
**Briefing Note
on
UNHCR and Annex 7 in Bosnia and Herzegovina**

Background

Since the signing of the Dayton Peace Agreement (DPA), a significant number of Bosnian refugees and internally displaced persons (IDPs)¹ have returned. Still today, twelve years after the war, a substantial number of people are seeking support to restart their lives, either by returning to their places of origin or improving their living conditions in their place of displacement. By the end of September 2007, 446,215 former refugees and 577,750 IDPs have exercised their right to return, out of an estimated 2.2 million persons who were forcibly displaced during the war.

Major returns began shortly after the signing of the DPA and then declined substantially. Later, in 2002 when the property repossession rate was at its height, the rate of returns saw a significant increase. Through the property repossession mechanism, refugees and IDPs were able to access property that had been occupied during wartime, thereby exercising their right of return. However it has since become apparent that after repossessing property, many people sold, exchanged or rented it, opting not to return permanently.

From 2003 to present, returns have decreased dramatically. This drop in return figures largely parallels the decreasing property repossession figures as the repossession system drew to a close. There has also been a corresponding drop in donor funds for reconstruction assistance, in that same period.

While the return figures suggest that the persons have been able to return to their pre-war place of residence, in line with the goals of Annex 7 of the DPA, in reality the actual return to place of origin may be considerably less than envisaged. There are indications that many returnees did not stay in their place of return permanently, probably due primarily to the lack of economic opportunities there. Those who have returned permanently tend to be older and in rural areas where they depend upon agriculture. Many young IDPs have remained in their place of displacement seeking education, social and economic opportunities that are scarcer in their communities of origin. The trend seems to be that people are remaining in (and moving to) areas where they can live amongst their own ethnic group. However a definite assessment of the

¹ Persons who were displaced as a result of conflict but did not depart from Bosnia-Herzegovina.

demographic composition of the population in BiH will only be possible once a new census has taken place.

Remaining Internally Displaced Persons

In 2004-2005, State and Entity authorities, with the co-operation of UNHCR, engaged in a country-wide re-registration of IDPs. Following the last similar exercise in 2000, when over half a million persons registered as IDPs, the aim was to adjust operating figures by determining an accurate number and identifying the main needs of those still displaced in 2005. The re-registration and subsequent revision of DP status confirmed that 135,500 IDPs remained in need of a durable solution in BiH.² According to the 2005 re-registration, there were 61,415 IDPs in the Federation, 72,935 in the RS, and 1,153 in Brcko District. The significant drop in IDP figures indicates that many people have found a solution and are no longer in need of IDP status.

While international as well as local assistance projects have so far mainly focused on facilitating return by reconstructing damaged houses and rehabilitating the infrastructure of main return areas, the needs of those who are not able to return either for protection or humanitarian reasons, including those who have suffered from severe human rights abuses, have remained essentially unaddressed. The social protection system currently in place is insufficient in many parts of BiH and not functioning at all in many areas due to a lack of effective legislation, adequate government institutions and mechanisms or necessary funding. More emphasis should be placed on efforts designed to assist the most vulnerable individuals who are not able to return due to past trauma or other special protection concerns.

Remaining Return Efforts

According to the BiH Ministry for Human Rights and Refugees (MHRR), more than 43,000 families have applied for reconstruction of their destroyed property. However this may not be an indication that those same families actually wish to return to their places of origin. Many IDPs may have applied for reconstruction to maintain their eligibility for government-funded temporary accommodation or may be seeking support to reconstruct houses to sell or use as a second home. Presently the Government, led by MHRR, is reviewing its strategy to effectively implement Annex 7 and is examining ways to involve more Government actors both at the State and Entity levels to ensure a greater focus is placed on ensuring access to rights for IDPs, with special efforts to be made for vulnerable persons in need of greater social support. IDPs who never owned any property and those that prefer to remain in their place of displacement are also under consideration for support.

² Durable solutions include support for sustainable return, and for persons who prefer to remain where they are displaced or to move to another location to restart their life.

Living Conditions of IDPs

While the numbers of IDPs and refugees in BiH are substantially lower than those recorded in 2000, their living conditions remain a grave concern. Throughout the country, they continue to reside primarily in urban centres, such as Banja Luka, Sarajevo, Tuzla and Mostar, many in government-funded temporary accommodation. It is fair to assume that those persons, who still in 2007 maintain IDP status with the relatively limited benefits attached to it, are the most vulnerable among the overall population. Others may have, in the meantime, found a durable solution, either by returning to their pre-war homes or by locally integrating into their new place of residence.

IDP status is often the only opportunity for a vulnerable individual to have access to legal as well as minimum social protection such as temporary accommodation, health care, and/or other basic entitlements. However, even where IDP status is confirmed, IDPs often have difficulty accessing the assistance or accommodation to which they are entitled. The collective accommodation which is available today provides only the most rudimentary living conditions. Many persons have lived in these facilities for years due to a lack of funds for repair and development of infrastructure and services and slow implementation of reconstruction in many areas of BiH. Lack of Government leadership and plain oversight for many communities has also hindered improvement of living conditions for IDPs.

Access to Social and Economic Rights

At the time of the re-registration in 2005, 82% of the IDPs had destroyed property. It is assumed that the IDPs are mainly accommodated in private property (22%). Some are residing in collective accommodation (8%) or are accommodated in socially owned apartments (8%). As the economic situation in BiH is bleak, worsened by the difficulties which accompany any economic transition, employment opportunities are scarce across the country. While this lack of employment opportunities constitutes an obstacle to return, it also haunts individuals in displacement. Only an estimated 17% of the IDPs are employed. Many others rely on pensions and other allowances and/or entitlements for their subsistence. It is assumed that 20% of the IDPs are without *any* source of income.

Gender and Age Considerations

The recent re-registration indicates that 2,467 are elderly without any source of income. Children are also a vulnerable group. There are around 19,000 minors, of which 3,000 are 5 years of age, or less and 16,000 are between 5 and 18 years of age. Furthermore, it appears that roughly 96,000 of the IDPs are women, and approximately 32% are female-heads of households, another group of particular concern.

Vulnerable Persons

Among the IDPs are significant numbers of persons who need special attention: 8,845 persons are physically and/or mentally challenged and 10,926 are chronically ill. The problems to be addressed to improve conditions for many IDPs go far beyond return and local integration efforts. Political will to implement social policies to address the needs of this vulnerable population will be required. At present, weak government institutions do not effectively support these vulnerable IDPs. According to various Government reports approximately 7,000 extremely vulnerable IDPs live in some form of collective accommodation. More specific review of this category is necessary in order to identify appropriate solutions for them. The Government effort to find a permanent solution for these persons needs to be increased. For many vulnerable persons, after 16 years of living as an IDP, focus only on return is not realistic. All aspects of durable solutions will need to be examined.

UNHCR Activities

UNHCR continues to promote return of IDPs as the most suitable durable solution, by closely co-operating with the competent national authorities and endeavouring to remove remaining obstacles to return, particularly for the most vulnerable among the IDP population.

State Commission for Refugees and Displaced Persons (SCRDP)

UNHCR participates in the work of the SCRDP which was established in February 2000 as a follow up to the New York Declaration and in accordance with Article 23 of the State Law on Refugees from BiH and Displaced Persons in BiH. UNHCR has been directly involved in the decision making process relating to return and reconstruction projects. Following the adoption of the amendments to the State Law in November 2003, UNHCR continues to participate in the work of the SCRDP as an observer with an advisory role, particularly on the design and implementation of return projects.

Preparation and planning for high level mission and IDP conference

UNHCR, jointly with MHRR, plans to organize a major conference on IDPs in BiH. This will be done in cooperation with the office of Mr. Walter Kalin, Representative of the UN Secretary General (RSG) for Human Rights of Internally Displaced Persons, the UN Country Team, and the BiH Government. The conference will take stock of the progress achieved so far and make recommendations for a greater role and types of actions to be taken by the Government and development-oriented organizations to facilitate durable solutions for the remaining IDPs. The timing of the visit by the RSG and conference will be coordinated with the MHRR in their role as the responsible Ministry for review of the existing Government strategy.

Focus on the most vulnerable displaced persons

UNHCR, will identify, along with Government actors, obstacles to durable solutions and make recommendations for increased efforts to address the needs

of the most vulnerable IDPs (mainly in collective centres). Local integration projects with sustainable care for the most vulnerable displaced persons, so far not widely considered, will also be examined. OHR advocacy and development actors' support will be needed to influence the Government bodies to prioritise their actions and budgets to find durable solutions for the most vulnerable

Closer analysis of minority and majority returns

Minority returns continues to be emphasised and remains a major political issue repeatedly raised as not being successful. The international community and UNHCR have described the success of Annex 7 as directly related to minority returns. After the successful work of the property law implementation plan (PLIP) which was substantially completed in 2003, the overwhelming majority of refugees and displaced persons were able to repossess their property in areas where they are a member of the minority ethnic group. As described above, repossession and reconstruction did not always result in permanent return. In many cases returnees did not stay in the place of origin, but instead opted to relocate permanently in the place of displacement or elsewhere where they were of the majority ethnicity. UNHCR aims to investigate this phenomenon more thoroughly and report its findings in order to refocus Annex 7 activities on the most appropriate and likely durable solutions for those who remain displaced twelve years after the signing of the DPA.

Serious crimes, return and truth and reconciliation

Protection focused activities for the large number of persons who have not returned because of their experiences of persecution and resulting trauma needs to continue. The continuing work of the ICTY and the removal of criminal elements that are thought to remain in public employment, particularly the police, will help return and expose facts in order for the reconciliation process to begin. Identifying individuals who are responsible for crimes as opposed to applying collective guilt for abuses carried out during the war will also help the reconciliation process. Greater support for strengthening civil society NGOs will be needed. UNHCR is reviewing its present legal aid project with Vasa Prava with an aim to strengthen networks with other legal aid and human rights advocates. UNHCR will advocate for the prioritization for reparations for those who have experienced gross human rights violations to be included in the Government strategy for Annex 7 implementation together with support by donors to facilitate truth and reconciliation activities.