, UNHCR, OSCE, UNMIBH and CRPC.[1] It was conceived in October 1999 as a means of gathering the whole range of property related activities of the different agencies into a coherent, goal-oriented strategy for securing implementation of the new laws. The PLIP is a specialist operation designed to ensure that all citizens of Bosnia and Herzegovina who were dispossessed of their property in the course of the conflict can repossess it. This is the most complex legal component of the implementation of Annex 7, and accordingly requires dedicated resources and thorough management." (OHR/OSCE/UNHCR/UNMIBH/CRPC October 2000, p.2)

[Footnote 1]The Office of the High Representative (OHR), United Nations High Commissioner for Refugees (UNHCR), Organisation for Security and Cooperation in Europe (OSCE), United Nations Mission in Bosnia and Herzegovina (UNMIBH) and Commission for Real Property Claims (CRPC) have been the lead organisations in Bosnia and Herzegovina in property and return issues.

"The PLIP Municipal Guidelines for Substantial Completion of Property Law Implementation from May 2003 set out the most important requirements that each municipality needs to fulfil in order to have Property Law Implementation substantially completed." (OHR 31 July 2003)

"The [...] guidelines reflect the current expectations of the international community in terms of the minimum criteria for completion. They are based on ongoing consultative field application in some municipalities. Substantial completion of property law implementation is achieved when the competent authorities have resolved all pending property cases in their jurisdiction and have planned for all ongoing

and future obligations, such as the processing of future claims and the provision of alternative accommodation to those who remain entitled.” (OHR 26 May 2003)

“Each month new municipalities in BiH join the group of those having completed their outstanding property claims. To date 32 municipalities throughout BiH have done so. To ensure transparency and a standardized approach, the agencies involved in the Property Law Implementation Plan, OHR, OSCE, UNHCR and CRPC, have approved a set of guidelines to verify that municipalities have complied with all the legal obligations under the law.

These guidelines indicate concrete measures that the housing authorities are expected to take in their own municipalities before declaring PLIP substantially completed. The municipalities are required to report all solved claims, to make unused alternative accommodation available to neighboring municipalities, to regularly review the lists of alternative accommodation beneficiaries, and to maintain sufficient administrative capacity to deal with any property claims submitted to their offices in the future.

International agencies working in the field will assess together with the housing bodies that all requirements to declare Property Law Implementation substantially completed have been met. The State Commission for Refugees and Displaced Persons will be kept fully informed on the completion in the respective municipalities as will the media. This will ensure transparency of the process and ensure that it is equally applied throughout BIH.

Finalizing Property Laws Implementation is only one step towards the full realization of Annex VII. Municipalities remain obliged to facilitate the return of refugees and displaced persons by other means to make the returns sustainable.

Municipalities that have completed the Property Law Implementation can now fully dedicate themselves to their economic and social development and progress towards a normal life.” (OSCE 3 June 2003)

“Municipalities must meet a number of criteria to be verified as having substantially completed property law implementation:

- 1) Municipalities must solve all pending property claims to the effect that all properties were repossessed.
- 2) Municipalities must continue to provide Alternative Accommodation (AA) to those who are entitled to it.
- 3) Municipalities must ensure that sufficient administrative capacity has been allocated to deal with future claims and with cases returned from second instance bodies or the courts.
- 4) Municipalities must ensure that information on solved claims is shared with the municipalities of displacement and with the CRPC.
- 5) Municipalities must archive and protect all records according to the relevant Laws.

Substantial completion *does not* terminate the right of individuals to claim repossession of private property through the competent administrative bodies.

Verification of substantial completion is based on a close review of documentary evidence provided by the relevant housing bodies, providing of that they have fulfilled all their legal obligations related to property law implementation.” (OHR 30 October 2003)

See also,

“PLIP Municipal Guidelines for Substantial Completion of Property Law Implementation”, 28 May 2003, Office of the High Representative [Internet].

“Verification of PLIP Substantial Completion: quick reference guide”, Office of the High Representative, 31 July 2003 [Internet].

“PLIP Completion Guidelines Letter”, 26 May 2003, Office of the High Representative [Internet].

For a review of property repossession in Bosnia and the right to property in international law, see, “The Right to Housing and Property Restitution in Bosnia and Herzegovina: A Case Study”, Prettitore, P, paper prepared for BADIL Expert Forum, 22 – 23 May 2003 [Internet].

Specific aspects

Analysis of the PLIP process: from ‘right to return’ to a rights based approach of property restitution (2005)

- The PLIP process has been a flexible tool which evolved as conditions changed
- Initially focused on return, the repossession process gradually moved to an approach based on the rights of the claimants independently of the return dimension
- The return focus has initially led the international community to accept legal provisions which conditioned right of repossession to the return of the claimant
- A narrow return approach can actually conflict with the repossession rights of the individual
- Rights-based approach to repossession allows the individual to choose freely whether he wants to return or resettle in his place of displacement

“Unprecedented in itself, the Bosnian ‘success’ is made all the more remarkable given that expulsions were continuing even after the war ended [...] Domestic political resistance to restitution was strong from the start. The permanent resettlement of displaced populations by local politicians remained on the local political agenda long after the end of the war. And yet it was these same local authorities who were charged with carrying out the restitution process. While many of the early obstacles to the property restitution regime stem from this fact, arguably the eventually self-sustaining nature and success of the process can also be attributed to such local ‘ownership’ of the process and, in a strange twist, even to their obstruction of it. An important feature of the process was that the battle to reverse ethnic cleansing had been shaped by what was ‘doable’ on the ground, rather than by grand repatriation plans, and came to be waged largely on the legal level. In addition to setting the process above political influence or, worse, the use of force, the legal approach shifted the focus of restitution from IDP/refugee ‘return’ to recognition of property return.” (Charles Philpott, *Journal of Refugee Studies*, February 2005)

“Several years after Dayton, it had become clear to all of the major political players that restoring property rights was the essential pre-condition not only to return, but also to the successful resettlement of those who chose not to return. Those who were able to sell their pre-war homes recovered the means to build or buy in a new location.[R]estoring property rights creates freedom of choice.” (Marcus Cox, Madeleine Garlick, 2003)

“Legally, the right to post-conflict property restitution derives from two independent rationales. The most commonly cited rationale is the ‘right of return’ whereby refugees and IDPs are entitled to return voluntarily not only to their country but to their actual home of origin. A parallel - rights-based - rationale derives from the necessity of providing adequate remedies to the victims of human rights violations. Paulo Sérgio Pinheiro, the UN Special Rapporteur on property restitution, has noted that “restitution as a remedy for actual or de facto forced evictions resulting from forced displacement is itself a free-standing, autonomous right.” [...]

While these two rationales are not mutually exclusive, practice in the former Yugoslavia indicates that the relative emphasis placed on the return vis-à-vis the human rights rationale for property restitution can greatly affect implementation. [...]

In both Bosnia-Herzegovina (BiH) and Croatia, private homes will largely have been restored to their owners by the end of 2004. However, restitution of a second category of property - socially-owned apartments - has been far more problematic.

Although such apartments constituted a lower percentage of the housing stock than private homes, their urban location and general high standard made them highly desirable. Most apartments were allocated by public employers to employees on the basis of an 'occupancy right', contingent on a 'use requirement' forbidding prolonged absence of the occupancy right holder. This was rarely enforced but was then revived in wartime regulations allowing empty apartments to be declared abandoned and re-allocated - typically on the basis of ethno-political cronyism - without regard to the wartime conditions that may have necessitated the flight of the previous residents.

In post-war BiH, new domestic property repossession laws again revived the "use requirement" as a "return requirement", forcing apartment claimants to fulfil three conditions:

claim within a set period (initially identical to that triggering cancellation under the pre-war use requirement)

seek enforcement of a positive decision within a set period of receiving it
physically reoccupy the apartment within a set period of its becoming available

In the immediate post-war period, many displaced people were fearful of returning. The international community's initial support for measures ostensibly designed to force return waned as it became obvious that they were being applied in a manner meant to permanently cancel pre-war occupancy rights, pre-empting any possibility of return in individual cases. By imposing amendments the Office of the High Representative removed most of the requirements in 2001, clearing the way for completion of a restitution process that has seen the return of almost 100,000 apartments in BiH. However, the original deadlines for claiming remained in force, thus preventing restitution and pre-empting return for as many as 9,000 displaced families. The question remains as to whether, from a human rights law perspective, the continued exclusion of those who failed to meet the claim deadlines represents a permissible limitation on the right to property restitution.

In BiH, the property restitution laws implicitly required claims to be processed in chronological order. International monitors in BiH endorsed chronology in keeping with general attempts to de-politicise return by emphasising the impartial 'rule of law' nature of property restitution. However, international monitors also demanded, as a matter of policy, that certain categories of claimants be 'prioritised' to repossess their homes, based on arguments that this encouraged return. The efficacy of this policy in promoting return was debatable and evidence mounted that the discretion given by the international community to allow policy-based exceptions to chronology was being abused in order to protect politically-connected temporary occupants from eviction. Beginning in 2001, the international community espoused processing in strict accordance with law, clearing one of the last lines of obstruction to completion of the property restitution process. [...]

Practice in BiH and Croatia demonstrates two risks involved in basing post-conflict property restitution on a pure return rationale:

Firstly, it can foster conditionality of restitution on actual return, particularly where pre-war homes were held in conditional or informal tenure forms. In BiH, the resulting choice between immediate return to an uncertain security environment or permanent loss of one's pre-war home posed a risk of actually pre-empting return.

Secondly, the logic of promoting return can result in attempts to identify and prioritise repossession of property for groups deemed likely to return or encourage return. Such policies can undercut the transparency, perceived impartiality and effectiveness of property restitution processes.

On the other hand, it should be emphasised that property restitution justified as a remedy to human rights violations presupposes free choice as to whether or not beneficiaries actually return. However, given that coerced return would in any case simply subject victims of human rights violations to further harm, property restitution programmes should be based on principles likely to ensure speedy, full and fair restitution of homes.” (Rhodri Williams, FMR, September 2004)

Commission for Real Property Claims of Displaced Persons and Refugees 1996-2003 (2005)

- The Commission is responsible for the processing of property claims for displaced persons and refugees under Annex 7 of the Dayton Peace Agreement
- CRPC, an institution created to overcome obstruction of local authorities
- Successful role at the beginning of the process and in sensitive cases
- CRPC’s role was to determine the ownership of the property
- Lack of enforcement mechanism seriously hampered the efficiency of CRPC decisions and led to channel its decision through the general administrative process
- Possessors of CRPC decisions had to go to local authorities to request enforcement and determine the rights to alternative accommodation of current occupants.
- CRPC has collected claim applications for 319,220 properties throughout BiH (December 2003) and issued 302,109 decisions providing incontrovertible proof of property rights have been issued (July 2003))
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- CRPC conducted other useful property related activities such as reconstruction checks, maintenance of an information exchange database to monitor double occupancy,
- The CRPC completed its mandate end of 2003
- Transfer of CRPC activities to the authorities are regulated by a special agreement
- The CRPC reconsideration body stopped its activity in December 2004

“During its mandate, the CRPC received 240,333 claims for 319,220 properties. [...] and decision issuance was slow. Nevertheless, In the absence of an alternative process early on, and at a stage when the courts and authorities were rejecting restitution claims, the CRPC proved a useful repository of claims against the day when restitution might be possible. [...] It had also balanced its own relative powerlessness by conducting useful property-related research and supporting a variety of return and restitution strategies, such as housing checks of elected officials and police, international staff accommodation checks, reconstruction checks, and collating Information Exchange data. Participation in PLIP was pivotal.” (Charles Philpott, Journal of Refugee Studies, February 2005)

“Since there were concerns as to the ability of local officials to fully implement the right to repossession of property, an international body was created to assist. Chapter II, Article VII of Annex 7 established the

Commission for Displaced Persons and Refugees. This Commission was created as the Commission for Real Property Claims (CRPC). The creation of CRPC was an attempt to circumvent Bosnian legal and administrative bodies that were inadequate for the task. Municipal housing bodies were poorly organized and resourced, and many were staffed by political hardliners bent on preventing the return of properties. The judiciary was viewed as biased and ill-equipped to handle a large number of new cases. The original mandate of CRPC under the DPA was to last for five years, but the mandate was extended for an additional three years given the backlog of claims that developed. CRPC ceased operations on 31 December 2003. The mandate of CRPC is to receive and decide claims for real property, whether the claim is for return of the property or for compensation.[...]

CRPC consists of three international and six national commissioners and a number of international and national staff involved in collection of claims and drafting of decisions. Its decisions are final and binding, and only CRPC can alter its decisions upon a request for reconsideration of the decision by either the claimant or the temporary occupant. When issuing decisions CRPC is permitted to disregard any domestic legislation viewed as contrary to the DPA. Through its mobile teams and offices in countries of asylum, CRPC created an easier environment for many refugees and displaced persons to file claims.

CRPC decisions address only the right of the claimant. Decisions make no determination as to the subsequent rights of the current user. Its decisions confirm whether the claimant was the owner or occupancy right holder as of April 1992 – the start of the conflict. CRPC investigates claims primarily through access to official land records, as there are no oral hearings. [...]The basis for the implementation of CRPC decisions is pursuant to both the RS and Federation of BiH Laws on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees, imposed by the High Representative in October 1999 and amended several times thereafter.[...]

The comparative advantage of an international organization such as CRPC was the its ability to issue mass decisions confirming prewar ownership or possession. [...]However, the primary obstacle in the process of repossession of property in BiH proved not to be the determination of rightful owners and possessors, but determining the rights of temporary occupants. Given that displacement lasted a relatively short period of time and that property was allocated only on a temporary basis, there were few disputes as to the actual owner of the property. [...]In addition, CRPC could not effectively resolve cases where the legality of wartime property exchanges was in question, especially regarding cases involving duress. For this reason the Laws on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees were amended to provide judicial proceedings in such cases. [...]

Another weakness of CRPC is that its decisions are not immediately enforceable. In attempt to remedy this situation, the High Representative imposed legislation on implementation of CRPC decisions[in 2000]. An individual who receives a CRPC decision in their favor must submit the decision along with a request for enforcement to the housing office in the municipality where the property is located and file a request for enforcement with BiH authorities, otherwise housing office officials are under no obligation to act under a CRPC decision.[...]

Once the request for enforcement is made, housing officials must make a determination as to the rights of the temporary occupant, and issue the appropriate decision pursuant to the Laws on Cessation. For decisions involving private property there is no deadline for requesting enforcement of a CRPC decision. Therefore the value of a CRPC decision became solely dependent on the functioning of the domestic housing office system. Since most problems in the process stemmed from the rights of the current occupant, CRPC certificates were not viewed as adding considerable benefit to the process.

In practice, officials in housing offices rarely implemented the CRPC decisions, and instead issued their own decisions that were later implemented. In this respect CRPC served as a parallel mechanism to the system of housing offices, especially since many individuals filed claims with both. The end result was that CRPC and domestic housing bodies ended up issuing decisions on the same cases, since many individuals filed claims to both bodies.

However, CRPC was advantageous in issuing decisions in politically sensitive cases, such as those involving elected officials, judges, military officials and police officers, so that local housing office could stand behind the CRPC decision as opposed to issuing one themselves and opening themselves up to threats. CRPC also issued decisions for destroyed property, which was a prerequisite for securing reconstruction assistance from international donors.” (Paul Pretittore, World Bank, June 2004)

“CRPC did not process its decisions chronologically and, in fact, many thousands of claims that were difficult to resolve for evidentiary reasons had been placed at the end of the queue. These so-called ‘Black box’ cases (estimated at 3,000 to 30,000) would remain in limbo, with the claimants having no recourse, until the end of CRPC’s mandate on 31 December 2003.”(Charles Philpott, Journal of Refugee Studies, February 2005)

“The mandate of the Commission for Real Property Claims (CRPC) [...] ended during the year. As part of its transfer process, the CRPC was to transfer all of its claim files (approximately 240,000) and records to the BiH National Archives, and to transfer its computer database to the BiH Ministry of Human Rights and Refugees (MoHRR). CRPC was unable to resolve approximately 50,000 private property claims because they involved conflicting documentary evidence and required a hearing, which was beyond CRPC's mandate. A public information campaign was designed to inform claimants of their responsibility for pursuing these claims. In addition, 5,000 occupancy rights housing claims were transferred to municipal housing bodies for resolution because these claims faced statute of limitation issues. At year's end, several memoranda of understanding remained unsigned and laws needed to be enacted to accomplish the handover. Local authorities were slow to take the necessary actions to ensure a smooth transfer.” (USDOS, 25 February 2004)

“Because CRPC failed to reach agreement with domestic authorities on the transfer of its remaining necessary operations and finances by the end of its mandate, 31 December 2003, these responsibilities automatically transferred to the government of BiH.

The BiH authorities have chosen to regulate this obligation by means of an agreement with both Entities. This agreement, currently being finalized, will result in a limited “nationalized CRPC” that will not issue any further decisions, but which will take up the important role of “reconsidering” CRPC decisions challenged by people affected by their enforcement. (Rhodri Williams, FMR, September 2004)

The transfer of CRPC activities is regulated by the Agreement between BiH, Federation and RS on transfer of competencies and continuation of financing and work of the CRPC signed on 25 May 2004. According to the agreement, 754 reconsideration cases have been transferred to the CRPC reconsideration body, 1399 have been transferred to local authorities. The “Black box” cases are estimated to 20,000 cases on which there is little information. No arrangement is made to process such cases which are currently archived.

According to the agreement, the new commission will decide on cases according to CRPC book of rules unless it differs from national legislation. The main area where CRPC book of rules differs from domestic laws are military apartments. On 16 October 2004, authorities have amended laws relating to purchase apartments including military apartments. In April and May 2004, the Federation Government and both chambers of the Parliament have issued decisions suspending enforcement of CRPC decisions under reconsideration until the second instance commission is functional. The decision also calls for suspension of administrative and judicial procedures for repossession of military apartments until the new Law on sale of apartments with occupancy right is voted. The new Commission started its activities in December. (phone conversation and email exchange with OSCE officials in Bosnia and Herzegovina March 2005)

See also: " Property restitution in Bosnia and Herzegovina: a remarkable achievement but concerns remain about CRPC claims", Rhodri Williams, ICHR, link below

A forgotten aspect of Annex VII, the right to compensation for loss of property: (2005)

- Annex VII of the Dayton peace agreement provided for compensation for lost properties
- The planned mechanism never functioned as donors feared that compensation would deter return and consolidate ethnic cleansing
- Donors preferred funding reconstruction projects which was more favourable to return.

“The emphasis which international organizations have put on achieving more minority returns has had the result of diverting attention from discussions of relocation and compensation for loss of property. [...] Operational international agencies looking at property issues as part of their overall strategy to recreate a multi-ethnic country, have emphasized minority returns. Relocation and compensation for loss of property have not been overtly promoted lest they be seen as contrary to the strategy to reverse the consequences of ethnic cleansing.”

Under both the BiH Constitution and Annex 7 of the DPA refugees and displaced persons have the right to be compensated for any property of which they were deprived in the course of hostilities that cannot be restored to them.

Annex 7 does provide mechanisms for compensation. It provides for the establishment of the Refugees and Displaced Persons Fund to settle claims for compensation.[...] This Fund was to be established in the Central Bank of Bosnia and administered by CRPC. Resources for the Fund were to be provided through the purchase, sale, lease and mortgage of real property that had been claimed before CRPC.[...] Funds could also be provided through direct payments by the Parties to Annex 7 or from contributions from international donors.

While both the right to, and a mechanism for, compensation were established under the DPA, in practice compensation did not materialize as envisioned. When submitting a claim to CRPC, a claimant could request compensation in lieu of return of the property. But in practice, preferences for compensation were used only for statistical purposes, and no compensation has ever been paid. The Fund was never established because no resources were made available.[...] This was the case for a number of reasons, the most important being that the political preference was for the return of refugees and displaced persons in order to create a unified, multi-ethnic state. For that reason most international donors, the biggest being the European Commission and the US Government, placed resources in the reconstruction of destroyed housing and other related activities that promoted return.

In addition, immediately following the conflict the security situation remained somewhat tenuous, and there was concern that at that time refugees and displaced persons would chose compensation because of their concerns regarding return. In that sense, international organizations wanted more time to create an atmosphere to promote return.[...]

[I]t could be argued that the right to compensation has been partially fulfilled by allowing refugees and displaced persons to repossess and subsequently sell their property because in general there have been no restrictions on the sale of property⁹². In such cases the property owners probably received a fairer price, and more quickly, than they would through a compensation scheme. However, individuals whose property was destroyed would be disadvantaged as no consideration would be made for the destruction to their property.” (Paul Prettitore, World Bank, June 2004)

Some measures taken to legalise Roma settlements (2004)

- 50 – 70 % of Roma reside in informal settlements and face forcible eviction due to unclear title to the land they occupy
- OSCE identifies more than 30 informal settlements throughout BiH
- Efforts are undergoing to ensure legal ownership or alternative housing for Romas

- Brcko district authorities pledged to legalise a Roma informal settlement
- Roma have been excluded from reconstruction assistance due to lack of documents and formal title on their houses

“The property situation of Roma is particularly problematic. Prior to the war, a large number of the Roma community in BiH lived in settlements built on State-owned land, which were often not recognized by local authorities. As a result there are few records establishing the Roma settlements, and no concrete information on the total number and location of such settlements.

OSCE’s preliminary field research identified more than 30 such settlements throughout BiH. Most residents do not have any legal title over the land they have resided on for decades or longer. Nor can they receive assistance from donors for reconstruction of homes, since most donors require proof of ownership. Many Roma settlements were destroyed during the course of the war, and Roma regularly face eviction from current settlements.

OSCE is conducting a survey, funded by the Council of Europe, to gather information on each settlement, in an attempt to ensure legal ownership or alternative housing assistance pursuant to international and domestic law. OSCE has been working and will continue to work with local officials to prevent forcible evictions. (OSCE, “Overcoming exclusion”, 2004)

“At present, between 50 and 70% of the Roma of Bosnia and Herzegovina are estimated to live in informal settlements, where conditions are extremely poor and, in some cases, such that the health and lives of their inhabitants are seriously threatened. Many of these settlements lack basic facilities such as access to drinkable water, electricity, reliable sources of heating, sewage system or garbage disposal. Furthermore, people in settlements are vulnerable to forced evictions, following which, in a number of reported cases, alternative accommodation has not been provided. ECRI strongly urges the authorities of Bosnia and Herzegovina to address without delay the housing situation of the Roma population and to ensure in the short term, that all Roma dwellings meet, at the very least, basic standards of adequate housing. ECRI notes that, in some municipalities, such as in Sarajevo, and in Brcko district the authorities have taken some steps to legalise settlements or to provide alternative accommodation to their inhabitants and strongly recommends to the authorities of Bosnia and Herzegovina to extent these initiatives.” (ECRI, 15 February 2005, par.62)

“The OSCE Mission in Bosnia and Herzegovina (BiH) has welcomed the decision by Brcko district authorities to allocate apartments to 15 Roma families who have been living in an informal settlement in Prutace for many years.

Under current legislation, these families were to be evicted from the apartments this month. Following a meeting with the OSCE Mission, the Brcko district authorities decided to let the families continue to live in the informal settlement in Prutace and pledged to legalise it as a formal settlement of Roma community. This is a positive step by local authorities to resolve the housing issues of the Roma community. (OSCE, 13 May 2003)

“More than 70 % of Roma do not have a house, while the rate of Roma returnees is very low. [...] During the war in Bosnia and Herzegovina Roma settlements were literally demolished and warehouses of different companies have been built on the locations or the locations have been declared water protection areas or buffer zones or the locations have been usurped by non-Roma or the local authorities have been claiming municipal ownership of the locations or the like. Roma population in Bosnia and Herzegovina has achieved the lowest ratio of housing reconstruction and the commitments for reconstruction by the Ministry of Social Security, Displaced Persons and Refugees have not been honoured yet. (Council of Roma, October 2004)

See also,

“Bosnian Authorities Forcibly Evict Romani Community”, European Roma Rights Centre, 1 September 2003, press release [Internet].

The OSCE is in the process of conducting a survey of Roma informal settlements in BiH, in relation to 50 Roma informal settlements, 2,000 households, See, “OSCE conducts survey on Roma informal settlements” 27 November 2003, press release [Internet].

See also in other sections of this country profile:

“Efforts to facilitate the integration of Roma children at schools” in the Education section

“Roma excluded from fundamental political and social rights because of lack of personal documents, in Documentation needs and citizenship section

“BiH and Entity Constitutions link access to many aspects of public life to ethnicity” in self-reliance and public participation section

“Displaced Roma, a particularly vulnerable group” in Pattern of displacement section

“Roma continue to struggle to access property rights”, in Property rights

“Displacement aggravates the living conditions of Romas”, in Subsistence needs section

The case of the "floaters" in the Republika Srpska (2004)

- 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 were still in need of solution as of end 2001
- Ministry for Human Rights and refugees that all remaining floaters have repossessed their property (2004)

"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)

“One of the successes in property laws implementation is related to reporting period (2003), namely final elimination of all cases of so-called “floaters” in Republic Srpska. [...]In concrete cases people in Republic srpska hae been forced out of their houses and have been accommodated in their auxiliary facilities (garage, summer kitchens, even stables), while displaced persons have been moved in their houses. Finally all such cases have been solved and owners settled back into their housing units.” (MHRR, December 2004, p.64)

Property implementation related violence and threats (2002-2003)

- Violent incidents related to implementation of property laws represented almost 20% of reported return-related incidents in 2002
- Both temporary occupants and legal owners resorted to violence and intimidation in trying to repossess property
- In five reported cases, heads of housing offices were targets of violence and harassment
- International agencies called upon local police forces to ensure the protection of housing offices (2002)

“Incidents related to the implementation of property laws (around 75 cases) represent almost 20% of the reported return-related incidents. The implementation of the property law led to violent acts primarily in Brcko district and in Eastern RS. Both temporary occupants and legal owners trying to repossess their property committed acts of violence and intimidation. In half of the cases, the legal owner was the person harassing or attacking, while in the other half of the cases the temporary occupant was the perpetrator of the incident. In five cases, the heads of the housing offices dealing with property repossession were the targets of violence and intimidation, including one instance where the perpetrators were local police officers. Legal owners tend to engage in verbal harassment, while illegal occupants tend to damage and loot houses they have temporarily occupied.” (UNHCR July 2003, para.9)

"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)

See also

“Assault on Housing Official Condemned”, 26 March 2003, OHR/UNHCR/OSCE/EUPM joint press release [Internet].

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

International agencies urge local authorities to secure housing needs of displaced and refugees (2001-2003)

- Funding for reconstruction and repair of returnees' homes is inadequate
- There has been a failure to repair destroyed homes of displaced persons, with most funding being invested in repairs of apartments
- Though formally entitled to temporary accommodation, a number of displaced persons have not been practically able to exercise this right
- Implementation of property law is mainly obstructed by the failure to provide alternative accommodation for persons due to be evicted

- Main international agencies urge the Federation to maintain use of unclaimed apartments as alternative accommodation (2004)

“The OSCE Mission to Bosnia and Herzegovina, the Office of the High Representative (OHR) and the United Nations High Commissioner for Refugees (UNHCR) have urged Bosnia and Herzegovina's authorities to begin adequate planning for a fully-functioning social welfare system.

A letter has been sent to the Ministers in charge of social welfare, urban planning, displaced persons and refugees issues in both of the country's entities -- the Federation and Republika Srpska. In it, the international agencies highlighted the pressing needs of the country's population with regard to property issues, especially in light of the expected completion of the property law implementation by the end of 2003, in accordance with the New Strategic Direction of the country's Property Law Implementation Plan.

There are several categories of people currently housed in alternative accommodation whose homes were completely destroyed and who have been unable to find reconstruction assistance. Others had never possessed any property or had benefited from the social welfare system before the war. In all cases of people who have no prospect of being able to provide for their own housing needs, alternative accommodation under the property laws is not an appropriate long-term solution.

The international agencies also called upon the competent ministries to provide social support to the growing number of people who are not legally entitled to temporary accommodation under the laws on property and displaced person, but remain without resources to house themselves.

They urged the competent Ministers to anticipate these issues and begin instituting measures that would ensure a seamless transition from provision of alternative accommodation under the property repossession laws to effective long-term social policies. Such measures should include both a review of the current legal framework regarding social welfare and a realistic assessment of the resources necessary to meet anticipated needs.” (OHR 27 March 2003)

“In a situation when the social rights of a large number of citizens are violated, the Ombudsmen of the Federation of BiH express particular concern over the violation of rights of categories who, due to their special status or situation, should enjoy special protection of society. [...]

[...]

Although programs for the reconstruction and repair of returnees' homes were launched in 2002, the planned and allocated resources in budgets are not even close to being sufficient, as a result of which an apartment or property, even when they are reposessed, do not offer basic conditions for life.

Especially alarming is failure to take measures to repair the homes of the domicile population, whose homes are entirely destroyed (so-called displaced persons and persons whose houses are destroyed). While apartments in residential buildings are being reconstructed (mostly with funds provided by foreign donors), persons whose houses, which they owned, are destroyed, are being left without adequate assistance from society. Persons who were usually temporarily accommodated in other people's property during the war, by the application of property laws, are being evicted, with the obligation of authorities to provide them with secondary accommodation.

In Sarajevo Canton, this category is mostly taken care of by being offered the possibility of the Canton covering the costs of renting an apartment. The displaced person/person whose house is destroyed is forced to look on his own for a potential landlord, who would conclude a lease contract with the Canton. It has been noticed, however, that owners of apartments and houses are avoiding to rent them out in this way, as a result of which displaced persons/persons whose houses are destroyed are only formally given the possibility of temporary accommodation, while at the same time they are unable to exercise the right to return to their pre-war homes since they no longer exist. As authorities are not taking appropriate measures to regulate their housing status, they are often deprived even of temporary accommodation due to the

established mechanism which shifts its realisation to the beneficiary himself.” (Ombudsman Institution of the Federation of Bosnia and Herzegovina March 2003)

“On 23 December 2004, the representatives of OSCE, OHR and UNHCR drew the attention of the FBiH Parliament to the fact that the draft Law on Return, Allocation and Sale of Apartments, which the Federation Parliament planned to discuss at the end of December 2004, should consider the continued right to alternative accommodation of the beneficiaries currently using unclaimed apartments, as envisaged by the Law on Cessation of the Application of the Law on Abandoned Apartments. The international community representatives noted that the draft Law did not prioritise the neediest families in the allocation process and underlined that the allocation criteria in the new Law, which would dispose of the last housing stock remaining in public hands, should take into account the housing needs of the most vulnerable categories of society. Vulnerable segments of the IDP population include those whose property has not been restructured and who are unable to access reconstruction assistance.” (CoE, 4 February 2005, par.50)

See also: “Law on return, allocation and sale of apartments should respect the right to alternative accommodation”, OHR, OSCE, UNHCR, 23 December 2004, [link below]

Continued restrictions on ability to repossess military apartments in BiH (2003)

- In 1998, the Federation army unlawfully took control of 4,000 former Yugoslav military apartments that had been abandoned
- The pre-war owners of these apartments continue to be unable to possess them despite rulings by the Human Rights Chamber that the apartments should be returned

“During 1998, the Federation army unlawfully took control of approximately 4,000 abandoned apartments owned by the former Yugoslav military (JNA). Federation authorities encouraged post-war illegal occupants of these apartments to purchase them. In the meantime, the prewar owners of the apartments (former JNA officers, mostly Bosnian Serbs) began filing claims to return to their property. After inadequate action by local authorities, several of these cases were brought before the Human Rights Chamber, which decided that apartments owned by JNA officers should be returned. Federation authorities continued to refuse to evict the current residents or to allow pre-war owners to regain possession, in violation of the Dayton rules for property implementation. The Constitutional Court ruled in September that the Federation’s legislation that prohibits ownership of property in the Federation by anyone who served in the JNA after May 19, 1992 (effectively disenfranchising all Bosnian Serbs with claims to these properties) is constitutional. Because most claimants to these apartments have been allocated apartments elsewhere (mostly in Serbia), the Court held that the Federation has the right to uphold the legal principle applied in the former Yugoslavia, which holds that citizens cannot have tenancy rights to more than one apartment at the same time. The MOU authorizing the transfer of responsibilities to the DCRPC specifies that the appeals shall be decided in accordance with international law except where it conflicts with Bosnian law. The Constitutional Court’s decision suggests that the DCRPC will have to rule in favor of the current occupants of the JNA apartments, a position inconsistent with international legal principles; however, until the DCRPC rules on these cases, the situation remains unresolved. (USDOS, 28 February 2005)

See “Human Rights Chamber Delivers 6 Decisions on Admissibility and Merits”, Human Rights Chamber, 4 April 2003 [Internet].

Return does not necessarily take place upon property restitution (2002-2003)

- There is concern that repossessions are largely technical, with property owners not actually returning to their pre-war residences
- Large number of refugees or returnees do not go back to their homes, but in various ways handle their repossessed property
- People are not returning due to discrimination in obtaining documentation, finding employment, accessing health care and education for their children

“The Agencies engaged in the Property Law Implementation Plan (OHR, UNHCR, OSCE, CRPC) would like to clarify that completion of Property Law implementation does not equal completion of Annex 7. While property law implementation is the fundamental first step it is only one among many of the elements underpinning sustainable return. **Full implementation of Annex VII means that not only can people return to their homes but that they can do so safely with equal expectations of employment, education and social services.** Therefore the PLIP agencies call on the local authorities to accelerate the pace of property law implementation and at the same time redouble their efforts to create the conditions conducive to sustainable return.” (OHR 27 February 2003)

“Implementation of property laws has progressed [...]. The Special Representative [*Commission on Human Rights to examine the situation of human rights in Bosnia and Herzegovina*] observes, however, that repossessions are largely technical, with property owners not actually returning to their pre-war residences. The climate of security has not been assured for returnees; eight years after Dayton, those who choose to return to their pre-war homes face threats or outright violence, as well as discrimination in obtaining documentation, finding employment in a generally depressed economy, accessing health care and access to education for their children. In some areas, separate schools for different nationalities exist, despite efforts by the international community and governments to come up with a joint curriculum for all schools.” (OHCHR 26 March 2003, paras. 25-27)

“Return of property develops relatively effectively and could be marked as a good one (which particularly applies to apartments), however, true return of people lacks. Close to accurate statistics concerning repossession of property already exist, which is also a part of this Report, however, statistic related to real return of people to their prewar homes is followed through statistics of no authorities. Additionally, according to complaints of the citizens who addressed the Institution of the Ombudsmen of FB&H, large number of refugees or returnees do not go back to their homes, but in various ways handle their repossessed property. Numerous paper advertisements and evidence contained in the book of validation of signatures on concluded contracts on sale or contracts on exchange of real estates are the best witnesses for the latter.

According to results of investigations conducted by the Ombudsmen, main reasons for giving up return are lack of existential conditions and change of ambient, which was during the war and after it imposed and accepted in all three ethnic parts of B&H. Accordingly, due to high level of distrust, guaranteed, true and sincere agreement on general peace and coexistence of different ethnicity, cultures and religions has never run aground. Verbal agreement on the latter exists only partly, yet it is neither sincere nor true.

Consequently, eleven years after the beginning of the war and seven years after its end, peace process suffers serious and chronic consequences, since full political will on implementation of civil part of Dayton Agreement has not been reached on all territory of B&H, since true return of refugees to their prewar homes has been and is main condition for peace and progress in B&H. Although by the end of 2003 intensive repossession of property and apartments is expected, significant return of refugees and displaced persons is not expected.” (Ombudsman of the Federation of Bosnia and Herzegovina March 2003, Introduction)

See also, “Real or Administrative Return in Bosnia-Herzegovina?” South East European Refugee Assistance Network, 14 July 2003 [Internet]

For more on issues beyond property restitution facing displaced persons, see paras. 11 – 14 in “Question of the Violation of Human Rights and Fundamental Freedoms in any Part of the World” Situation of human rights in parts of South-Eastern Europe, Report submitted by José Cutileiro, Special Representative of the Commission on Human Rights[Internet].

International agencies take measures to prevent looting (2001- 2003)

- A public campaign against looting was launched in 2003
- Local authorities have been explicitly requested by the High Representative to actively prevent temporary users from damaging apartments when they leave (2001)

“The PLIP agencies (OHR, UNHCR, OSCE and CRPC) wish to announce the start of a public information campaign against looting. Looting of apartments and houses unfortunately continue to occur throughout Bosnia and Herzegovina.

The goal of this campaign will be to continue to inform the public about sanctions against wrongful removal of personal property or fixtures from apartments and houses and the damage caused when vacating it. Because of looting, many returnees have been obliged to pay for additional repairs or to wait for additional assistance to make their houses habitable again.” (UNHCR 31 July 2003)

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)

For more on damage to properties, see section 2, paragraph 7 of “UNHCR’s Concerns with the Designation of Bosnia and Herzegovina as a Safe Country of Origin”, UNHCR, July 2003 [Internet].

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 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]

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

- OMI 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]

Roma continue to struggle to access property rights (2001-2003)

- Roma lack legal entitlements to their pre-war residences and are thus unable to recover their rights
- Roma residents of informal settlements are also vulnerable to local government decisions to reallocate the land for more lucrative purposes

"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)

"The obstacles to exercising fundamental rights facing Roma stem from a number of causes. Roma displaced from their property during the war have had difficulty repossessing their property because of discrimination and lack of adequate information on the necessary procedures. Most of the Romani individuals who were allocated social housing before the war are currently left without housing. In contrast, most field evidence points to the fact that other ethnicities living in such housing prior to the war have, in fact, been able to reclaim it. Roma living in informal settlements[1] are left in a precarious situation as the land on which they reside can be re-allocated by local authorities. In addition, many Roma are further impaired in exercising their rights because of the lack of personal documents. Lack of ownership documents also hampers repossession of property and the provision of reconstruction assistance in cases where housing was destroyed during the war.

Exercise of Property Ownership Rights

The problems regarding Roma and property basically fall into three categories: the inability to repossess private property or socially-owned apartments [2] lost during the conflict; the loss of pre-war social welfare housing;[3] and the lack of security of tenure in informal settlements. The first two categories stem directly from the conflict. Individuals who lost private property can submit claims for repossession of such property

pursuant to the property laws in both the Federation of BiH and the Republika Srpska (RS).[4] Individuals residing in social welfare housing who became displaced during the war have no right to repossess their property, as the current legislation governing repossession does not include such property. The primary concern regarding housing of Roma, however, remains informal settlements.

Pre-war, the majority of the Romani community in BiH, estimated at between 50 to 70 percent, lived in settlements built on state-owned or private land, which were often not recognised by local authorities. Such settlements were not recognised because the inhabitants had not secured any legal rights to use the property. Unfortunately, there are few records in either land books or municipal cadastres establishing the Romani settlements. Nor is there concrete information on the total number and location of such settlements. A survey conducted by the Organisation for Security and Cooperation in Europe (OSCE) in 2002 identified roughly one hundred such settlements with a population of over 22,000 persons in over thirty municipalities.[...] This list, however, is not exhaustive. Most residents of informal settlements do not have any legal right to reside on the land, despite in some cases having resided on the property for decades or longer. Nor can they receive assistance from donors for reconstruction of homes, since most donors require proof of ownership. Under these circumstances, hundreds of Roma, whose houses in informal settlements were destroyed during the war, have been left without access to their pre-war housing and with little chance of securing alternative housing. (ERRC, No.3 2003)

“It is important to note that much of the housing in BiH prior to the war was built without required permits, but nonetheless has been ‘formalized’ by local officials, except in cases where the property belonged to Roma. There are only several cases where local officials have made attempts to provide some security of tenure to Roma in informal settlements.” (ERRC, February 2004, p.117)

Romani residents of informal settlements are also vulnerable to local government decisions to reallocate the land for more lucrative purposes. This can be illustrated by the case of the pre-war Romani settlement in Gorica, in the Sarajevo Canton. Roma had been using the site as a settlement for decades (or longer according to the Romani community) prior to the war. However, post-war municipal authorities decided to allocate the land for other purposes. Fortunately, the mayor of the municipality was persuaded through constant pressure by members of the international community to allocate the land to the resident Roma. Construction permits were then negotiated and a donor was identified to fund reconstruction of the destroyed housing for roughly fifteen families. The Roma were also permitted to register in the land books, thus attaining legal title to the property. A similar situation also occurred in Dobož in the Republika Srpska, where only after considerable intervention from the international community, particularly the Office of the High Representative (OHR)[...] and the OSCE, did the reconstruction programme take place, benefiting roughly twenty-eight Romani families.” (ERRC, No.3 2003)

[Footnote 1] In this case the term informal settlements applies to any settlement where housing has been constructed without the requisite permits or legal title for use of the land.

[Footnote 2] Socially-owned property is a form of property entitlement which is stronger than a rental contract but is not equal to private property. Socially-owned property was allocated to employees of state-owned enterprises or state bodies. Individuals allocated socially-owned property were considered ‘occupancy right holders’. Occupancy right holders exercised broad rights over the property, including passing it to family members resident in the apartment after the death of the occupancy right holder. However, they were not entitled to sell the property.

[Footnote 3] Prior to the war, most employed Roma worked for companies responsible for communal services, with the work being manual in nature. Because these companies did not generate considerable revenue they were unable to build housing for their employees, as was common practice under the prewar Yugoslav system. Thus, many Roma had to be allocated housing by municipal officials under social welfare programs. Many Roma lived in such housing for years or even decades.

[Footnote 4] In the Federation of BiH, the relevant laws are the Law on Cessation of the Application of the Law on Abandoned Property Owned by Citizens and the Law on the Cessation of the Application of the law on Abandoned Apartments. In the RS, the relevant law is the Law on Cessation of the Application of the Law on Abandoned Property.

For more background information, see

[The Perception of Roma](#), website of the OSCE Mission to Bosnia and Herzegovina [Internet].

United Nations High Commissioner for Refugees (UNHCR) Office of the Chief of Mission in Bosnia and Herzegovina, August 2001, [UNHCR Bulletin](#), July/August 2001 [Internet].

See also in other sections of this country profile:

“Efforts to facilitate the integration of Roma children at schools” in Education section

“Roma excluded from fundamental political and social rights because of lack of personal documents, in Documentation needs and citizenship section

“BiH and Entity Constitutions link access to many aspects of public life to ethnicity” in self-reliance and public participation section

“Displaced Roma, a particularly vulnerable group” in Pattern of displacement section

“Displacement aggravates the living conditions of Romas”, in Subsistence needs section

“Some measures taken to legalise Roma settlements”, in Property issues

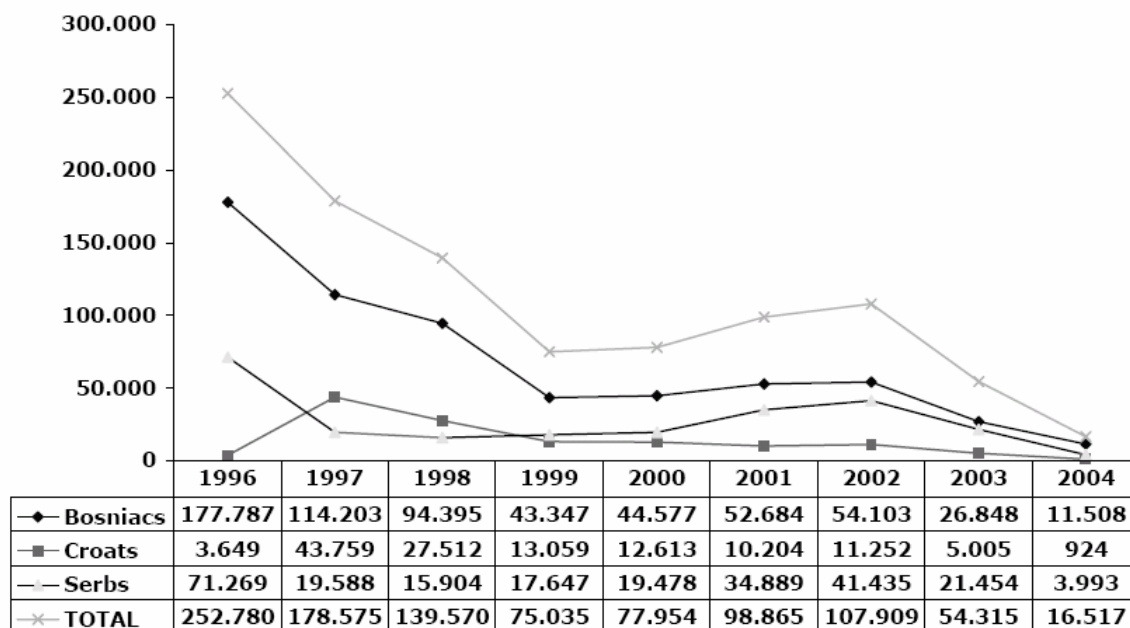
PATTERNS OF RETURN AND RESETTLEMENT

General and policy

One million return to their homes but many obstacles to sustainable return remain (2005)

- Over one million persons return to Bosnia and Herzegovina since Dayton
- After three year of increasing return, figures have dropped sharply in 2003 and 2004
- Return are now occurring in areas worst hit by the conflict
- Property restitution has significantly contributed to the return process
- Several obstacles to sustainable return remain: economic situation, failure to arrest war criminals, persistence of ethnic debate, access to social and economic rights
- Remaining IDPs are among the most vulnerable who are in particular need of assistance
- Assistance is still needed in particular in reconstruction of houses
- Debate over figures of return and number of DPs should be clarified when re-registration of DPs is completed early 2005.

**Total Return in BiH
- per national structure and years -**



Source: Ministry for Human Rights and Refugees, 2004

“Of the estimated 2.2 million persons forcibly displaced during the war, either within or outside the country, over 1 million have returned to their places of origin by July 2004. [...] (UNHCR,COP, 2005)

“Of these, 440,147 were refugees who had fled Bosnia and Herzegovina and 560,326 were forcibly displaced inside the country. The significance of reaching this landmark figure cannot be overstated” said UN High Commissioner for Refugees, Ruud Lubbers. “It demonstrates the determination of so many people in Bosnia and Herzegovina to close this devastating chapter in their lives. It also demonstrates the wider benefits for the international community of devoting considerable effort and resources to resolving the problems in refugees’ regions of origin: during the early 1990’s Western Europe was receiving hundreds of asylum-seekers a year from Bosnia and Herzegovina. Now they are only receiving a fraction of that.

Nearly three-quarters of the total returned to the Federation of Bosnia and Herzegovina, and one quarter to Republika Srpska. Some 20,000 have returned to Brcko District, which is administered separately from the two Entities enshrined in the 1995 Dayton Peace Agreement.” (UNHCR, 21 September 2004)

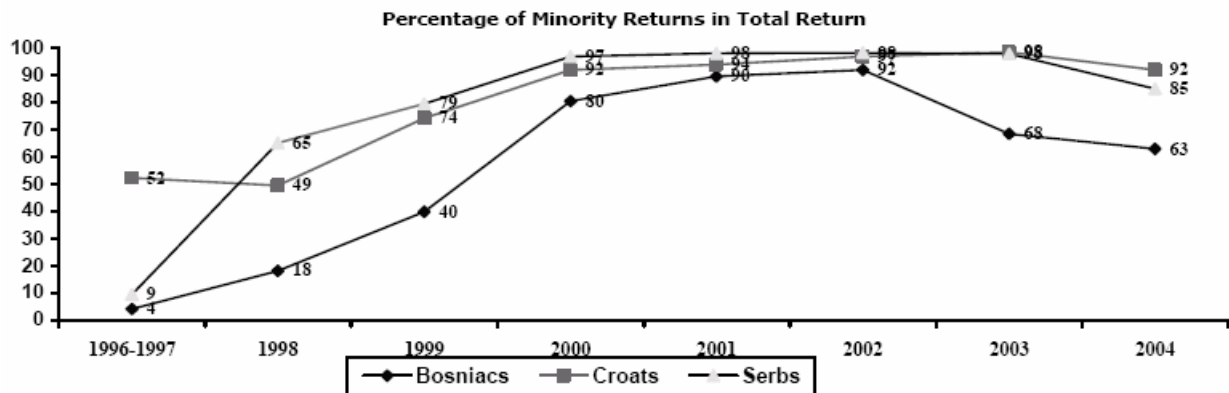
“Following three successive years of ever increasing numbers of returns, 2003 saw a decrease to less than half the returns recorded in 2002, a trend that continued in 2004 with a further decline by more than half of recorded returns by end July (15,470) as opposed to 32,967 during the same period in 2003.”(UNHCR, COP, 2005)

“[...]Janz also said that the figure halved in 2003 from the previous year’s 107,000 people, an indication that the bulk of the people who wanted to return have done so by now” (Reuters, 17 December 2003)

“UNHCR’s Representative in Sarajevo, Udo Janz, said that although the overall rate of returns has fallen sharply over the past two years, he was nevertheless encouraged by the high proportion of people returning to areas where they are in a minority - including many of the places that were worst hit by the conflict and the accompanying large-scale killing and atrocities. “Clearly the situation remains volatile in many parts of the country, so the challenge before us now is to consolidate the returns that have taken place and make them sustainable,” said Janz.

“During the first seven months of 2004,” he continued, “a total of 15,470 people returned. Of these, 10,589 - or two-thirds - were so-called minority returns, and there have been significant increases in some areas, including for example in the eastern part of Republika Srpska, including in Bratunac, Srebrenica and Zvornik.”

“It is vital that the international community, together with the authorities of Bosnia and Herzegovina at all levels, continue to assist those who have returned or have decided to do so in the future,” said Janz. “[...] [T]he returnees still need help to rebuild their destroyed houses. They still need help to earn a living. Such support is especially required for minority returnees.”(UNHCR, 21 September 2004)



Source: MHRR, 2004

“Through strict enforcement of the Property Law Implementation Plan (PLIP), more than 92 percent of claims for war-vacated housing claims had been resolved by the beginning of 2004. It is, however, clear that the reclamation of property in itself is insufficient to ensure the sustainability of returns. It is anticipated that both 2004 and 2005 will see relatively low numbers of new returns despite the fact that an estimated 314,000 persons remain displaced in BiH alone.

A re-registration exercise begun in 2004 will yield a clearer picture of the number of those still displaced who wish to return. The huge gap between housing reconstruction needs and available resources, coupled with a debilitating unemployment rate and the lowest GDP per capita earnings in the South East Europe region are among the key factors militating against larger scale returns to and within BiH.

During 2005, UNHCR will continue working towards the substantial completion of its obligations under Annex VII of the GFAP. While the number of returns is expected to be modest when compared with those of earlier years, among those who do choose to return inevitably will be some of the most vulnerable of the displaced. Single female-headed households, the war-traumatized and those languishing in sub-standard collective facilities, including the handicapped and elderly, will require legal advice and basic assistance in their search for durable solutions. As the number of agencies prepared to provide such assistance to the vulnerable returnee population is ever dwindling, UNHCR’s continued attention, albeit with reduced human and financial resources, to these populations will be critical. Additionally, geographic focus for such assistance will be placed on those areas where minority returns began only in recent years and returnees did not receive assistance that was more readily available in the earlier years of the return (e.g. in Eastern Republika Srpska). Apart from providing assistance to the most vulnerable of the returning population, UNHCR staff will continue to be active in the field albeit with reduced human and financial resources, monitoring the overall return and reintegration process and intervening in critical protection related matters. (UNHCR, COP, 2005)

“Accurate statistics on internally displaced persons (IDPs) from the 1992-95 war remained difficult to obtain. According to the UNHCR, between the end of the war in 1995 and the end of November [2004], 1,004,564 persons who left the country had returned. Of these, 447,767 were returnees to areas where they represent an ethnic minority. The UNHCR registered only 15,470 returns through November, of which 13,561 were minority returns. These numbers are substantially lower than in 2003. The difficult economic situation in the country remained the most significant factor inhibiting returns, with many rural areas experiencing unemployment rates in excess of 60 percent. This coincided with a marked decrease in available reconstruction assistance. The security situation for returnees did not improve during the year, and a hostile atmosphere still existed in many areas. Many returnees cited the failure to apprehend war criminals as a disincentive to return, as they did not want to live in the same communities with persons who committed war crimes and who have not been held accountable for them. As more time elapsed since the end of the war, many refugees and displaced persons were creating permanent lives for themselves away from their prewar homes, and only those with few other options (including a large number of elderly pensioners) tended to return.

Additionally, the needs for housing continued to outweigh available resources. Municipal administration taxes on documents that are necessary for return, such as birth or land certificates, remained high. Minority returnees often faced societal violence, employment discrimination, lack of access to health care in the place of return, and denial of utility services such as electricity, gas, and telephone by publicly owned utility companies. All of these problems decreased from previous years, yet continued to persist in hard-line areas. On December 2, Hrustan Suljic, President of the local Bosniak returnee community near the central Bosnian town of Teslic, was killed in front of his family home. Adil Osmanovic, the Vice President of the RS, and other high-level RS government officials called for an investigation that was ongoing at year's end.

Serbs continued to return in greater numbers to the Federation than Croats did to the RS. Croat returns to the RS were low, as only 150 Croats returned to the entire RS during the year. During the year, 780 Bosniaks returned to Srebrenica, the site of the July 1995 massacre of approximately 8,000 Bosniak men

and boys. A total of 117 Bosniaks returned to Visegrad and Bosnian Serbs in Visegrad continued to return to the Federation, particularly to Sarajevo, Mostar and Konjic.

In the RS, the Refugee Ministry provided support to Bosniaks and Croats returning to the RS and to Bosnian Serbs returning to the Federation. The Federation Ministry for Refugees assisted Croats and Serbs returning to the Federation and Bosniaks returning to the RS. Both entity-level Ministries for Refugees provided limited reconstruction assistance to returnees and also committed part of their budgets to be implemented through joint projects to be determined by the BiH State Commission for Refugees (SCR). In October, the SCR agreed that 30 priority municipalities should receive reconstruction assistance through the newly established Joint Reconstruction Fund (JRF). By year's end, the State Government, the RS Ministry for Refugees and Displaced Persons and Brcko District had paid into the JRF. However, the Federation Ministry of Refugees and Displaced Persons did not make its contribution by the December 31 deadline. (...)

Some areas of Croat-controlled Herzegovina and some towns in eastern RS remained resistant to minority returns. This was most often expressed through official obstruction of returnees' access to local services (i.e. municipal power and water, education, and health care). For example, the government-owned RS electric company was obliged to connect residents who live within 50 meters of an existing power line. Despite repeated requests, they consistently failed to connect many eligible returnee households, especially in the Srebrenica-Bratunac area.. (...)

Ethnic differences remained a powerful political force in the country; however, mixed communities existed peacefully in a growing number of areas. To a limited extent, nationalist Bosnian, Serb and Croat politicians sought to increase the ethnic homogeneity of the population in areas they controlled by discouraging IDPs of their own ethnicity from returning to their prewar homes if they would be in the minority there (see Section 2.d.). The RS Government was increasingly supportive of Bosniak and Croat returns to the RS, and Bosniak returns to the Srebrenica area increased; however, the RS continued to support integration of displaced Bosnian Serbs within the RS using the war veterans' budget and at the municipal level, land allocations. (USDOS, 28 February 2005)

“The estimates of the Helsinki Committee in Bosnia and Herzegovina based on the reports of monitors, visits to a number of municipalities, contacts with citizens, and data collected in local communities, say that the figure of one million returnees is absolutely unrealistic. Actual number of returnees is much lower. The number of returnees is unjustifiably identified with the number of returned property /houses and flats/. The fact is that the property returned, or more precisely, the number of approved requests, multiplied with the number of household members who applied for the return, is registered. The Helsinki Committee has the knowledge of the fact that a great number of owners, as soon as they enter into possession of the house or flat, sell the immovable property or exchange it. Some of them use their pre-war house that has been rebuilt, as the weekend cottage, or simply rent it out. Quite a number of rebuilt houses have never been moved in. In the area of Srebrenica, according to the official data, totally 4,000 refugees have returned. However, in practice more than 60% of them stay there only periodically. For example, in the village Moracici near Zvornik, 60 houses belonging to the Bosniaks were rebuilt this year, but by the beginning of November none of the owners moved into them permanently.

Using legal regulations, a significant number of citizens simply register at the pre-war address, take out identity card and return to the present place of residence. The statistics count all such citizens among returnees. There are also frequent cases of return of just one or two members of a household, mainly elderly people, while others, registered for return, remain at some new, post-war addresses.

According to the estimates of the Helsinki Committee for Human Rights in Bosnia and Herzegovina, the realistic percentage of returns amounts approximately to 30 per cent out of the total number of 2,200,000 of displaced persons and refugees.“ (Helsinki Committee, January 2005)

See also “Legacy of War: Minority Returns in the Balkans”, Bogdan Ivanisevic, Human Rights Watch, 1 January 2004, [link below]

Overview of return policies since Dayton 1996-2003 (2005)

- Return is linked to repossession or reconstruction of homes
- Return to property was very slow until 2001 due to political obstruction
- Return linked to reconstruction was linked to available funding and took place mainly in rural areas
- The Return and Reconstruction Task Force was a mechanism created by the international community to coordinate return activities
- In 1997, return projects would focus on prioritised or cluster areas
- In 1998, conditionality of assistance was introduced for authorities supporting minority return
- Open city initiative: an example of conditionality
- 1999 RRTF Action Plan sets an integrated approach to return including monitoring of property repossession process and coordination of assistance

“The return of refugees and displaced persons in BiH has taken two forms: return to reconstructed housing and return to occupied housing. Return in Bosnia began mostly with refugees and displaced persons returning to destroyed housing that had been reconstructed by the international community. The pace of return was in many ways dictated by the amount of available funding. This property was located primarily in rural areas or the outskirts of urban areas. However, return to occupied property was initially slow due primarily to the fact that the rights of temporary occupants had not yet been addressed. In general, cases of occupied property tended to be located in urban centers. Return to contested space was wholly dependent on implementation of legislation enacted to allow for the repossession of property by refugees and displaced persons.[...] Throughout the return process a number of mechanisms and programs were introduced by the International community with varying levels of success. Most of these were coordinated by the Reconstruction and Return Task Force (RRTF). The conclusions of the London Peace Implementation Conference established the RRTF with the mandate of coordinating an integrated approach to the return of refugees and displaced persons. It was expected that in 1997 roughly 200,000 refugees and displaced persons would return. The Office of the High Representative took chairmanship of the RRTF, and the other participating institutions included UNHCR, the European Commission, the World Bank, the International Management Group and the Commission for Real Property Claims. OHR reported that in 1996 roughly ninety-percent of returns were spontaneous in nature and followed no organized process. [...]It was also pointed out that in order for safe and orderly return to take root it was necessary for the establishment of the rule of law and certain political conditions, including positive conditionality for the return of minorities.

The basis for the 1997 RRTF plan was for the return to “cluster areas”, selected by the following criteria: (i) projected numbers of returns; (ii) present and pre-war population; (iii) level of damage; (iv) political climate; (v) potential impact of investment upon return; (vi) the grouping of target areas into regional clusters and hubs. [...]The RRTF report of July 1997 highlighted the fact that many refugees and displaced persons were returning to areas near the prewar homes, but were prevented from returning to their actual homes. In this respect, the RRTF called for the need for break-through on minority returns. In order to make its recommendations more effective on the ground, the RRTF established four Regional RRTFs covering the whole of BiH. The RRTF Report of December 1997 reiterated support of the “cluster areas”, while introducing two more tracks to this three-track approach: (i) the need to broker minority returns to strategically important areas and (ii) the provision of flexible funding to support spontaneous returns.

The RRTF plan for 1998 focused on four pillars: political environment and security; economic revival and employment; housing; and local infrastructure. [...]Mechanisms for progress on these pillars included conditioning donor assistance on the acceptance of minority returns and matching reconstruction assistance to areas of spontaneous returns.

During this time, UNHCR launched the first return program in BiH – the “Open Cities” Initiative. The aim of this initiative was to encourage municipalities to publicly declare their willingness to support the return of minorities. If a municipality requested recognition as an Open City UNHCR and other international organizations would make an assessment based on a set of criteria, which focused on a demonstrated willingness to support the return and reintegration of minorities, particularly in the exercise of basic human rights and access to employment and education.[...] This program was originally backed by five million dollars from the U.S. Department of State, which was followed by funding from other international donors. However, the “Open Cities” Initiative met with little success.[...] Monitoring of municipalities declared open cities was weak, and no set criteria was maintained to ensure progress beyond the designation of “open” status. Another problem was that most donors had their own funding priorities. Many European countries preferred to allocate funding to areas that were the prewar homes of refugees that they were currently hosting. Other donors chose locations for political reasons. For instance, much assistance of the US Government was focused on Brcko and Central Bosnia at the start of the returns process. Often times the priorities of donors were areas not declared as open cities. This was the case not only in relation to the “Open Cities” Initiative, but also affected RRTF attempts to coordinate reconstruction projects.

The RRTF 1999 Action Plan was a major step forward in the return process, in that it adopted a fully comprehensive and integrative approach to the return of refugees and displaced persons. While explicitly stating the responsibility for the slow rate of return thus far rested with BiH officials, it also outlined the tools available to the International Community to overcome these obstructions by forcing a breakthrough in minority returns. Up until this time only a small number of returnees were minorities. The primary obstacles to minority return were political, including: obstruction in the adoption of adequate property laws; failure to provide security to returnees; and lack of access to employment, healthcare, pensions and education. Recognizing that political interventions and economic conditionality could achieve results, what the 1999 Action Plan asked of the International Community was the following: greater political will and acceptance of minority return as the key activity; more focused and coordinated activities; a redirection of donor assistance to support returns; and acceptance that the Plan would have to be driven, and financial resources and management authority necessary would be provided.

The 1999 Action Plan focused on three factors necessary for a breakthrough in minority returns: space, security and sustainability. The problem of space was due mainly to the fact most housing belonging to refugees and displaced persons was either destroyed or occupied, and in order for return to take place space would have to be generated. Space could be generated in a number of ways. One of the easiest, at least politically, was the reconstruction of destroyed housing by international donors focusing on RRTF’s priority axis. However, the amount of space that could be generated in this way was dependent on the amount of funding available. It also became dependent on the willingness of local officials to ensure beneficiaries of housing reconstruction in turn vacated any property they were occupying. Another mechanism for generating space was the elimination of illegal and multiple occupancy through improved mechanisms for housing management. In this multiple occupancy refers to individuals that came to occupy more than one property during the course of the war. This mechanism was wholly dependent on the willingness of BiH officials to develop and implement adequate property laws, and the willingness of the International Community to strictly monitor this process. [...]

Security was a key factor in the decision-making process of potential returnees. In order to ensure adequate security, a number of measures were recommended and implemented. These included the recruitment of minority police officers, working with receiving communities on prevention measures and ensuring adequate patrolling by SFOR. Sustainability concerns were also frequently cited by potential returnees. The most key factors affecting sustainability are employment, education, and access to health and social services. To this end RRTF recommended a number of measures, including assessments and the establishment of working groups to make further recommendations on certain issues.” (Paul Prettitore, World Bank, June 2004)

EU Feasibility Study identifies conditions conducive to return among key requirements for European integration (2005)

- 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
- This includes the adoption and implementation of any outstanding legislation supporting refugee returns, in particular legislation on the BiH Refugee Return Fund
- Compliance with the European Human Rights Convention, cooperation with the ICTY, adoption and implementation of property laws, and a non-discriminatory education system are also required

“The Feasibility Study is the latest stage of the EU's Stabilisation and Association Process (SAP), designed to integrate BiH gradually into EU structures. BiH's first step in this process came in early 2000 when work began on a “Road Map” of 18 priority reform steps. The Road Map was “substantially completed” in September 2002, and at that stage the Commission initiated work on the Feasibility Study. In March 2003 a questionnaire covering all sectors relevant to a future SAA was given to the BiH Directorate for European Integration. BiH's answers were discussed with the Commission in a series of working groups between May and September 2003. The findings of the Study are thus based on BiH responses to the questionnaire and on the findings of the working groups, complemented by further Commission research. Success in the reforms outlined in the Feasibility Study would open the way to SAA negotiations. An SAA helps to prepare the countries of the Western Balkans in the same way as the Europe Agreements helped prepare the countries of Central and Eastern Europe for accession.” (EC 18 November 2003)

“The European Commission has approved a Feasibility Study assessing the readiness of Bosnia and Herzegovina (BiH) to take its next steps towards European Integration, by opening negotiations for a Stabilisation and Association Agreement (SAA). The Commission concludes that it hopes to be able to recommend the opening of SAA negotiations next year - on the condition that BiH makes significant progress in a number of areas identified as priorities for action: compliance with existing conditionality and international obligations; more effective governance; more effective public administration; European integration; effective human rights provisions; effective judiciary; tackling crime, especially organised crime; managing asylum and migration; customs and taxation reform; budget legislation; budget practice; reliable statistics; consistent trade policy; integrated energy market; BiH single economic space and public broadcasting.

[...]

Among the above listed priorities, of direct significance to displaced persons and refugees, the European Commission recommends BiH should take action in 2004 to:

Comply with existing conditionality by:

BiH and particularly RS, fully co-operating with the International Criminal Tribunal for the former Yugoslavia, notably in bringing war criminals to justice before the Tribunal.

Taking steps to meet BiH's Council of Europe post-accession criteria, especially in the area of democracy and human rights.

Complete outstanding Road Map steps.

[...]

Strengthen institutional capacity by:

Ensuring effective human rights provision by adopting and bring into force any outstanding legislation supporting refugee returns, in particular by introducing, adopting and implementing legislation on the BiH Refugee Return Fund. Complete the transfer of the human rights bodies to BiH control. Ensure that unresolved cases of the Human Rights Chamber are dealt with and that the Chamber's responsibilities are

transferred to the Constitutional Court. Provide adequate funding for the Court. Assume full national responsibility for the State Ombudsman and make progress in the merger of State and Entity Ombudsmen.” (EC, 18 November 2003)

Background

"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)

“In 2004, the Return Fund has been fully established as an independent administrative financial-type organization within the Council of Ministers of BiH. The Return Fund performs financial execution of the SCRDP [State Commission for Refugees and DPs] decisions. Funds for the functioning of the Return Fund and implementation of the SCRDP conclusions in the field of reconstruction of housing units for the needs of return have been secured as a part of budget resources for 2004 of competent Entity Ministries, Ministry for Human Rights and Refugees and District Brcko Government.” (MHRR, December 2004)

“Both entity-level Ministries for Refugees provided limited reconstruction assistance to returnees and also committed part of their budgets to be implemented through joint projects to be determined by the BiH State Commission for Refugees (SCR). In October, the SCR agreed that 30 priority municipalities should receive reconstruction assistance through the newly established Joint Reconstruction Fund (JRF). By year's end, the State Government, the RS Ministry for Refugees and Displaced Persons and Brcko District had paid into the JRF. However, the Federation Ministry of Refugees and Displaced Persons did not make its contribution by the December 31 deadline.” (USDOS, 28 February 2005)

See “Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilisation and Association Agreement with the European Union”, European Commission (EC), 18 November 2003 [Internet].

See also, the website of the European Commission’s Delegation to Bosnia and Herzegovina [Internet].

For a critical review of BiH and European integration,, see, “Thessaloniki and After II: The EU and Bosnia”, the International Crisis Group, 20 June 2003 [Internet].

Regional dimension of displacement and return in BiH (2005)

- There are still around 21,000 Croatian Serbs with refugee status residing in BiH, mainly in the Republic of Srpska (November 2003)
- The citizenship and legal status of Croatian Serbs in the RS lacks clarity and affects the ability to assess local integration versus repatriation prospects for the Croatian Serbs
- There is no bilateral agreement on dual citizenship between Croatia and BiH (May 2003)
- Many homes belonging to Bosnian internally displaced persons are being occupied by Serbian refugees who have not been able to repossess their own homes in Croatia
- Obstacles in property implementation and return in RS are largely connected to the situation faced by the Croatian Serb refugees presently residing in RS
- There are also around 6,000 refugees from Serbia and Montenegro (2003)
- In January 2005, Ministers responsible for refugees and IDPs of BiH, Croatia and Serbia and Montenegro meet in Sarajevo committing to end population displacement by the end of 2006

“An indication of connection, inter-dependence and regional dynamics can be seen in the fact that some 21,000 Croatian Serbs with refugee status still reside in BiH, occupying property in RS. The return of these refugees to Croatia would facilitate a resolution of the problems of remaining internally displaced people within BiH.” (European Commission 18 November 2003, p.11)

“There remains some 21 000 Croatian Serbs who occupy the homes of others and who still seek to either repossess their homes in the Republic of Croatia and/or return. Increasingly, these families face eviction under BiH’s laws without their own long term housing solutions because the recent amendments to the property laws in Croatia have not gone far enough and have yielded little real results. Similarly, pre-war residents of other neighboring countries in the Region (Slovenia) have approached my Office similarly concern about their own eviction and similarly unable to repossess property and return to their own prewar homes in the region. Solutions within Croatia and other former Yugoslav states must be identified for these individuals and this requires compatible property law throughout former Yugoslavia.” (OHR 13 October 2003 para. 48-49)

“The central issue of what citizenship and therefore legal status the Croatian Serbs in the RS possess or should possess highlights the complex and varied nature of the population at hand. It is important to note that 75 percent of the Croatian Serb heads of households registered in BiH stated that they were currently possessing BiH citizenship. There are several difficulties related to the legal status of Croatian Serbs in the RS, a number of these specifically relate to the manner in which persons acquired RS/BiH citizenship.

Further, given the current lack of a bilateral agreement with the Republic of Croatia on dual citizenship, it is not certain that many who registered citizenship under the 1992 RS citizenship legislation and /or who obtained BiH passports actually wished to give up their Croatian citizenship in favour of BiH citizenship. Based on information available from Croatian Serbs approaching UNHCR, many simply wished to acquire viable documents which would permit travel to Croatia.

At the same time, despite continuing obstacles that Croatian Serb returnees have to overcome in order to return and regularise their status in the Republic of Croatia, property law implementation in BiH has fostered an increased interest in the return option. While initially, emphasis in promoting return had been placed on the organised procedure as it allowed for additional guarantees, more recently all persons with valid travel documents have been encouraged to return spontaneously, without undergoing the time consuming housing verifications and other procedural checks of the Return Programme.

A significant number of these individuals receive their pension from Croatia today and all have rights to health care, education and employment depending on their status. A number of the Croatian Serb

population in the RS, however, have encountered problems because of invalid refugee cards. Depending on the actual number of Croatian Serbs with verified BiH citizenship, this group of individuals may wish to integrate locally in the RS. As the situation stands today, most Croatian Serbs do not have the means to start a life as well-integrated citizens of BiH. The lack of clarity regarding citizenship issues directly affects the ability to accurately assess local integration versus repatriation prospects for the Croatian Serbs.” (UNHCR May 2003, Executive Summary)

“BiH continues to host a number of refugees from SCG [*Serbia and Montenegro*], many of whom arrived in 1998 and 1999. While the majority has repatriated by the end of 1999, a re-registration exercise carried out in mid-2002 indicated that some 6,000 remain in BiH. Many originate from Kosovo and had obtained Temporary Admission (TA) status in BiH. It is expected that BiH authorities will review the TA regime again in 2004 and may not extend the TA arrangement beyond the middle of 2004.” (UNHCR 1 September 2003 p.2)

“We, the ministers responsible for refugees and internally displaced persons in Bosnia and Herzegovina, Croatia, and Serbia and Montenegro, met today in Sarajevo to identify our individual and joint activities that should be undertaken in the forthcoming period with the assistance of the international community in order to ensure a just and durable solution to refugee and IDP situation in our countries.” (MHRR, 31 January 2005)

“The principals of the European Commission (EC), OSCE and UNHCR from Bosnia and Herzegovina reiterated their support for the governments of Bosnia and Herzegovina, Croatia and Serbia and Montenegro in their efforts to enable refugee return in the region, and thus fulfil their responsibilities to the Dayton Peace Accord, at a conference held in Sarajevo yesterday.

Participating in the Regional Ministerial Conference, hosted by BiH Prime Minister Adnan Terzic, international community representatives were encouraged by the willingness of the three governments to openly discuss achievements and the outstanding challenges to conclusively tackle the remaining population displacement between these three countries. (OHR, OSCE, UNHCR, 1er February 2005)

For further information see “The Status of the Croatian Serb Population in Bosnia and Herzegovina: Refugees or Citizens?” UNHCR, May 2003 [Internet].

Responsibility to implement return transferred to BiH institutions (2005)

- In 2003, the OHR Reconstruction and Return Task Force transferred its return facilitation activities to the domestic institutions, limiting its role to monitoring
- The BiH Ministry for Human Rights and Refugees (MHRR) will be responsible for the return process
- Centres will be established throughout the country to maintain and facilitate the return process
- The first MHRR regional center opened in Sarajevo on 22 December 2003
- The aim of BiH's strategy is to complete the return of displaced persons and refugees by 2006
- In January 2003, BiH presented to the PIC an "Annex VII (GFAP) Strategy" detailing a transfer of responsibilities for refugee returns to domestic institutions
- The strategy was adopted by the BiH Council of Ministers in February 2003
- A number of legislative deadlines have been significantly delayed, affecting the establishment of a BiH Return Fund
- A return fund has been established to finance return projects
- Authorities finance and implement joint project

“The OHR’s Reconstruction and Return Task Force will close on the last day of 2003, when the relevant BiH institutions will formally assume responsibility for the return process. Property Law implementation is nearing completion, almost one million people have returned to their homes, and the BiH institutions have expressed a clear desire to take the lead in maintaining and then completing the return process. As part of the ongoing process of handing back responsibility for key state functions to BiH institutions, the International Community will primarily assist and monitor the newly empowered domestic authorities with Annexe-Seven implementation as of next year.

‘Full responsibility for human rights and for refugee return is being formally returned to the BiH authorities, because they now have the tools that they need to complete the work of refugee return and to uphold the human rights of BiH citizens,’ the High Representative, Paddy Ashdown, said. ‘This handover is crucial because the responsibilities being handed over are so important, and because it is part of the process of domestic institutions taking full responsibility for the governance of BiH.’

It should be emphasized that Annexe Seven implementation is not complete. Large numbers of homes have still to be rebuilt and there remain many citizens who wish to move back to their pre-war places of origin but have not yet done so.

The BiH Ministry for Human Rights and Refugees (MHRR) opened its first regional centre in Sarajevo on 22 December 2003. Centres will be established throughout the country to maintain and facilitate the return process. The launch of the regional centres marks the start of an implementation program that will set in place a comprehensive nationwide structure through which the MHRR can discharge its responsibilities effectively. An important practical boost to this programme has been BiH’s recent acceptance as a member of the Council of Europe Development Bank, which will make it possible for BiH to receive soft loans for return and reconstruction projects.

[...]

There is no definitive data on how many registered returnees have chosen to remain in their pre-war communities but as many as 2-300,000 may still wish to return. They will be helped by BiH institutions, who will implement reconstruction and return projects, with continued assistance from the International Community. The aim of BiH’s strategy is to complete the return of displaced persons and refugees by 2006.” (OHR 30 December 2003)

“The Council of Ministers’ (CoM) session on 3 February adopted the proposed BiH strategy for implementation of Annex VII. This is the first State strategy document that regulates the issue of returns.” (COE 14 April 2003, par.68)

“Although we are on track for the draw down of the Reconstruction and Return Task Force, and the handover of responsibility to local authorities at the end of 2003, there are still major tasks ahead. Draft legislative amendments have been agreed on some items but must still be presented to the Bosnia and Herzegovina parliaments. Discussion still continues among the international community and with Bosnia and Herzegovina ministries on two important institutional aspects: the Return Fund and the prospective Bosnia and Herzegovina institution which should review CRPC claims.” (OHR 13 October 2003)

“In 2004, the Return Fund has been fully established as an independent administrative financial-type organization within the Council of Ministers of BiH. The Return Fund performs financial execution of the SCRDP [State Commission for Refugees and DPs] decisions. Funds for the functioning of the Return Fund and implementation of the SCRDP conclusions in the field of reconstruction of housing units for the needs of return have been secured as a part of budget resources for 2004 of competent Entity Ministries, Ministry for Human Rights and Refugees and District Brcko Government.” (MHRR, December 2004)

“Both entity-level Ministries for Refugees provided limited reconstruction assistance to returnees and also committed part of their budgets to be implemented through joint projects to be determined by the BiH State Commission for Refugees (SCR). In October, the SCR agreed that 30 priority municipalities should receive reconstruction assistance through the newly established Joint Reconstruction Fund (JRF). By year’s end, the

State Government, the RS Ministry for Refugees and Displaced Persons and Brcko District had paid into the JRF. However, the Federation Ministry of Refugees and Displaced Persons did not make its contribution by the December 31 deadline.” (USDOS, 28 February 2005)

Serious obstacles to sustainable return remain while public debate is still largely dominated by ethnic issues (2005)

- More subtle forms of ethnic cleansing continue
- Lack of integration opportunity lead many to sell or exchange their repossessed properties to remain abroad or in their own ethnic communities elsewhere in Bosnia and Herzegovina
- Most returnees have no social or health insurance, face discrimination in their search for work and have limited access to services such as utilities
- Local authorities failed to secure and support the return of minority members and to take efficient measures to facilitate the return of refugees and internally displaced persons
- In spite of significant return, municipalities remain largely mono-ethnic
- Ethnic debate still dominates public life

“The return of refugees and IDPs to **Bosnia and Herzegovina**[...] remains problematic..
[...]

In most parts of Bosnia and Herzegovina, property and apartments have been returned to their original owners in about 80-90 percent of cases of lost property, but this has happened only due to pressure by the international community on the local authorities -- not because of commitment on the side of Bosnian political parties to do so.

To date, more subtle forms of ethnic cleansing still continue. Many of those who have recovered their property end up selling it or exchanging it because they either prefer to remain abroad or in their own ethnic communities elsewhere in Bosnia and Herzegovina. As a result, a large number of refugees have either become foreign citizens or IDPs.

Most returnees have no social or health insurance and they have become targets of local authorities when trying to claim their rights. Local authorities have done virtually nothing to secure and support the return of minority members. It is almost impossible for the returnees representing an ethnicity other than the majority population to find a job. For instance, only one hundred of several thousand Serb returnees have found a job in the city of Drvar, and it took eight years for nine Bosnian teachers be able to start working in Bijeljina. There are still tensions between Bosniaks belonging to different party fractions in the Unsko-sanski canton.

Minority returnees are discriminated against in almost all sectors of life, including the supply of basic infrastructure such as water supply, electricity and telecommunications, and courts still resort to judging on ethnic grounds.

The failure of the three main nationalist parties -- the Bosniak Party of Democratic Action (SDA), the Croat Democratic Union (HDZ), and the Serb Democratic Party (SDS) -- to take efficient measures to facilitate the return of refugees and IDPs implies that they tacitly support or at least tolerate this situation. Efforts by international organizations have also decreased. The goal of the international peace mission appears to be to wrap up the returnee question as soon as possible, an attitude that may be highly dangerous. The Commission for Property Claims (CRPC), sponsored by the international community, will wind down its operation this year, sending a message that for the international community the issue is no longer of importance. Unless there are major changes, the returnees will continue to be targeted while ethnically

cleansed territories will be a dominant characteristic of Bosnia and Herzegovina. ” (IHF 6-7 October 2003, p.64)

“The implementation of the property laws which has enabled claimants to establish their property claims and repossess their property has been central to the return process. [...] Although projects are underway to determine, through the municipalities, the number of persons who came back to live permanently in their pre-war homes, no exact figures are available at present on this. However, ECRI notes reports according to which most of those to whom property has been returned keep such property empty use it occasionally, sell it, or exchange it with property elsewhere generally in an area predominantly inhabited by people of their same ethnic origin. For instance, non-governmental organizations estimate that, in Republika Srpska, only between 20 and 30% of those to whom property has been returned actually live there. It would also appear that persons who have repossessed property located in rural areas are more likely to go back and live there than persons who have repossessed property located in urban areas, where non-governmental organizations estimate that around 75% of repossessed property is sold. In Mostar, a city where Bosniaks and Croats live since the war in two separate neighbourhoods returnees whose repossessed property is located in the neighbourhood inhabited by the other ethnic group are for the most part reported to sell their flats or exchange them with flats located in the other neighbourhood. More generally, although it is reported that there are at present no areas where no minority returns have taken place, many municipalities in Bosnia and Herzegovina are still to a large extent mono-ethnic.

While ECRI welcomes the attention devoted to property repossession and the successful results of this process. It stresses that priority attention should now urgently be devoted to ensuring the sustainability of returns in order to put people who are enabled to return in a position where they are also enabled to stay. In ECRI’s view, sustainability of returns includes thorough protection of the human rights of the returnees and their economic and social integration. This includes ensuring that returnees are guaranteed personal security and that they are not discriminated against directly or indirectly in access to jobs and social security that their continuing needs for reconstruction assistance for destroyed property are met and that their children have access to unbiased education in a non-segregated manner. [...] ECRI is seriously concerned that these conditions are at present far from being met. ECRI is pleased to note that both domestic and international attention is increasingly focused on how to ensure sustainable returns. It strongly encourages the authorities of Bosnia and Herzegovina to devote to these aspects absolute priority.”

“ECRI has received numerous reports according to which the local political leadership has actively contributed to creating a threatening and hostile climate vis-à-vis minority returnees which not only undermines the sustainability of their return but also deliberately discourages those who have not yet returned from doing so. These actions have included public condoning of the activities of war criminals discriminatory allocation of financial resources to build or reconstruct religious premises, and generally intolerant and stigmatising statements vis-à-vis the constituent people to which minority returnees belong.” (ECRI, 15 February 2005, par. 22-23 and 45)

See also, Implementation of Annex VII of the Dayton Peace Agreement in the “Report on Activities of the Ombudsmen and situation of human rights in the federation of B&H for 2002”, Ombudsman of the Federation of Bosnia and Herzegovina, March 2003 [Internet]

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].

Promotion of minority returns through political agreements: the Sarajevo declaration and the Banja Luka Conference (2005)

- 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
- A similar initiative took place in Banja Luka
- Both initiatives had little success in terms of return
- For the first time assistance is conditioned to progress on minority return
- Contrary to a rule of law approach, political agreements can subject return to political will

"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")

"The first attempt at political support for return came in the form of the Sarajevo Declaration.[...]

As the capital of BiH and a model of co-existence, Sarajevo was expected to set the pace for the return of refugees and displaced persons. To lead by example, officials of Sarajevo Canton and the Federation of BiH agreed to enable the return of at least 20,000 minorities residents during the course of 1998. To achieve this, a number of issues needed to be addressed: legislative; housing; education; employment; and security. Legislative issues included implementation of property legislation and the Federation of BiH Amnesty Law, and ensuring access to documents necessary for reintegration. Sarajevo authorities agreed to improve management of available housing to support returns. It also established the Sarajevo Housing Committee, which monitored housing issues. On the education front steps were to be taken to reintegrate

minority students including the reform of text books and curricula. Authorities also agreed to adopt and implement fair labor standards and provide a secure environment for returnees.

The Banja Luka Conference, attended by officials of BiH, Croatia and Yugoslavia, covered many of the same issues.[See Chairmen's Concluding Statement, the Banja Luka Regional Return Conference, 28 April 1998, available at www.ohr.int] Recommendations were made that BiH officials would adopt and implement legislation consistent with Annex 7. Other steps were to be taken to promote return and reintegration, including the hiring of minority police officers and promotion of the freedom of movement.

In general, neither the Sarajevo Declaration nor the Banja Luka Conference resulted in considerable returns. This was due primarily to the lack of political will. Implementation of the Sarajevo Declaration was severely undermined by the lack of an adequate legal framework to support repossession of property. What legislation did exist was implemented in a discriminatory manner. In particular, Sarajevo officials were reluctant to address the issue of double occupants. On the practical side, Sarajevo also encountered problems creating space for returns because it hosted many displaced persons from the eastern Republika Srpska, an area where very few returns were taking place.

Implementation of the recommendations from the Banja Luka Conference also remained inadequate, primarily due to political obstruction. However, a number of lessons were learned from these political exercises. In regards to the Sarajevo Declaration, the International Community for the first time adopted the policy of conditionality. When necessary due to the poor performance of Sarajevo and Federation of BiH Officials, the International Community would place sanctions on assistance, such as reconstruction of housing and infrastructure, in Sarajevo Canton. This proved an effective measure to further implementation. These political exercise also demonstrated that due to the nature of displacement, return would have to take place throughout the region at the same time and under the same conditions if there were truly to be a breakthrough on minority returns.

In many cases obstruction to return in certain areas would create a logjam to overall return initiatives. Lastly, it became apparent that political agreements on their own would not lead to considerable returns. Such agreements left the ability to return subject to political whims and objectives. Not only was this an inefficient way to support returns, but it also ran contradictory to the individual rights of refugees and displaced persons enshrined in the DPA and the BiH Constitution." (Paul Prettitore, World bank, 18 June 2004)

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?](#), (Sarajevo), 14 May 1998 [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)

Specific aspects

Data collection needs to coordinate assistance and support the return process (2004)

- Until 2003 there was not adequate database recording information on assistance provided.
- The existing database on displaced persons needs to be updated to facilitate the completion of the return process and to eliminate double beneficiaries
- A centralized database to facilitate identification of displaced persons and refugees in need of reconstruction assistance and other types of assistance was developed in 2003
- Authorities de-register IDPs who received assistance since they are not considered in need of long term solution any more
- Following this method the Ministry for Human Rights and Refugees (MHRR) estimates the number of IDPs to 295,000

“One of the most serious problems, which has hampered the return process is the lack of a database on the activities which have been undertaken, which are ongoing and which are being planned.

A better access to this data would permit the identification of real priorities and eliminate double beneficiaries from the program. Because of undefined links between various administrative levels, the exchange of information is insufficient. The coordination with international organizations could also be improved. Negotiations with the European Commission on taking over the database of reports on the beneficiaries of donor assistance in BiH are ongoing.

The existing database on displaced persons needs to be updated by recording already completed returns, i.e. by de-registration of the displaced persons who are no longer displaced. Determining the actual number of persons who remain displaced would facilitate future planning and completion of the return process to a significant extent.” (Poverty Reduction Strategy Paper Team 30 May 2003, Section 5.4.4)

Assistance and reconstruction database:

“This has been one of the most important realised strategic tasks of Ministry for Human Rights and Refugees. Apart from numerous difficulties and obstacles, today for the first time after the end of the war in BiH, based on collected and systematised data sources, MHRR has strong unique database for BiH. This database contains very important and very concrete indicators on displaced persons and refugees, return and reconstruction, property reposession, land allocation and other facts important for return.

Preparation and putting into function a unique database is a huge success in complex political-legal relations in BiH, and the result of this activity is that at the moment MHRR is trained to prevent previous misuses as regards the double use of assistance in reconstruction and other assistance assigned for the purpose of displaced persons and returnees. Trust in this database is great, and the concrete result is that now all institutions and organisations use this database to check individual beneficiaries before reconstruction is approved.

During 2004, on the basis of such database and transparent procedures prescribed for the selection of beneficiaries, Ministry for Human Rights and Refugees has been trained to recognise real priorities, together with Entity ministries and lower bodies of administration in BiH.

This knowledge guarantee that remaining assistance for reconstruction and return will be directed to most needy, through the SCRDP and the Return Fund. This has been tested through Project SUTRA Pilot-phase implementation, which is being realised in cooperation with Entities, municipalities and UNDP, and through which, using the mentioned procedures, the beneficiaries have been selected, and reconstruction of housing units is in the closing phase.[...]

Ministry for Human Rights and Refugees, in cooperation with competent Entity Ministries and UNHCR, during 2004 carried out revision of numerical situation of displaced persons in BiH. In a systematic manner, and based exclusively on administrative measures, number of displaced persons has been corrected from 570,000 displaced persons registered in 2000 to some 470,000.

Then comparison has been conducted of indicators from database on displaced persons with collected indicators on reconstruction and property repossession, land allocation and other indicators, and there is a conclusion that only some 295,000 displaced persons in BiH are in need of displaced person status. (MHRR, 2004)

Gender aspect of return is neglected (2003)

- Female-headed displaced and refugee families face more difficulties in exercising the right to return and the right to ownership
- Annex 7 fails to address the issues of women refugees and displaced persons

“The gender aspect of return has been very much neglected. UNHCR has assessed three specific obstacles to return that have an impact on families headed by women – single mothers, single women, extremely vulnerable women, as well as women without husbands, widows (civilian and military) and abandoned women, victims of sexual violence or torture, and severely traumatised women. These obstacles are the absence of a family or of support by the community, an expressed fear for personal safety, and the presence of traumas.

[...]

Ownership issues are also coloured by gender problems. More women than men face problems when it comes to exercising the right to ownership, especially after a divorce or death of the spouse, or his disappearance during the war. Private ownership titles and occupancy rights are usually to the husband's name, or the name of the father-in-law. Implementation of ownership rights is additionally slowed down by long court proceedings, and the access to pre-war property is an impediment for the return of families headed by women.” (UNDP June 2003, 36)

"The rights of refugees

Annex 7 especially fails to address the issues of women refugees, who, without doubt, together with children and the elderly, represent a vast majority of all refugees and displaced persons. The provision on the right to return, for instance, does not mention women, now often widowed or alone; it reads only as follows: “permitted to return in safety irrespective of ethnic origin, religious belief, or political opinion” (annex 7, Chapter One, Article 1(2)).

[...]

Property and return

The return of property is another issue that should have a gender-differentiated focus. Albeit there is an increasing number of single women returnees or widows, Bosnia and Herzegovina still, especially in rural areas, retain traditional ownership over land and other assets.

There is also an ineffective legislation and judiciary for the protection of ownership rights which demands close and sex differentiated approaches to the issue of and the return of property. Although Article XV of Annex 7 stipulates that domestic laws on property rights should be considered in developing of rules and regulations regarding the agreement, it does not specify who and what laws it targets. Generally domestic laws, which reflect traditional practices and customary norms whereby men are primary owners of land, are unfavourable to women in way that probably would not have been accepted if it had concerned an ethnic group.” (UNDAW 5 November 2003, p.5)

Special protection needs of vulnerable categories of returnees (especially women) (2000-2003)

- Most dependents of disappeared persons are women and children
- A major factor in the decision of women who have missing family members not to return is the fear they will lose benefits associated with having missing family members
- A UN study (April 2000) highlights the particular problems faced by vulnerable women in minority returns

"Quite apart from the emotional impact of the 'disappearance' of a family member, concerns have been repeatedly voiced by organizations involved in the issue that, given that the majority of those left behind in the wake of this violation are women and children,[1] there are severe and enduring adverse effects both on their economic and social circumstances as well as their personal security.[2] In particular, in cases where the dependants of the 'disappeared' are still internally displaced – such as with the majority of the Bosniak female population from Srebrenica of non-Serb origin – they face mounting financial problems and social exclusion." (AI 5 March 2003, p.52)

[...]

There is "an additional and overwhelming need to incorporate the issue into the overall process of enabling access to social and economic justice for relatives and victims of human rights violations committed during the armed conflict. The overarching need for reparation must be addressed by taking into consideration the particular situation of those directly affected by 'disappearances', which will require a gender-sensitive and longterm approach. There is a current drive by the international community to close down programs of assistance and terminate funding of local organizations, while applying a "tick-list" strategy to addressing unresolved issues forming the legacy of the war.[...]

Despite the increased rate of implementation of property legislation and the ever higher numbers of registered minority returns, many of the women and dependants of the 'disappeared' are unlikely to return to their pre-war communities for a variety of reasons. Such factors range from fear for their personal security, compounded by the absence of a family or community network in the place of return. A major concern is the lack of financial means to rebuild destroyed housing. [...] Although Annex 7 to the Dayton Peace Agreement states that '[a]ll refugees and displaced persons have the right ... to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them.' (Chapter 1, Article 1).[...] However no functioning compensation mechanism was ever set up. Reconstruction of destroyed housing was funded by and large through donations and investments by the international community, which has drastically decreased this funding over the past years. In the case of the displaced population – which numbered over two million at the end of the war – the argument could have been made that this category of people should have in fact been made the primary beneficiaries of the privatization process. [...] This process as such, however, has been of concern to human rights monitors in the international community, as it reinforced discriminatory practices and undermined ethnic reintegration and minority returns.[...]

Furthermore, many of these women continue to have little trust in the unbiased functioning of the police, the judiciary, health services and the education system – most of which remain to a large degree mono-ethnic despite attempts by the international community to increase the recruitment of minority returnees to the public sector.[...]

A major factor in the decision not to return is the expectation of many women that they will face a drastic cut in income as they will lose the benefits associated with having missing family members, as the systems and criteria for such benefits (*invalidnine*) are tied to the ethnicity of the victim and benefits do not appear to be easily or at all transferable across entity borders. For some displaced women with missing relatives this assistance is in fact their only source of income. [3] In addition, even though the *invalidnine* are reportedly higher than other social allowances and pensions, displaced women in this category increasingly

have to resort to renting private accommodation after being evicted from housing they previously occupied.[4]

Moreover, in both entities, legislation regarding pensions and allowances awarded to the relatives of the missing or dead who were civilians appears to be inadequate. Concern has been expressed that many women who are in need of support are falling through the cracks of the system. [...]

Whether these women choose to return to their pre-war municipalities or remain in the places where they have settled since, there is a clear and overwhelming need to develop comprehensive and long-term strategies to integrate them and their families fully and permanently in society and enable them to have unimpeded access to employment, education, health care and social welfare. [5] [...]” (AI 5 March 2003, p.52-55)

[Footnote 1] According to the ICRC, out of 20,786 tracing requests for persons unaccounted for after the war in Bosnia-Herzegovina, on 30 June 2002, 17,087 cases were still pending. There are no current statistics for the on the gender breakdown for Bosnia-Herzegovina solely, however out of the total of 31,541 tracing requests still unresolved in former Yugoslavia (Croatia, Bosnia-Herzegovina and the Federal Republic of Yugoslavia including Kosovo) 27776 cases or 88.1% concern missing men and boys. (from *Unknown Fate, Untold Grief*, ICRC Special Report, August 2002). The special report by UNHCR/UNHCHR estimated that 92% of the missing persons in Bosnia-Herzegovina are men (see: *Daunting Prospects – Minority Women: Obstacles to their Return and Integration*).

[Footnote 2] See: UN Study on Women, Peace and Security, United Nations 2002, Paragraphs 109-110. The International Helsinki Federation for Human Rights (IHF), for example, has also noted that displaced women in Bosnia-Herzegovina “are particularly vulnerable to prostitution and organized prostitution, both of which involve a significant risk of health problems and violence that should not be underestimated.” (IHF, *Women 2000: An investigation into the Status of Women’s Rights in Central and South-Eastern Europe and the Newly Independent States*, page 97).

[Footnote 3] For example, this is the case for displaced women from Srebrenica still living in collective accommodation or in pre-fab housing units constructed in 1993-5, in Tuzla Canton, and for whom the loss of such benefits (at around a monthly 400KM) presented insurmountable difficulties, given their already dire economic situation (Amnesty International interviews with displaced women in the Ježevo and Grab potok settlements, Banovici municipality, August 2002). Feedback from organizations working with displaced women implies that in practice they encounter difficulties in transferring these benefits from the location of displacement to their pre-war municipality. Given the current differences in legislation and claims procedures in the Federation (where each Canton has its own implementing legislation) and the RS, it would be difficult to see how such transfers would happen without further agreements between the relevant entity ministries regulating the process.

[Footnote 4] According to BOSFAM, a local non-government organization working with displaced persons in Tuzla Canton, the average amount of rent for private accommodation in that Canton as a rule claims the larger part of the *invalidnina* displaced women from Srebrenica are receiving on grounds of their missing or dead relatives.

[Footnote 5] For example, both minority returnee women and displaced women have reported that they are discriminated against in offers of employment [...]. They are in particular concerned about the problems they face in ensuring proper education for their children: for example displaced women remaining in collective centres in remote areas, who lack the financial means to pay for transportation to the nearest school, reportedly in some cases decided to send their male children to school only. Both categories of women also lack adequate and affordable health care for themselves and their families, including psycho-social counselling services which may help them overcome severe trauma experienced during the war.

"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." (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]

Difficulty to determine accurate figures on return (2002)

- Various organisations use different methodology
- A substantial number of returnees do not register with UNHCR not to lose their social benefits in their place of displacement.
- Many spontaneous return take place in isolated areas where contact with majority population are limited
- Property repossession does not always result in return

"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?")

“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 Srpko Gorazde, Zvornik and Foca, from which UNHCR receives very little data on returns because returnees are reluctant to make their presence known.” (ICG, 13 December 2002)

"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")

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]

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?", (Sarajevo), 14 May 1998, section 2 "The Spectre of Mass Relocation" [Internet].

UNHCR survey on returnees in Tuzla Canton indicates serious difficulties of integration upon return (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]

Return prospects

Survey in Tuzla Canton reveals that 55% of internally displaced persons wish to return (2002 - 2003)

- 55% of 600 interviewed displaced persons expressed a strong desire to return
- Some displaced persons have opted to integrate locally
- One of the main barriers to return identified by the respondents is personal security and fear of reprisals
- Other barriers included lack of economic opportunities and lack of access to education and health care
- The elderly, singles and female headed households in CCs and CSs are the least likely to access assistance
- UNHCR field work has revealed a lack of information amongst the DP population regarding their rights and how to exercise them

"Based on the analysis of the 600 interviews with Podrinje DPs, ten main conclusions have been drawn up to guide the work with this specific population. The conclusions presented here should form the basis to urgently review current efforts to address the situation and needs of these displaced persons and to develop projects which can help them find durable solutions either in the place of return or for those who are objectively unable to return, in the place of displacement.

1. 55% of the 600 interviewees indicated a strong desire to return, therefore, it is essential for donors to continue with their support to the return process. Depending on the options available and as conditions in the return areas improve (opening of schools, health facilities, de-mining of agricultural and housing areas and electricity reconnection) the numbers interested in return may well increase. Priority should be given to those in CCs and CSs, as to date, attention given to these displaced persons has been limited. If those most in need are to be provided with an opportunity to return, a change in the methodology employed by the reconstruction agencies is UNHCR's Survey on Displaced Persons in Tuzla Canton required. A different approach to beneficiary identification is needed, including evaluations of mental and physical health needs, as well as care available in the place of return. Infrastructure funding has been seriously affected by decreasing finances therefore, return to remote villages is becoming even more difficult. Current housing programmes need to factor in the corresponding infrastructure costs to encourage return. Generally, if additional funding is not forthcoming, return will begin to drop significantly.

2. The elderly, singles and female headed households in CCs and CSs are the least likely to access assistance. Therefore, beneficiary selection criteria need to become more inclusive and creative to ensure that these groups are included. Without such a change and additional support for sustainability, only a limited number will be able to return.

3. While the majority wish to return, some are opting or have opted to integrate locally. For exceptional humanitarian reasons, several of these families require support to exercise this option if they do not have independent financial means. This matter should be resolved by the local authorities within the context of the current drive to establish social housing policies and given Tuzla Canton's ample DP housing stock. Good management of this housing stock would enable the speedy resolution of many cases requiring an assisted alternative to return.

4. The issues of security and fear of reprisals were frequently raised by interviewees as a reason for not returning yet, wishing to remain and for those who are undecided. One way to address this is to enhance trust in the police through regular interaction between returnees and the local police. Employment of more minority police women/men would also contribute to confidence building. A pro-active approach is required by both the police and the local authorities, so that returnees are seen to be citizens of the area with the corresponding rights and obligations.

5. For families with school age children, access to education in the place of origin was a major factor affecting their future aspirations. The work undertaken by OSCE in this regard is important to help decrease these concerns. Also, it is crucial that steps such as the Interim Agreement and the planned Education Reform are carried through and fully implemented. At present the reform is largely driven by the international community. The local authorities' role needs to be strengthened through active follow up on returnee related education issues and visits to the communities to inspire greater confidence for a future inclusive approach to education.

6. Many raised concerns about access to health care. Given that the majority originate from rural areas and the nearest health clinic/hospital may be far away, the local authorities should be encouraged to provide outreach services to return areas. Trust in health institutions at the place of return may be enhanced by employing staff of different ethnicities. In addition, apart from having more "regular" health problems, some may face flashbacks and start reliving traumas upon return. Psychosocial support in the place of return is needed and additional donor support is required in this regard.

7. The tendency of some younger couples not to return should be considered in the context of a process of ongoing urbanisation. Actions are urgently required to develop targeted responses to the needs of the displaced, otherwise there are strong indications UNHCR's Survey on Displaced Persons in Tuzla Canton that younger people may see migration to another country as the only solution.[1]

8. The DPs who wish to return seemed to have a more accurate picture about the current situation in their pre-war Municipality. However, UNHCR field work has revealed a lack of information amongst the DP

population regarding their rights and how to exercise them, e.g. concerns about access to health care and pensions upon return. This needs to be systematically addressed to ensure informed decision making by DPs.

9. The financial outlook is alarming in view of the high dependency on pensions/social welfare. Currently there is a move to decrease some benefits. Although an economically sound step, it may have serious detrimental effects on the DP population irrespective if they have returned or not, unless compensated by or undertaken jointly with other actions.

10. Currently, the RRTF global strategy, which seeks to transfer the responsibility for return and reconstruction to the local authorities, is being implemented in north-eastern BiH. All actors have displayed enthusiasm and commitment to the process. However, as highlighted by the concerns of the displaced interviewed in this survey, there are many long term development issues which require planning and programmes, particularly in the economic arena. The current RRTF strategy and other initiatives focus a great deal on the capacity building of the local authorities, which is an important element to complement their current expertise and knowledge. However, in this process, the shift from a humanitarian relief driven country-wide operation to a development phase, in north-eastern BiH at least, would appear to require greater coordination and support on the ground, particularly in areas such as health, agriculture, and industry." (UNHCR June 2003, 19-21)

[Footnote 1] Other surveys, such as the UNDP Humanitarian Development report on BiH, 2000, have highlighted this issue.

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

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 assessing 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]

HUMANITARIAN ACCESS

General

Sporadic violence against representatives of the international community continues to be reported (2002-2003)

- Human rights groups operate without government restriction but their recommendations often remain ignored
- Registration of NGOs was simplified in December 2001

“A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

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. The Law on Associations and Foundations allows NGOs to register at the national level and therefore to operate throughout the country without administrative requirements. The passage of this law in 2001 was a requirement for the country's admission into the Council of Europe. The law follows the general principle of voluntary registration and allows associations and foundations to engage directly in related economic activities. NGOs have registered at the national level to receive greater recognition from the international community, to show that they were not nationalist oriented, and to receive money from the Government once a new tax structure is put into place.

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. In contrast to the previous year, there were no major incidents of violence against international community representatives. Soon before the election, the SDA called on all media outlets to boycott polls of the National Democratic Institute because SDA felt that these polls were unfairly biased towards the SDP.” (U.S. DOS 31 March 2003, sect. 4)

“In Republika Srpska in **Bosnia and Herzegovina**, the Helsinki Committee for Human Rights has been a target of constant attacks and other forms of harassment. It has received telephone threats, as has committee chair Branko Todorovic, whose wife and children have also been threatened. [...]

Mladen Milicanin, president of the Citizens' Association Milici was beaten so brutally by unknown perpetrators on 26 March 2003 that he had to undergo urgent surgery in Belgrade and remained handicapped. Milicanin had received telephone and letter threats for several days prior to the assault because of his human rights activities, and it is believed that the beating was an act of retaliation for exposing abuses by local public officials in Milici. The perpetrators of the attack were never found, but available information suggests police involvement or collusion. The prosecutor's office initiated investigations only after pressure from the local Helsinki Committee, but has worked inefficiently. Milicanin continues to receive threats as of this writing. [...]

Bojan Bajic and other members of 'Luna' NGO in Ruda, eastern Bosnia, have also been targets of different kinds of threats, mainly by extremists.” (IHF 6-7 October 2003, p.18)

NATIONAL AND INTERNATIONAL RESPONSES

Legal framework and national policy

Authorities struggle to take ownership of reforms (2005)

National response to displacement has evolved over time usually under heavy pressure from the international community.

The first years after the war were characterised by strong resistance of local authorities to the return of members of the other ethnicity. Even the Bosniaks, who were the most committed to a multi-ethnic country, did all they could to resist the return of members of other ethnicity. (Marcus Cox, Madeleine Garlick, 2003). While the international community has focused all its efforts on return to reverse ethnic cleansing, Bosnian authorities in both Entities but mostly in Croat and Serb dominated area have encouraged their displaced persons to locally integrate. Relocation of displaced person was ensured through allocation of land, accommodation and war veteran benefits. (USDOS, 28 February 2005). The main objective of this policy was to consolidate the ethnic majority resulting from the war and ensure political majority to nationalist officials put in place by the conflict.

It was in Bosniak dominated areas that a policy of supporting return started first, a couple of years after Dayton. Authorities and even political parties gave material to facilitate return of their displaced persons to areas where they would be in minority. Projects supporting relocation still exist but progress have been made in recent years and RS is increasingly supporting Bosniak and Croat return to the RS and return of Serbs to the Federation while the Federation is supporting return of Serbs to the Federation and return of Bosniaks and Croats to the RS (USDOS, 28 February 2005).

Bosnian authorities have progressively taken more responsibility in fulfilling their task assigned by Annex VII of the Dayton Peace Agreement. These tasks are to support return and determine a legal framework regulating the situation and return of displaced persons and refugees. The International Community has been instrumental in strengthening state level institutions and legal framework. DP legislation has been drafted and adopted under close scrutiny of UNHCR between 1999 and 2003. The international community also supported the creation of a State-level Ministry for Human Rights and Refugees (MHRR) in 2000 to improve the coordination of return policies at country level and reinforce the capacity of the authorities to deal with return in preparation of the progressive withdrawal of the international community.

In January 2003, the Peace Implementation Council adopted a plan “Strategy of BiH for the implementation of Annex VII” drafted by the Office of the High Representative (OHR) and MHRR detailing the hand over of the Return and Reconstruction Task Force (RRTF) to the Government of Bosnia and Herzegovina. Since 1998, the RRTF was the main body coordinating efforts of the international community for implementation of Annex VII (on return of refugees and DPs). The exit strategy provided to amend the State Law on refugees to reflect increased responsibilities of the State Commission for Refugee and DPs (SCR) regarding return, transfer CRPC database on property claims to MHRR, make operational a Return Fund centralizing and coordinating funding between international donors and the BiH and entity government levels, and replace RRTF field offices by regional offices reporting directly to the State. This arrangement was supported by the international community to short-circuit the heavily politicized entity or cantonal structures.

In order to support local capacity to face its responsibility towards return the EU and [UNDP](#) launched in 2003 an initiative called “[SUTRA](#)”, Sustainable Transfer to Return-related Authorities. SUTRA focuses on return, reconstruction and area-based development. The projects are implemented by local authorities based on priorities established at State level. SUTRA’s intent is also to increase cooperation of authorities with civil society organisations. Funds come from a Return Funds financed by State, Entities and the International Community. In a context of decreasing international funding and evolution towards

development, such initiative is a logical step to improve and develop ownership in determination of return policies. In its first phase (2003-2005), SUTRA received EUR 4.6 millions (2.2 millions from EU and UNDP, and matching contribution from the State and the Entities through the State Commission for Refugees. Upon completion in May 2005, 333 houses will have been reconstructed as well as related technical infrastructure in 7 municipalities. (UNDP, 24 September 2004). The second phase of SUTRA (2005-2007) will receive EUR 4 millions from the EU, EUR 100,000 from UNDP. Authorities pledged to double the current contribution (UNDP, 6 January 2005).

Bosnia and Herzegovina obtained a loan from the Council of Europe Development Bank (CEB) to support housing needs of displaced persons living in collective centres. As a member of the Council of Europe, Bosnia and Herzegovina is entitled to loans from the CEB which promotes projects addressing social problems as a result of the presence of refugee or displaced persons. A loan of EUR 8 millions matched by EUR 4 millions from the Government will serve for the accommodation of 1,200 collective centre residents. (UNHCR, 15 March 2005).

The amendments to the Law on refugee and DPs required by the “Strategy of BiH for implementation of Annex VII” were made in November 2003. The SCR capacity to determine reconstruction and return priorities was affected by nationalist interference. This delayed the issuance of a list of 30 priority municipalities in need of assistance. At the end of 2004, the beneficiaries of these projects had not been selected yet. Reconstruction projects will be financed by a joint return fund to which State, and Entities contribute equally. (USDOS, 28 February 2005). UNDP also supported the creation of a database on foreign assistance and development resources. The [database](#) is run and updated by the Ministry of Foreign Trade and Economic Relations. It includes data about past and planned assistance as well as future needs. It should help donor to have an overview of the current sectorial needs in terms of funding. It is also another step in the development of the authorities’ capacity to determine their priority in a context of reducing funds.

In December 2004, the [State Ministry for Human Rights and Refugees](#) published a report on implementation of Annex VII by Bosnian authorities. The reports reviews the measures taken to facilitate the rights of refugee and DPs enunciated in Annex VII, namely the right to return, right to repossess one’s property and creation of conditions for sustainable return.

As underlined by the [Poverty Reduction Strategy Paper](#), displaced persons are among the most vulnerable to poverty in the country. This implies that they depend on decreasing humanitarian assistance and local authorities. In its report on implementation of Annex VII, MHRR admits that the conditions for sustainable return are not yet met in particular with regard to access to social and economic rights. (MHRR, December 2004, p.71). The lack of cooperation between welfare institutions in both Entities and the refusal to agree on a state-law framework on health and pension issues continue to hamper return and place returnees in difficult situation. Unemployment is high in the country but particularly affects returnees who, as member of a minority group, face additional difficulties to find work. Public administration has not yet met the objective to reflect the 1991 structure of the population.

Although the overall security situation is good and rather stable, many displaced persons still feel insecure to return mainly because of the persistence of the ethnic debate throughout the country. People do not trust the police or the judicial system. The police, still largely mono-ethnic, is known not follow up on ethnically motivated attacks and perpetrators are rarely charged. Until recently when the international community supported a process of re-appointment of judges and prosecutors of the country, the judicial system was under heavy influence of nationalist politicians. The failure of Republika Srpska to cooperate with the International Tribunal is also an element which is a strong disincentive to return for displaced who have been victims of war crimes or have witnessed such crimes. Those who perpetrated these crimes are often at large or even employed in public positions. Recent progress on the war crime issue have been made with the publication by the RS authorities of the Srebrenica report where they recognize responsibility for crimes committed in Srebrenica and give essential information on the location of mass graves. In December 2004, NATO refused entry of BiH into the Alliance’s Partnership for Peace for lack of cooperation with The Hague. At that time, RS had not yet arrested any person indicted for war crimes. In early 2005, RS finally transferred its first case to the Tribunal, then two cases in March after nine years of obstruction. However this result was obtained after heavy pressure from the international community and several dismissals imposed by the High Representative. (OHR, 16 December 2004).

Under guidance and support of the Organization for Security and Cooperation in Europe (OSCE), substantial progress has been made in the Education sector where various ethnically based curricula co-existed, representing a serious obstacle to return. However, every progress has been faced with strong resistance of nationalists which result in the use by the High Representative of its binding powers. Nationalists of the country in both Entities strongly resist attempts to strengthen State institutions and determine policies at State level. They do not want to lose the advantages given to them by the Dayton peace agreement which established a weak state and gives state-like competencies to ethnically based entities. Most policies are therefore defined according to the interest of the dominant ethnicity in each Entity. It is therefore almost impossible to define a state policy in the interest of all citizens which applies throughout the country.

Ownership is the key word for Bosnia and Herzegovina's future. It is the key word for the country and for its accession to the European Union. The International Community is phasing out, the binding powers of the High Representative are increasingly questioned within the country and also outside the country (see [Venice Commission report](#)). As underlined by the Venice Commission, the transfer of responsibilities from the Entities to BiH is a condition sine qua non for any progress on European integration. OHR has been trying to promote ownership of reform but most nationalists in the political class often prefer to hide behind the international community to avoid responsibility for reform and political compromise. It is high time for Bosnian politicians to take their fate in their own hands and make reform happen from their own initiative. This will be the best way to render the binding powers of the High Representative inappropriate and obsolete.

A domestic legal framework for repatriation and return movements has been adopted in both Entities and at State level (1999-2003)

- To fully apply the legal framework, the respective authorities still need to adopt further by-laws and instructions
- Amendments to the Law on Refugees and Refugees from BiH and Displaced Persons in BiH was adopted by the House of Representatives in September 2003
- Amendments to the Law on Displaced-Expelled Persons and Repatriates in the Federation of Bosnia and Herzegovina were enacted in March 2003

"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]

[Footnote 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.

[Footnote 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](#)].

[Footnote 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)

“Law on Amendments to the Law on Refugees from BiH and Displaced Persons in BiH was adopted at the session of the House of Representatives of the Parliamentary Assembly of BiH, held on 24 September 2003, and published in ‘Official Gazette of BiH, no. 33/03 of 5 November 2003’. The Law went into effect on 13 November 2003.

Harmonization of Entity laws with the State Law on Refugees from BiH and Displaced Persons in BiH. This activity is underway, Entities have submitted drafts of their new laws, and it would soon be in the legislative procedure within Entities.” (Ministry for Human Rights and Refugees December 2003, p.3)

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, 4 December 2001) 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, 21 March 2003 [Internet]. An unofficial translation is provided by UNHCR [Internet].

The Law on Refugees from BH and Displaced Persons in BH (BH Official Gazette No 23/99) has been amended 24 July 2003; an unofficial translation is available by UNHCR [Internet].

See also "*Legal Framework regarding Displaced Persons and Returnee Status*", UNHCR office of the Chief of Mission in Bosnia and Herzegovina [Internet].

International response

International response: promoting reform through capacity building (2005)

International response to displacement in Bosnia and Herzegovina has been massive and diversified. The tragedy of the war and the fate of displaced persons throughout the country raised strong interest in reversing the effect of ethnic cleansing and supporting the reconstruction of the country. In the first years after the conflict assistance was mainly directed to reconstruction of houses and infrastructure, and distribution of humanitarian assistance to displaced persons. It has now evolved to institutional building and development activities. The international community has played a crucial role in both stabilising the country and promoting reform.

Institutional Framework:

The first international response to internal displacement in post-war Bosnia and Herzegovina has been the [Dayton Peace Agreement](#). While setting the general framework and institutions of the country, the peace

agreement clearly mentions the need to protect the rights of displaced persons and the role of agencies responsible for monitoring the situation. Annex VII provides that displaced persons and refugees have the right to return to their homes but also the right to repossess their properties. According to the Agreement, Bosnian authorities are responsible to ensure safe return and to create condition for sustainable return. Annex VII also acknowledges the role given to the [United Nations High Commissioner for Refugees](#) by the UN Secretary General since 1992 whereby the organisation takes the lead role in coordinating assistance to displaced persons and refugees. The right to vote of displaced persons is provided for in Annex III dealing with elections. OSCE is requested to supervise the preparation of free elections, and conduct them. Respect of Human Rights and establishment of institutions able to receive claims of violations are essential aspects for the protection of IDP rights. These issues are described in [Annex VI OHCHR](#), [OSCE](#), and the [International Tribunal](#) are the main agencies responsible to monitor the human rights situation.

The DPA gives the Office of the High Representative the overall responsibility to implement the civilian aspects of Dayton and coordinate activities of civilian organizations and agencies operating in BiH. The [SFOR](#) is responsible for the implementation of military aspects. A UN International Police Task Force (IPTF) is requested to monitor, advise and train local police (Annex XI). In 1995, the Security Council established the UN IPTF and a UN Civilian office brought together as United Nations Mission to Bosnia and Herzegovina ([UNMIBH](#)).

The High Representative and his office are a central element of the post-war framework. In addition to the responsibilities mentioned above, the High Representative participates in donor meetings on rehabilitation and reconstruction, and reports on progress of in implementation of the peace agreement to the Peace Implementation Council (PIC). The PIC, a group of 55 countries and international organisations that sponsor and direct the peace implementation process, has subsequently elaborated on his mandate. Faced with fierce and widespread obstruction of nationalist forces, the High Representative was granted binding powers at the [PIC conference in Bonn](#) in December 1997. According to these new “Bonn powers” the High Representative can remove from office public officials who violate legal commitments and the Dayton Peace Agreement. He could also impose laws if Bosnia and Herzegovina’s legislative bodies fail to do so.

The “Bonn powers” have been the lead force behind most of the reforms and progress in Bosnia and Herzegovina. It is thanks to them that property laws have been amended to ensure a legal framework free of discriminatory provisions. Removal of officials obstructing implementation of Dayton has also shown the determination of the international community and the risks there were to act against Dayton through, for example, obstruction to minority return and property repossession. However, resistance to reform remains in many sectors and the High Representative still had to use his binding powers in 2004 to support the Education reform or sanction lack of cooperation of RS with the International Tribunal.

Although necessary in practice, the Bonn powers seem more and more at odds with the integration process to the EU which requires that BiH take ownership of the reform and creates a functional government (EC Country Strategy Paper, 2001). Ten years after Dayton, it is high time for the country to determine policies according to the interest of all its citizens and not on partial basis. In this context, and at the request of the Council of Europe Parliamentary Assembly, the Venice Commission adopted a report in March 2005 which questions the conformity of the Bonn powers to democratic principles. While recognizing the positive role these powers have had for the peace process, the report recommends that these powers be phased out and that constitutional changes be debated by the people of BiH to create a functional and democratic framework. Such a reform should base the constitution on the equality of all its citizens rather than the current equality of the three main groups of the country. (Venice Commission, 12 March 2005)

The role of the High Representative in particular and the international community in general has been essential to the stabilization of the country. This role has evolved with the situation on the ground and adapted to constant changes.

Evolution of assistance since Dayton

In the first years after the war, the level of destruction and the security situation were the main obstacle against return. 445,000 homes or 37% of the housing stock had been destroyed (MHRR, December 2004, p.49), the infrastructure was severely damaged throughout the country. Assistance focused on humanitarian needs of the displaced and other war victims and reconstruction. Between 1996 and 2004, the international community reconstructed near to 163,700 houses. (MHRR, December 2004, p.50). However, it clearly appeared in 1997 that thousands of the reconstructed houses remained empty either due to improper selection of beneficiaries or difficult security conditions. These beneficiaries remained in displacement often occupying other people's home (Marcus Cox, Madeleine Garlick, 2003, p. 77).

This situation led to a change of strategy by the international community who decided to focus its reconstruction on those who had already returned to their destroyed houses and to select priority axis of return. The Return and Reconstruction Task Force (RRTF) was created in 1997 and determined the return policy of the international community (Paul Prettitore, World Bank, 12 June 2004). The RRTF return plans were determined by OHR, UNHCR and participation of other agencies such as the OSCE, European Commission, the World Bank, the International Management Group and CRPC.

In a context where implementation of property laws was completely blocked, the existence of beneficiaries who had not returned to their reconstructed house incited the international community to focus on the eviction of double-occupants (people occupying a home while they have another housing solution available). A Housing Verification Monitoring project was established in 1999 with the task to verify occupancy of reconstructed houses and report to the international community and municipalities in order to facilitate eviction of double occupants. (Global Future, Fourth Quarter, p.22). This approach helped to kick start implementation of property law but had the inconvenient to be highly labour intensive for the international community.

The second serious obstacle to return between 1996 and 1999 was the security situation. Tensions were still very high, and the legacy of war was one of hatred and fear of retribution. This situation was clearly deterring the return of those who would be a minority in their place of origin the so-called "minority returns". The police were mono-ethnic paramilitary units acting independently within their majority area (Republika Srpska, Croat part of the Federation and Bosniak part of the Federation). Police forces would openly discriminate against members other ethnicities. Ethnic division was reinforced by police checkpoints positioned along the Inter-Entity Boundary Line (IEBL) separating the two Entities. These checkpoints seriously impeded freedom of movement. SFOR was instrumental in removing these checkpoints. To further improve freedom of movement UNHCR organized assessment visits of displaced persons to their place of origin to see their homes and neighbours and assess the situation. Once the security situation improved, the assessment visits escorted by UNHCR were replaced by bus-lines running along return axis. OHR, jointly with UNMIBH imposed new license plates in 1998. This measure considerably improved freedom of movement because license plates did not indicate the entity where the car was registered. Discriminatory police controls were therefore rendered more difficult. To improve compliance of local police with law, IPTF introduced selection and recruitment procedures as well as sanctions against local police who would not respect the law (such as occupying claimed property for example). IPTF also set up agreements establishing target percentages of minority police officers to be recruited in each entity. This measure aimed at reinforcing confidence of returnees in law enforcement officials. (UNMIBH, Overview, 2002). As of end 2003 the proportion of minority police in RS and Federation had not yet meet the target but new recruitments are based on ethnic quota. It is estimated that it will take years before a professional multi-ethnic police is established (USDOS, 25 February 2004).

In 1999, the RRTF return plan was reinforced by the launch of the Property Implementation Plan (PLIP) setting up the objectives and the mechanism by which the international community would monitor the progress of property laws in the country. Property repossession was essential to unlock the return process by freeing space and allowing displaced to return thereby freeing the house they would occupy. The united approach and the determination shown by the international community resulted in impressive results. From a rate of implementation of 15% in 1999, the implementation rate jumped to 37% in 2001, 64% in 2002 and 93% in 2003. (Paul Prettitore, World Bank, 12 June 2004, OHR/OSCE/UNHCR/UNMIBH/CRPC, 11

December 2001, OHR/OSCE/UNHCR/UNMIBH/CRPC, 3 December 2002, OHR/OSCE/UNHCR, 11 February 2004).

It is also in 1999 that minority returns started to represent more than half of the total return. In 2000, 89% of returnees were minority in their place of return. The peak of the return movement was reached in 2002 with 107,000 returns during the year, 96% of whom were minority returnees. The return movement consequently slowed down in 2003 and 2004. (MHRR, December 2004, p.36 and p.39)

It can be seen from the above that it took several years for displaced persons to feel safe about return and to have the possibility to do so, thanks to reconstruction and property implementation. Unfortunately, the impetus of the return movement creating new assistance needs corresponded to the decline of international funds. This situation had a very negative impact leading several agencies to cut down their projects intending to make return sustainable. The lack of funds created the risk to see a return into displacement. (CAP, 8 November 2000). The late return movement illustrated the fact that minority return is a long-term process and that funds are essential to ensure sustainability of return. The Consolidated Inter-Agency Appeal (CAP) for 2001 received 49% of the requirements while the last CAP (for 2002) received only 40% (CAP, 20 January 2002, OCHA, 31 December 2002). From 1996 to 2002 Bosnia and Herzegovina received an average of USD 750 millions per year from the international community. The two largest donors have been the European Union and the United States. According to a survey carried out by UNDP the funding prospect is USD 120 million of bilateral assistance per year for the next 2-3 years, between USD 80 and 90 millions yearly from the World Bank for 2004 and 2005, USD 10 millions per annum from UNDP for 2004 and 2005. (UNDP, November 2003, p.46). The European Union has given EUR 64 million for its 2004 CARDS programme (EC delegation to BiH, 6 June 2004).

From humanitarian assistance to state-building and development.

This drastic fall in assistance to Bosnia and Herzegovina has been accompanied by a re-orientation of the assistance from a humanitarian and reconstruction phase to a longer term one focused on reinforcement of State institutions and capacity-building. Over the years, the international community consistently widened the scope of its intervention to make BiH a functioning and sustainable state and to provide an environment conducive to return. Reform of the judicial, education, police and defence system has been undertaken under guidance of the international community. Human rights institutions have also been reformed to reinforce national capacity to deal with claims of violations. These reforms reflect the objectives set up by the [European Union](#) which has stated that one of the requirements to progress on the accession process is to develop functioning state institutions complying with democratic and human rights principles. Compliance of the [Council of Europe](#) commitments is a pre-condition to accession. (EC, 22 October 2001).

This move towards Europe is reflected in the changing framework of international assistance which has progressively moved from UN response to a mainly EU one (except for the UNDP). The UN mission and IPTF ended their activities in December 2002. The police tasks were taken over by the European Police Mission (EUPM). The NATO SFOR was replaced by EUFOR, EU military forces in December 2004. The European Union has now the responsibility to ensure peacekeeping operations. (NATO, 2 December 2004).

The EU has made it clear that the accession process would depend on the capacity of Bosnia and Herzegovina to take ownership of the reforms. (EC, 22 October 2001). UNDP policy and programmes support that objective and aim at reinforcing the capacity of Bosnian authorities and local actors to determine their priorities for development and implement their own projects. (UNDP, November 2003, p.5 and 46). UNDP is focusing on the development aspects and has developed projects in line with national priorities as defined in the [PRSP](#), and longer term objectives set in the [Millennium Development Goals](#). Programmes such as SUTRA (see national response above) and the Rights-Based Municipal Assessment and Planning Programme ([RMAP](#)) contribute to foster dialogue at local level between authorities and civil society. By the end of 2005, the RMAP will have made an assessment of human rights situation in 25 municipalities. RMAP is an effort to identify and human rights violations, responsible sides and measures needed to improve the situation. The project is jointly implemented by UNDP, OHCHR and Ministry for Human Rights and Refugees.

Since Dayton, the focus of the assistance delivered by the international community has been on facilitating return to reverse the effects of the war. Almost 10 years after Dayton, it is still the case and the international community is avoiding support to projects facilitating integration of IDPs. In the Bosnian context, this is still seen as a consolidation of ethnic cleansing and a deterrent to return. Indeed, local authorities have focused on relocation of IDPs, often with ill intentions. However, the most vulnerable cases among the displaced who cannot return for various reasons (age, handicap, war trauma) should be able to receive such support. Even though the bulk of return has already happened, many displaced might still be interested to return if socio-economic conditions and discriminatory atmosphere upon return improve. Those who have destroyed houses need support.

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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