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Ministarstvo za ljudska prava  
i izbjeglice



**BOSNIA AND HERZEGOVINA**  
Ministry of Human Rights and  
Refugees

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*PROPOSAL*

**REVISED STRATEGY OF BOSNIA AND HERZEGOVINA**  
**For the Implementation of Annex VII**  
**Of the Dayton Peace Agreement**

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*Sarajevo, January 2010*

**Ministry of Human Rights and Refugees of Bosnia and Herzegovina**

***REVISED STRATEGY OF BOSNIA AND HERZEGOVINA  
FOR THE IMPLEMENTATION OF ANNEX VII OF THE DAYTON PEACE AGREEMENT***

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## **PREFACE**

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The Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement, made in the end of 2002, was the first joint framework State document defining goals and planning required actions and reforms towards a final implementation of the provisions of Annex VII of the *General Framework Agreement for Peace in BiH* (Agreement on Return of Refugees and Displaced Persons).

That document is particularly important because it was accepted both by respective State and entity institutions and by international community in BiH.

The Strategy defined the following **STRATEGY GOALS**:

- 1. Completion of the return process of BiH refugees and internally displaced persons;**
- 2. Implementation of repossession of property and reinstatement of occupancy rights;**
- 3. Completion of reconstruction process of housing units for the return needs;**
- 4. Ensuring conditions for sustainable return and reintegration process in BiH.**

In order to achieve the goals in a transparent, efficient and practical manner, the Strategy determined the following **REFORMS AND DIRECTIONS FOR THE STRATEGY ACTIONS**:

- 1. Legal reforms and harmonization of legislation;**
- 2. Structural and organizational reforms;**
- 3. Developing and putting into operation an integrated database;**
- 4. Creating conditions for sustainable return.**

The BiH Ministry of Human Rights and Refugees, in co-operation with the respective entity ministries and BiH Brčko District departments, proceeded systematically and methodically upon the reforms towards the implementation of the goals set out in the Strategy.

The reform processes were especially challenged and directly affected with the fact that Bosnia and Herzegovina (BiH) was faced with two equally important priorities. On one hand, there was the obligation of transferring fully the responsibilities for the implementation of Annex VII of the Dayton Peace Agreement from the international community institutions to the authorities in BiH, and on the other hand, it was necessary to implement the goals set out in the Strategy.

There is no doubt that extraordinary results were achieved in implementing certain Strategy goals, followed also by the establishment and institutionalization of a transparent system which has become the safeguard of equality of all refugees, displaced persons and returnees in their access to the return-related assistance.

In the last fourteen years since signing the Dayton Peace Agreement, almost all occupied property has been returned to its pre-war owners; thousands of houses have been reconstructed; representation of minorities in the public sector has increased; freedom of movement is today enjoyed by everybody; and the safety of returnees has been significantly improved.

However, despite all those improvements, there still remains a lot to be done in order to enable unhindered access to rights set forth in Annex VII for all people in BiH.

It has been evidently necessary to review and strengthen the efforts on the implementation of Annex VII. To this end, the BiH Ministry of Human Rights and Refugees and UNHCR, in close consultations with other key actors, have initiated the revision of the *Strategy for the Implementation of Annex VII of the Dayton Peace Agreement*.

The activities on drafting a revised Strategy started in October 2007 with adoption of the Revision Action Plan stipulating the establishment of 10 consultative working sub-groups tasked to implement the activities relating to analyzing and recommending the Strategy reforms and goals in the **FIELDS** as follows:

- 1. Reconstruction of housing units of refugees, displaced persons and returnees; closure of collective canters and resolving the issue of alternative accommodation of displaced persons and returnees and of social housing with particular reference to problems of displaced persons and refugees and to housing of vulnerable categories of returnees;**
- 2. Completion of the process of property repossession and reinstatement of occupancy rights of refugees, displaced persons and returnees;**
- 3. Electrification of returnees' settlements and individual housing units of returnees;**
- 4. Reconstruction of infrastructure in places of interest for the return of refugees, displaced persons and returnees;**
- 5. Health care of displaced persons and returnees;**
- 6. Social protection of displaced persons and returnees;**
- 7. Exercise of the right to education of displaced persons and returnees;**
- 8. The right of labour and employment of displaced persons and returnees;**
- 9. Safety of displaced persons and returnees and de-mining of return sites;**
- 10. The right to damage compensation to displaced persons, refugees and returnees.**

All consulting, planned stages and activities stipulated in the Revision Action Plan have been implemented efficiently, and finalized with a draft document, which was first discussed at public discussions, and then forwarded to the BiH Council of Ministers, in the end of October 2008.

At its session held on 29 January, the Council of Ministers discussed and determined the text of the Proposal of the Revised Strategy, which was then adopted at the 53 session of the House of Representatives held on 13 May 2009. However, that Proposal did not receive the required entity majority at the session of the House of Peoples held on 18 June 2009.

After that, at its session held on 7 July 2009, the Joint Collegium of both Houses of the BiH Parliamentary Assembly, re-raised the issue of adopting the Revised Strategy and asked the Council of Ministers to make additional efforts in order to determine a new

harmonized proposal and to forward it as soon as possible into the parliamentary proceedings for adoption.

Representatives of the Ministry of Human Rights and Refugees were present at all sessions of houses and working bodies of the BiH Parliamentary Assembly, where the mentioned Strategy was discussed. Based on discussions of parliamentarians and members of the Joint Commission for Human Rights, Rights of the Child, Youth, Immigration, Refugees, Asylum and Ethics, the need for a conceptual solution was identified in two specific areas: Substantial Completion of the Return Process by 2014 and Access to Rights of Damage Compensation in the Context of Annex VII of the DPA for Refugees and Displaced Persons.

To this end, the original document has been supplemented with two annexes as follows:

**2009-2014 Framework return Programme and  
Concept Note for Addressing the Issue of Damage Compensation with the Action  
Plan**

The supplemented Revised Strategy has been agreed with the competent entity ministries, BiH Brčko District Government and UNHCR. We believe that after more than two years from commencing an intensive work on revising this highly important and complicated strategic document, a comprehensive operational framework has been made, the implementation of which will result in improving access to rights ensured in Annex VII, DPA.

BIH MINISTER FOR HUMAN RIGHTS AND REFUGEES  
Safet Halilović

## Appreciations

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Besides the BiH Ministry of Human Rights and Refugees as a focal point for the activities, with co-chairing by UNHCR or OSCE and the BiH Ministry of Civil Affairs, the working sub-groups also involved representatives of more than fifty institutions and organizations of domestic authorities, international community, NGO sector and civil society.

We wish to use this opportunity to express our appreciation to authors and editors, as well as to all institutions and individuals who participated in the work of the working sub-groups and thus contributed to the revision of the BiH Strategy for the Implementation of Annex VII of the DPA (in alphabetical order)

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**Framework Return Programme of Refugees and Displaced Persons for the Period 2009-2014**

**ANNEX 2:**

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## INTRODUCTION

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By signing Annex VII of the Dayton Peace Agreement, the signatory parties confirmed their commitment to the rights of refugees and displaced persons, in particular the right of return as well as restitution of property and/or compensation.

Despite substantial achievements in the implementation of Annex VII, more than half of 2.2 million of refugees and displaced persons have not returned to their homes, and many of them still need durable solutions.

There remains a significant number of displaced persons, refugees and other conflict-affected persons of concern who are in need of durable solutions, among them, 125,000 displaced persons whose status was confirmed in the 2005 re-registration process. Many of these people are extremely vulnerable and traumatized, living in inhumane conditions in displacement.

Unfortunately, around 2,700 families continue to live in collective centres in BiH.

Also, many persons are unable to return because their pre-war property is destroyed and is on the list of 45,000 housing units of returnees awaiting reconstruction or because landmines have not been cleared from their pre-war villages.

Many persons who never owned property before the war have not had the opportunity to benefit from any project to lead towards a durable solution for them.

At the same time many people who have already returned face conditions that threaten their ability to remain in the place of return.

There is a great discrepancy between the investments and real needs for the implementation of the goals set out in the *BiH Strategy for the Implementation of Annex VII of the Dayton Peace Agreement*.

Economic opportunities are scarce, often there is no infrastructure, including electricity, and their access to rights and services, such as health care, education, social protection and pensions, is limited.

Not rarely, these limitations are rooted in discrimination, which is contrary to the principles set out in Annex VII, the BiH Constitution and international law. In other cases the primary obstacle to return is changed social environment where many persons, particularly younger ones, seek higher education and employment opportunities in larger towns instead of rural communities.

As guaranteed by the BiH Constitution as well as by international standards, displaced persons and returnees are entitled to the same rights as all other BiH residents. However, today, more than 14 years since signing the Dayton Peace Agreement, many challenges remain to be overcome in order to ensure access to human rights for many displaced persons and returnees, particularly the most vulnerable persons who need additional financial and social support.

Progress in BiH society has slowed down in many areas. This particularly applies to economic and social development. Potential returnees are consequently faced with discouraging living realities throughout BiH.

However, despite all the problems and many years spent outside their pre-war residences, many displaced persons have expressed their wish and intent to return; hence, for them, durable solutions should be identified within this option.

Therefore, it is necessary to keep the focus as well as to undertake some additional efforts towards continued support for access to the rights to safe and dignified return and full re-integration of returnees, without preferences for any group or individual, thus ensuring a standardized and harmonized implementation of the goals set out in Annex VII of the *General Framework Agreement for Peace in Bosnia and Herzegovina throughout BiH* in a way to ensure the equality of refugees, displaced persons and returnees, without questioning their right to opt for other available and preferred durable solutions, especially keeping in mind standards from the international framework for protection of displaced persons as consolidated in the *Guiding Principles of Internal Displacement*.

## **I – SUMMARY OF THE CURRENT SITUATION IN THE FIELD OF REFUGEES FROM BIH AND DISPLACED PERSONS IN BIH**

At the time of signing the Dayton Peace Agreement, there were estimated 2.2 millions of refugees and displaced persons in BiH, which is more than a half of the population registered during the 1991 census.

### **1. Refugees from Bosnia and Herzegovina**

It is estimated that around 400,000 persons still live outside BiH, out of 1.2 millions of our citizens who left BiH in 1992-1995 and who have been registered as refugees from BiH. Most of them have been integrated in their host countries. It is estimated that nearly 80,000 refugees from BiH are still in need of durable solutions, which may include their return to BiH.

6,550 families, including approximately 23,500 refugees, have applied from abroad for reconstruction assistance. Almost three quarters (75%) of them live in neighbouring countries in the region, around 20% in the European countries and around 5% overseas.

A huge problem represents the return of extremely vulnerable categories of our refugees from the host countries. Despite many years of bilateral efforts, the State has not managed to resolve fully this burning issue through the existing system. This particularly applies to return of mentally sick patients who are fully dependent on assistance by the country of their return. Recently, BiH has managed to efficiently repatriate one such group of 19 refugees who were accommodated in a refugee center in Debrecin, Hungary, while 56 refugees from BiH are accommodated in psychiatric hospitals in Croatia.

Similar examples of extremely vulnerable groups of BiH refugees – mental patients as well as other vulnerable categories of refugees, like physically and mentally disabled persons, former concentration camp prisoners, unaccompanied children, etc. – exist in other countries.

### **2. Displaced persons in Bosnia and Herzegovina**

#### **2.1. Displacement resulting from the conflict**

After signing the peace agreement in late 1995, around one million of persons was displaced in BiH, making almost a quarter of the pre-war BiH population. Amongst them, one third was displaced in their residence municipalities, leading to conclusion that causes of displacement were not necessarily connected with persecution and/or well-founded fear of persecution and generalized violence; instead, they could also be related directly to the effects of the conflict upon the property and/or pre-war homes of displaced persons.

#### **2.2. Registration of displaced persons in BiH in 2000**

The first comprehensive official registration of persons in BiH was carried out in late 2000, when 185,233 displaced families were registered (557,275 displaced persons in total), of whom 93,422 families or 50.43% in Federation of Bosnia and Herzegovina (FBiH), 84,318 or 45.52% in Republika Srpska (RS) and 7,493 or 4.05% in BiH Brčko District.

Broken down by ethnic composition, there were 44.4% registered Bosniaks, 47.7%, Serbs, 7.5% Croats, and 0.4% of other registered displaced persons who are members of other ethnicities in BiH.

### **2.3. Displaced persons in BiH in the beginning of 2008**

#### *- 2005 re-registration*

Revision of the number and the status of displaced persons started after compiling applications for the status revision throughout BiH, which was completed on 31/03/2005. There were 59,825 applications submitted for (re)registration of 186,451 displaced persons in BiH.

#### *- Results of the revision of the status and the number of displaced persons in BiH*

Out of the total number of the applications submitted on the State level, the first-instance administrative proceedings resulted in around 32% negative decisions i.e. the status ceased or was not granted for 59,021 persons, in accordance with legal provisions, while the others were issued with positive decisions. Thus, currently there are 41,013 displaced families in BiH, including 125,072 displaced persons, of whom 56,287 or 45% in FBiH, 67,673 or 54.1% in RS and 1,112 or 0.9% in BiH Brčko District.

#### *- Ethnic composition of displaced persons in BiH*

According to the results of the revision of the status of displaced persons, the number of displaced Serbs in BiH has grown i.e. the percentage of their participation in the ethnic composition of displaced persons in BiH has increased. Thus, 69,099 displaced persons (55.2%) are Serbs, 47,907 or 38.3% Bosniaks, 7,450 or 6% Croats, and the remaining 616 (0.5%) are members of other ethnicities.

#### *- Composition of displaced persons broken by places of their current and pre-war residences*

The analysis shows that overall on the State level, the majority of displaced persons have been displaced inter-entity; the percentage is the highest in RS, where more than 90% of Displaced persons come from FBiH, while in FBiH, majority are intra-entity displaced persons; this particularly applies to Brčko, where almost half of displaced persons has been displaced within the territory of the District i.e. they are locally displaced.

Furthermore, local displacement i.e. displacement within domicile places of residence is the most frequent in urban areas where there was the largest number of socially-owned housing units/apartments. This is directly associated with the significant number of the remaining damaged or destroyed housing units in apartment buildings, the reconstruction of which did not efficiently follow the return needs due to high renovation costs and other problems such as unresolved ownership status, etc.

#### *- Link between the housing units condition and displaced person status*

By comparing the number of housing units owned or used by virtue of occupancy rights by heads of displaced families with the number of housing units of displaced persons that are currently destroyed/uninhabitable, it is evident that those two numbers are almost compatible. The reason for this coincidence is that, according to valid legislation, one of the basic criteria for confirmation and/or recognition of the DP status is primarily linked to (in)ability to reside in a pre-war housing unit due to its (un)inhabitability.

- *Accommodation of displaced persons in BiH*

Displaced persons live in different types/forms of accommodation in two entities and in BiH Brčko District. While displaced persons in BiH Brčko District are accommodated solely in individual housing units, the two entities provide for various forms of collective accommodation. However, as opposed to FBiH where special facilities officially recognized as collective centres are still existent, as well as other forms of collective accommodation, displaced persons in RS are accommodated collectively in adapted units, namely facilities of former schools, cultural centres, military barracks, health centres, etc. where accommodation conditions are very poor, as well as in facilities leased for collective accommodation, mainly hotel or motel facilities or company facilities used for accommodation of their employees. The accommodation standard of refugees and displaced persons in those facilities is also very low.

Majority of persons displaced within FBiH are accommodated in alternative forms of accommodation - in private property of other persons, followed by collective accommodation facilities. Among other forms of accommodation, during the re-registration exercise, most families said they were renting, followed by those who lived with family or friends, then in improvised housing facilities, partially repaired, uninhabitable, temporary structures, but there were quite a lot of those who indicated they had their own houses or apartments in the places of displacement.

In RS, a considerable number of displaced persons live in individual housing units, leased by the RS Government for housing needs of displaced persons. Among the other forms of accommodation, most displaced persons in the RS indicated they were living with their family or friends or as tenants.

In the BiH Brčko District, most displaced persons use socially owned property/apartments as an alternative accommodation, whether the adapted/reconstructed or newly constructed replacement apartments in apartment buildings, which have not been privatized.

- *Alternative accommodation of displaced persons in BiH*

The categorization of accommodation to alternative and other forms of accommodation used by displaced persons in accordance with their choice and abilities, often even in case when they are entitled to organized alternative accommodation i.e. to accommodation funded from the budgetary allocations for this purpose, primarily has to do with the source which covers the costs. Thus, we can distinguish between the organized alternative accommodation, which is funded from the budget, and accommodation used by displaced persons in their individual arrangements. On one hand, this indicates the lack of funds for funding accommodation for all displaced persons who are entitled to such housing support; while on the other hand, it may be the indicator of a poor housing standard that is offered in the alternative forms of accommodation paid or otherwise provided by different levels of authorities.

Despite very high budgetary allocations for covering the costs of alternative accommodation of displaced persons, which is a financial burden for both entities, BiH Brčko District and almost all FBiH cantons, majority of displaced persons, in total over 70,000, do not use alternative accommodation, while the number of those using some kind of organized alternative accommodation is significantly smaller, comprising a little bit more than one third of displaced persons in BiH i.e. around 15,000 families with around 45,000 persons.

- *Collective forms of housing in BiH*

Among displaced persons accommodated in alternative accommodation there are 3,000 families or around 8,500 individuals who nearly 13 years after the end of the conflict still live in various forms of collective accommodation. It should be especially noted here that the mentioned number refers exclusively to persons having a DP status. However, in addition to that number, there are also *de facto* displaced persons and other non-displaced persons who use collective accommodation on some other grounds, due to unavailability of any other, more appropriate form of accommodation, which is the basis for social security of citizens.

### **3. Durable solutions for persons affected by forced migration**

#### **3.1. Voluntary return and reintegration**

In the attempt to mitigate the consequences of forced migration upon the population and to protect the rights of displaced persons and refugees, the State has opted for prioritized support to voluntary return as the most desirable form of durable solutions for displaced persons and refugees, without questioning their individual right to opt for other available and preferred durable solutions, as asserted in Annex VII of the Dayton Agreement.

However, while numerous displaced persons have exercised their right to return, many remain in a difficult situation and require support in order to reintegrate adequately in their pre-war environment.

#### **3.2. Potential durable solutions for displaced persons in BiH**

Comparing the indicators relating to pre-war housing and the current status of housing units is especially important from the aspect of identifying durable solutions for displaced persons. Through additional incorporation of other relevant prerequisites and criteria, such as, above all, the wish to return, one of the key elements for resolving the displacement issue in BiH and supporting those who wish to return is reconstruction i.e. renovation of pre-war homes where displaced persons used to live.

Furthermore, when provision of accommodation - through reconstruction of a housing stock - is required for making a decision on return, on one hand it will stimulate positive developments in this area, while on the other hand, when the right of reconstruction is exercised, it will reduce the needs to ensure access to housing rights of refugees and displaced persons.

- *Provision of durable solutions through reconstruction of housing units of returnees*

By establishing the link between identifications of possible durable solutions through reconstruction and return, displaced persons who have returned will be permanently provided with housing. In addition, it is estimated that the need for a significant percentage of alternative temporary housing capacities would ultimately cease, what would lead to commensurate alleviation of burden on the entity and cantonal budgets that are currently used for funding accommodation of displaced persons. Consequently, the funds currently engaged for those purposes could be released and reallocated to variety of other needs, including other durable housing solutions and social housing of persons in need of housing; however, efforts in these regards cannot wait until after the reconstruction program is complete, as many people in collective centres are extremely vulnerable and require this support more immediately, indeed urgently.

More specifically, housing programs in both of these directions – reconstruction to enable return as well as alternative durable solutions in their places of displacement – would permanently resolve the issue of housing for two thirds of all displaced persons who currently use collective accommodation, which would enable full elimination of such forms of housing, either through closing them down or through changing their purpose.

It is most certain, however, that specification of other criteria for reconstruction assistance in accordance with the current legislation would deprive a number of displaced persons of this possibility, but this will also be the case when the situation at the site directly hinders the implementation of reconstruction project, like, for instance, when the area is mined, when it is not possible to transport the construction materials to the reconstruction site, or when other infrastructure (water supply, sewer, power grid) are completely destroyed or seriously damaged. Housing alone, therefore, is not enough for a durable solution; a multi-sector comprehensive and integrated approach is required.

- *Displaced persons for whom durable solutions cannot be provided through reconstruction*

Still, there would obviously be a number of displaced persons whose durable housing issue would be impossible to resolve by reconstruction of their pre-war housing units. This primarily refers to those individuals whose displaced person status has been revised on protection, humanitarian or other grounds, as well as to persons with special needs, because the process of (re)registration has shown that, unfortunately, not a small number of displaced persons in BiH fall in the category of extremely vulnerable population, such as: physically and mentally disabled persons, chronicle patients, single parent families, children without parents, elderly persons without any source of income, and other persons who have objective reasons for not returning.

In all such cases, it would be necessary to exercise a rather high degree of sensitivity in identifying durable solutions, whether by placing them in special purpose institutions or by implementing a far more complex assistance projects than only the projects of reconstruction of housing units.

Excluding displaced persons for whom, in the best case scenario, durable solutions could be found through reconstruction, about 45,000 displaced persons, which is approximately 36.2% of displaced population in BiH, still require some form of housing, which may be provided either through resolving the housing issue in the places of their pre-war residence or through integration in places of displacement, where the basic criterion would be their wish to return and/or lack of their wish to return.

Out of this number, for around 6,000 displaced families/19,000 persons, who expressed their wish to return to their pre-war residences, it is necessary to look for solution within this option.

Still, there is a significant number of people who are not sure; there are 1,300 such families or 4,300 individuals, for whom availability of housing in their pre-war places of residence could be a determining factor in opting for the return. This population must not stay marginalized when it comes to identification of appropriate durable solutions, particularly if one takes into account that almost half of the total number of all remaining displaced persons in need of durable solutions had lived with their parents before, which leads to conclusions that those are young families and/or household who were not property owners.

- *Need for local integration*

Of the total number of displaced persons in BiH, almost one fourth of household heads explicitly said in the process of (re)registration that they did not want to return to their

places of pre-war residence. Most of them have been displaced in RS, around 7,300 families or around 23,000 persons, who make around 89% of all those who do not wish to return; just above 10% (or 1,000 families/2,700 individuals) are displaced in FBiH, while the remaining 1% (around 100 families/300 persons) in the BiH Brčko District.

The composition of displaced persons who do not wish to return to their pre-war homes, by the location of displacement, largely reflects the ethnic composition, with 100% of Serbs in RS and in the BiH Brčko District, while in FBiH, two thirds of those who are excluding any option of return are Bosniaks, the remaining third are Croats, and the number of the Others is negligible.

Therefore, according to the expressed wish of approximately 8,300 families/26,000 displaced individuals, there is a need for identifying durable solution through some mode of integration in displacement places.

For the purpose of assessing the funds needed for provision of permanent housing and assistance to displaced persons when they wish to integrate locally, a thorough analysis of all relevant indicators would be sought for, but first of all, a much broader range of factors affecting their social status should be examined than those available from the available database on displaced persons completed and used by competent authorities as a reliable instrument in the return and reconstruction process in BiH.

#### **4. Security situation**

Full freedom of movement, as well as personal and property security, are among the most important prerequisites for a durable solution.

To this end, a primary task and responsibility of the State, entities, cantons and local communities is to ensure that all refugees, displaced persons and returnees enjoy physical security and have access to their fundamental civil and human rights and freedoms without any discrimination or risk of harm.

In addition to fear faced by displaced persons and returnees, especially by members of the so called "minority" population whose personal safety was at risk, the period immediately following the signing of the Dayton Peace Agreement was also characterized with the lack of staffing and logistic capacities and resources of security structures. It was the period of a huge mistrust by returnees towards security structures and towards the population in local communities they had fled from and where they had decided to return to.

Current legislation and by-laws prescribe that the competent entity ministries of internal affairs shall keep integrated criminal and misdemeanour records for all citizens in BiH. Thus, no specific indicators are available relating to returnees and their property.

Today, the security situation in the country in general is satisfactory, as confirmed in official data of the competent institutions. This position is shared by representatives of the Ministry of Human Rights and Refugees, representatives of respective entity institutions, representatives of EUPM, UNHCR and other international organizations. However, minority returnees continue to face threats or perceived threats to their physical security, which significantly impact their decision whether or not to return. Therefore, although the overall situation has vastly improved, it cannot yet be concluded that security no longer poses an obstacle to the return process.

##### **4.1. Anti-mine actions as a security element**

Beside a general note on satisfactory security situation, especially encouraging is the progress in the field of de-mining, achieved through the implementation of objectives and

goals set out in the Strategy, in accordance with the background legal framework, competencies and available budget. The outcome of all those positive actions is continuous significant decrease in the number of those suffering from the remaining mines and other explosive devices.

Very distressing is the information that between 1992 and 2007, 4,953 persons were hurt by mines in BiH. Of that number, 1,608 were hurt since 1996, 472 of them mortally. The total number of returnee-victims is 204, which is 12.7% relating to the total number of injured persons since 1996.

During that same period, 85,514,310 m<sup>2</sup> were de-mined in BiH. Annually, around 11 millions m<sup>2</sup> were de-mined, while the same productivity is expected in the forthcoming strategic period.

The total remaining area suspected to be under mines amounts to around 1,889 km<sup>2</sup> or approximately 3.68% of the overall State territory. Consequently, the State unfortunately continues to remain the country with the largest mine problem in Europe.

## **5. Communal and social infrastructure situation**

The need for reconstruction of damaged and destroyed infrastructure in returnee communities is directly linked with both the ability to return and its sustainability.

The experience gained in past indicates that reconstruction of infrastructure was often not followed by reconstruction of a housing stock and vice versa.

During the years immediately after the war, there was no systematic and synchronized approach in the implementation of reconstruction projects of infrastructure and a housing stock. Thus, in many cases available funds were not spent according to real needs and priorities. Also, the donors themselves often provided donations in accordance with their own criteria. Such non-selective approach to the implementation of the infrastructure projects that did not recognize real priorities in the field resulted in reconstructed infrastructure, but non-reconstructed housing units in some returnee communities, on one hand, and reconstructed but uninhabited housing units in other areas due to lack of basic infrastructure, on the other hand.

Data gathered from all municipalities in BiH indicate a rather uneven infrastructure situation in BiH. Thus, while in some places there is no communal or social infrastructure at all, in other areas the situation is much better as at those return sites only some smaller problems are present relating to completion of roads, sewage, telephone and electro installations with all the accompanying contents and the prescribed protective zone, while the other communities almost do not have any problems in fulfilling their fundamental housing, economic, health, education and cultural needs of their returnees.

Overall, the current situation does not fulfill the fundamental needs of both returnees and domicile population. However, this problem affects much more returnees and their decisions to return and remain in their areas of pre-war residence. Therefore, the improvement of the relevant situation requires a comprehensive strategic approach and planning with special focused reference on the returnee areas.

### **5.1. Electrification as particularly important element of infrastructure**

The problem of lack of electricity in housing units of returnees goes far beyond all the other problems of average returnee families by its significance and impact upon the life and activities of returnees and their families and by its far-reaching negative implications

upon both the implemented and the planned return. Life without electricity is not only the life without any possibility to maintain a minimum hygiene and health, inability to initiate and develop any business activity, total information blockade leading to social exclusion, but also a serious violation of human rights.

Despite that signing of the 2005 Agreement on Reconnection of Returnees' Housing Units to the Electricity Network in BiH between the BiH Ministry of Human Rights and Refugees, respective entity ministries and the competent electro-distribution companies, with support by OHR, UNHCR and OSCE, enabled dozens of returnees to have their houses reconnected to electricity network, this Agreement, unfortunately, did not provide for a satisfactory dynamic of electrification, especially at locations where electricity network had been significantly damaged and where the final consumer was located far away from the main electro-poles and network.

Although the field indicators show that many positive steps have been made towards resolving the problem of electrification of locations/units of the implemented and planned return, when it comes to the remaining unresolved needs, the electrification problem requires far more systematic efforts, budget allocations and good will of all relevant stakeholders BiH.

Currently, more than 2,600 housing units located in 65 municipalities are not connected to electro-distribution network in BiH. Returnees have lived there in darkness 2-6 years and in some cases even more than 10 years.

Furthermore, field indicators show that more than a half of the remaining housing units that should be reconstructed for the return purposes will require serious and extensive interventions at the electrical network.

## **6. Housing stock situation**

Of around 1.1 million housing units in BiH that were registered in the 1991 census, around 453,000 housing units or 42% of pre-war housing stock were destroyed or damaged during the 1992-1995 conflict. Of this number, around 100,000 housing units suffered only a small degree of damage (up to 20%), most housing units, around 270,000 of them, suffered medium damage (between 20% and 70%), while 800,000 suffered the highest degree of damage of up to total destruction (above 70%).

Unfortunately, destruction of housing stock continued even after signing the peace agreement, when almost 14,000 additional housing units were destroyed after 1995, most of which (over 80%) were at the territory of the present BiH Federation.

So far, around 317,000 housing units have been reconstructed, what makes for reconstruction rate of 68%. Of this number, around 232,000 housing units were located in FBiH and around 72,000 in RS, while additional 12,000 were reconstructed in the Brčko District.

The estimated two thirds or around 200,000 housing units were reconstructed with various international and local donations, while the remaining third, mostly less damaged buildings, were reconstructed by private funds of owners or tenancy right holders.

Based on the data gathered in the field from responsible municipal services, around 150,000 housing units have remained non-rehabilitated in BiH or around 32% of total damaged and destroyed housing stock. Most of those housing units have suffered high degree of damage up to the level of total devastation. In FBiH, there are around 80,000 non-reconstructed housing units, which makes the rate of 26% of destroyed and damaged housing stock in FBiH; in RS, around 66,000, which makes the rate of 48% in

RS; and around 3,000 non-reconstructed housing units, which makes the rate of 20% of destroyed and damaged housing stock, in the BiH Brčko District.

### **6.1. Need for priority renovation of a part of the housing stock**

The State is strongly committed to priority reconstruction of a part of the housing stock which needs to be reconstructed for return purpose. Achieving this purpose would require reconstruction of around 45,000 housing units i.e. approximately one third of the remaining destroyed and damaged housing units in BiH.

By putting in co-relation the number of potential beneficiaries of this assistance, level of damage to housing units in areas of return and average renovation costs needed in order to ensure minimum housing standards, the BiH Ministry of Human Rights and Refugees has assessed that priority reconstruction for return purposes in BiH would require around KM 600 million.

After the state managed to cope significantly with the problem of reconstruction of individual houses, and after it also resolved partially the needs related to reconstruction of apartment buildings – although this segment fell behind reconstruction of individual housing units – now a big emphasis should be placed on completion of reconstruction of apartment buildings in BiH.

According to the official information collected systematically from the field, it has been established that on the territory of 64 municipalities in BiH, the total of 450 apartment buildings still have not been completely reconstructed, with about 2,500 apartments in these buildings which are uninhabitable due to their destruction. Although this constitutes less than 1% of the total housing stock which was social property in 1991, the dimensions of the problem regarding the amount of funds needed for reconstruction of this portion of the housing stock – are obviously big.

The reason for this is, primarily, significantly higher average renovation costs per housing unit in apartment buildings than in individual housing units.

### **6.2. Need for reconstruction of a housing stock for return purposes**

Reconstruction of a housing stock for the return purposes should also be viewed in the context of ensuring only one of the main prerequisites for return, rather than as a sufficient condition for sustainable return, for which integral and integrated approach is required in the implementation of comprehensive measures to ensure sustainability, which are very closely related to the overall economic and social recovery and development.

In its previous Strategy, the State opted for prioritized renovation of a housing stock for return purposes (Goal no. 3).

There are two relevant sources of data on potential beneficiaries of assistance for return purposes:

- Database on registered/potential users of assistance for reconstruction and return;
- Database that was made in the process of revising the status of displaced persons.

The information available in the two above mentioned databases shows that, with a view to ensuring one of the most fundamental return prerequisites, about 45,000 applications for reconstruction of housing units remain outstanding.

In order to establish reliable and accurate data on the reconstruction required, the databases on registered/potential beneficiaries of this assistance would have to be upgraded, thus resulting in determination of the actual number, distribution, level of damage and approximate costs of reconstruction of the remaining destroyed or damaged housing units that should be reconstructed for those displaced persons who wish to return.

- *Potential beneficiaries of reconstruction assistance*

Database on re-registered/potential beneficiaries of assistance for reconstruction is used as the most reliable indicator of the needs.

Right now, the database contains around 45,000 registered applicants for assistance of around 150,000 persons, where around 24,000 applications (53%) concern reconstruction needs in FBiH, around 19,000 (43%) in the RS, and around 2,000 (3%) in the BiH Brčko District. According to the ethnic composition, around 44% of the potential beneficiaries are Bosniaks, around 13% are Croats, around 38% are Serbs, around 3% are the "Others", while in less than 1% of cases the applicants have failed to indicate their ethnicity.

Furthermore, some important data can be inferred from the composition of the population ("category") having the status of displaced persons/refugees. First of all, the term "category" is here used as a purely technical term in order to facilitate comparison between various situations in terms of the composition of displaced persons and refugees according to the places where they currently live against locations of their pre-war homes. It is particularly important to mention here that all the categories are specified according to the said criteria, regardless of their formal/legal status of refugees, displaced persons or returnees i.e. the *de facto* status is recognized as follows:

- Almost half of all registered potential beneficiaries live in their pre-war municipalities. They may be either returnees or locally displaced persons in their domicile municipalities applying for assistance to bring their housing units damaged or destroyed during the war in the habitable condition;
- Around 37% of the registered potential beneficiaries have been displaced to the other entity, those are mostly the potential "minority" <sup>(1)</sup> returnees;
- Around 15% are refugees from BiH, majority of them living in the countries in the region (Croatia and Serbia).

This way of classification, according to categories, may prove to be particularly important for identification of problems to focus on when proposing appropriate solutions for different areas in BiH and may also be useful for budget planning by responsible authorities at various levels in BiH and in particular for the purpose of their efficient inter-coordination in identifying durable solutions for refugees and displaced persons with a view to implementing Annex VII of the Dayton Peace Agreement.

For example, according to the current Strategy, the State should be responsible for funding the cross-border and inter-entity return, while the entities should be responsible for funding the other "categories", whether they have been displaced within their pre-war municipality or within the entity of their residence, which is at the same time the entity of return. This means that, based on the entered information on potential beneficiaries, the shares in funding joint reconstruction projects of individual housing units for return

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<sup>(1)</sup> "Minority" return is a purely technical term relating to individuals who have returned to their pre-war municipalities where some other constituent ethnicity represents today's majority.

purposes from the State budget and from the budget of the entities and Brčko District combined should be almost equal.



## **II - Access to rights of refugees, displaced persons and returnees**

### **1. Return**

#### **1.1. Return statistics**

According to official statistics, more than a million returns in BiH were registered, of whom around 450,000 refugees and 580,000 displaced persons.

Of the total number of 1,025,011 of registered returns of refugees and displaced persons <sup>(2)</sup>, around 72% have returned to FBiH, around 26% to RS and around 2% to BiH Brčko District.

Broken down by ethnic composition of returnees, 62% are Bosniaks, 13% are Croats, 24% are Serbs and 1% are others.

Official statistics have registered 465,733 so called "minority" returns.

According to the estimate of the Ministry for Human Rights and Refugees, the rate of "minority" returns, calculated on the basis of an estimated number of persons who left their pre-war residences in comparison to the number of returnees, is 32% in FBiH and 28.5% in RS, with 35% return rate of Bosniaks to RS and 8.5% return rate of Croats.

#### **1.2. Return and other durable solutions for displacement issues**

However, it is hard to say how many refugees and displaced persons have found a durable solution through the return option, since in addition to possible significant discrepancy between actual implemented return, it also happened that many individuals after repossession or reconstruction of their pre-war property - which was registered as return - left their pre-war residences once again, either temporarily or permanently.

Also, it is evident that more than a quarter of refugees and displaced persons has integrated in their host countries and displacement places in BiH or has found other durable solutions.

#### **1.3. Investments in the sector of sustainable return**

During the period of the five-year-long implementation of the BiH Strategy for the Implementation of Annex VII of the Dayton Peace Agreement, from the beginning of 2003 until the end of 2007, around KM 618 millions were invested in the sector of reconstruction and sustainability of return for around 31,500 families (around 130,000 persons), which amounts to almost KM 20,000 per a returnee family. Renovation costs per a housing unit amounted in average to around KM 11,000 (55%), while around KM 9,000 (45%) in average was invested in the measures towards the return sustainability, with participation of domestic institutions in funding sustainability of return amounting to around KM 447 millions (72%), and of foreign donors KM 170.7 (28%).

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<sup>(2)</sup> UNHCR official statistics as on 31/12/2007

It has been noted that overall, reconstruction funds tend to decrease every year, while the funds invested in sustainability of return have begun to grow. This particularly applies to the last year.

Furthermore, analytical monitoring of the process of reconstruction and return has shown that due to high level of damage of the remaining unreconstructed housing stock, and with the increase of prices, average renovation costs of housing units continue to grow. Moreover, although reconstruction of housing units is the most basic prerequisites for the return, it does not *per se* ensure a durable solution for a displacement issue.

However, in 2008, funds allocated for reconstruction have increased and for the first time the funds pooled in the Return Fund have been allocated to support sustainability of return.

Also, it is evident that domestic investment continues to grow every year, while investments by international donors in funding the process of reconstruction and return in BiH continue to decrease. Thus, this year, the total funds provided in the budgets of all governmental levels in BiH for the needs of sustainable return in BiH have reached the record of KM 150 millions.

## **2. Sustainable Return Elements**

### **2.1. Health**

Provision of adequate health care in time of peace is the challenge faced not only by undeveloped countries but also by highly developed countries. Health care system is very expensive and is one of the benchmarks for assessing the level of economic development of a country, which means that the level of health care of entire population depends on the level of economic power of that society.

Very complicated constitutional and legal solutions within the health care system in BiH do not ensure the functional connection between health care and human rights in the broadest sense. At the State level, only a very limited coordinating function of the State institutions has been established in terms that plans of entity authorities have been harmonized and strategies have been laid down at the international level in the area of health care.

The actual legal and institutional competence of health care in BiH has been established at the level of entities and BiH Brčko District. While, on one hand, this competence has been centralized in the Republic of Srpska, on the other hand, in FBiH health care competence has been divided between the entity and cantons, institutionally and legally.

The general intention to ensure universal health insurance coverage through legislation governing health insurance, unfortunately, has not been practically implemented, considering that according to some assessments many persons are not covered with health insurance. For example, the 2007 UNDP Report on Social Inclusion states that about 20% of BiH population is not covered with health insurance.

Also, it is obvious that there are differences regarding available health care between regions, or more precisely, there are significant differences in cost participation/exclusion from participation for provided health care or in physical availability of an adequate level of health care.

Moreover, "minority" returnees are not adequately represented in employment in health sector. Also, persons who are insured exclusively by virtue of their DP/returnee status risk difficulties in accessing health care after losing their status.

Entities have taken measures to make it easier for returnees to have access to the right to health care but the results achieved so far do not constitute a durable systematic solution for returnee problems in this field. In order to create conditions that will enable returnees to have unhindered and legally equal access to the health insurance system, it is evident that BiH authorities at all levels and different sectors need to take coordinated actions.

## 2.2. Education

BiH has signed international agreements in the field of education obligating the country to implement certain educational standards in the country. These agreements generally promote the same principles: accessibility, availability, acceptability, efficiency, official diploma validation, non-discrimination, non-segregation in education and obligation to maintain and continue reform processes.

In accordance with the Education Reform Plan <sup>(3)</sup> presented at the meeting of the Peace Implementation Council (PIC) held in Brussels on 22 November 2002, Ministries of Education in BiH took the responsibility to develop depoliticised, modern, high quality education system in BiH, in all its segments, and to ensure conditions for the exercise of the equal right to education for everyone, which primarily implies insurance of equal accessibility and equal possibility to participate in adequate education.

At the State level, a coordinating role of state institutions has been established in the sense of consolidation of plans of entity authorities and definition of the strategy at the international level in education fields.

Similarly, as in the health care field, actual legal and institutional competence for education in BiH has been established at the level of entities, cantons and BiH Brčko District. While, on one hand, this competence has been centralized in RS, on the other hand, in FBiH the competence for education has been divided, institutionally and legally, and education has been mostly under the cantonal jurisdiction.

Political influence is present at all education levels. Division based on ethnicity in the society affects selection of schools and creates additional obstacles for returnee and displaced children. Displaced children and returnee children live in difficult living conditions, especially returnees in rural areas, and a considerable number of returnee children still have a long walk to school.

Due to difficult conditions for a large number of returnee children, their education ends with primary school. According to the *Law on Refugees from BiH and Displaced Persons in BiH*, these children have the right to education. The *Framework Law on Primary and Secondary Education* regulates other rights to education.

Keeping in mind the ever-increasing needs of returnee families to accommodate educational needs, on 5 March 2002, the FBiH Minister for Education and Science and the RS Minister for Education signed the Interim Agreement on the Accommodation of Specific Needs of Returnee Children <sup>(4)</sup>. Subsequently, after the signing of the Interim Agreement, all education ministries in BiH (entity and cantonal) signed the Implementation Plan for the Interim Agreement on 13 November 2002. Considering the

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<sup>(3)</sup> [www.oscbih.org/document/26-cro.pdf](http://www.oscbih.org/document/26-cro.pdf)

<sup>(4)</sup> [www.oscebih.org/document/29-cro.pdf](http://www.oscebih.org/document/29-cro.pdf)

ever-growing number of returnees, their constitutional right and the right of their children to adequate education, and considering that different analysis and studies show that lack of adequate education is one of the basic obstacles for return, the goal of the Interim Agreement is to create conditions to include returnee children in schools throughout BiH and to ensure solutions, although only temporary, which will ensure legal equality for all constitutional peoples in BiH in the field of education.

*Interim Agreement Implementation Benchmarks: <sup>(5)</sup>*

1. To increase the number of returnee/minority domicile teachers hired;
2. To organize a teaching process for ethnic group of subjects (language and literature, history and geography-nature and society, in early grades of elementary school, and religious classes);
3. To harmonization ethnic composition of the school boards with ethnic composition of students in the school;
4. To remove offensive contents from textbooks for ethnic group of subjects;
5. To eliminate commuting children to mono-ethnic schools;
6. To identify permanent solutions for the education of returnees and the accommodation of the specific needs and rights of all constituent peoples and national minorities, including:
  - a) Development of amended and harmonized entity and cantonal education legislation that ensures the exercise and protection of the rights and needs of all returnee children, constituent peoples and national minorities;
  - b) Comprehensive review and revision of textbooks, supplemented textbooks and other literature used in the education process so that the content is acceptable to all returnee children, constituent peoples and national minorities;
  - c) Removal of inappropriate school symbols and objects based on recommendations of the Coordination Board for Implementation of the Interim Agreement on Returnee Children.

The above listed benchmarks are mainly unequally implemented throughout BiH and they depend on the political will of competent institutions.

Especially indicative and damaging is that in the 2006/2007 school year, unfortunately, no improvement was registered in the implementation of the Interim Agreement.

Regarding the statistics on the implementation of the Interim Agreement on Returnee Children in 2005, in the RS the total number of returnee students in 2005 was 7,026 (mostly Bosniaks, less Croats and Serbs) or 4.12%, and in the FBiH 30,606 (mostly Bosniaks, less Croats and Serbs) or 8.59%.

Difficult economic situation constitutes a big obstacle for quality education. Considering that there is no or no sufficient mechanism for providing systematic support to returnee groups who are in poor economic situation, the consequences of this are lack of motivation, dropping out of school, poor results and frequent skipping of classes.

Prominent apathy and general negative mood and attitude in society, especially among returnees and displaced persons, due to their inability to improve the situation, continue

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<sup>(5)</sup> [www.oscebih.org/document/2426-cro.pdf](http://www.oscebih.org/document/2426-cro.pdf)

to pose a challenge for engagement of all segments of society in education. Although returnee parents, children, but also teachers and other participants in the process, are greatly aware of how important this segment in society is, it seems that they are not familiar enough with their rights to and in education.

### **2.3. Labour and employment**

According to the assessment in the *Overview of the Labour Market Situation in Bosnia and Herzegovina*, "The current unemployment situation is the cause and the consequence of general socio-economic situation in Bosnia and Herzegovina. The number of unemployed persons in Bosnia and Herzegovina has reached dramatic proportions and the unemployment problem is considered to be one of the gravest problems of society as a whole. The labour market problem is even more explicit compared to other transition countries for the reason of disunited and fragmented market, which is the consequence of the constitutional order of the State and lack of legislation in the field of labour and employment at the State level.

Some major characteristics of the labour market in BiH are:

- Labour legislation is responsibility of entities (FBiH, RS and BiH Brčko District) and is in line with the ILO Conventions;
- Formal sectors employ labour force with long years of working experience, while younger workers have difficult access to jobs in the same sector;
- Actual unemployment is much lower than registered unemployment;
- "Black labour market" is largely present;
- Participation of women in labour force is among the lowest in the region, but difference in salaries between men and women is not so big;
- Creation and redistribution of jobs is insignificant as well as mobility and flexibility of labour force;
- High taxes and difficult access to loans are evident, which along with administrative barriers slows down the entrepreneurship development;
- Most companies do not register the total salary amount for their employees due to high contribution rates on salaries;
- Private sector is more dynamic in creating new jobs than public sector." <sup>(6)</sup>

Activity and employment rates according to the 2007 Labour Force Survey <sup>(7)</sup> were 43.9% and 31.2% while in 2006 they were 43.1% and 29.7%. Both rates were significantly higher for men than for women. Activity and employment rates were the highest in the age group from 25 to 49 (67.0% and 48.8%).

Less than half of the working age population in BiH are economically active persons i.e. those who appear as employed or unemployed in the labour market.

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<sup>(6)</sup> Bulletin No. 2, page 7, December 2006, issued by the Labour and Employment Agency of BiH, [www.agenrzbh.gov.ba](http://www.agenrzbh.gov.ba)

<sup>(7)</sup> Labour Force Survey, Sarajevo, 18 September 2007, No. 2, page 2, issued by the BiH Agency for Statistics, [www.bhas.ba](http://www.bhas.ba)

Composition of employed persons broken by their education shows that the largest share (62.6%) are persons who completed secondary school, followed by persons who completed elementary school or lower education (23.5%) and 13.9% of persons who graduated from university.

As regards unemployed persons, the composition is slightly different: 69.9% persons completed secondary school, 26.1% persons completed elementary school or lower education, while 4.1% graduated from college, university or have postgraduate degree, Masters or Ph.D.

Displaced persons and returnees have more problems to exercise their right to labour and employment, which affects the dynamics of return and return sustainability.

Problems in the field of labour rights faced by returnees and displaced persons, which affect the return process, are related to the general unemployment situation in BiH. Namely, there is a lack of job opportunities and overall destroyed economy system affects limited possibility of employment for returnees. Additionally, minority returnees face discrimination in getting employment to which they are entitled by legal provisions, in public administration authorities, police, judiciary, etc.

Also, there is no significant interest on the part of young highly educated persons among potential returnees to apply for advertised jobs in their pre-war places of residence, which could create preconditions for sustainable return.

#### **2.4. Social and pension/disability insurance**

##### *- Social protection*

Social protection, as an integral part of social policy, is an organized activity directed at ensuring social security to citizens and their families who are in need of social care, and it is exercised through provision of financial support and social services.

Social need is a temporary or permanent condition when a citizen or a family needs assistance to overcome social difficulties and to meet their needs.

Social protection is provided to beneficiaries who are incapable of work, who do not have resources to live or relatives obligated to support them and who are for special reasons unable to provide means for living.

Social protection beneficiaries are by definition the most destitute and the most vulnerable members of society.

Regarding social protection of returnees and their access to pension and disability insurance, unfortunately the results are not satisfactory.

Grave economic circumstances, shortage of work and delayed programs of the so-called sustainable return have brought most of returnees to the very edge of existence and induced a new wave of migration. <sup>(8)</sup>

Many displaced persons and returnees are in need of social care, faced with grave existential difficulties and often unbearable social situation in places of displacement and also in their pre-war places of residence after return.

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<sup>(8)</sup> Helsinki Committee for Human Rights in BiH, *Report on Human Rights Practices in Bosnia and Herzegovina, (January-December 2007)*

The cause for this is inability of returnees to exercise quality social rights based on their real needs, especially in immediate years after their return i.e. during the period of their reintegration.

The actual legal and institutional competence in the field of social protection in BiH is established at the level of entities and BiH Brčko District, while at the State level there is a coordinating function which is the competence of the BiH Ministry of Civil Affairs.

As regards the FBiH competence, it is decentralized and divided between the entity and cantons, while in the RS this field is centralized and divided between the entity and municipal authorities.

- *Pension and disability insurance*

The pension and disability insurance system in BiH is regulated by entity legislation, with problematic inter-entity payout of pensions.

Different amounts of pensions in entities are primarily the result of differently determined contribution rates for pension and disability insurance.

In terms of percentage, contribution rate of 24% in FBiH is applied to gross salary, while the same rate in RS is applied to net salary, thus resulting in smaller inflow of contributions in the RS Public Pension and Disability Fund and consequently in lower pensions in that BiH entity.

For the purpose of resolving problems occurring in exercise of pension and disability insurance in the return process of returnees and refugees, the Agreement on Mutual Rights and Obligations was signed between the then insurers of this insurance in 2000.

This agreement enables the same financial position in terms of the amount of pension for pensioners, returnees to pre-war places of residence, who obtained their right to pension by 30 April 1991, in the legal and economic territory of the former Socialist Republic of Bosnia and Herzegovina.

However, "the absence of harmonised legislation between the two Entities and the lack of state-level legislation regulating pension and other social benefits causes problems for displaced pensioners and returnees. Specifically, these problems arise from the different pension calculation schemes and different pension amounts in each Entity". <sup>(9)</sup>

### **3. Repossession of property and reinstatement of occupancy rights**

All refugees and displaced persons, who during the armed conflict in 1991 lost their property, have the right to repossession, as it is clearly prescribed in Article 1 of Annex VII of the Dayton Peace Agreement.

In accordance with Annex VII of the Dayton Peace Agreement, competent entity authorities, with assistance and coordination provided by competent institutions and international community organizations in BiH, during 1998 and 1999, adopted a set of property laws, the goal of which was to create the legal framework that would lead to the respect of obligations of Annex VII, i.e. return of property to its pre-war owners and users.

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<sup>(9)</sup> *The judgment of the European Court of Human Rights in the case D.K. against Bosnia and Herzegovina of 20/11/2007.*

The process of property repossession by refugees and displaced persons was in accordance with entity property regulations and was substantially completed in late 2006.

According to statistics that were published by PLIP agencies <sup>(10)</sup>, a total of 211,791 claims for repossession of property and reinstatement of occupancy rights were submitted in BiH; 197,815 of them received positive decisions and 12,642 received negative decisions. The number of closed cases is 197,688.

In total, more than 99 % cases are registered as closed and this task has reached its final implementation stage in BiH.

Due to results that have been achieved regarding repossession of property and occupancy rights, BiH is perceived as a good example, both in and outside the region.

While substantial completion means that all pre-war owners/users have reposessed their property/occupancy rights, in the remaining outstanding cases, administrative proceedings, disputes or lawsuits are still pending before the competent courts due to their disputable factual and legal status

#### **4. Compensation**

In addition to the right to free return and property repossession, Annex VII of the Dayton Peace Agreement guarantees the right of all refugees and displaced persons to compensation for their property that cannot be returned to them. At the same time, it envisages a mechanism through which refugees and displaced persons could exercise their right to compensation "in lieu of return".

Based on this guaranteed right in the Dayton Peace Agreement, a large number of refugees and displaced persons submitted claims for compensation to the Independent Commission for Displaced Persons and Refugees (Dayton Peace Agreement – Chapter II, Article VII), while others initiated lawsuits in courts for the same purpose. However, the mandate of the Commission for Displaced Persons and Refugees (CRPC) in Bosnia and Herzegovina ended, and after that authorities in BiH established a domestic Commission for Real Property Claims of Displaced Persons and Refugees whose mandate is to decide on claims for reconsideration of decisions made by the Commission for Real Property Claims of Displaced Persons and Refugees, that were submitted within the mandate of the "Dayton" Commission, but which the Commission did not manage to reconsider and decide upon within its mandate.

On the other hand, within the mandate of the Commission for Real Property Claims of Displaced Persons and Refugees, the Commission did not resolve issues of the right to compensation, as prescribed in the Dayton Peace Agreement. The Commission only confirmed the ownership, occupancy rights and regular possession of real estate of displaced persons and refugees. Therefore, provisions on compensations of Annex VII were not applied or their application was not ensured; thus, compensation has remained inaccessible in practice to this day.

So far, in the application of provisions of Annex VII of the Dayton Peace Agreement, assistance for displaced persons and returnees has been focused on the return process

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<sup>(10)</sup> In 2000, international community in BiH established the so-called PLIP Cell for monitoring and application of relevant regulations (Property Law Implementation Plan) that consisted of 4 leading international community organizations in BiH: OHR, OSCE, UNHCR and CRPC. PLIP representatives started publishing monthly statistical indicators from municipality level to the State level, analyzing and comparing the indicators.

and reconstruction of housing units at return sites. Since recently, limited assistance has begun to be focused on supporting the sustainability of return. The result of this is that persons who cannot return to their pre-war places of residence have not received assistance for durable solutions, and one possible form of this assistance is certainly compensation.

This problem is especially prominent when it comes to persons who cannot return for objective reasons, such as completely destroyed property, lack of basic infrastructure which is necessary for minimum living conditions, impossibility to access fundamental rights to health and social care which is necessary for people with special needs, etc. Also, there are persons whose specific situation (e.g. persons who were exposed to serious traumas during the war, prisoners of war and camp inmates, war crime witnesses in court proceedings) hinders their return even when it seems that practical conditions for their return are generally fulfilled. In these cases, the focus on reconstruction and repossession of housing units does not resolve problems that these displaced persons face.

Without compensation, as a practical possibility, the only choice for displaced persons and refugees is to apply for repossession and reconstruction of their 1991 homes. To this day, about 210,000 buildings, *de jure* and *de facto* were repossessed, and 320,000 housing units were reconstructed through budget resources, donations, and personal investments of returnees. A significant number of repossessed and reconstructed buildings were later sold by their owners. In this way, without a formal compensation mechanism, many displaced persons and refugees, with free use of money gained through sale, found a way to achieve some form of compensation "instead of repossession", as it is prescribed in Annex VII. However, this is an insufficiently efficient, and in the sense of the Dayton Peace Agreement, incomplete manner to resolve needs of displaced persons who cannot return.

A significant number of the mentioned persons are people in the category of vulnerable cases, who are currently accommodated in some form of collective and alternative accommodation, who cannot return and who need some other solution for their displacement apart from reconstruction of pre-war homes. However, in order to find a durable solution, they need some type of assistance. These people expect competent authorities to find some other durable solution for them, apart from reconstruction of pre-war housing units, and one of the possible solutions is establishment of the mechanism for adequate compensation.

It has been noticed that in most cases compensation for a lost housing unit in itself will not be an adequate support for a displaced person to achieve durable solution. However, for many displaced persons that could be a significant factor to start a new life and end displacement.

Today, more than 14 years after the signing of the Dayton Peace Agreement, there remains resistance to introduce a formal compensation mechanism in BiH. The reasons for this are numerous and various, including great costs and burden that any form of compensation scheme would cause to budgets. However, in the context of the revision of the Annex VII Strategy, compensation and relevant provisions of Annex VII are being discussed, especially because numerous international and local institutions and organizations believe that other forms of providing support to displaced persons should be considered apart from reconstruction of homes.

Therefore, for example, the Council of Europe Development Bank recommended re-examination of the situation of persons in collective accommodation who do not necessarily need reconstruction of their homes, but who still need support in order to find durable solutions. This is one example how resources can be used to provide support to a limited compensation scheme. From the human rights standpoint, state authorities and

international community have responsibility to consider all options that support durable solutions for displaced persons and other populations.

### **III – IDENTIFIED PROBLEMS, RECOMMENDATIONS AND PROPOSED MEASURES FOR IMPROVEMENTS RELATING TO ACCESS TO RIGHTS OF REFUGEES, DISPLACED PERSONS AND RETURNEES**

#### **1. Identified problems and recommendations for improvements in the field of return and other durable solutions of displacement problems**

In situation where all-level authorities and relevant international actors are committed and ready to implement fully provisions of Annex 7 of the Dayton Peace Agreement and determined that the process cannot be completed until the last refugee, displaced person and returnee is provided with access to rights ensured in this Agreement – the completion of displacement problems in accordance with the actual needs of these people is almost entirely dependant on ensuring adequate legal framework and allocating needed funds for this purpose.

##### **1.1. Substantial completion of the process of sustainable return in BiH**

For different reasons, there is no comprehensive program for substantial completion of the return process in BiH, which would be the ground for entity action plans, including also FBiH cantons, for BiH Brčko District and municipal projects and priorities, with a view to achieving a standardized and harmonized implementation of the goals set out in Annex VII throughout BiH.

**1.1. Based on precise and reliable indicators, the Ministry of Human Rights and Refugees shall, in co-operation with the respective entity and other competent institutions, suggest the activities for the implementation of the return programme during the period 2009-2014, without setting deadlines for access to rights for all those who do not resolve their interests during that period of time:**

- **it is necessary** to ensure necessary funds and implement the program in accordance with adopted principles throughout BiH, with support and participation of all relevant domestic and international organizations and institutions, NGO sector, representatives of civil society, through participatory mechanisms for participation of refugees, displaced persons and returnees.

##### **1.2. Non-discriminatory access to rights set out in Annex VII of the Dayton Peace Agreement by refugees, displaced persons and returnees**

Durable solutions to displacement issues cannot be restricted only to refugees and displaced persons who have their status formally recognized, but must also include the support for returnees and should be adjusted to actual needs of all persons affected with consequences of the conflict.

**1.2. Legal reforms are necessary that will ensure legally equal access to rights of refugees, displaced persons and returnees who have their status formally recognized and to all persons who are *de facto* displaced.**

With a view to resolving fully and completely the issue of refugees and displaced persons and returnees, all competent institutions in Bosnia and Herzegovina shall ensure the implementation of all three rights laid down in Annex VII, Dayton

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Peace Agreement, notably: right to return, right to free choice of residence and right to compensation in accordance with Annex VII, Dayton Peace Agreement.

### **1.3. Ensuring preconditions for return through reconstruction of remaining destroyed and damaged housing units of refugees, displaced persons and returnees**

Due to partial and fragmented interventions in the field, costs of sustainable return per a returnee family are high. Transition to a "project approach" in the implementation of the return process and concentration of assistance to micro-localities of return would decrease significantly those costs, thus resulting in more beneficiaries that would be covered by available funds.

A considerable number of remaining destroyed and damaged housing units are located in multiple-family apartment buildings which have not been reconstructed due to, among other things, high reconstruction costs. Consequently, a large number of refugees and displaced persons – who have their occupancy rights formally reinstated – are unable to effectively exercise their right to return.

#### **1.3. To ensure funds for reconstruction of destroyed housing units and/or housing units in poor condition in accordance with prescribed minimum of housing conditions for all persons who meet criteria for receiving reconstruction assistance, with priority given to the most vulnerable persons, through:**

- Increased allocations in budgets of all-level authorities;
- Active approach on the part of international and domestic donor community;
- From funds of unallocated VAT surplus;
- From privatization funds;
- Specific-purpose loans,
- Public and private partnership.

### **1.4. Monitoring and coordinating the return process in the whole territory of BiH**

Monitoring, as a component of the project cycle, is inevitable and irreplaceable instrument of project management and quality assurance for end-users. The monitoring process also assists both providers and beneficiaries to monitor the outcome against the planned results.

With a view to creating preconditions for successful cooperation of different participants in the return process and for quality decision-making, efficient and comprehensive monitoring of sustainable return projects in BiH should be ensured.

#### **1.4. In order to successfully coordinate the return process throughout BiH, monitoring of sustainable return projects should be improved:**

- To build technical and personnel capacities of the regional centres of the Ministry of Human Rights and Refugees;
- To improve the monitoring process of joint projects of integrated return and reconstruction, with mutual cooperation and exchange of information among institutions, and thus ensure a necessary level of coordination of this process.

### **1.5. Provision of reliable need indicators for identifying durable solutions for displacement problems**

The peace agreement was signed 13 years ago. It is difficult to say how many refugees and displaced persons have found durable solutions through return. Results have been

achieved in the return process, reconstruction of housing units and sustainable return, but except for a good "picture" of the situation in the field in terms of the return process, there are no accurate records of the number of reintegrated returnees in their previous places of residence.

- 1.5. To upgrade database on potential assistance beneficiaries in need of durable solutions,** through assistance and involvement of all competent authorities and departments in BiH, relevant international institutions and organizations, civil society, NGO sector and, especially, associations representing refugees, displaced persons and returnees;
- To upgrade software/web application of a single BiH database that would enable prioritization of claims for reconstruction by including new options for entering documents which would prove that general and special criteria for receiving assistance have been fulfilled; that assistance has already been used, thus leading to de-registration of potential beneficiaries; that the information on the condition of a housing unit and the overall picture of the situation in the field have been recorded; that general assessment of reconstruction costs has been made;
  - To establish a single database on returnees in BiH and based on it to set forth the program tasks.

#### **1.6. Final closing of collective accommodation**

The closing of collective centres is undoubtedly a priority. Therefore it is necessary to create clear and consistent criteria for assessing special needs of persons who live in collective centres/alternative accommodation in order to define long-term measures for achieving durable solutions.

For the final closing of collective centres, a transparent and multidisciplinary approach is required to ensure durable solutions for people who are accommodated in collective centres.

- 1.6. In order to finally close collective accommodation a methodology should be determined how to get the overall picture of the situation in this field in BiH:**
- In accordance with real and indicated needs of current beneficiaries of collective centres, to create programs and projects whose objective would be to empty this form of housing. A special attention should be given to the most vulnerable categories such as children without parents, single mothers, old persons, ill and disabled persons, in order to ensure an adequate access to their rights.
  - To carry out comprehensive individual profiling of all persons who live in collective centres/alternative accommodation in order to come up with tailored durable solutions for vulnerable persons (from single return projects, to ensuring institutional care and/or social housing in places of displacement, etc);
  - To establish and ensure legal and procedural safeguards to regulate the process in full respect of rights of displaced persons, including prevention of forced evictions of persons in need and secured access to dignified and durable housing for persons in need;
  - To limit each new accommodation in the existing collective capacities and prevent establishment of new formal or informal collective forms of housing accommodation and, instead, to ensure different forms of adequate accommodation for those who are in need of housing.

### **1.7. Housing for persons in poor social situation**

There is a discrepancy between the actual needs and the capacities to fund different modalities of housing with a view to identifying durable solutions for displaced persons and other socially vulnerable categories of population in need of social housing.

Also there is a need for other forms of durable solutions for displacement problems.

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| <p><b>1.7.</b> In parallel with the process of reconstruction, to look for adequate solutions for housing of other persons in poor social situation for whom durable solutions cannot be ensured by reconstruction of their pre-war homes, and to this end develop a new strategy of access to housing in BiH, with the special focus on socially vulnerable categories of population on multiple grounds;</p> <ul style="list-style-type: none"><li>- In accordance with general goals for economic reconstruction, development and cooperation, to promote non-discriminatory access to the right of housing, sustainable housing and urban development, including upgrading the instruments for prosperity improvements in this field, with the special focus on ensuring access to appropriate housing solutions tailored to the needs of the most vulnerable, that is, people in need of social protection;</li><li>- To establish basic principles for coordination of activities, harmonization of policies and plans of BiH authorities and international community in the field of housing policy;</li><li>- To undertake adequate actions in order to promote, protect and ensure complete and progressive exercise of the right to housing with special focus on access to adequate housing for vulnerable categories of population;</li><li>- To create adequate legal framework, proper institutional arrangement and adopt policies that will lead to non-discriminatory access to housing for everyone;</li><li>- To clearly define needs, goals and target groups, standards and procedures for monitoring results in order to prevent any discrimination in access to housing, taking into consideration interdisciplinary links with other policies;</li><li>- Provision of housing for vulnerable categories of population requires actions not only of public administration at all levels, but of all segments of society, including private sector, NGOs and counterparts of international community. Also, vulnerable categories of population, as well as civil society institutions, should be given an opportunity to take proactive role through participatory mechanisms in defining adequate programs.</li></ul> |
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## **2. Identified problems and recommendations for improvements in the field of security of returnees**

Despite a generally satisfactory security situation in BiH, the return process is impeded by isolated incidents happening to "minority" returnees, that are not adequately investigated and prosecuted, and by continued extensive presence of landmine-contamination. Additionally, other problems were identified and measures were proposed for improvement of security situation, such as:

- There is no adequate coordination and general integrated approach of invited subjects that are competent and responsible to improve security situation in BiH;

- Lack of official condemnation of individual or group attacks against personal and property safety of returnees by members of other ethnic groups, while reported incidents are not satisfactorily investigated and prosecuted;
- Sometimes media, with their insensitive, non-verified and hasty reporting of assaults and incidents against returnees and their property, inflicts damage upon co-living and reintegration of returnees into local community;
- There is no detailed information on the number and character of incidents concerning attacks against returnees and their property, nor are there separate records about them, which is indicative in itself. Even more importantly, consistent exchange of information among responsible police and judicial bodies and institutions on these issues is not satisfactory. This affects up-to-datedness of information on the outcome of court proceedings regarding complaints submitted for initiation of misdemeanour or criminal proceedings. It is necessary to say that assessments of security situation in BiH, provided by governmental institutions and especially by non-governmental sector often differ. Such assessments are separate and subjective and therefore they cannot objectively provide the overall picture of the situation in the field;

**2.1** To ensure that entity Ministries of Interior as well as Security Services of BiH Brčko District submit to the BiH Ministry of Security and the BiH Ministry of Human Rights and Refugees the information on attacks against returnees and their property, pertaining consequences, and measures that were taken against perpetrators so that they could provide objective analysis of the situation in the field, and related to this, propose measures for removal of all kinds of endangerment and discrimination against returnee population.

The BiH Ministry of Human Rights and Refugees would so have a more active role in coordinating the work within its competence, including also the segment of security of returnees. Also, updated information on security situation would be available to BiH authorities. Security should be dealt with in a coordinated manner, so that other subjects could give their contribution with a view to implementing professional investigation procedures and improve situation in this field.

- Ethnic representation of employees in police structures throughout BiH is not satisfactory;

**2.2** Take the initiative to ensure that professional and ethnic composition of police structures is in accordance with the decision of the BiH Constitutional Court on constituency of peoples, thus avoiding employment discrimination against returnees compared to domicile population, which would eventually improve the situation in the field of security.

- It is confirmed that processing of war crime suspects is slow and that some of them still live in the areas where crimes were committed and where the so-called "minorities" returned or would like to return. The feeling is that there is no policy and strategy that would deal with accusations for committed crimes in these areas, and therefore this kind of atmosphere does not contribute to sustainable return nor does it help returnees to overcome their fear;

**2.3** To ensure that the BiH Ministry of Civil Affairs links the revision process of the *Strategy for Implementation of Annex VII of the Dayton Peace Agreement* with

the process managed by the Public Prosecutor's Office in preparation and adoption of the National War Crimes Strategy. To ensure coordination that would help to improve security situation of returnees. Such coordination requires further joint actions by the BiH Ministry of Civil Affairs and the Public Prosecutor's Office.

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- There are various cases in the field when returnees report threats to their own life, destruction, usurpation and exploitation of private property, but upon which police forces do not undertake adequate measures. This contributes to lack of trust in competent institutions in places of return;

**2.4** To intensify activities of police officers throughout BiH. As part of their regular and planned activities, they should pay special attention to returnee population through regular patrol visits, which will contribute to regain trust in police. It is necessary to persist with consistent investigation and processing of suspects for committed misdemeanours and criminal acts against returnees. Preventive operations and frequent presence of police officers in the field will contribute to re-establishment of operational communication with returnees. Thus, the overall security situation will significantly improve.

- It is noticed that during the implementation of de-mining projects there is lack of comprehensive warning measures against mines and that institutional communication between the BiH MAC field offices, located in both entities, and local community representatives should improve;

**2.5** Within the Anti-Mine Action Strategy in BiH, the BHMAC should continually develop partnership cooperation with all relevant subjects in order to ensure support and conditions for a more efficient anti-mine action. To constantly improve communication with the public regarding anti-mine action through trainings, with special reference to the manner for informing local communities faced with mine contamination problems. To exchange information with Civil Protection members on competences regarding the implementation of de-mining plans and on presence of de-miners in a certain area. Also, it is necessary to organize and initiate appropriate campaigns in this field. In this way, a full cooperation between the BHMAC, the Civil Protection and local community will be established regarding the procedure of de-mining and exchange of information on locations of mines and explosive devices.

- Mine victims are treated as civil war victims in law and medical assistance for survivors and members of their families is minimal and insufficient. Mine victims are, therefore, not fully involved in the community;

**2.8** To support the accelerated procedure for adoption of the new *BiH De-mining Act* and the *BiH Anti-Mine Action Strategy* for the period 2009-2019. Thus, conditions for stable and continued funding and for the improvement of organizational structure at all governmental levels, for better security of citizens and good support and assistance to mine-victims and their families as well as for their inclusion in the community would be ensured through the implementation of various aid programs.

- The *BiH De-mining Act* regulates insufficiently the responsibility and institutional connection among structures for the implementation of anti-mine actions at all governmental levels in BiH;

**2.7** When de-mining plans are drafted, it should be ensured that return areas of refugees and displaced persons are prioritized. Thus, a special attention should be paid to de-mining of overall infrastructure facilities in addition to de-mining of housing units and adjacent lands and properties. Competent authorities should introduce simplified procedures for submitting de-mining applications.

- Failure to timely arrest and process war crime suspects contributes to general insecurity and constitutes an impediment to return;

**2.8** To arrest and process all war crime suspects is important for sustainable return. To this end, all competent authorities in charge of revising and implementing the Annex 7 of the Dayton Peace Agreement support adoption of the National War Crime Strategy.

### **3. Identified problems and recommendations for improvements in the field of communal and social infrastructure**

- There is a discrepancy between the investments in overall reconstruction of infrastructure facilities and the needs for reconstruction of the remaining damaged and destroyed social and communal infrastructure in BiH.
- Concerning is the fact that not a small number of returnees still do not have access to electricity, drinking water, sewage system, roads, etc. for years since their return as well as to many other components of communal and social infrastructure.
- Regarding this, the Committee on Economic, Social and Cultural Rights confirmed that the State was unable to implement fully economic, social and cultural rights. <sup>(11)</sup>
- In addition to lack of funds required for overall reconstruction, often there are obstructions against return in some local communities through discriminatory treatment of returnees. In some areas, there is incomprehensible "lack of interest and knowledge" on the part of local authorities of the situation regarding the needs in their own area.
- Additional problem is that some local communities do not respect real priorities and that infrastructure projects are implemented where there is no significant interest for return. Consequently, genuine returnees remain disadvantaged due to inadequately selected projects, making sustainability of their return even harder, while in some cases it is even brought into question.
- At the same time, there were some negative examples where the implementation of infrastructure projects did not include result-monitoring, which was conducive to abuses and which created mistrust in institutions on the part of returnees.

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<sup>(11)</sup> Report by the Committee on Economic, Cultural and Social Rights of the Council of Europe, November 2005.

- Furthermore, fragmented interventions in the field where reconstruction of housing units was not followed by reconstruction of communal and social infrastructure resulted in significantly higher costs of sustainable return per a returnee family.
- Through better project-approach in the implementation of the return process and through concentration of assistance to micro-localities these costs would surely be smaller.

**3.1.** As a priority, funds for reconstruction of communal and social infrastructure should be provided for the needs of returnees who have returned to their reconstructed housing units and who still do not have access to a number of their rights such as reconstructed communal, social and public infrastructure. The funds required for return purposes should be provided from the following sources:

- Through increased allocations in annual budgets at all governmental levels in BiH by international and domestic donor community;
- Through co-funding by different governmental levels and through participations in the project (pooling of funds, construction material, working force, and other forms of participation);
- Through unallocated VAT surplus;
- Through privatization funds;
- Through special-purpose loans.

**3.2.** To establish a database on the infrastructure situation in BiH for the needs of potential assistance beneficiaries - returnees, through support and involvement of all competent bodies and departments in BiH, relevant international institutions and organizations, civil society associations representing displaced persons, refugees and returnees.

**3.3.** To adopt criteria for selection of priority locations (particularly keeping in mind poorer municipalities), where reconstruction of infrastructure facilities is needed based on which selection and implementation of projects will be carried out in a transparent manner through public invitations. To this end, local commissions should be established for selection of priority projects, similarly as it was done with commissions for selection of assistance beneficiaries for reconstruction of housing units.

When creating these criteria, public interests of all subjects in the process should be taken into account. Responsible institutions, international organizations-donors, municipalities, returnee associations, representatives of local communities should take part in proposing priorities. All proposers should assume responsibility to participate in the project through financial, material, legal, professional, administrative, technical and other form of assistance, such as contacting and encouraging BIH Diaspora to invest in infrastructure in the context of sustainable return.

**3.4.** The BiH Ministry of Human Rights and Refugees, in accordance with its co-ordination mandate, should compile all applications and information relevant for reconstruction of roads, water and sewage network and for reconstruction of social infrastructure facilities. To this end, cooperation should be improved in terms of exchange of information with institutions responsible for infrastructure

facilities and especially with local authorities that will be the primary focal points for proposing and implementing projects.

- 3.5.** Cooperation with NGO sector/associations of returnees should be improved as they always have the "extra information" due to their presence in the field. They can, therefore, be a significant corrector of possible obstructions in the field.

For projects that are implemented through the Return Fund, all-level institutions which propose and implement infrastructure projects have the obligation to submit the relevant information to the BiH Ministry of Human Rights and Refugees for the purpose of updating an integrated database on the condition of infrastructure.

- 3.6.** Keeping in mind technical particularities of infrastructure facilities, the funds should be pooled at the State level for repair, reconstruction and construction of facilities from the highest to the lowest category of infrastructure facilities. The implementation of more complicated infrastructure projects should be carried out by competent and expert organizations, which are legally responsible for execution of works on protection, maintenance and exploitation of complex and demanding categories of infrastructure that are not situated only in one municipality. The implementation of projects of repair, reconstruction and construction of other communal, public and social infrastructure may be carried out by municipalities, cantons, entities and the BiH Return Fund. For the purpose of transparency and rational spending, donors and implementing agencies will provide adequate monitoring.

- 3.7.** During the application of the Strategy, priority should be given to prominently underdeveloped municipalities whose status as such is laid down by law or some other regulation, and to municipalities where genuine return has been registered.

### **3.1. Identified problems and recommendations for improvements in the field of electrification of returnee settlements**

During the years following the war, almost all assistance for returnees, especially budgetary assistance, was mainstreamed for reconstruction of housing units, meaning that "securing roofs over heads" was almost always considered as the priority.

Investments into sustainable return, including electrification of location/facilities of the implemented and planned return, have become more significant only since recently when majority of activities on repossession of property and reconstruction of a housing stock was finished. That trend is increasing but it is still not sufficient enough.

2007 municipal data may serve as an example, according to which, out of the total amount of resources invested into sustainable return, including into water supply system, roads, social infrastructure, employment assistance etc, only 10% (amounting approximately to KM 7 millions) has been invested into electrification, which illustrates a large discrepancy between the needs and the resources invested.

There have been no large donations since "withdrawal" of USAID, which supported electrification of returnee housing units. Also, in light of the fact that electrification cannot be realized without participation of public electro-distribution companies that are owners of essential resources and income beneficiaries of electro-energy infrastructure planned for reconstruction and that they are responsible for maintaining and developing the electro-energy system, the idea of investing into essential resources of electro-

distribution companies – even when it is for return purposes - is not acceptable for some donors.

In general, continually decreasing donations, especially in rural return locations requiring larger financial investments for the repair of electro-network for a small number of returnees, resulted in a large number of returnee locations/facilities without electricity. Apart from reconstructing housing units, current donors most frequently provide for less than 10% of the project's value into infrastructure needs, which is not always planned for electrification.

Electro-distributions have worked on connecting housing units of returnees to electricity network mainly in cases where no larger financial allocations are required. Those were most often facilities which could have been connected in accordance with the Agreement and facilities which received a donation, most often in electro material. Market-oriented electro-distribution companies do not recognize as their priority return locations/units requiring larger financial investments for electrification per unit/returnee.

- 3.1.1. To continually build and strengthen efficient system of information exchange** between the BiH Ministry of Human Rights and Refugees and electro-distribution companies, competent entity and cantonal ministries, municipalities, NGO sector and local and international donors for the purpose of following-up and recording the situation in the field, ensuring and planning expenditures, following-up the implementation procedure and dynamics and evaluating the electrification project.
- 3.1.2.** The BiH Ministry of Human Rights and Refugees shall, in accordance with its coordination mandate, **continue to collect and integrate all information** relating to electrification of locations/units of the implemented and planned return.
- 3.1.3.** The BiH Ministry of Human Rights and Refugees shall, in cooperation with ministries competent for the energy sector in BiH, **work on eliminating all obstacles for unhindered electrification of returnee locations**, including on legal amendments regulating these issues.
- 3.1.4. Electrification of locations/units of the implemented and planned return** is the existential need and undisputable right of every returnee as well as the concern of all societal structures. Therefore, **it should be recognized as a priority** by all governmental levels, including municipalities, especially by electro-distribution companies which are owners of electro-distribution networks in the areas of their responsibilities.
- 3.1.5.** All measures mentioned above must ensure **equal and non-discriminatory access** by returnees to electro-distribution networks throughout BiH. To this end, the cooperation of governmental institutions with NGO sector is of crucial importance.
- 3.1.6.** The BiH Ministry of Human Rights and Refugees shall, by way of the Commission for Refugees and Displaced Persons, once a year during next 3 years, **make a list of electrification priorities per municipality** on the basis of criteria determined for electrification needs of locations/units of the implemented return. The list shall be public and accessible to all relevant actors, with a view to incorporating priorities into annual electrification plans of electro-distribution companies.
- 3.1.7.** Electro-distribution companies **shall harmonize their electrification plans with the list of priorities** mentioned in the preceding paragraph.

**3.1.8.** During the implementation of electrification projects, all participants shall propose and apply cost-effective technical solutions, maximally simplified and efficient procedures and shall **maximally decrease administrative and other expenses of beneficiaries/returnees**, in accordance with their competencies.

**3.1.9.** With a view to preventing new cases of implemented return where returnees would have to live in units without electricity, **electrification and reconstruction of units of the implemented return must be synchronized** and must include the obligation to connect a reconstructed facility to electro-distribution network.

**3.1.10. To ensure financial resources for the implementation of electrification projects of locations/units of the implemented and planned return**, primarily by electro-distribution companies which are owners of electro-distribution networks and are responsible for their reconstruction, as well as by all governmental levels, including municipalities, through:

- Increased special-purpose allocations from their own budgets;
- Allocation of resources from the BiH Return Fund;
- Special-purpose loans;
- Pooling in of financial resources and other forms of participation (materials, labour, etc.);
- Appealing to international and local donors;
- Stimulating and developing partnership aimed at achieving the joint goal.

#### **4. Identified problems, recommendations and proposed measures for improvements in the field of sustainability and reintegration or returnees**

##### **4.1. Identified problems and recommendations for improvements in the field of health care**

- A high rate of uninsured persons is mostly the consequence of fragmented legal and institutional framework and of the fact that contributions for health insurance, which are crucial for funding the health sector, are not paid in;
- Also, exercise of the right to health care is affected by non-harmonized regulations in other fields;
- Fear of loss of acquired rights in places of displacement;
- Difficulties in implementing the *Agreement on the Manner and the Procedures for Applying Health Care of Persons Ensured in Bosnia and Herzegovina Outside the Insuring Entity and/or BiH Brčko District*;

**4.1.1.** To initiate, within the BiH Ministry of Civil Affairs, amendments to the *Agreement on the Manner and the Procedures for Applying Health Care of Persons Ensured in Bosnia and Herzegovina Outside the Insuring Entity and/or BiH Brčko District*, regarding access to health care by displaced persons and returnees;

- Terminology used in regulations relating to refugees, displaced persons and returnees ("basic health care" and similar) is not harmonized with the terminology used in regulations relating to health care and health insurance;

**4.1.2.** To initiate amendments to the *Law on Refugees from BiH, Displaced Persons in BiH and Returnees* with a view to harmonizing the terminology used in entity laws and laws of the BiH Brčko District relating to health care and health insurance;

- Duration of a returnee status has not been harmonized in all regulations relating to refugees, displaced persons and returnees. This explicitly affects their access to the right of health care;

**4.1.3.** To initiate harmonizing the duration of a returnee status in the current legal regulations at all levels;

- Continuous and obligatory health care for children regardless of their parents' status;

**4.1.4.** To initiate amendments to the current entity and BiH Brčko District legislation which would ensure that children enjoy the status of ensured persons from their birth, regardless of their parents' status;

**4.1.5.** To initiate amendments to the current entity and BiH Brčko District legislation which would ensure health care of children during their regular schooling in elementary and secondary schools and/or in universities until the age of 26, when they are not insured with their parents' insurance plan;

- Exercise of health care by uninsured persons above the age of 65;

**4.1.6.** To initiate amendments to the current entity and BiH Brčko District legislation which would ensure that elderly persons (uninsured persons above the age of 65) enjoy health care regardless of their relatives whose duty is to take care of them;

- Deadlines for registering with the employment bureau, which ensures access to health care;

**4.1.7.** To initiate amendments to the current legislation with a view to removing deadlines for registrations with the employment bureau, which serves as the basis for health care of unemployed persons;

- Insufficient information of returnees on possibilities to exercise their rights to health care;

- The current legal framework does not take into account specific situation of returnees, both in terms of their access to health care and in terms of conditions for exercising health care i.e. participation;

**4.1.8.** To harmonize and balance out unequal conditions for exercise of health care in order to enable returnees to exercise health care in places of return, especially

with regard to incongruous solutions relating to exemption of payment of fees for certain categories of persons;

- Persons who are insured solely on the basis of their DP/returnee status – since they could not have acquired that right on any other grounds - will have difficulties to access health care on some other grounds upon cessation of their status and the pertaining health care;
- Returnees, as a category of insured persons, are not recognized in any of the current entity and/or BiH Brčko District regulations on health care and health insurance;

**4.1.9.** To enable that persons who enjoy health care solely on the basis of their DP/returnee status are smoothly included into the health care scheme upon cessation of that status (e.g. persons who are in a slightly better situation than those who are entitled to health care as social categories and who, therefore, cannot be insured on those grounds although they fall under the category of the most vulnerable persons).

- Displaced persons and returnees have the same problems as all other vulnerable categories of citizens who cannot exercise the right of health insurance, in addition to problems caused by their displacement;

**4.1.10.** To initiate harmonization of legislation regulating the status of certain categories (civil victims of war, disabled war veterans, families of fallen soldiers, families in situations of social need, etc.), which affect the exercise of the right to health care;

#### **4.2. Identified problems and recommendations for improvements in the field of education**

- Legal obstacles – lack of will on the part of local authorities to sufficiently respect, protect and implement human rights of returnees, especially economic and social rights, still constitutes a huge obstacle for sustainability of return;
- Non-completed process of harmonizing the State and entity and/or cantonal laws and by-laws from the field of education;
- Non-identifying durable solutions for issues relating to education of returnees and to fulfillment of special needs and rights of all constituent peoples and ethnic minorities;
- Lack of will on part of local authorities to sufficiently respect and implement the signed agreements relating to access to educational rights still constitutes a large obstacle for sustainability of return;
- Problem relating to the criteria on school names, school symbols and school events;
- Politicizing education is still present; school plans and curriculums are divided and defined on ethnic grounds;

- Some textbooks of ethnic-related subjects (language and literature, history, geography and religion) encourage segregation, emphasize culture of only one ethnicity, emphasize vulnerability of their ethnicity, insufficiently encourage development of critical opinion and inclusion in education process;
- Different teaching practice of ethnic-related subjects;
- Systematic and continuous studying of ethnic-related subjects is not ensured in areas where the number of students is under the pedagogic standards;
- Discrimination and segregation of students in practice;
- Commuting students to one-ethnicity schools outside their registration area has not been eliminated yet;
- Complicated and non-harmonized procedures for recognizing documents issued by foreign schools;
- Economic difficulties and lack of support providing mechanisms affect access to education by returnee and DP children;
- Problems and different practices while exercising the right to education by both returnee and domicile population in the bordering areas of BiH.

- 4.2.1.** Until permanent, institutional solutions are established at the State level, the revision of the strategy should seek for consistent implementation of the *Interim Agreement on Accommodating Specific Needs and Rights of Returnee Children*, in order to protect returnee children and to avoid that education becomes a barrier for return of displaced persons and their children;
- 4.2.2.** The Coordination Board should continue coordinating the implementation of the Interim Agreement until harmonized system and regular monitoring mechanisms are established in education system;
- 4.2.3.** It is necessary to insist on the application of the *Framework Law on Elementary and Secondary Education*. In accordance with the adopted framework law on the State level, to apply entity laws, the BiH Brčko District law as well as cantonal laws and bylaws;
- 4.2.4.** To protect children from manipulations and abuses;
- 4.2.5.** To review the current and establish new criteria on school names, school symbols and school events and to implement them consistently;
- 4.2.6.** To create and draft framework goals and joint standards for school plans and curricula;
- 4.2.7.** To create and implement extra-curricula, cultural and other activities and local community programs that foster tolerance and understanding for "diversities and varieties";
- 4.2.8.** To ensure increased budgetary allocations for supporting the competent education ministries;

- 4.2.9.** To undertake measures and inform returnees and displaced persons on their rights and on the existing mechanism for applying legal remedies;
- 4.2.10.** Together with the competent ministries, regional centres of the BiH Ministry of Human Rights and Refugees in Sarajevo, Banjaluka, Tuzla and Mostar should monitor the implementation of signed agreements and ensure a necessary level of co-ordination and harmonization of actions relating to implementation of the right to education of displaced persons and returnees;
- 4.2.11.** To train teachers how to respond to specific psycho-social and pedagogical needs of displaced and returnee children, which facilitates their reintegration into a returnee community;
- 4.2.12.** To continually train teachers in schools and to promote and develop tolerance and acceptance and understanding for "diversities";
- 4.2.13.** To improve the capacities of teaching staff in branch schools in returnee settlements and in schools with combined classes;
- 4.2.14.** In the areas of return, to train and support teaching staff faced with the problem of lacking school resources and with complications in school plans and curricula;
- 4.2.15.** To establish a method to facilitate access to education of socially vulnerable and economically disadvantaged individuals due to their displacement and harsh reality of returnees.

**4.3. Identified problems and recommendations and proposed measures for improvements in the field of labour and employment**

- The main impediments in implementing the labour rights in BiH are: complicated economy situation, slow economic recovery and unfinished transition of ownership, as well as discrimination in work and employment practice;
- Throughout BiH, returnees have difficulties to integrate as they are unable to ensure essential living conditions and are often deprived of the right to labour and employment under equal conditions;
- In practice, access to the right of health care by displaced persons and returnees is closely bound to exercise of the right to labour;
- Deadlines to apply with the employment bureau upon return pose a problem for returnees and affect directly sustainability of return. It is difficult for many returnees to meet those deadlines, either because of lack of information, non-possession of documents, sickness and physical disability to register themselves, etc. The fact that they have not registered with the employment bureau within the set deadline often results in losing numerous other rights and benefits, such as health insurance;
- Non-existence of official records on the actual number of returnees, which is hard to determine since there are returnees who repossessed their property but then sold or exchanged it soon upon its repossession and changed the place of permanent residence;
- Lack of educational programs and vocational trainings for the returnee population able to work.

- 4.3.1. To apply the BiH Constitutional Court's *Decision on Constitutionality of Peoples in BiH* through employment of returnees in civil services, institutions, public administration and public companies whose majority owner is the State, with a view to achieving principles in accordance with the 1991 census; to make more efforts, including adoption and application of necessary implementing regulations, in order to apply and ensure constitutional and legal provisions relating to access to the right of employment without discrimination;
- 4.3.2. To introduce employment measures with a view to promoting all types of employment, self-employment and vocational training;
- 4.3.3. To promote employment of targeted groups of BiH population, such as returnees and displaced persons and ensure resources for supporting commercial bodies to employ returnees and displaced persons;
- 4.3.4. Significant budgetary resources of competent ministries should be allocated for funding employment, self-employment and vocational training of returnee population and displaced persons. Special attention should be paid to investing larger resources for those returnees who are already engaged in agriculture and cattle-breeding.
- 4.3.5. The competent employment bureaus should allocate more resources for employment of returnees and displaced persons e.g. through co-funding salaries or contributions for returnees and displaced persons for a certain period of time;
- 4.3.6. The BiH Return Fund should ensure financial resources, under its line stipulated for supporting sustainable return, for employment of returnees and displaced persons;
- 4.3.7. To work on promoting employment programs of returnees and displaced persons in order to ensure donations for funding micro-crediting projects, different forms of grants for starting a business as well as to evaluate professional and vocational trainings;
- 4.3.8. To strengthen mechanisms in return municipalities which would ensure equality, non-discrimination and full integration of returnees into their local communities, including in the labour and employment sector;
- 4.3.9. To establish mechanisms for continuous and full provision of information on employment programmes to displaced persons and returnees with a view to achieving their equal participation in the labour market;
- 4.3.10. Institutions competent for labour and employment issues in BiH should analyze legal solutions and propose measures which would improve the situation relating to exercise of the right to work and employment by returnees and displaced persons.

#### **4.4. Identified problems and recommendations for improvements in the field of social protection and pension-disability insurance**

Although Article 2 of Annex VII of the Dayton Peace Agreement prescribes that adequate conditions for return must be created and, *inter alia*, that adequate social conditions for voluntary return without discrimination must be created, when it comes to the implementation of social rights, this objective is hard to achieve.

The current legislation does not ensure equal level of social protection for all categories of population, including refugees and displaced persons. On the other hand, achieving minimum standards throughout the country is the obligation laid down in line with preparations for integration into the European Union.

The UN Committee on Economic, Social and Cultural Rights has examined the BiH Initial Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights on its 58 session held in November 2005 and concluded, "The Committee expresses its deep concern that returnees, in particular those belonging to ethnic minorities, are often denied access to social protection, health care, school education for their children and other economic, social and cultural rights, thereby impeding their sustainable return to their communities." The Committee has adopted the following conclusion: "The Committee calls on the State party to intensify its efforts to ensure the sustainable return of returnees to their home communities by ensuring their equal enjoyment of the Covenant rights, especially in the fields of social protection, health care and education. Exercise of rights of social welfare by displaced persons and returnees, who are not mentioned in both FBiH and RS social protections acts, has been left to discretion of the competent authorities. These categories of population might not be able to submit applications for exercise of their right to assistance due to the requirement of permanent residence in FBiH and in RS and due to the fact that they are not legally defined as potential categories of social welfare beneficiaries."

The main impediments to the implementation of the rights of social protection and pension and disability insurance for displaced persons and returnees in BiH are as follows:

- Incompatibility of relevant inter-entity regulations precludes exercise of the right to social protection on equal grounds and in equal amounts for all BiH citizens, affecting refugees, displaced persons and returnees;
- Fundamental right of each BiH citizen to minimum social protection (social minimum) is legally not defined;
- Unequal treatment of returnees in the sense of exercise of their right to social protection;
- Lack of resources for social protection on the entity level, affecting cantons in FBiH and municipalities in RS and eventually all persons in extreme need of social welfare, particularly displaced persons and returnees;
- Slow processing of applications for rights of social protection in return areas;
- In some FBiH cantons, the clause explaining that the right to social protection can be exercised only after 6-12 months after the date of registering in the place of permanent residence is not compatible with international regulations on protection of human rights, which brings returnees into especially disadvantaged position;
- Constant lack of staff, lack of materials and technical equipment in both entities result in a low quality of exercise of social protection rights, while ethnically imbalanced composition of social protection services/social welfare centres contributes to lack of trust in the system of social protection on the part of returnee population;
- Increased poverty amongst the population of refugees, displaced persons and returnees and growing social exclusion;

- With a view to treating and protecting equally human rights of returnees who are pension recipients, pension and disability insurers in both entities should initiate activities to amend the *Agreement on Mutual Rights and Obligations relating to the Implementation of Pension and Disability Insurance* on undivided legal and economic BiH territory. Consequently, pensioners who have returned to their pre-war habitual residences would be equalized with pensioners whose pensions have been paid by the entity pension and disability insurer. Thus any "discrimination" in the amount of pensions would be avoided, in case that the pension is higher in the other entity, given that the problems have arisen from the different pension calculation schemes and different pension amounts in each entity, with a view to intensifying access to pensions by returnees returning from one entity to the other." <sup>(12)</sup> This obligation is also contained in the ECtHR judgment on the case *Duško Karanović v. BiH*.
- It is evident that responsible authorities are not adequately implementing activities that would result in adequate informing of returnee population on their social protection rights.

- 4.4.1.** To initiate legal determination of a social security minimum (social minimum) in BiH and social assistance for vulnerable groups in social need, including returnees and displaced persons;
- 4.4.2.** To initiate harmonization of entity and BiH Brčko District laws on social protection, protection of civilian war victims and children's protection in terms of defining fundamental rights, beneficiaries and criteria for allocation of significant funds by the government of both entities;
- 4.4.3.** To strengthen staffing and technical capacities of social welfare centres in both entities with determination of standards, procedures and normative with a view to providing more efficient services to beneficiaries - returnees and displaced persons;
- 4.4.4.** To adopt amendments to the *Inter-entity Agreement on Mutual Rights and Obligations relating to the Implementation of Pension and Disability Insurance* on the undivided legal and economic BiH territory;
- 4.4.5.** To establish mechanisms that ensure keeping records on returnees in BiH with a view to determining a number of existing and potential returnees in order to be able to plan further measures and methods for socio-economic care of those persons;
- 4.4.6.** Social welfare centres and competent authorities at all levels should continuously implement targeted and intensive media campaign and other forms of outreach to inform returnees and displaced persons on their social rights;
- 4.4.7.** To establish - in local communities - multidisciplinary teams with representatives (of social welfare centres, competent municipal authorities, NGOs, medical institutions) who would plan, on the basis of the assessments, activities focused on social care of returnees;
- 4.4.8.** When it is suitable for returnees, to enable preserving of their previously acquired social rights, pending harmonization of relevant legislation in BiH;

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<sup>(12)</sup> *Suggestions and Recommendations of the United Nations Committee on Economic, Social and Cultural Rights - Recommendation 42*

**4.4.9.** To amend regulations in order to simplify procedures and opportunities for a more frequent implementation of a lump-sum financial assistance recognized in practice as a form of social benefits;

**4.4.10.** To establish a continuous co-operation with NGOs dealing with provision of social services and intervenient social assistance to displaced and returnee population;

**4.4.11.** To increase allocations for sustainable return projects at all levels, that would contain a targeted line for social needs of returnees.

## **5. Identified problems and recommendations for improvements relating to the implementation of access to the right of property repossession and reinstatement of occupancy rights**

- *Lengthy administrative proceedings and administrative disputes, as well as lengthy disputes before regular courts*

It has been noted that numerous applications for property repossession have been repeatedly remanded from administrative disputes to administrative proceedings and vice versa. For those reasons, some cases have been pending for a number of years, which is in absolute contradiction with the necessity for expeditious resolution of property repossession.

**5.1.** In administrative proceedings and disputes, administrative and court authorities should comply with relevant provisions of the *Administrative Proceedings Act* and the *Administrative Disputes Act* in order to ensure fast resolution of property proceedings/disputes with a view to implementing Annex VII of the Dayton Peace Agreement fully and expeditiously.

There also exists the problem related to duration of lawsuit procedure in cases when a court should make determination on a preliminary issue (e.g. cancellation of contracts on exchange of property).

**5.2.** Competent courts in BiH are recommended to decide urgently upon cases/lawsuits forwarded to them for determination upon preliminary issue, related to terminated administrative proceedings before local housing authorities, and thus contribute to timely finalization of property repossession proceedings as well as to growth of legal security.

- *Inability of displaced persons to return to their pre-war homes*

Although a number of applicants for property repossession have had their ownership status and occupancy right holder (ORH) status recognized formally and legally, they are unable to exercise that right in practice because their property no longer exists or exists in a significantly changed condition i.e. the purpose of their property has been changed.

Thus, for example, disputes have been initiated relating to legality of the demolition process by which the property damaged during the war has been eliminated.

Moreover, disputes have been instigated where pre-war occupancy right holders/owners have challenged the legality of newly-constructed units by third persons, upon clearance by the competent authorities, at the locations of their pre-war homes.

In certain BiH areas, many disputes have been instigated by pre-war users of the property, challenging legality of the implemented expropriation.

**5.3.** Refugees and displaced persons who have *de jure* repossessed their housing units, but actual repossession has been impossible as their property no longer exists, cannot bear negative consequences of decisions under which they lost their property. Authorities responsible for inability to repossess housing units due to demolition, expropriation, modifications of urban planning, construction by third persons, etc, shall enable restitution to the previous condition through reconstruction, allocation of a replacement housing unit or just financial compensation.

Likewise, difficult situation should be noted of persons whose homes were destroyed during the war but who have been hampered by local authorities, by way of amended urban plans, to re-build/reconstruct their pre-war homes on the same locations.

**5.4.** Competent administrative authorities, courts involved in court disputes i.e. courts deciding upon lawsuits, are recommended to engage all available resources in all cases relating to repossession of property by refugees, displaced persons/returnees in order to resolve all pending cases as soon as possible and thus enable all displaced persons to return to their pre-war homes.

- *Special cases*

It should be noted that there is a high number of pending cases relating to Article 4 of the *Housing Relations Act*. The mentioned Article regulates allocation of apartments for temporary accommodation - such as temporary apartments for construction workers, in barracks, etc., apartments connected with execution of official duties, premises for urgent accommodation – over which no occupancy right could be acquired.

Those housing units were the only and durable housing solution for their pre-war users. However, laws regulating property repossession as well as the court practice arisen from those laws have prevented numerous persons to repossess their pre-war homes.

This problem is additionally complicated by the fact that users of those housing units largely fall under the category of socially vulnerable population in BiH.

**5.5.** Competent entity, cantonal and municipal authorities should ensure return to pre-war homes, wherever possible, for displaced persons whose homes were housing units mentioned in Article 4 of the *Housing Relations Act*. When unfeasible, if returnees fulfill relevant legal requirements, the competent authority should resolve such cases as a matter of priority through programmes/projects of social housing accommodation.

Regarding repossession of property and occupancy rights, a problem should be mentioned, which is specific for RS, relating to repossession of property and apartments which were the subject of the transfer of the right of disposal (exchange, sale, etc) during the relevant period between the Republic of Croatia and BiH, mainly from RS. In such cases, administrative proceedings are cancelled, the competent courts address the validity of contracts on the transfer of the right of disposal as a preliminary issue, and the administrative authorities in RS proceed with the enforcement procedure following final and binding judgments.

**5.6.** Since future of exchanged and/or sold property between the Republic of Croatia and BiH is unilaterally determined with final and binding judgments in either BiH or RS, in such legal cases recognition of foreign court judgments should be requested i.e. courts in the Republic of Croatia should recognize such judgments based on which the enforcement procedure would be conducted simultaneously by virtue of reciprocity, thus enabling parties that were partners in exchange of real property to enter into possession of their property and to establish ownership of the property which was the subject of the transfer of the right of disposal.

- *Repossession of military apartments*

The Commission for Real Property Claims of Displaced Persons and Refugees is a legal successor of the CRPC Commission composed of representatives of international community. Its mandate was to verify occupancy rights, ownership rights and possession rights over the claimed property on the date of 1 April 1992.

The Commission mandate and its competencies have been regulated in the Agreement concluded between the BiH Council of Ministers, FBiH Government and the RS Government on the transfer of competencies and continuation of funding and work of the Commission for Real Property Claims of Displaced Persons and Refugees in accordance with Annex VII of the *General Framework Agreement for Peace in Bosnia and Herzegovina*.

The Commission for Real Property Claims of Displaced Persons and Refugees is still competent for addressing the issue of military apartments which were owned by the former Federation Defence Ministry, but have been under the competency of the Common Affairs Service of the Federation Government since October 2007, as decided by the FBiH Government, given that the Common Affairs Service of the FBiH Government has requested the cases of repossession of military apartments to be reviewed.

**5.7.** As regards addressing the issue of military apartments in BiH, owing to considerable delayed transfer of competency from the former Federation Defence Ministry to the Common Affairs Service of the FBiH Government, the Common Affairs Service of the FBiH Government and local housing authorities in BiH shall finalize the enforcement procedure upon the decisions of the Commission for Real Property Claims of Displaced Persons and Refugees in legal situations where administrative dispute has not been initiated upon the Commission's decision.

**5.8.** With a view to finalizing return and implementation of Annex 7 of the *General Framework Agreement for Peace in Bosnia and Herzegovina*, recommendation shall be given to the BiH Court Administrative Department to prioritize cases/lawsuits in administrative disputes relating to decisions by the Commission for Real Property Claims of Displaced Persons and Refugees.

Since December 2007 the Commission for Real Property Claims of Displaced Persons and Refugees has also been receiving complaints initiated before the Court of Bosnia and Herzegovina (BiH Court) in accordance with the decision of the Human Rights Commission of the BiH Constitutional Court instructing the BiH authorities to enable parties that are not satisfied with the decision by the Commission for Real Property Claims of Displaced Persons and Refugees to initiate an administrative dispute before the BiH Court within 60 days from the receipt date of the Commission's decision, which is final, binding and enforceable.

During 2008, the Commission for Real Property Claims of Displaced Persons and Refugees expects to receive around 200 lawsuits. Deciding upon approximately 20% of the total number of the submitted lawsuits can have an impact upon the return process of displaced persons and refugees in BiH.

**5.9.** Competent authorities should remove all administrative impediments to repossession and free enjoyment of non-housing real property (agricultural land, forest land, business premises, etc) and simplify to the maximum extent the procedure for repossession of such property.

## **6. Identified problems and recommendations for improvements relating to the right of damage compensation**

A number of challenges for defining and exercising the right to compensation in accordance with Annex VII of the Dayton Peace Agreement have been identified, including:

- The risk of possible negative implications of the right to compensation upon the return process;
- Lack of domestic legal framework on this issue;
- Missed opportunities since signing the Dayton Agreement to regulate this issue in accordance with provisions of Annex VII of the Dayton Peace Agreement;
- Lack of definition of compensation in the context of the State and Annex VII, its scope as well as the timeframe that should be used;
- Need to define potential beneficiaries and priorities related to the right of compensation;
- Harmonization of different positions of competent authorities in BiH about this issue and achieving a minimum agreement which would contribute to resolving problems of the most vulnerable population categories in BiH;
- Identifying budget abilities and capacities for addressing this expensive process.

The main problems and issues related to damage compensation are as follows:

- The definition of compensation;
- The scope of what should be covered by compensation;
- Identifying the competent authorities for addressing these issues;
- The laws and regulations according to which compensation should be considered;
- The potential implications that provision of compensation at this time would have on the return process, etc.

On one hand, there exists the concern that if the compensation was provided at this time it would hinder return efforts. On the other hand, it was emphasized that the State is responsible for resolving this issue; beneficiaries falling under this category of BiH citizens expect that this type of solution, as provided in the Dayton Peace Agreement, is regulated through national legislation in BiH.

There were some highly polarized positions, starting from those requesting that nothing should be done in this area until conclusion of the return process in BiH, to those requesting that this right should be immediately regulated and made accessible for beneficiaries in BiH, and not only for damage inflicted upon housing units, but also for damage inflicted upon overall movable and immovable property of displaced persons and refugees.

However, the interpretation or more precisely clarification of the meaning of this measure as provided by OHR was generally accepted, according to which compensation as meant in Annex VII refers to compensation for a dwelling or home.

The amount of the compensation should be limited to an adequate compensation to provide for minimum housing conditions in accordance with existing regulations.

Taking into consideration the open issues, any compensation provided at this time should be limited to persons who cannot return and no action should be undertaken that would hinder ongoing return efforts.

Some NGO representatives reiterated that BiH legislation and international law, including European human rights law, must be followed.

OHR and UNHCR recalled that persons have the right to bring claims for compensation according to both BiH and international and European law, (as guaranteed under the Dayton Peace Agreement in the Constitution Annex IV, Annex VI and Annex VII).

Furthermore, any compensation scheme agreed for the purposes of Annex VII should be to support especially those from vulnerable categories, who cannot be assisted by standard means of support for return, through reconstruction of dwellings of displaced persons and returnees.

"Adequate compensation" versus "financial compensation" was discussed in detail, with some representatives objecting to the term "financial".

The working group considered that goal of compensation according to Annex VII is to ensure that persons are restored access to an adequate home. Alternatives to monetary/financial compensation for vulnerable beneficiaries were suggested. For example, one of the models is that municipalities could construct apartments for vulnerable persons residing in collective accommodations using the compensation funds that potentially would have been provided to the person for their former dwelling in need of reconstruction.

The right to adequate compensation should be ensured, as a priority, for persons who cannot return to their permanent addresses for objective reasons as they belong to special social categories, namely:

- Serious invalids, traumatized individuals, persons dependent on care and assistance by others;
- Persons who lost their housing units due to modification of urban planning, expropriation, construction by third persons; persons who cannot return to their housing units due to lack of basic infrastructure or social services;
- Other persons under conditions stipulated by the relevant regulations.

It was underlined that the competent State, entity and cantonal ministries and bodies shall, within the shortest deadline from the adoption of the revised State Strategy for the Implementation of Annex VII of the Dayton Peace Agreement, make an assessment and

a solid summary of the actual situation, jointly with the competent Brčko District Services, through municipal offices in BiH, and in close co-operation with UNHCR. This assessment will constitute a background for drafting relevant regulations for this issue. Of utmost importance is to regulate the following issues during the drafting process of the legislation:

- Definition of categories of persons who will have the right to priority compensation;
- Types of compensational schemes;
- Time period covered by the right to compensation;
- Procedural issues, competent authorities, etc;

Addressing the issue of compensation in BiH can in no way affect adversely the return process. To this end, it should be ensured that funds for addressing the return and compensation issue are especially planned and specified in their respective budgets.

The working group agreed that compensation in the context of Annex VII at this time is a means to help persons who cannot return in finding a durable solution.

In the context of Annex VII, compensation is not an attempt to make a person wholly compensated for all the losses they suffered during the war. It is only a priority compensation for inability to exercise the right of access to home, as particularly emphasized in OHR's position.

- 6.1.** Compensation in terms of Annex VII should be understood to be adequate compensation or financial reimbursement to the extent ensuring the right to home for displaced persons and refugees, as a manner to resolve exclusively housing issues of those who cannot return to their pre-war permanent address for objective reasons, and who have not resolved their housing issue in any other manner whatsoever;
- 6.2.** The right to adequate compensation should be ensured, as a priority, for resolving housing needs of special social categories, namely traumatized individuals, serious invalids, the most vulnerable social cases dependent on care and assistance by others as well as persons who cannot return to their permanent addresses due to objective reasons (e.g. urban plan has been changed, there is a land-slide on the return address, etc);
- 6.3.** The competent State, entity and cantonal ministries and bodies will, within 6 months from the adoption of the revised State Strategy for the Implementation of Annex VII of the Dayton Peace Agreement make an assessment and a solid summary of the actual situation, jointly with the competent Brčko District services, through municipal offices in BiH, and in close co-operation with UNHCR. This assessment will constitute a background for drafting relevant laws and by-laws in this area;
- 6.4.** Addressing this issue in BiH can in no way affect adversely the return process of refugees and displaced persons. To this end, it should be ensured that funds for addressing the return and compensation issue are especially planned and specified in their respective budgets.



## **ANNEX**

### **Relevant Legal Framework**

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**Title:** Revised Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement

**Published by:** BiH Ministry of Human Rights and Refugees

**Authors and editors:** Mario Nenadić and Nermina Džepar-Ganibegović

**Other authors:** Medžid Lipjankić, Drago Borovčanin, Slavica Jakšić, Nada Spasojević, Abela Pabrić-Poturović, Minka Smajević, Azra Hadžibegić

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I – INTERNATIONAL LEGAL INSTRUMENTS
The Bologna Declaration on the European Space for Higher Education (1999)
European Convention on the Academic Recognition of University Qualifications (1959)
European Convention on the Equivalence of Diplomas Leading to Admission to Universities (1953) and its Protocol (1964)
European Convention on the Equivalence of Periods of University Study (1956)
European Convention on the General Equivalence of Periods of University Study (1990)
European Convention on the Recognition of Qualifications concerning Higher Education in the European Region (1999)
Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region (1979)
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987)
European Convention on the Protection Of Human Rights and Fundamental Freedoms (1950)
European Charter for Regional and Minority Languages (1994)
European Social Charter – revised (1996), which has not been ratified yet
Framework for Qualifications of the European Higher Education Area (EHEA) was adopted in the 2005 Bergen Communiqué 2005
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (2000)
Copenhagen Ministerial Declaration on Enhanced European co-operation in Vocational Education and Training (2002)
London Communiqué (2007)
MAGNA CHARTA UNIVERSITATUM - University Treaty (1998)
International (bilateral) social insurance agreements
Framework Convention of the Protection Of National Minorities (1994)
Convention of the European Higher Education Institutions, Salamanca (2001)
Education for all – EFA), Dakar Framework for Action (2000)
"Pinheiro" Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005)
Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and Convention on Transnational Organized Crime, Palermo Protocol (2000)
Berlin Communiqué of the Ministers responsible for Higher Education on Realising the European Higher Education Area (2003)
Resolution on enhanced cooperation in vocational training and education (2002)
UN Convention on the Rights of child (1989)
1951 United Nations Convention Relating to the Status of Refugees and 1967 Protocol
UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
UN Convention against Discrimination in Education (1960)
UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
International Covenant on Economic, Social and Cultural Rights (1968)
UN Covenant on Political and Civil Rights (1966) and its Protocols (1966 and 1968)
Universal Declaration of Human Rights (1948)
Guiding Principles on Internal Displacement (1998)
Joint declaration on harmonisation of the architecture of the European higher education system (1998)
Geneva Conventions relating to the Protection of Victims of International Armed Conflicts (1949) and additional protocol I-II (1977)

## II – KEY REGULATIONS AND BASIC COMPETENCIES

### Provision on Ratification of International Conventions (RBiH Official Gazette no. 5/92)

#### General Framework Agreement for Peace in Bosnia and Herzegovina

Annex 1-a -	Military Aspects of the Peace Settlement
Annex 1-b -	Regional Stabilization
Annex 3 -	Elections
<b>Annex 4 -</b>	<b>Constitution</b>
Annex 5 -	Arbitration
Annex 6 -	Human Rights
<b>Annex 7</b>	<b>Refugees and Displaced Persons</b>
Annex 8 -	Commission to Preserve National Monument
Annex 9 -	Establishment of Bosnia and Herzegovina Public Corporations
Annex 10 -	Civilian Implementation of Peace Settlement
Annex 11 -	International Police Task Force

#### FBiH and RS Constitutions and BiH Brčko District Statute

**Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina** (BiH Official Gazette nos. 5/03, 42/03, 26/04, 42/04 and 45/06), entity laws governing competencies in FBiH, RS and the BiH Brčko District Statute

**BiH Law on Refugees from BiH and Displaced Persons in BiH** (BiH Official Gazette nos. 23/99, 21/03 and 33/03)

**FBiH Law on Displaced-Expelled Persons and Refugees-Returnees** (FBiH Official Gazette no. 15/05)

**RS Law on Displaced Persons, Returnees and Refugees** (RS Official Gazette no. 42/05)

**Instruction on the Manner and Procedures for the Selection of Beneficiaries for Return Projects and Reconstruction of Housing Units** (BiH Official Gazette no. 48/06)

**Guidelines for the Application of the Instruction of the Manner and Procedures of Selection of Beneficiaries for Return Projects and Reconstruction of Housing Units with a Chart for Evaluation of Special Criteria**, no. 06-41-753-3057/06, 31 August 2006

**Instruction on the Manner and Procedures for Beneficiary Identification of the Assistance from the Sub-Fund for Intervention Assistance in Sustainable Return in Bosnia and Herzegovina** (BiH Official Gazette no. 96/06)

**Rulebook on Minimum Housing Standards for Reconstruction and Construction of Housing Units for Return Purposes**, 9 May 2006

**BiH Law on Public Procurement** (BiH Official Gazette no. 49/04)

**Agreement on Reconnection of Returnees' Housing Units to the Electricity Network in Bosnia and Herzegovina**

**Memorandum of Understanding and Co-operation for Electrification of Locations/Facilities of Realized Return** (in the adoption phase)

### III – REGULATIONS BROKEN DOWN PER ACTIVITY

#### 1 - Security and de-mining

##### 1.1 *Bosnia and Herzegovina*

**Law on the State Investigation and Protection Agency – SIPA**, BiH Official Gazette no. 27/04)

**Law on the State Border Monitoring and Control** (BiH Official Gazette no. 56/04)

**Law on the State Border Service** (BiH Official Gazette no. 50/04)

**Law on Police Officers** (BiH Official Gazette no. 27/04)

**Statute of the International Criminal Police Organization – INTERPOL** (1956)

**BiH Criminal Code** (BiH Official Gazette no. 37/03)

**BiH Law on Criminal Code Proceedings** (BiH Official Gazette no. 36/03)

**Law on Procurement, Possession and Carrying of Firearms** (R BiH Official Gazette nos. 42/90, 13/93 and 13/94)

**BiH Law on De-mining** (BiH Official Gazette no. 5/02)

**Decision on Establishing the BiH MAC**

##### 1.2 *Federation of Bosnia and Herzegovina*

**FBiH Criminal Code** (FBiH Official Gazette nos. 36/03, 37/03, 21/04, 22/05 and 18/05)

**FBiH Law on Criminal Proceedings** (FBiH Official Gazette no. 35/03)

**FBiH Law on Internal Affairs** (FBiH Official Gazette no. 19/03)

**FBiH Law on Police Officers** (FBiH Official Gazette no. 27/05)

**FBiH Law on Misdemeanours** (FBiH Official Gazette no. 31/06)

##### 1.3 *Republika Srpska*

**RS Law on Criminal Proceedings** (RS Official Gazette no. 50/03)

**RS Criminal Code** (RS Official Gazette no. 49/03)

**RS Law on Internal Affairs** (RS Official Gazette no. 48/03)

**Law on Misdemeanours** (RS Official Gazette no. 34/06)

**Law on Public Order** (RS Official Gazette no. 20/07)

**RS Law on the Protection from Domestic Violence** (RS Official Gazette no. 118/05)

**Rulebook on the Manner of Performing Affairs of the Public Security Service** (1977 SFRY Rulebook)

##### 1.4 *BiH Brčko District*

**Law on the BiH Brčko District Police** (BD Official Gazette nos. 2/00, 5/01, 2/02, 6/03, 15/04, 42/04, 11/05 and 33/05)

#### 2 - Infrastructure, reconstruction and construction

##### 2.1 *Federation of Bosnia and Herzegovina*

**Law on Environmental Planning and Use of Land; Law on Taking Over the Law on Housing Affairs; Law on Waste Management; Law on Air Protection; Law on Water Protection; Law on Protection of Environment; Law on Nature Protection; Law on the FBiH Fund for the Protection of Environment: Law on Electric Energy**

2.2 *Republika Srpska*

**Law on Environmental Planning; Law on Housing Affairs; Law on Privatization of the State-Owned Apartments; Law on Maintenance of Apartment Buildings; Law on Communal Affairs; Law on Construction Land; Law on the Protection of Living Environment; Law on Nature Protection; Law on Air Protection; Law on Water the Protection; Law on Waste Management; Law on the Fund for the Protection of Environment, Law on Electric Energy**

2.3 *BiH Brčko District*

**Law on the Registration of Land and the Right to Land; Law on Possession and Other Material Rights; Law on Environmental Planning; Law on Legalization of Illegally Built Buildings; Mayor's guidelines**

**3 - Health**

3.1 *Bosnia and Herzegovina*

**Resolution on Health Policy for all Citizens of Bosnia and Herzegovina** (BiH Official Gazette no. 12/02)

**Agreement on the Manner and the Procedures for Applying Health Care of Persons Ensured in Bosnia and Herzegovina Outside the Insuring Entity and/or BiH Brčko District** (BiH Official Gazette no. 30/01)

**Instruction on the Manner for Registering and De-registering Insured Persons, Issuing Health Cards and on Other Elements Important for Legal, Fair and Timely Acquisition of Health Care by Insured Persons in Their New Place of Residence.**

3.2 *Federation of Bosnia and Herzegovina*

**Law on Health Care** (FBiH Official Gazette no. 29/07)

**Law on Health Insurance** (FBiH Official Gazette nos. 30/97, 7/02)

**Rulebook on the Modality for Exercising the Rights of Obligatory Health Insurance** (FBiH Official Gazette no. 32/03)

**Agreement on the Manner and Procedures for Applying Health Care Outside the Territory of the Competent Cantonal Health Insurance Bureau** (FBiH Official Gazette no. 41/01)

**Decision on Exercising the Right to Hospital Health Care of Returnees to Municipalities of Srebrenica, Bratunac, Milići, Žepa and Vlasenica in Republika Srpska in Health Facilities of the Federation of Bosnia and Herzegovina** (FBiH Official Gazette no. 32/07)

**Decision on Exercising the Right to Hospital Health Care of Returnees to Municipalities of Srebrenica, Bratunac, Milići, Žepa and Vlasenica in Republika Srpska, amended with returnees to Zvornik Municipality**, the notification of which has been forwarded to the Clinical Centre of Sarajevo University and Clinical Centre of Tuzla University, while the Federation Ministry of Displaced Persons and Refugees has also been informed

3.3 *Republika Srpska*

**Law on Health Care** (RS Official Gazette nos. 18/99, 23/99, 58/01, 62/02)

**Law on Health Insurance** (RS Official Gazette nos. 18/99, 51/01, 70/01, 51/03)

**Decision on Participation** (RS Official Gazette nos. 54/07)

**Rulebook on Indications and Procedures for Prescribing Orthopedic and Other**

**Accessories Issued by the Health Insurance Fund of the Republika Srpska** (RS Official Gazette no. 54/07)

3.4 *BiH Brčko District*

**Law on Health Insurance of BiH Brčko District** (BD Official Gazette nos. 1/02, 7/02)

**Law on Health Care of BiH Brčko District** (BD Official Gazette no. 2/01)

**Law on Social Protection of BiH Brčko District** (BD Official Gazette nos. 1/03 and 4/04)

#### **4 - Education**

4.1 *Bosnia and Herzegovina*

**Framework Legislation on Elementary and Secondary School Education in Bosnia and Herzegovina** (BiH Official Gazette no. 18/03)

Framework Law on Secondary Vocational Education and Training (BiH Official Gazette no. 63/08)

**Framework Law on Higher Education in BiH** (BiH Official Gazette no. 59/07)

**Framework Law on Pre-School Education in BiH** (BiH Official Gazette no. 88/07)

**Law on the Agency for Pre-School, Elementary and Secondary Education in BiH** (BiH Official Gazette no. 88/07)

**Decision on the Beginning of the Work of the Agency for Pre-School, Elementary and Secondary Education in BiH** (BiH Official Gazette no. 8/08)

**Med-Term Development Strategy of BiH** (PRSP), 2004-2007

**Development Strategy for Pre-School Education in BiH, 2005**

**Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children**, dated 5 March 2002

**Plan for the Implementation of the Interim Agreement**, 13 November 2002

**Development Strategy of Vocational Education and Training in BiH for the period 2007-2013** (BiH Official Gazette no. 65/07)

**Strategic Goals of Education in BiH with the Implementation Plan for period 2008** (BiH Official Gazette, no. 63/08)

4.2. *Federation of Bosnia and Herzegovina – cantonal laws*

- *Pre-School Education*

Law on Pre-School Education of Una-Sana Canton (Official Gazette of Una-Sana Canton no. 3/97)

Law on Pre-School Education of Posavina Canton (Official Gazette of Posavina Canton no. 5/98)

Law on Pre-School Education of Tuzla Canton (Official Gazette of Tuzla Canton no. 8/98)

Law on Pre-School Education of Zenica-Doboj Canton (Official Gazette of Zenica-Doboj Canton no. 5/97)

Law on Pre-School Education of Bosnia-Podrinje Canton (Official Gazette of Bosnia-Podrinje Canton no. 8/99)

Law on Pre-School Education of Middle-Bosnia Canton (Official Gazette of Middle-Bosnia Canton no. 11/01)

Law on Pre-School Education of Herzegovina-Neretva Canton (Official Gazette of Herzegovina-Neretva Canton no. 5/00)

Law on Pre-School Education of Western Herzegovina Canton (Official Gazette of Western Herzegovina Canton no. 7/98)

Law on Pre-School Education of Sarajevo Canton (Official Gazette of Sarajevo Canton nos. 4/98, 9/00 and 18/02)

Law on Pre-School Education of Canton 10 (Official Gazette of 10 no. 5/99)

- *Elementary Education*

Law on Elementary and Secondary Education of Una-Sana Canton (Official Gazette of Una-Sana Canton no. 5/04)

Law on Elementary Education of Posavina Canton (Official Gazette of Posavina Canton nos. 3/04 and 4/04)

Law on Elementary Education of Tuzla Canton (Official Gazette of Tuzla Canton nos. 6/04 and 7/05)

Law on Elementary School of Zenica-Doboj Canton (Official Gazette of Zenica-Doboj Canton no. 5/04)

Law on Elementary Education of Bosnia-Podrinje Canton (Official Gazette of Bosnia-Podrinje Canton no. 5/04)

Law on Elementary School of Middle-Bosnia Canton (Official Gazette of Middle-Bosnia Canton nos. 11/01, 17/04); Law on Amendments to the Law on Elementary School – High Representative Decision, 7 July 2004

Law on Elementary Education of Herzegovina-Neretva Canton (Official Gazette of Herzegovina-Neretva Canton nos. 5/00, 4/04 and 5/04)

Law on Elementary School of Western Herzegovina Canton (Official Gazette of Western Herzegovina Canton nos. 6/04 and 8/04); Law on Amendments to the Law on Elementary Schooling – High Representative Decision, 7 July 2004

Law on Elementary Education of Sarajevo Canton (Official Gazette of Sarajevo Canton nos. 10/04 and 21/06)

Law on Elementary Education of Canton 10 (Official Gazette of Canton 10 no. 12/4)

- *Secondary Education*

Law on Elementary and Secondary Education of Una-Sana Canton (Official Gazette of Una-Sana Canton no. 5/04)

Law on Secondary Education of Posavina Canton (Official Gazette of Posavina Canton nos. 3/04, 4/04)

Law on Secondary Education of Tuzla Canton (Official Gazette of Tuzla Canton nos. 6/04, 7/05)

Law on Secondary School of Zenica-Doboj Canton (Official Gazette of Zenica-Doboj Canton no. 5/04)

Law on Secondary School of Bosnia-Podrinje Canton (Official Gazette of Bosnia-Podrinje Canton no. 5/04)

Law on Secondary School of Middle-Bosnia Canton (Official Gazette of Middle-Bosnia Canton nos. 11/01, 17/04); Law on Amendments to the Law on Secondary School – High Representative Decision, 7 July 2004

Law on Secondary Education of Herzegovina-Neretva Canton (Official Gazette of Herzegovina-Neretva Canton nos. 8/00, 4/04, 5/04)

Law on Secondary Education of Western Herzegovina Canton (Official Gazette of Western Herzegovina Canton nos. 6/04, 8/04); Law on Amendments to the Law on Secondary Education – High Representative Decision, 7 July 2004

Law on Secondary Education of Sarajevo Canton (Official Gazette of Sarajevo Canton no. 10/04)

Law on Secondary Education of Canton 10 – High Representative Decision, 7 July 2004 (Official Gazette of Canton 10 no. 12/04)

- *Higher Education*

Law on Bihać University (Official Gazette of Una-Sana Canton nos. 8/98, 8/06)

Law on Higher Education of Posavina Canton (Official Gazette of Posavina Canton no. 6/00)

Law on Higher Education of Tuzla Canton (Official Gazette of Tuzla Canton nos. 10/99,

15/00, 5/05)

Law on Tuzla University (Official Gazette of Tuzla Canton nos: 13/99, 12/00, 2/02, 10/02, 11/03, 8/04, 6/05)

Law on University Education of Zenica-Doboj Canton (Official Gazette of Zenica-Doboj Canton no. 5/05)

Law on Zenica University (Official Gazette of Zenica-Doboj Canton nos. 6/05, 11/06)

Law on Higher Education of Bosnia-Podrinje Canton (Official Gazette of Bosnia-Podrinje Canton no. 10/16)

Middle-Bosnia Canton does not have legislation relating to higher education

Herzegovina-Neretva Canton – applies the following provisions:

Law on Mostar University (Official Gazette of Croatian Republic of Herceg-Bosnia nos. 32/94, 24/95, 38/95, 16/96, 44/96) and

Law on University (Official Gazette of Socialist Republic of BiH no. 39/90)

Law on Higher Education of Western Herzegovina Canton (Official Gazette of Western Herzegovina Canton no. 6/04)

Law on Higher Education of Sarajevo Canton (Official Gazette of Sarajevo Canton no. 9/07)

Canton 10 – Law on Higher Education (Official Gazette of Herzeg-Bosnia Canton no. 8/09)

#### 4.3. *Republika Srpska*

**Law on Protection of Children – cleared text** (RS Official Gazette no. 4/02)

**Law on Elementary School** (RS Official Gazette no. 38/04)

**Law on Secondary School** (RS Official Gazette no. 38/04)

**Law on Higher Education** (RS Official Gazette nos. 85/06, 30/07)

#### 4.4. *BiH Brčko District*

**Law on Pre-School Education of BiH Brčko District** (BD Official Gazette no. 13/07, 19/07)

**Law on Education in Elementary and Secondary Schools of BiH Brčko District** (BD Official Gazette no. 10/08)

**Draft Law on Higher Education** (in procedure); the Law on Higher Education has not been adopted and the Economy Faculty in Brčko is a branch of the Eastern Sarajevo University.

## 5 – Labor and employment

### 5.1 *Bosnia and Herzegovina*

**Decision of the BiH Constitutional Court on Constituency of Peoples**, July 2000

**Law on Employment in the Institutions of Bosnia and Herzegovina** (BiH Official Gazette no. 26/04)

**Law on Civil Service in the Institutions of Bosnia and Herzegovina** (BiH Official Gazette nos. 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06)

**Framework Principles and Standards in the Employment Sector of Bosnia and Herzegovina** (in the pipeline)

### 5.2 *Federation of Bosnia and Herzegovina*

**Labor Law** (FBiH Official Gazette nos. 43/99, 32/00, 29/03)

**Law on Mediation in Employment and Social Security of Unemployed Persons** (FBiH Official Gazette nos. 55/00, 41/01, 22/05)

**Law on Civil Service in BiH Federation** (FBiH Official Gazette nos. 29/03, 23/04, 39/04, 54/04, 67/05 and 8/06)

**Law on Employees** (FBiH Official Gazette no. 49/05)

**Rulebook on Funding the Labor Market Program** (FBiH Official Gazette no. 4/06)

**Rulebook on Records in the Employment Area** (FBiH Official Gazette no. 24/07)

### 5.3 *Republika Srpska*

**Labor Law** (RS Official Gazette nos. 38/00, 40/00, 47/02, 38/03, 12/03, 54/05, 64/06)

**Employment Law** (RS Official Gazette nos. 38/00, 85/03, 42/05, 54/05, 64/06)

**Law on Local Administration and Self-Administration** (RS Official Gazette nos. 110/04, 118/05)

**Law on Administrative Service in RS** (RS Official Gazette nos. 16/02, 62/02, 38/03, 42/04, 49/06)

**Law on Professional Rehabilitation, Training and Employment of Disabled Persons** (RS Official Gazette no. 98/04, 91/06)

### 5.4 *BiH Brčko District*

**BiH Brčko District Law on Employment and Rights During Unemployment** (BD Official Gazette nos. 33/04, 19/07)

**Law on Civil Service in Administrative Bodies of BiH Brčko District** (BD Official Gazette no. 28/06)

**Rulebook on the Methodology and Procedure for Assessing and Selecting Beneficiaries of New Employment Programmes** (BD Official Gazette no. /07)

## 6 – Social Protection

### 6.1 *Federation of Bosnia and Herzegovina*

**Law on the Grounds of Social Protection, Protection of Civilian War Victims and Protection of Families with Children** (FBiH Official Gazette nos. 36/00, 54/04 and 39/06)

**FBiH Law on Pension and Disability Insurance** (FBiH Official Gazette nos. 29/98, 49/00, 32/01, and 73/95)

**FBiH Family Law** (FBiH Official Gazette no. 35/05)

**Agreement on Mutual Rights and Obligations in the Implementation of Pension and Disability Insurance** (FBiH Official Gazette no. 24/00)

**Law on the Protection of Persons with Mental Disabilities** (FBiH Official Gazette nos. 37/01 and 40/02)

**Rulebook on Disability Assessment of Civilian War Victims and Assessment of Working Incapability of Family Members of Civilian War Victims During the Procedure for Exercise of the Rights Under the Law on the Grounds of Social Protection of Civilian War Victims and Protection of Families with Children** (FBiH Official Gazette no. 55/06)

**Instruction on the Manner of Paying Cash Benefits to Civilian War Victims and the Modality of Keeping Records of Those Beneficiaries** (FBiH Official Gazette no. 55/06)

**Instruction on Recognition of the Status of a Civilian War Victim** (FBiH Official Gazette no. 62/06)

**Rulebook on Disability Assessment of Disabled Persons in the Procedure of Exercising the Rights Under the Law on the Grounds of Social Protection, Protection of Civilian War Victims and Protection of Families with Children** (FBiH Official Gazette no. 46/06 – non-war invalids)

**Cantonal Laws on Social Protection, Protection of Civilian War Victims and**

**Protection of Families with Children** (laws of all ten Cantons)

6.2 *Republika Srpska*

**Law on Social Protection** (RS Official Gazette nos. 05/93, 15/96 and 110/03)

**Law on Child Protection** (RS Official Gazette no. 4/02)

**Law on Professional Rehabilitation, Training and Employment of Disabled Persons** (RS Official Gazette nos. 98/04 and 91/06)

**Law on Protection of Persons with Mental Disabilities** (RS Official Gazette no. 46/04)

**Family Law** (RS Official Gazette no. 54/05)

**Law on Pension and Disability Insurance in the RS** (RS Official Gazette no. 106/05)

**Agreement on Mutual Rights and Obligations in the Implementation of Pension and Disability Insurance** (RS Official Gazette nos. 15/00, 10/02)

**Law on the Protection of Civilian War Victims** (RS Official Gazette nos. 25/93 and 60/07)

6.3 *Brčko District of BiH*

**Law on Social Protection** (BD Official Gazette nos. 1/00, 1/03 and 12/04)

**Law on Child Protection** (BD Official Gazette nos. 1/00 and 7/04)

**Family Law** (BD Official Gazette no. 23/07)

**Rulebook on Conditions and Methods for Solving Housing Problems of Beneficiaries of Permanent Social Assistance and Persons in Need of Social Assistance**

**Decision on Detecting, Assessing Capabilities and Classifying Children and Youth with Special Needs**

**7 – Property and occupancy rights**

7.1 *Federation of Bosnia and Herzegovina*

**Law on Sale of Apartments with Occupancy Rights** (FBiH Official Gazette nos. 27/97, 11/98, 22/99, 27/99, 7/00, 32/01, 61/01, 54/04, 36/06)

**Law on Executing Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees in FBiH and RS** (FBiH Official Gazette no. 43/99)

**Law on Cessation of the Law on Abandoned Apartments** (FBiH Official Gazette nos. 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, 21/01, 56/01, 24/03 and 29/03)

**Law on Cessation of the Application of the Law on Temporarily Abandoned Real Property Owned by Citizens** (FBiH Official Gazette nos. 11/98, 29/98, 27/99, 43/99, 37/01, 56/01 and 24/03)

**Instruction on the Application of the Law on Cessation of the Application of the Law on Abandoned Apartments** (FBiH Official Gazette nos. 43/99, 46/99)

**Instruction on the Application of the Law on Cessation of Application of the Law on Real Property Owned by Citizens** (FBiH Official Gazette no. 43/99)

7.2 *Republika Srpska*

**Law on Cessation of Application of the Law on Use of Abandoned Property** (RS Official Gazette nos. 38/98, 12/99, 31/99, 38/99, 65/01, 39/03, and 96/03)

**Law on Privatization of State-Owned Apartments** (RS Official Gazette nos. 11/00, 18/01, 35/01, 47/02, 65/03 and 3/04)

7.3. *BiH Brčko District*

**Law on Repossession of Abandoned Property in BiH Brčko District** (BD Official Gazette nos. 5/01, 1/02, 10/02, 17/04, 41/06)

**Law on Sale of Apartments with Occupancy Rights in BiH Brčko District** (BD

Official Gazette nos. 10/02, 17/04 and 41/06)