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Refugees

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

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PREFACE

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

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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APPENDIX 1:

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

APPENDIX 2:

Concept Note for Addressing the Issue of Damage Compensation for Property Which Cannot Be Restored to Refugees and Displaced Persons in Terms of the Rights Ensured in Annex VII of the Dayton Peace Agreement

INTRODUCTION

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 m² were de-mined in BiH. Annually, around 11 millions m² 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 km² 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-reached 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" ⁽¹⁾ 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 purposes from the State budget and from the budget of the entities and Brčko District combined should be almost equal.

⁽¹⁾ "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.

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 ⁽²⁾, 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%).

⁽²⁾ 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 ⁽³⁾ 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 ⁽⁴⁾. 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

⁽³⁾ www.oscbih.org/document/26-cro.pdf

⁽⁴⁾ 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: (5)

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

(5) 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." ⁽⁶⁾

Activity and employment rates according to the 2007 Labour Force Survey ⁽⁷⁾ 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.

⁽⁶⁾ Bulletin No. 2, page 7, December 2006, issued by the Labour and Employment Agency of BiH, www.agenrzbh.gov.ba

⁽⁷⁾ Labour Force Survey, Sarajevo, 18 September 2007, No. 2, page 2, issued by the BiH Agency for Statistics, 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. ⁽⁸⁾

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.

⁽⁸⁾ 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". (9)

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.

(9) *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 ⁽¹⁰⁾, 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 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

⁽¹⁰⁾ 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.

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 reposessed, and 320,000 housing units were reconstructed through budget resources, donations, and personal investments of returnees. A significant number of reposessed 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 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.

- 1.7.** 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;
- 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;
 - 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;
 - 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;
 - To create adequate legal framework, proper institutional arrangement and adopt policies that will lead to non-discriminatory access to housing for everyone;
 - 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;
 - 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.

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. ⁽¹¹⁾
- 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.

⁽¹¹⁾ 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 insured 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." ⁽¹²⁾ 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;

⁽¹²⁾ *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

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

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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
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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 (RBiH 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 Herceg-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)



BOSNIA AND HERZEGOVINA
Ministry for Human Rights and Refugees

APPENDIX 1

**THE FRAMEWORK PROGRAMME FOR
RETURN OF REFUGEES AND DISPLACED PERSONS TO BIH
FOR THE PERIOD 2009-2014**

PREFACE

At the 6th Thematic session of the BiH Council of Ministers held on 13 November 2008, it was concluded that the BiH Ministry of Human Rights and Refugees, in co-operation with the entity and other competent institutions, would draft the 2009-2014 Return Programme, also showing the funds and their sources.

In accordance with the above mentioned conclusion, this obligation of the BiH Ministry of Human Rights and Refugees, which is the focal point for the mentioned action, has been included on the thematic Agenda of the BiH Council of Ministers. The anticipated deadline for forwarding the material to the Council of Ministers for its discussion and adoption is September 2009.

With a view to implementing timely the programme-related tasks, the BiH Ministry of Human Rights and Refugees has made a Draft, as a concept paper, for substantial completion of the return process in BiH until 2014, including the assessment of required funds and expected outcomes. It has also developed the implementation methodology including the foreseen actions and clear division of roles and responsibilities.

During consultations, the programme has been co-ordinated with the competent institutions: Federation Ministry of Displaced Persons and Refugees, RS Ministry of Refugees and Displaced Persons, Department for Refugees, Displaced Persons and Housing Policy of the Brčko District of Bosnia and Herzegovina and UNHCR Representation in BiH.

The programme also includes the recommendations from the Revised Strategy of Bosnia and Herzegovina for the Implementation of Annex 7 of the Dayton Peace Agreement which is pending for the adoption. We believe that this co-ordinated document will respond fully and timely to the need for the implementation of the common programme-related tasks for the benefit of all those who are still in need of durable solutions for their refugee/displacement issues through their return.

Although the basis for drafting this programme has been the information obtained from the database on recognized displaced persons, we wish to outline that there will be no restriction of rights during the implementation of the programme and that equal access to assistance shall be ensured for all refugees, displaced persons and returnees who meet the prescribed criteria for receiving assistance for sustainable return.

Also, this programme will be used for drafting the feasibility study and for ensuring loans for these purposes in accordance with the conclusions of the BiH Parliamentary Assembly. The programme also serves as a starting point for preparing an overall BiH Action Plan for enabling access to Annex 7 rights, including those relating to choice of residence, compensation for the property which cannot be restored and other rights.

Dr. Safet Halilović
Minister for Human Rights and Refugees

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INTRODUCTION – CONTEXT

BiH administrative territorial system

Before the war, there were 109 administrative territorial units – municipalities - in BiH.

The post-Dayton BiH has been administratively divided into two entities: BiH Federation (FBiH) with 51% of the territory and Republika Srpska (RS) with 49% of the territory.

Today, there are 142 basic administrative territorial units in BiH, of which 79 are located in 10 FBiH cantons, 62 in RS, while BiH Brčko District makes a separate administrative unit.

Also, municipalities differ in size, from the smallest one with 3 km² to the largest one with more than 1,200 km², and in population density in certain areas.

Demographic indicators

According to the last 1991 census, population of Bosnia and Herzegovina consisted of 4.3 millions people in slightly less than 1.3 millions households, with average household amounting to 3.4 persons.

The average population density in 1991 was 86 persons/km².

The total of 1.7 millions of residents i.e. 37% of the overall number lived in urban areas with average growth rate of 2% per year. Major urban areas were: Sarajevo, Banja Luka, Zenica, Tuzla, Mostar and Prijedor – municipalities with more than 100,000 residents.

When it comes to distribution of population, according to 1991 census, 62% of population lived on the territory of today's FBiH, around 36% in RS, while around 2% lived in the area of today's BiH Brčko District.

According to 1991 census, there were more than 1.9 millions of Bosniaks, almost 1.4 millions of Serbs and around 760,000 of Croats. Also, there were registered almost 250,000 Yugoslavs and around 100,000 others.

A tragic conflict in the region – as the 1992-1995 war was defined in the *General Framework Agreement for Peace in Bosnia and Herzegovina*, signed in the end of 1995 – caused huge direct or indirect demographic losses and changes in BiH.

Dozens of thousands of people were killed, while around 13,000 are still registered as missing persons.

The effect of the war was also an increased mortality rate on one hand, and decreased natality rate in BiH, on the other.

The conflict-induced migration

During the period 1992-1995, around 2.2 millions of persons left their pre-war homes, which is more than half of the pre-war domicile population. Of that number, around 1.2 millions of persons sought protection as refugees in more than 100 countries worldwide, while at the same time, around a million of persons was displaced in Bosnia and Herzegovina. The war conflicts resulted in increased voluntary migration of BiH nationals who kept emigrating from Bosnia and Herzegovina in the years following the establishment of peace.

Return

Return to BiH started immediately after the conflict was over. More than a million of returnees to BiH has been registered to date, of which almost half are the so called minority returns.

The highest number of returns happened during the first three years following the establishment of peace, with more than a half of the total number of returns to BiH to date. It was the period of "easier" returns because refugees and DPs returned to their homes according to principle of family reunification. Also, a significant number of returns was registered during the years after the introduction of the Property Legislation Implementation Plan (PLIP) and is closely associated with repossession of property by their pre-war owners and occupancy right holders.

Since 2003, the return trend started to drop abruptly until 2005 when there were 6,000 registered returnees. However, in the last three years, the return process has increased with around 8,000 returns registered in 2008.

However, it is difficult to say how many refugees and DPs have found durable solutions through their return since, in addition to possible statistical deviations from the actual return situation, also many persons left either temporarily or permanently their pre-war residences after repossession or reconstruction which was recorded as a return.

Evidently, more than a quarter of refugees and DPs in their host countries and displacement places in BiH have found other durable solutions.

BiH population today

Today, 14 years after the establishment of peace, almost half of refugees and DPs in BiH are still outside of their pre-war homes.

According to the assessment made by the Ministry of Human Rights and Refugees, more than half a million of persons are currently outside BiH, who left BiH during the period from 1992 to 1995 and as such have been registered as refugees from BiH. Of that number, almost 80% have locally integrated in their reception countries, while still around 80,000 refugees from BiH are in need of a durable solution, including also their voluntary return to BiH.

In parallel, around 39,000 families have been displaced in BiH, with total of 117,000 displaced persons of whom around 50,500 or 43% have been displaced in FBiH, around 66,000 or 56% in RS and around 800 or 0.9% in BiH Brčko District.

For majority of DPs in BiH (for around 64% of them) durable solutions can be found for the issue of accommodation through reconstruction, while for the remaining 36%, another form of housing care should be identified, either through incentives to resolution of their housing issues in pre-war places of permanent residence or through local integration in displacement places.

Although some radical demographic changes have occurred since the beginning of the conflict in Bosnia and Herzegovina in 1992, no official census in BiH has been conducted since 1991.

Indicators of the number, composition and distribution of population rely upon researches suggesting that there are slightly more than 4 millions of residents in BiH.

Housing indicators

1991 housing stock in Bosnia and Herzegovina consisted of around 1.2 millions of housing units, privately or socially owned, distributed in around 7,000 settlements. The average square area of a unit was around 60 m² per household i.e. around 17 m² per a resident.

Besides demographic destruction, the war also radically changed the situation in a housing sector in Bosnia and Herzegovina by destroying partially or fully almost half a million of pre-war housing units, which makes more than 40% of the housing stock. Of that number, around 100,000 housing units suffered a low level of damage (up to 20% of damage); the largest number, around 270,000 suffered a medium level of damage (between 20 and 70%) while more than 80,000 suffered the highest level of damage up to total destruction (more than 70%).

Unfortunately, destruction of the housing stock continued even after signing the peace accord resulting in destruction of almost 14,000 housing units after the war, majority of which (more than 80%) were on the territory of today's FBiH.

So far, around 322,000 housing units have been reconstructed in BiH, making a reconstruction rate of around 70%. Of that number, around 236,200 housing units have been reconstructed in FBiH, around 73,300 in RS and around 12,600 in BiH Brčko District.

According to the assessments, more than two thirds i.e. around 200,000 housing units have been reconstructed with various international and local donations, while the remaining third, mostly less damaged units, has been renovated with private funds of owners and occupancy right holders.

On the basis of the information gathered in the field by competent municipal services, there are still 146,000 unreconstructed housing units in BiH i.e. 30% of the total damaged or destroyed housing stock. The largest number of those housing units suffered a high level of damage, up to total destruction. In FBiH, there are still around 78,500 housing units which are not reconstructed, making a rate of 25% of damaged or destroyed housing stock in FBiH; in RS around 65,000, making the rate of 47%; while in BiH Brčko District there are around 2,700 unreconstructed housing units making the rate of 18% of damaged or destroyed housing stock.

The reconstruction costs of the remaining damaged or destroyed housing stock, according to the expressed level of damage in the field are assessed at around KM 2 milliards.

With its strategic solutions, Bosnia and Herzegovina has opted for priority renovation of a housing stock which needs to be reconstructed for return since, even today, many years after they left their homes, a large number of people still wishes to return to their homes and waits for reconstruction which will enable their wish come true.

Current indicators of the number of submitted applications for registration of potential assistance beneficiaries following the public call by the Ministry of Human Rights and Refugees in mid 2004, show that almost 43,000 families or around 150,000 individuals need assistance in reconstruction for their voluntary return to BiH.

By comparing the number of potential assistance beneficiaries, level of damage of housing units in return municipalities and average renovation costs of individual housing units with a view to ensuring the standard minimum of housing conditions, the BiH Ministry of Human Rights and Refugees has assessed that KM 600 millions should be ensured only for priority reconstruction for the purpose of return to BiH.

However, the reconstruction of the housing stock for return purposes should be viewed also in the context of ensuring only one basic precondition for return rather than being a sufficient condition for sustainable return for which an integral and integrated approach is

evidently required in the implementation of comprehensive sustainability measures which are closely connected with the overall economic and social recovery and development.

Investing in sustainable return sector

During the six-year long implementation of the *BiH Strategy for the Implementation of Annex VII of the DPA*, from the beginning of 2003 until the end of 2008, around KM 726 mil. were invested in the sector of reconstruction and sustainable return for around 35,000 families (around 130,000 persons), with participation of domestic institutions amounting to around 75% and foreign donors around 25%.

Around KM 465.8 mil. was invested in the reconstruction sector, while around KM 260.4 in the sustainability sector. It has been noted that year after year, the funds invested in reconstruction have been reducing, while the funds invested in sustainability have been increasing, especially during the last couple of years when almost equal funds were allocated for reconstruction and for sustainability.

Furthermore, the analytical follow-up of the reconstruction and return process has shown that due to high damage level of the remaining unreconstructed housing stock and with simultaneous increase of prices, the average costs per a renovated housing unit has been continually growing.

Moreover, although reconstruction of a housing unit constitutes one of the basic return preconditions, it does not resolve displacement problems *per se*.

However, in 2008 the funds allocated for reconstruction increased, while the funds pooled in the Return Fund were for the first time allocated for supporting sustainable return.

Hence, the growth of domestic allocations has been evident year after year, up to a complete cessation of participation of international donors' community in funding the reconstruction and return process in BiH. Thus, last year the total budget at all governmental levels in BiH, which was ensured for the needs of sustainable return in BiH, amounted to the record of KM 150 millions.

Planned allocations of international donors in the amount of KM 11.5 mil. have been reduced to 8% of the total amount of KM 136.5 mil. of planned allocations for supporting sustainable return in 2009.

Ministry of Human Rights and Refugees has been dedicated to full implementation of the *Agreement on Return of Refugees and Displaced Persons* (Annex VII, DPA), in co-operation with other relevant stakeholders in BiH, through co-ordinated activities, and holds the position that for as long as the very last refugee, displaced person or a returnee is not provided with access to rights from the Agreement, the process cannot be concluded.

The Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement

The *Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement* was made in the end of 2002.

The current *Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement* which was made in the end of 2002 is the first joint, framework document at the State level whereby necessary actions and reforms have been planned with a view to implementing fully one of the most important annexes of the *General Framework Agreement for Peace in BiH* (The Agreement on Return of Refugees and Displaced Persons).

The Strategy is particularly important because it has been accepted both by the respective State and entity bodies and by international community in BiH.

The Strategy has determined the following **strategic goals**:

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

In order to achieve the set goals in transparent, efficient and cost-effective manner, the Strategy has determined the following **reforms and actions**:

1. Legal reforms and harmonization of legislation;
2. Structural and organizational reforms;
3. Initializing the integrated database and making it operational;
4. Creating conditions for sustainable return.

BiH Ministry of Human Rights and Refugees, in co-operation with respective entity ministries and BiH Brčko District Departments, operated in a planned and systematic manner towards the realization of the set strategic goals.

The fact that Bosnia and Herzegovina had to deal with the two equally important priorities was a special challenge and directly influenced the reform processes. On one hand, there existed the obligation to fully transfer the responsibility for the implementation of Annex VII of the Dayton Peace Agreement from the institutions of international community to authorities in Bosnia and Herzegovina, and on the other hand, the planned strategic goals had to be fulfilled.

Clearly, exceptional results have been achieved on the implementation of strategic goals, followed by the establishment and arrangement of a transparent system that has become the guarantor of equality of all refugees, displaced persons and returnees in accessing the return-related assistance.

During the last thirteen 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; participation of minorities in public sector has increased; freedom of movement is enjoyed by everybody; and security of returnees has significantly improved.

However, in spite of all those successes, there still remains a lot to be done so that all people in BiH could fully enjoy a full access to rights laid down in Annex VII.

Strategy revision

The efforts on the implementation of Annex VII should be reviewed and strengthened. To this end, the BiH Ministry of Human Rights and Refugees and UNHCR, in close consultations with other key stakeholders, have initiated the revision of the *Strategy for the Implementation of Annex VII of the Dayton Peace Agreement*.

The activities on development of the revised Strategy started in October 2007 by passing the Revision Action Plan, which stipulated the establishment of 10 consultative working sub-groups for the implementation of actions related to analyzing and recommending strategic reforms and goals in the following **fields**:

- 1. Reconstruction of housing units of refugees, displaced persons and returnees; closure of collective centers 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 of housing care of vulnerable categories of returnees;**
- 2. Completion of repossession of property 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 where refugees, displaced persons and returnees are interested in return;**
- 5. Health care of displaced persons and returnees;**
- 6. Social protection of displaced persons and returnees;**
- 7. Exercise of the right to schooling of displaced persons and returnees;**
- 8. Right to work and employment of displaced persons and returnees;**
- 9. Security of displaced persons and returnees and de-mining of the return sites;**
- 10. Right to damage compensation for displaced persons, refugees and returnees.**

Besides the BiH Ministry of Human Rights and Refugees as a focal point for those activities, around 150 representatives from more than 50 institutions and organizations of domestic authorities, international community, NGO sector and representatives of a civil society, participated in the work of the mentioned sub-groups, as follows:

- **State institutions:** Ministry of Civil Affairs, Ministry of Security, MAC BiH, Return Fund, CRPC;
- **FBiH institutions:** Ministry of Displaced Persons and Refugees and respective cantonal ministries, offices and administrations; Ministry of Energy, Mining and Industry; Ministry of Education and Science; Ministry of Traffic and Communication; Ministry of Urban Planning; Ministry of Labour and Social Policy; Ministry of Development, Entrepreneurship and Trade; Ministry of Health; Ministry of Internal Affairs;
- **RS Institutions:** Ministry of Refugees and Displaced Persons; Ministry of Economy, Energy and Development; Ministry of Education and Culture; Ministry of Labour and Protection of War Veterans/Invalids; Ministry of Traffic and Communication; Ministry of Internal Affairs; Ministry of Urban Planning, Construction and Ecology; Ministry of Health and Social Protection;
- **BiH Brčko District Government:** Department for Displaced Persons, Refugees and Housing Issues; Public Security Department; Communal Affairs Department; Education Department; Department of Health and Other Services;
- **Public companies:** BiH Elektroprivreda; HZ Herceg-Bosna Elektroprivreda; RS Elektroprivreda;
- **NGOs:** BiH Union of Associations of Refugees, Displaced Persons and Returnees; RS Union of Association of Refugees, Displaced Persons and Returnees; Association of Croat Refugees, Expelled and Displaced Persons in BiH; Civil Initiatives Centers;
- **International organizations:** UNHCR, World Bank, EC Delegation in BiH, EUFOR, EUPM, OHR, OSCE, UNDP, UNHABITAT, UNICEF, WHO

All consultative, planned stages and actions foreseen in the Revision Action Plan have been implemented successfully and completed with drafting the document which was forwarded, after public discussions, to the Council of Ministers for adoption.

At its 74 session held on 29 January 2009, the Council of Ministers discussed and agreed upon the Proposal of the revised Strategy which was then adopted also by the House of Representatives of the Parliamentary Assembly. Unfortunately, the House of Peoples, at its 53rd session held on 18 June 2009, rejected the document although it had been already concluded that the BiH Ministry of Human Rights and Refugees would make a 2009-2014 Action Plan, within 3 months deadline, for enabling access to Annex 7 rights, including those relating to choice of the place of residence, compensation for the property which cannot be restored, and other rights.

Apart from the above mentioned, this concept paper has been made as a starting point for developing an overall programme for the implementation of Annex VII, DPA, and for securing the loans for those purposes in accordance with the conclusions of the BiH Parliamentary Assembly.

I – STARTING POINTS

Taking into consideration recommendations and guidelines provided in the Revised Strategy for the Implementation of Annex VII, the basic starting points used as the grounds for this proposal for the implementation of the return programme during the period 2009-2014 are as follows:

- Substantial completion of sustainable return process in BiH shall proceed in a systematic, gradual and harmonized manner throughout BiH, with clear division of roles and responsibilities between competent institutions;
- All refugees, displaced persons and returnees who fulfill lawful criteria i.e. conditions to receive reconstruction and return assistance, shall be included in the programme;
- With such project-oriented approach, there will cease the need for ranking beneficiaries according to specific criteria and for selection of final beneficiaries; instead, project proposals shall be harmonized in accordance with the framework plan, expected outcomes and available funds;
- The framework costs of the programme implementation have been calculated in a way that 2/3 have been foreseen for renovation of housing units while 1/3 for funding sustainability of return (primarily reconstruction of infrastructure);
- The framework costs for renovation of housing units have been calculated as follows:
 - KM 25,000 per housing unit for reconstruction of individual housing units/houses;
 - KM 39,000 per housing unit for reconstruction of apartments in apartment buildings;
 - KM 20,000 per housing unit for building up an additional wing (adding of a wing)/construction in return places (costs of infrastructure are not calculated).

II – ASSESSMENT OF INTERVENTION NEEDS IN FINDING DURABLE SOLUTIONS FOR ISSUES OF REFUGEES/DPS

Through combination of indicators obtained from the Database on Registered/Potential Beneficiaries of Reconstruction Assistance and Database on Displaced Persons in BiH, which are used as the most reliable need indicators, the Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement has identified 45,000 still pending applications for reconstruction of housing units.

Information on 6,495 families that have applied from abroad, in total 23,069 refugees from BiH, have been included in this assessment on the basis of individual applications of heads of family households and the statement that their pre-war property has been destroyed/uninhabitable and that they need reconstruction assistance in order to return.

However, by analyzing the information on prewar and current condition of housing units of recognized DPs, it is evident that for some displaced families durable solution for displacement issues cannot be found through reconstruction and/or adding of a wing in their prewar homes. The reason for that is primarily that many recognized displaced persons do not wish to return to their prewar residences (8,077 families i.e. around 25,500 recognized DPs); then, many of them did not have a housing unit or enjoy an occupancy right in 1991, etc; and those are all key criteria for determination of potential beneficiaries of reconstruction assistance for purpose of return.

In such cases, other forms of durable solutions for displacement issues should be looked for.

To sum up, out of 38,894 displaced families i.e. 117,954 recognized displaced persons, as on 31 December 2008, for 28,500 families i.e. for around 85,500 DPs who wish to return or are not certain about their return, durable solutions could be found through reconstruction of their prewar houses and apartment and/or through adding of a wing for the needs of newly established DP families. It should bear in mind that only those families have been included who have their status officially recognized during the recently completed revision process of the number and status of DPs in BiH.

Detailed indicators on the condition of housing units, which serve as the basis for possible durable solutions for displacement issues, are given in the table below.

Condition of housing units of recognized DP families		1991 Status							
Durable solutions	Current condition	Private property	Occupancy right	Lived with parents	Relatives /friends	Renting	Other	Not specified	TOTAL
House reconstruction	Destroyed/uninhabitable	23,316							23,316
Apartment reconstruction			1,836						1,836
Reconstruction/Adding of a wing	Destroyed/uninhabitable			2,040			579	49	2,668
	Not specified	114		27				137	278
	I do not know/other	113		74					187
	Sold							1	1
	Family members live there	136							136
Reconstruction/adding of a wing	Total	363		2,141			579	187	3,270
Other	Destroyed/Uninhabitable	1			106	132	201		440
	Not specified		33		4	29	21		87
	I do not know/other		104		14	109	46	1	274
	House is reconstructed	235	2	80	4	1	11	2	335
	Entered into possession/received keys	123	39	25	2	2	3	1	195
	Other person moved in	191	201	38	4	5	18		457
	Sold	11	6	7	1	1	1	2	29
	Exchanged	7	4	3				1	15
	Rented/leased	11	9	4		2	1		27
	Occupancy right cancelled	20	134	7	1	12	6		180
	Lease agreement expired	29	18	15	10	118	14		204
	Family members live there		12	93	8	3	10	1	127
	Relatives or friends moved in	21	2	2					25
Other	Total	649	564	274	154	414	333	7	2,395
Do not wish to return	Destroyed/Uninhabitable	4,922	453	424	46	82	275	2	6,204
	Not specified	34	16	22	10	67	10	10	169
	I do not know/other	139	99	78	20	208	59		603
	House is reconstructed	21		15	1		3		40
	Entered into possession/received keys	37	24	8		1	4		74
	Other person moved in	71	86	26		2	11		196
	Sold	22	10	2	1		4		39
	Exchanged	13	1	1			1		16
	Rented/leased	5	5			1	2		13
	Occupancy right cancelled	19	78	7		10	8		122
	Lease agreement expired	73	49	51	22	292	41		528
	Family members live there	21	6	27	5		6		65
Relatives or friends moved in	3	4	1					8	
Do not wish to return	Total	5,380	831	662	105	663	424	12	8,077
Recognized DP families	TOTAL	29,708	3,231	3,077	259	1,077	1,336	206	38,894

III – RECONSTRUCTION NEEDS FOR PURPOSE OF RETURN WITH TENTATIVE ASSESSMENT OF RENOVATION COSTS AND RELEVANT BREAKDOWNS

1. Composition of potential beneficiaries of reconstruction assistance for the purpose of return broken by return entity and category

Category	Refugees from BiH			Recognized DPs									Total		
				Inter-entity			Intra-entity			Intra-municipality					
Return entity	Families	Persons	%	Families	Persons	%	Families	Persons	%	Families	Persons	%	Families	Persons	%
FBiH	2,889	10,079	16%	10,626	34,396	56%	1,435	4,519	7%	4,097	12,640	20%	19,047	61,634	57%
RS	3,278	11,989	27%	10,176	27,514	61%	143	468	1%	1,716	5,360	12%	15,313	45,331	42%
Brčko District	328	1,001	63%	45	117	7%			0%	185	462	29%	558	1,580	1%
TOTAL	6,495	23,069	21%	20,847	62,027	57%	1,578	4,987	5%	5,998	18,462	17%	34,918	108,545	100%

2. Tentative assessment of renovation costs broken by types of intervention

Description	Number of housing units				Tentative assessment of renovation costs		
	Refugees	DPs	Total	%	Housing units	Supporting infrastructure	Total in KM
House reconstruction	6,495	23,316	29,812	85%	745,300,000	372,650,000	1,117,950,000
Apartment reconstruction		1,836	1,836	5%	71,604,000	35,802,000	107,406,000
Reconstruction/adding		3,270	3,270	9%	65,400,000		65,400,000
TOTAL	6,495	28,422	34,918	100%	882,304,000	408,452,000	1,290,756,000*

* The funds have been partially ensured from 2008 and 2009 budgets. Those funds ensure the ongoing reconstruction.

3. Ethnic composition of potential assistance beneficiaries broken by return entity

Return entity/ethnicity	B	C	S	O	Not known	Total	%
FBiH	3,507	2,145	13,247	135	13	19,047	54.58%
RS	10,630	2,412	2,151	100	20	15,313	43.82%
BD	302	132	114	4	6	558	1.60%
Housing units in total	14.439	4.689	15.512	239	39	34.918	100%
%	41.35%	13.43%	44.43%	0.68%	0.11%	100%	

4. Needs for intervention broken by entity, type and number					
Need for intervention	No. of municipality	House reconstruction	Apartment reconstruction	Reconstruction/adding of a wing	Total
up to 50	18	277	9	38	324
50-150	18	1,471	125	166	1,762
150-500	33	8,196	938	778	9,912
500-1,000	9	5,099	320	456	5,875
over 1,000	1	878	228	68	1,174
FBiH	79	15,921	1,620	1,506	19,047
No need for intervention	2	0	0	0	0
up to 50	20	311	1	19	331
50-150	16	1,197	23	150	1,370
150-500	14	3,033	36	474	3,543
500-1,000	7	4,700	82	367	5,149
over 1,000	3	4,140	34	746	4,920
RS	62	13,381	176	1,756	15,313
Brčko District	1	510	40	8	558
Total in BiH	142	29,812	1,836	3,270	34,918

This classification according to needs for the assistance, presented through the number of applicants in a certain area, makes the planning basis for gradual completion of the return process in BiH during the next six years (2009 – 2014) and estimate of required and missing funds for its implementation, while in analytical terms it represents a benchmark for drafting entity action plans and municipal project.

For example, return process in municipalities in the group of up to 50 registered potential beneficiaries (so called "small" municipalities according to return needs) would be essentially completed in 2010; in municipalities of the group between 50 and 150 applicants until 2011 i.e. in 2 years, etc; while municipalities with more than 1,000 applications should plan the implementation of the programme for the period of 6 years.

A detailed review broken by return entity and municipality has been presented in separate tables, broken by:

- categories and ethnicities of potential beneficiaries
- types of intervention and tentative costs.

5. Detailed review	Category					Ethnicity						
	Return municipality	Refugees	Inter-ent.	Intra-ent.	Intra-municip.	Persons	B	C	S	O	Unknown	Families
Banovići	8	466			51	525	20		142			162
Bihać	232	700			283	1,215	98	4	274	2	1	379
Bosanska Krupa	193	841	46		557	1,637	198		294	1		493
Bosanski Petrovac	485	660			27	1,172	13		397	5	2	417
Bosansko Grahovo	1,654	492	6		62	2,214	1	25	628	8		662
Breza	8	117			10	135	3	1	41	1		46
Bugojno	332	434	204		332	1,302	43	172	168	1	1	385
Busovača	86	23	45		271	425	25	89	11	1		126
Bužim					45	45	7					7
Cazin	22	1			19	42	9		4			13
Čapljina	399	450	187		298	1,334	107	9	265	2		383
Čelić	9	131			17	157	5	1	51			57
Doboj-Istok	6	4				10	1		1			2
Doboj-Jug	4		1		7	12	4	1				5
Dobretići	128		26		198	352		98	1	1		100
Domaljevac-Šamac	99	47			1	147		18	23		1	42
Donji Vakuf	44	601	86		1,436	2,167	378	11	182	4		575
Drvar	476	736	1		215	1,428	2	1	480	3	1	487
Foča-Ustikolina	32	592	123		144	891	112		199			311
Fojnica		4	79		45	128	4	45	1			50
Glamoč	561	1,049	94		109	1,813	58	6	513	1		578
Goražde	402	1,144	32		763	2,341	239		485	35		759
Gornji Vakuf-Uskoplje	13	6	70		417	506	61	81	2			144
Gračanica	22	468				490			141			141
Gradačac	81	263	9		50	403	15	18	90	2		125
Grude					10	10		3				3
Jablanica	19	20	73		182	294	49	22	6			77
Jajce	70	551	771		218	1,610	246	33	182	10		471
Kakanj	28	357	124		85	594	18	51	133			202
Kalesija	97	440	14		10	561	8		144	1		153
Kiseljak	52	28	71		108	259	33	45	9	1		88
Kladanj	21	872			9	902	3		285	2		290
Ključ	123	706	3		233	1,065	98	5	276		1	380
Konjic	112	605	309		231	1,257	88	103	210			401
Kreševo	11		32		13	56	13	2				15
Kupres, FBiH	1	276	57		111	445	16	34	104			154
Livno	719	157	1		47	924	3	11	266			280
Lukavac	80	1,812	22		194	2,108	60		638			698
Ljubuški	17		29		2	48	11				1	12
Maglaj	249	2,073	33		91	2,446	63	18	668			749
Mostar	714	2,399	36		928	4,077	166	178	836	9	1	1,190
Neum	10	34				44			15			15

5. Detailed review	Category					Ethnicity					
Return municipality	Refugees	Inter-ent.	Intra-ent.	Intra-municip.	Persons	B	C	S	O	Unknown	Families
Novi Travnik	60	86	35	1,229	1,410	5	324	32	1		362
Odžak	63	467	10	260	800	28	64	169			261
Olovo	100	723	24	145	992	65	2	245	1		313
Orašje	52	47		6	105	1	16	18			35
Pale-Prača	5	187	38	19	249	15		62			77
Posušje			2		2		1				1
Prozor	107		564	122	793	200	17				217
Ravno	115	402			517		19	146			165
Sanski Most	289	1,334	17	83	1,723	34	12	473	1		520
Sapna	80	449	12		541	3		159			162
Sarajevo-Centar	38	268	52	53	411	39	5	100	1		145
Sarajevo-Hadžići	22	464	5	1	492	4		151			155
Sarajevo-Ilidža	128	570	65	67	830	34	31	195	1	1	262
Sarajevo-Ilijaš	39	985	60	83	1,167	47	9	342	1		399
Sarajevo-Novigrad	81	548	39	56	724	21	3	180	7	1	212
Sarajevo-Novo Sarajevo	178	629	73	108	988	51	23	271	9	1	355
Sarajevo-Stari Grad	12	153	72	37	274	29	3	47			79
Sarajevo-Trnovo	13	167	3		183	4		75			79
Sarajevo-Vogošća	9	392	19		420	6	2	122	1		131
Srebrenik	14	350			364			112			112
Stolac	54	244	171	297	766	84	47	97	2		230
Široki brijeg	24	4			28			6			6
Teočak	15	29	8	17	69	6		11	1		18
Tešanj	26	48	11	5	90	5	8	18	1		32
Tomislavgrad		6	7	4	17	1	1	4			6
Travnik	252	666	249	746	1,913	131	207	184	3		525
Tuzla	114	1,235		22	1,371	6	4	409	2		421
Usora	92	7		80	179		49	3	1		53
Vareš	80	623	169	433	1,305	118	108	227	6		459
Velika Kladuša	205	28		95	328	39	1	51	3	1	95
Visoko	20	410	19	26	475	8	6	140	1		155
Vitez	26	50	51	77	204	26	29	18			73
Zavidovići	49	2,145	23	444	2,661	136	8	665			809
Zenica	65	654	123	129	971	34	46	202	1		283
Žepče	27	257	14	167	465	49	15	88	1		153
Živinice	6	210			216			60			60
- FBiH - Total	10,079	34,396	4,519	12,640	61,634	3,507	2,145	13,247	135	13	19,047

5. Detailed review	Category					Ethnicity					
Return municipality	Refugees	Inter-ent.	Intra-ent.	Intra-municip.	Persons	B	C	S	O	Unknown	Families
Banja Luka	99	196	4		299	71	30	3	1		105
Berkovići	19	54	3	7	83	18	5	6			29
Bijeljina	34	492	4		530	170	1	2	3		176
Bileća	1	31			32	14					14
Bosanski Brod	2,628	56	4	544	3,232	91	559	230	6		886
Bratunac	47	2,877	21	419	3,364	1,023	2	158	5		1,188
Čajniče	5	600	18	202	825	241		66	4		311
Čelinac	36	39			75	24					24
Derвента	2,530	182	1	153	2,866	105	600	71	24	1	801
Doboj	1,764	741	28	49	2,582	319	381	30	7		737
Foča	22	1,692		379	2,093	746	2	119	4		871
Gacko	26	155			181	65		1			66
Gradiška	113	80			193	45	10			6	61
Han Pijesak		168	7	6	181	73		6			79
Istočna Ilidža	6	14	1	14	35	4	1	9			14
Istočni Drvar	10				10		1	1			2
Istočni Stari Grad			17		17			4			4
Istočno Novo Sarajevo	1	6		4	11	2		3			5
Jezero	34	15			49	9	1	2			12
Kalinovik	18	216	13	12	259	89		15			104
Kneževo	131	37	4		172	8	27	2			37
Kostajnica	52	4			56	14	2				16
Kotor Varoš	202	550	5	141	898	202	22	24			248
Kozarska Dubica	78	62		13	153	46	1	4	3		54
Krupa na Uni	23		8		31			9			9
Kupres, RS	131				131		3	33		2	38
Laktaši	23	14			37	5	5				10
Lopare	53	343	18	72	486	141		33			174
Ljubinje		59		17	76	17		8			25
Milići	56	286	2	53	397	111		25			136
Modriča	133	200		14	347	79	35	6			120
Mrkonjić Grad	47	517	28	606	1,198	69	88	200	3		360
Nevesinje	5	121		14	140	43	2	6			51
Novi Grad	199	302		145	646	153	1	36	3		193
Novo Goražde	39	390	9	4	442	153		18	2		173
Osmaci	55	509		5	569	178		2	1		181
Oštra Luka	6	12			18	6	2				8
Pale	6	128	3		137	61		1			62
Pelagićevo	644	2			646		214	5			219
Petrovo		7			7	2					2
Prijedor	303	678	4	45	1,030	327	19	14	4	2	366
Prnjavor	45	114			159	41	7			1	49

5. Detailed review	Category					Ethnicity					
Return municipality	Refugees	Inter-ent.	Intra-ent.	Intra-municip.	Persons	B	C	S	O	Unknown	Families
Ribnik	80	12	5	114	211	5		62		1	68
Rogatica	26	1,114		256	1,396	524		92	2		618
Rudo	20	233	3	83	339	115		31	1	1	148
Sokolac		661		10	671	254		3			257
Srbac		10			10	3					3
Srebrenica	88	4,735	101	553	5,477	1,817	7	212	9		2,045
Šamac	433	86		33	552	31	134	14	1		180
Šekovići		37	33		70	10		10			20
Šipovo	222	352	12	704	1,290	107	1	315			423
Teslić	742	244		136	1,122	87	163	31	1		282
Trebinje	122	6	10	75	213	24		32	1	1	58
Trnovo, RS	24	107	38	43	212	39		41			80
Ugljevik	9	224			233	75			2		77
Višegrad	37	1,305	16	106	1,464	564		49	3		616
Vlasenica	12	1,678	22	72	1,784	587		29	4		620
Vukosavlje	237	59			296	27	83			1	111
Zvornik	313	4,702	26	257	5,298	1,596	3	78	6	4	1,687
- RS – Total	11,989	27,514	468	5,360	45,331	10,630	2,412	2,151	100	20	15,313

- Recapitulation	Category					Ethnicity					
Return entity	Refugees	Inter-ent.	Intra-ent.	Intra-municip.	Persons	B	C	S	O	Unknown	Families
FBiH – Total	10,079	34,396	4,519	12,640	61,634	3,507	2,145	13,247	135	13	19,047
RS – Total	11,989	27,514	468	5,360	45,331	10,630	2,412	2,151	100	20	15,313
Brčko District – Total	1,001	117		462	1,580	302	132	114	4	6	558
BiH – GRAND TOTAL	23,069	62,027	4,987	18,462	108,545	14,439	4,689	15,512	239	39	34,918
%	21.25%	57.14%	4.59%	17.01%	100%	41.35%	13.43%	44.42%	0.68%	0.11%	100%

6. Detailed review	Type of intervention				Tentative assessment of costs		
	Return municipality	House reconstruction	Apartment reconstruction	Adding of a wing	HU	HU renovation	Supporting infrastructure
Banovići	137	11	14	162	4,134,000	1,927,000	6,061,000
Bihać	299	22	58	379	9,493,000	4,166,500	13,659,500
Bosanska Krupa	412	35	46	493	12,585,000	5,832,500	18,417,500
Bosanski Petrovac	383	13	21	417	10,502,000	5,041,000	15,543,000
Bosansko Grahovo	610	34	18	662	16,936,000	8,288,000	25,224,000
Breza	41	1	4	46	1,144,000	532,000	1,676,000
Bugojno	344	16	25	385	9,724,000	4,612,000	14,336,000
Busovača	107	1	18	126	3,074,000	1,357,000	4,431,000
Bužim	4		3	7	160,000	50,000	210,000
Cazin	10		3	13	310,000	125,000	435,000
Čapljina	357	16	10	383	9,749,000	4,774,500	14,523,500
Čelić	49	3	5	57	1,442,000	671,000	2,113,000
Doboj-Istok	2			2	50,000	25,000	75,000
Doboj-Jug	4		1	5	120,000	50,000	170,000
Dobretići	94	1	5	100	2,489,000	1,194,500	3,683,500
Domaljevac-Šamac	34		8	42	1,010,000	425,000	1,435,000
Donji Vakuf	529	25	21	575	14,620,000	7,100,000	21,720,000
Drvar	301	147	39	487	14,038,000	6,629,000	20,667,000
Foča-Ustikolina	283	4	24	311	7,711,000	3,615,500	11,326,500
Fojnica	46		4	50	1,230,000	575,000	1,805,000
Glamoč	483	54	41	578	15,001,000	7,090,500	22,091,500
Goražde	571	55	133	759	19,080,000	8,210,000	27,290,000
Gornji Vakuf-Uskoplje	130	2	12	144	3,568,000	1,664,000	5,232,000
Gračanica	122	3	16	141	3,487,000	1,583,500	5,070,500
Gradačac	106	2	17	125	3,068,000	1,364,000	4,432,000
Grude		3		3	117,000	58,500	175,500
Jablanica	69	1	7	77	1,904,000	882,000	2,786,000
Jajce	362	42	67	471	12,028,000	5,344,000	17,372,000
Kakanj	168	15	19	202	5,165,000	2,392,500	7,557,500
Kalesija	135	4	14	153	3,811,000	1,765,500	5,576,500
Kiseljak	83		5	88	2,175,000	1,037,500	3,212,500
Kladanj	268	5	17	290	7,235,000	3,447,500	10,682,500
Ključ	306	22	52	380	9,548,000	4,254,000	13,802,000
Konjic	338	22	41	401	10,128,000	4,654,000	14,782,000
Kreševo	14		1	15	370,000	175,000	545,000
Kupres, FBiH	140	7	7	154	3,913,000	1,886,500	5,799,500

6. Detailed review	Type of intervention				Tentative assessment of costs		
	Return municipality	House reconstruction	Apartment reconstruction	Adding of a wing	HU	HU renovation	Supporting infrastructure
Livno	268	6	6	280	7,054,000	3,467,000	10,521,000
Lukavac	655	14	29	698	17,501,000	8,460,500	25,961,500
Ljubuški	9	1	2	12	304,000	132,000	436,000
Maglaj	695	31	23	749	19,044,000	9,292,000	28,336,000
Mostar	888	232	70	1,190	32,648,000	31,248,000	15,624,000
Neum	14		1	15	370,000	175,000	545,000
Novi Travnik	323	15	24	362	9,140,000	4,330,000	13,470,000
Odžak	229	6	26	261	6,479,000	2,979,500	9,458,500
Olovo	271	27	15	313	8,128,000	3,914,000	12,042,000
Orašje	32		3	35	860,000	400,000	1,260,000
Pale-Prača	53	14	10	77	2,071,000	935,500	3,006,500
Posušje	1			1	25,000	12,500	37,500
Prozor	200		17	217	5,340,000	2,500,000	7,840,000
Ravno	156	2	7	165	4,118,000	1,989,000	6,107,000
Sanski Most	437	12	71	520	12,813,000	5,696,500	18,509,500
Sapna	149	1	12	162	4,004,000	1,882,000	5,886,000
Sarajevo-Centar	86	46	13	145	4,204,000	1,972,000	6,176,000
Sarajevo-Hadžići	133	11	11	155	3,974,000	1,877,000	5,851,000
Sarajevo-Ilidža	164	73	25	262	7,447,000	3,473,500	10,920,500
Sarajevo-Ilijaš	335	40	24	399	10,415,000	4,967,500	15,382,500
Sarajevo-Novigrad	141	50	21	212	5,895,000	2,737,500	8,632,500
Sarajevo-Novo Sarajevo	226	101	28	355	10,149,000	4,794,500	14,943,500
Sarajevo-Stari Grad	50	19	10	79	2,191,000	995,500	3,186,500
Sarajevo-Trnovo	74	1	4	79	1,969,000	944,500	2,913,500
Sarajevo-Vogošća	98	20	13	131	3,490,000	1,615,000	5,105,000
Srebrenik	106	2	4	112	2,808,000	1,364,000	4,172,000
Stolac	199	19	12	230	5,956,000	2,858,000	8,814,000
Široki brijeg	6			6	150,000	75,000	225,000
Teočak	12		6	18	420,000	150,000	570,000
Tešanj	32			32	800,000	400,000	1,200,000
Tomislavgrad	6			6	150,000	75,000	225,000
Travnik	435	29	61	525	13,226,000	6,003,000	19,229,000
Tuzla	370	27	24	421	10,783,000	5,151,500	15,934,500
Usora	51		2	53	1,315,000	637,500	1,952,500
Vareš	331	96	32	459	12,659,000	6,009,500	18,668,500
Velika Kladuša	83	4	8	95	2,391,000	1,115,500	3,506,500
Visoko	143	1	11	155	3,834,000	1,807,000	5,641,000

6. Detailed review	Type of intervention				Tentative assessment of costs		
	Return municipality	House reconstruction	Apartment reconstruction	Adding of a wing	HU	HU renovation	Supporting infrastructure
Vitez	60	3	10	73	1,817,000	808,500	2,625,500
Zavidovići	684	66	59	809	20,854,000	9,837,000	30,691,000
Zenica	192	71	20	283	7,969,000	3,784,500	11,753,500
Žepče	133	11	9	153	3,934,000	1,877,000	5,811,000
Živinice	50	3	7	60	1,507,000	683,500	2,190,500
- FBiH - Total	15,921	1,620	1,506	19,047	491,325,000	230,602,500	721,927,500
Banja Luka	87	2	16	105	2,573,000	1,126,500	3,699,500
Berkovići	29			29	725,000	362,500	1,087,500
Bijeljina	128		48	176	4,160,000	1,600,000	5,760,000
Bileća	12		2	14	340,000	150,000	490,000
Bosanski Brod	871	5	10	886	22,170,000	10,985,000	33,155,000
Bratunac	1,035	7	146	1,188	29,068,000	13,074,000	42,142,000
Čajniče	282	2	27	311	7,668,000	3,564,000	11,232,000
Čelinac	21		3	24	585,000	262,500	847,500
Derвента	753	8	40	801	19,937,000	9,568,500	29,505,500
Doboj	662	17	58	737	18,373,000	8,606,500	26,979,500
Foča	783	19	69	871	21,696,000	10,158,000	31,854,000
Gacko	59	1	6	66	1,634,000	757,000	2,391,000
Gradiška	57		4	61	1,505,000	712,500	2,217,500
Han Pijesak	65		14	79	1,905,000	812,500	2,717,500
Istočna Ilidža	13		1	14	345,000	162,500	507,500
Istočni Drvar	2			2	50,000	25,000	75,000
Istočni Stari Grad	4			4	100,000	50,000	150,000
Istočno Novo Sarajevo	4	1		5	139,000	69,500	208,500
Jezero	11		1	12	295,000	137,500	432,500
Kalinovik	94	1	9	104	2,569,000	1,194,500	3,763,500
Kneževo	35		2	37	915,000	437,500	1,352,500
Kostajnica	14		2	16	390,000	175,000	565,000
Kotor Varoš	202		46	248	5,970,000	2,525,000	8,495,000
Kozarska Dubica	46		8	54	1,310,000	575,000	1,885,000
Krupa na Uni	9			9	225,000	112,500	337,500
Kupres, RS	38			38	950,000	475,000	1,425,000
Laktaši	10			10	250,000	125,000	375,000
Lopare	145	1	28	174	4,224,000	1,832,000	6,056,000
Ljubinje	25			25	625,000	312,500	937,500
Milići	113	1	22	136	3,304,000	1,432,000	4,736,000
Modriča	111	3	6	120	3,012,000	1,446,000	4,458,000

6. Detailed review	Type of intervention				Tentative assessment of costs		
Return municipality	House reconstruction	Apartment reconstruction	Adding of a wing	HU	HU renovation	Supporting infrastructure	Total in KM
Mrkonjić Grad	250	9	101	360	8,621,000	3,300,500	11,921,500
Nevesinje	48	1	2	51	1,279,000	619,500	1,898,500
Novi Grad	149	4	40	193	4,681,000	1,940,500	6,621,500
Novo Goražde	153	5	15	173	4,320,000	2,010,000	6,330,000
Osmaci	160		21	181	4,420,000	2,000,000	6,420,000
Oštra Luka	6		2	8	190,000	75,000	265,000
Pale	57	2	3	62	1,563,000	751,500	2,314,500
Pelagićevo	219			219	5,475,000	2,737,500	8,212,500
Petrovo	1		1	2	45,000	12,500	57,500
Prijedor	310	2	54	366	8,908,000	3,914,000	12,822,000
Prnjavor	46		3	49	1,210,000	575,000	1,785,000
Ribnik	39		29	68	1,555,000	487,500	2,042,500
Rogatica	569	12	37	618	15,433,000	7,346,500	22,779,500
Rudo	141		7	148	3,665,000	1,762,500	5,427,500
Sokolac	238	1	18	257	6,349,000	2,994,500	9,343,500
Srbac	3			3	75,000	37,500	112,500
Srebrenica	1,758	19	268	2,045	50,051,000	22,345,500	72,396,500
Šamac	168	4	8	180	4,516,000	2,178,000	6,694,000
Šekovići	18		2	20	490,000	225,000	715,000
Šipovo	354	8	61	423	10,382,000	4,581,000	14,963,000
Teslić	275		7	282	7,015,000	3,437,500	10,452,500
Trebinje	51	6	1	58	1,529,000	754,500	2,283,500
Trnovo, RS	70	6	4	80	2,064,000	992,000	3,056,000
Ugljevik	58		19	77	1,830,000	725,000	2,555,000
Višegrad	545	18	53	616	15,387,000	7,163,500	22,550,500
Vlasenica	517	3	100	620	15,042,000	6,521,000	21,563,000
Vukosavlje	111			111	2,775,000	1,387,500	4,162,500
Zvornik	1,347	8	332	1,687	40,627,000	16,993,500	57,620,500
- RS – Total	13,381	176	1,756	15,313	376,509,000	170,694,500	547,203,500
- Recapitulation	Type of intervention				Tentative assessment of costs		
Return entity	House reconstruction	Apartment reconstruction	Adding of a wing	Housing unit	HU renovation	Supporting infrastructure	Total in KM
FBiH-Total	15,921	1,620	1,506	19,047	491,325,000	230,602,500	721,927,500
RS - Total	13,381	176	1,756	15,313	376,509,000	170,694,500	547,203,500
Brčko District - Total	510	40	8	558	14,470,000	7,155,000	21,625,000
BiH – GRAND TOTAL	29,812	1,836	3,270	34,918	882,304,000	408,452,000	1,290,756,000
%	85,38%	5,26%	9,36%	100%	68%	32%	100%

7. Current situation Return municipality	Ongoing reconstruction			Pending reconstruction				Tentative assessment of missing funds		
	houses	aparts.	total	houses	aparts.	adding	total	HU renovation	infrastructure	Total in KM
Banovići				137	11	14	162	4,134,000	1,927,000	6,061,000
Bihać	6	6	12	293	16	58	367	9,109,000	3,974,500	13,083,500
Bosanska Krupa	22	12	34	390	23	46	459	11,573,000	5,326,500	16,899,500
Bosanski Petrovac	38	5	43	345	8	21	374	9,372,000	4,476,000	13,848,000
Bosansko Grahovo	20	34	54	590		18	608	15,110,000	7,375,000	22,485,000
Breza				41	1	4	46	1,144,000	532,000	1,676,000
Bugojno	20		20	324	16	25	365	9,214,000	4,357,000	13,571,000
Busovača	8		8	99	1	18	118	2,874,000	1,257,000	4,131,000
Bužim				4		3	7	160,000	50,000	210,000
Cazin				10		3	13	310,000	125,000	435,000
Čapljina	24		24	333	16	10	359	9,149,000	4,474,500	13,623,500
Čelić				49	3	5	57	1,442,000	671,000	2,113,000
Doboj-Istok				2			2	50,000	25,000	75,000
Doboj-Jug				4		1	5	120,000	50,000	170,000
Dobretići	18	1	19	76		5	81	2,000,000	950,000	2,950,000
Domaljevac-Šamac				34		8	42	1,010,000	425,000	1,435,000
Donji Vakuf	12	4	16	517	21	21	559	14,170,000	6,875,000	21,045,000
Drvar	10	74	84	291	73	39	403	10,909,000	5,064,500	15,973,500
Foča-Ustikolina	18		18	265	4	24	293	7,261,000	3,390,500	10,651,500
Fojnica	18		18	28		4	32	780,000	350,000	1,130,000
Glamoč	37	15	53	446	39	41	525	13,466,000	6,323,000	19,789,000
Goražde	42		42	529	55	133	717	18,030,000	7,685,000	25,715,000
Gornji Vakuf-Uskoplje		2	2	130		12	142	3,490,000	1,625,000	5,115,000
Gračanica				122	3	16	141	3,487,000	1,583,500	5,070,500
Gradačac				106	2	17	125	3,068,000	1,364,000	4,432,000
Grude					3		3	117,000	58,500	175,500
Jablanica				69	1	7	77	1,904,000	882,000	2,786,000
Jajce	36		36	326	42	67	435	11,128,000	4,894,000	16,022,000
Kakanj	10		10	158	15	19	192	4,915,000	2,267,500	7,182,500
Kalesija	20		20	115	4	14	133	3,311,000	1,515,500	4,826,500
Kiseljak	6		6	77		5	82	2,015,000	957,500	2,972,500
Kladanj	6		6	262	5	17	284	7,075,000	3,367,500	10,442,500
Ključ	25		25	281	22	52	355	8,918,000	3,939,000	12,857,000
Konjic	28	4	31	310	18	41	370	9,288,000	4,234,000	13,522,000
Kreševo				14		1	15	370,000	175,000	545,000

7. Current situation	Ongoing reconstruction			Pending reconstruction				Tentative assessment of missing funds		
Return municipality	houses	aparts.	total	houses	aparts.	adding	total	HU renovation	infrastructure	Total in KM
Kupres, FBiH		6	6	140	1	7	148	3,679,000	1,769,500	5,448,500
Livno	4		4	264	6	6	276	6,954,000	3,417,000	10,371,000
Lukavac	32		32	623	14	29	666	16,701,000	8,060,500	24,761,500
Ljubuški				9	1	2	12	304,000	132,000	436,000
Maglaj	25		25	670	31	23	724	18,419,000	8,979,500	27,398,500
Mostar	24	48	72	864	184	70	1,118	30,173,000	14,386,500	44,559,500
Neum	6		6	8		1	9	223,000	101,500	324,500
Novi Travnik				323	15	24	362	9,140,000	4,330,000	13,470,000
Odžak		6	6	229		26	255	6,245,000	2,862,500	9,107,500
Olovo	15	4	19	256	23	15	294	7,602,000	3,651,000	11,253,000
Orašje	8		8	24		3	27	660,000	300,000	960,000
Pale-Prača	8		8	45	14	10	69	1,881,000	840,500	2,721,500
Posušje				1			1	25,000	12,500	37,500
Prozor	19		19	181		17	198	4,860,000	2,260,000	7,120,000
Ravno	7		7	149	2	7	158	3,943,000	1,901,500	5,844,500
Sanski Most	28		28	409	12	71	492	12,113,000	5,346,500	17,459,500
Sapna	10		10	139	1	12	152	3,744,000	1,752,000	5,496,000
Sarajevo-Centar	15		15	71	46	13	130	3,829,000	1,784,500	5,613,500
Sarajevo-Hadžići	8		8	125	11	11	147	3,774,000	1,777,000	5,551,000
Sarajevo-Ilidža	30		30	134	73	25	232	6,687,000	3,093,500	9,780,500
Sarajevo-Ilijaš	10		10	325	40	24	389	10,165,000	4,842,500	15,007,500
Sarajevo-Noví Grad	28		28	113	50	21	184	5,195,000	2,387,500	7,582,500
Sarajevo-Novo Sarajevo	28	27	55	198	74	28	300	8,377,000	3,908,500	12,285,500
Sarajevo-Stari Grad	8		8	42	19	10	71	1,991,000	895,500	2,886,500
Sarajevo-Trnovo	19		19	55	1	4	60	1,494,000	707,000	2,201,000
Sarajevo-Vogošća	10		10	88	20	13	121	3,240,000	1,490,000	4,730,000
Srebrenik				106	2	4	112	2,808,000	1,364,000	4,172,000
Stolac	21	10	31	178	9	12	199	5,026,000	2,393,000	7,419,000
Široki brijeg				6			6	150,000	75,000	225,000
Teočak				12		6	18	420,000	150,000	570,000
Tešanj	4		4	28			28	700,000	350,000	1,050,000
Tomislavgrad				6			6	150,000	75,000	225,000
Travnik	32	4	35	403	25	61	490	12,286,000	5,533,000	17,819,000
Tuzla	28		28	342	27	24	393	10,083,000	4,801,500	14,884,500
Usora	4		4	47		2	49	1,215,000	587,500	1,802,500
Vareš	10		10	321	96	32	449	12,409,000	5,884,500	18,293,500
Velika Kladuša	6		6	77	4	8	89	2,241,000	1,040,500	3,281,500
Visoko				143	1	11	155	3,834,000	1,807,000	5,641,000

7. Current situation Return municipality	Ongoing reconstruction			Pending reconstruction				Tentative assessment of missing funds		
	houses	aparts.	total	houses	aparts.	adding	total	HU renovation	infrastructure	Total in KM
Vitez		3	3	60		10	70	1,700,000	750,000	2,450,000
Zavidovići	4		4	680	66	59	805	20,754,000	9,787,000	30,541,000
Zenica		5	5	192	66	20	278	7,769,000	3,684,500	11,453,500
Žepče		5	5	133	6	9	148	3,739,000	1,779,500	5,518,500
Živinice				50	3	7	60	1,507,000	683,500	2,190,500
- FBiH – Total	876	275	1,152	15,045	1,345	1,506	17,895	458,682,000	214,281,000	672,963,000
Banja Luka				87	2	16	105	2,573,000	1,126,500	3,699,500
Berkovići	8		8	21			21	525,000	262,500	787,500
Bijeljina	16		16	112		48	160	3,760,000	1,400,000	5,160,000
Bileća				12		2	14	340,000	150,000	490,000
Bosanski Brod	32		32	839	5	10	854	21,360,000	10,580,000	31,940,000
Bratunac	32		32	1,003	7	146	1,156	28,268,000	12,674,000	40,942,000
Čajniče	18		18	264	2	27	293	7,218,000	3,339,000	10,557,000
Čelinac				21		3	24	585,000	262,500	847,500
Derventa	30		30	723	8	40	771	19,187,000	9,193,500	28,380,500
Doboj	38		38	624	17	58	699	17,423,000	8,131,500	25,554,500
Foča	24	5	29	759	14	69	842	20,906,000	9,763,000	30,669,000
Gacko	11		11	48	1	6	55	1,364,000	622,000	1,986,000
Gradiška	14		14	43		4	47	1,155,000	537,500	1,692,500
Han Pijesak				65		14	79	1,905,000	812,500	2,717,500
Istočna Ilidža				13		1	14	345,000	162,500	507,500
Istočni Drvar				2			2	50,000	25,000	75,000
Istočni Stari Grad				4			4	100,000	50,000	150,000
Istočno Novo Sarajevo	4		4		1		1	39,000	19,500	58,500
Jezero				11		1	12	295,000	137,500	432,500
Kalinovik	8		8	86	1	9	96	2,369,000	1,094,500	3,463,500
Kneževo				35		2	37	915,000	437,500	1,352,500
Kostajnica	10		10	4		2	6	140,000	50,000	190,000
Kotor Varoš	34		34	168		46	214	5,120,000	2,100,000	7,220,000
Kozarska Dubica	10		10	36		8	44	1,060,000	450,000	1,510,000
Krupa na Uni				9			9	225,000	112,500	337,500
Kupres, RS	6		6	32			32	790,000	395,000	1,185,000
Laktaši				10			10	250,000	125,000	375,000
Lopare				145	1	28	174	4,224,000	1,832,000	6,056,000
Ljubinje				25			25	625,000	312,500	937,500
Milići	8		8	105	1	22	128	3,094,000	1,327,000	4,421,000
Modriča	42		42	69	3	6	78	1,962,000	921,000	2,883,000
Mrkonjić Grad				250	9	101	360	8,621,000	3,300,500	11,921,500

7. Current situation	Ongoing reconstruction			Pending reconstruction				Tentative assessment of missing funds		
Return municipality	houses	aparts.	total	houses	aparts.	adding	total	HU renovation	infrastructure	Total in KM
Nevesinje	6		6	42	1	2	45	1,119,000	539,500	1,658,500
Novi Grad	25		25	124	4	40	168	4,061,000	1,630,500	5,691,500
Novo Goražde				153	5	15	173	4,320,000	2,010,000	6,330,000
Osmaci	10		10	150		21	171	4,170,000	1,875,000	6,045,000
Oštra Luka				6		2	8	190,000	75,000	265,000
Pale				57	2	3	62	1,563,000	751,500	2,314,500
Pelagićevo	20		20	199			199	4,975,000	2,487,500	7,462,500
Petrovo				1		1	2	45,000	12,500	57,500
Prijedor	32		32	278	2	54	334	8,098,000	3,509,000	11,607,000
Prnjavor				46		3	49	1,210,000	575,000	1,785,000
Ribnik				39		29	68	1,555,000	487,500	2,042,500
Rogatica	26		26	543	12	37	592	14,783,000	7,021,500	21,804,500
Rudo	13		13	128		7	135	3,335,000	1,597,500	4,932,500
Sokolac	20		20	218	1	18	237	5,849,000	2,744,500	8,593,500
Srbac				3			3	75,000	37,500	112,500
Srebrenica	68	19	87	1,690		268	1,958	47,600,000	21,120,000	68,720,000
Šamac	10		10	158	4	8	170	4,266,000	2,053,000	6,319,000
Šekovići				18		2	20	490,000	225,000	715,000
Šipovo	10	4	14	344	4	61	409	9,976,000	4,378,000	14,354,000
Teslić	22		22	253		7	260	6,465,000	3,162,500	9,627,500
Trebinje				51	6	1	58	1,529,000	754,500	2,283,500
Trnovo, RS	12		12	58	6	4	68	1,764,000	842,000	2,606,000
Ugljevik				58		19	77	1,830,000	725,000	2,555,000
Višegrad	28		28	517	18	53	588	14,687,000	6,813,500	21,500,500
Vlasenica	26		26	491	3	100	594	14,392,000	6,196,000	20,588,000
Vukosavlje	24		24	87			87	2,175,000	1,087,500	3,262,500
Zvornik	36		36	1,311	8	332	1,651	39,717,000	16,538,500	56,255,500
- RS - Total	736	28	764	12,645	148	1,756	14,549	357,032,000	160,956,000	517,988,000

- Recapitulation	Ongoing reconstruction			Pending reconstruction				tentative assessment of reconstruction costs		
Return entity	houses	aparts.	total	houses	aparts.	adding	total	HU renovation	infrastructure	Total in KM
FBiH – Total	876	275	1,152	15,045	1,345	1,506	17,895	458,682,000	214,281,000	672,963,000
RS – Total	736	28	764	12,645	148	1,756	14,549	357,032,000	160,956,000	517,988,000
Brčko District	54		54	456	40	8	504	13,120,000	6,480,000	19,600,000
BiH – GRAND TOTAL	1,666	303	1,969	28,146	1,533	3,270	32,949	828,834,000	381,717,000	1,210,551,000

IV – Dynamic plan on substantial completion of return process with tentative assessment of reconstruction costs of housing units and supporting infrastructure

1. FBiH	2009	Total	2010	in 000KM	2011	uin000KM	2012	in 000 KM	2013	in 000KM	2014	in 000KM	Total	in 000KM	Year
Banovići		162	50	1,871	112	4,190							162	6,061	2011
Bihać	12	367	50	1,782	50	1,782	100	3,565	167	5,954			379	13,084	2013
Bosanska Krupa	34	459	50	1,840	50	1,840	100	3,681	259	9,538			493	16,900	2013
Bosanski Petrovac	43	374	50	1,849	50	1,849	100	3,699	174	6,450			417	13,848	2013
Bosansko Grahovo	54	608	50	1,849	50	1,849	100	3,698	200	7,396	208	7,692	662	22,485	2014
Breza		46	46	1,676									46	1,676	2010
Bugojno	20	365	50	1,861	50	1,861	100	3,722	165	6,127			385	13,571	2013
Busovača	8	118	50	1,750	68	2,381							126	4,131	2011
Bužim		7	7	210									7	210	2010
Cazin		13	13	435									13	435	2010
Čapljina	24	359	50	1,897	50	1,897	100	3,795	159	6,034			383	13,624	2013
Čelić		57	57	2,113									57	2,113	2010
Doboj-Istok		2	2	75									2	75	2010
Doboj-Jug		5	5	170									5	170	2010
Dobretići	19	81	50	1,821	31	1,129							100	2,950	2011
Domaljevac-Šamac		42	42	1,435									42	1,435	2010
Donji Vakuf	16	559	50	1,882	50	1,882	100	3,764	200	7,527	159	5,990	575	21,045	2014
Drvar	84	403	50	1,981	50	1,981	100	3,962	203	8,050			487	15,974	2013
Foča-Ustikolina	18	293	50	1,818	50	1,818	193	7,016					311	10,652	2012
Fojnica	18	32	32	1,130									50	1,130	2010
Glamoč	53	525	50	1,884	50	1,884	100	3,768	200	7,536	125	4,718	578	19,789	2014
Goražde	42	717	50	1,793	50	1,793	100	3,586	200	7,173	317	11,369	759	25,715	2014
Gornji Vakuf-Uskoplje	2	142	50	1,801	92	3,314							144	5,115	2011
Gračanica		141	50	1,798	91	3,272							141	5,071	2011
Gradačac		125	50	1,773	75	2,659							125	4,432	2011
Grude		3	3	176									3	176	2010
Jablanica		77	50	1,809	27	977							77	2,786	2011
Jajce	36	435	50	1,842	50	1,842	100	3,683	235	8,656			471	16,022	2013
Kakanj	10	192	50	1,870	50	1,870	92	3,442					202	7,183	2012
Kalesija	20	133	50	1,814	83	3,012							153	4,827	2011
Kiseljak	6	82	50	1,821	32	1,151							88	2,973	2011
Kladanj	6	284	50	1,841	50	1,841	184	6,760					290	10,443	2012
Ključ	25	355	50	1,812	50	1,812	100	3,624	155	5,610			380	12,857	2013
Konjic	31	370	50	1,830	50	1,830	100	3,659	170	6,204			401	13,522	2013
Kreševo		15	15	545									15	545	2010
Kupres, FBiH	6	148	50	1,841	98	3,608							154	5,449	2011
Livno	4	276	50	1,879	50	1,879	176	6,613					280	10,371	2012
Lukavac	32	666	50	1,859	50	1,859	100	3,718	200	7,436	266	9,890	698	24,762	2014

1. FBiH	2009	Total	2010	in 000KM	2011	uin000KM	2012	in 000 KM	2013	in 000KM	2014	in 000KM	Total	in 000KM	Year
Ljubuški		12	12	436									12	436	2010
Maglaj	25	724	50	1,892	50	1,892	100	3,784	200	7,569	324	12,261	749	27,399	2014
Mostar	72	1,118	50	1,993	50	1,993	200	7,972	200	7,972	618	24,630	1,190	44,560	2014
Neum	6	9	9	325									15	325	2010
Novi Travnik		362	50	1,860	50	1,860	100	3,721	162	6,028			362	13,470	2013
Odžak	6	255	50	1,786	50	1,786	155	5,536					261	9,108	2012
Olovo	19	294	50	1,912	50	1,912	194	7,428					313	11,253	2012
Orašje	8	27	27	960									35	960	2010
Pale-Prača	8	69	50	1,961	19	761							77	2,722	2011
Posušje		1	1	38									1	38	2010
Prozor	19	198	50	1,800	50	1,800	98	3,520					217	7,120	2012
Ravno	7	158	50	1,850	108	3,995							165	5,845	2011
Sanski Most	28	492	50	1,774	50	1,774	100	3,549	292	10,362			520	17,460	2013
Sapna	10	152	50	1,813	102	3,683							162	5,496	2011
Sarajevo-Centar	15	130	50	2,159	80	3,454							145	5,614	2011
Sarajevo-Hadžići	8	147	50	1,888	97	3,663							155	5,551	2011
Sarajevo-Ilidža	30	232	50	2,112	50	2,112	132	5,557					262	9,781	2012
Sarajevo-Ilijaš	10	389	50	1,929	50	1,929	100	3,858	189	7,292			399	15,008	2013
Sarajevo-Novigrad	28	184	50	2,060	50	2,060	84	3,462					212	7,583	2012
Sarajevo-Novo Sarajevo	55	300	50	2,051	50	2,051	200	8,184					355	12,286	2012
Sarajevo-Stari Grad	8	71	50	2,033	21	854							79	2,887	2011
Sarajevo-Trnovo	19	60	50	1,834	10	367							79	2,201	2011
Sarajevo-Vogošća	10	121	50	1,955	71	2,775							131	4,730	2011
Srebrenik		112	50	1,863	62	2,310							112	4,172	2011
Stolac	31	199	50	1,868	50	1,868	99	3,682					230	7,419	2012
Široki brijeg		6	6	225									6	225	2010
Teočak		18	18	570									18	570	2010
Tešanj	4	28	28	1,050									32	1,050	2010
Tomislavgrad		6	6	225									6	225	2010
Travnik	35	490	50	1,820	50	1,820	100	3,640	290	10,539			525	17,819	2013
Tuzla	28	393	50	1,894	50	1,894	100	3,787	193	7,310			421	14,885	2013
Usora	4	49	49	1,803									53	1,803	2010
Vareš	10	449	50	2,037	50	2,037	100	4,074	249	10,145			459	18,294	2013
Velika Kladuša	6	89	50	1,844	39	1,438							95	3,282	2011
Visoko		155	50	1,820	105	3,821							155	5,641	2011
Vitez	3	70	50	1,750	20	700							73	2,450	2011
Zavidovići	4	805	50	1,897	50	1,897	100	3,794	200	7,588	405	15,365	809	30,541	2014
Zenica	5	278	50	2,061	50	2,061	178	7,332					283	11,454	2012
Žepče	5	148	50	1,864	98	3,654							153	5,519	2011
Živinice		60	50	1,825	10	365							60	2,191	2011
FBiH-Total	1,152*	17,895	3,328	124,268	3,301	123,650	4,183	158,635	4,661	174,494	2,422	91,916	19,047	672,963	

2. RS	2009	Total	2010	in 000 KM	2011	in 000 KM	2012	in 000 KM	2013	in 000 KM	2014	in 000 KM	Total	in 000 KM	Year
Banja Luka		105	50	1,762	55	1,938							105	3,700	2011
Berkovići	8	21	21	788									29	788	2010
Bijeljina	16	160	50	1,613	110	3,548							176	5,160	2011
Bileća		14	14	490									14	490	2010
Bosanski Brod	32	854	50	1,871	50	1,871	100	3,742	200	7,484	454	16,973	886	31,940	2014
Bratunac	32	1,156	50	1,771	50	1,771	200	7,083	200	7,083	656	23,234	1,188	40,942	2014
Čajniče	18	293	50	1,802	50	1,802	193	6,954					311	10,557	2012
Čelinac		24	24	848									24	848	2010
Derventa	30	771	50	1,840	50	1,840	100	3,681	200	7,362	371	13,657	801	28,381	2014
Doboj	38	699	50	1,828	50	1,828	100	3,656	499	18,243			737	25,555	2013
Foča	29	842	50	1,821	50	1,821	100	3,642	200	7,285	442	16,099	871	30,669	2014
Gacko	11	55	55	1,986									66	1,986	2010
Gradiška	14	47	47	1,693									61	1,693	2010
Han Pijesak		79	50	1,720	29	998							79	2,718	2011
Istočna Ilidža		14	14	508									14	508	2010
Istočni Drvar		2	2	75									2	75	2010
Istočni Stari Grad		4	4	150									4	150	2010
Istočno Novo Sarajevo	4	1	1	59									5	59	2010
Jezero		12	12	433									12	433	2010
Kalinovik	8	96	50	1,804	46	1,660							104	3,464	2011
Kneževo		37	37	1,353									37	1,353	2010
Kostajnica	10	6	6	190									16	190	2010
Kotor Varoš	34	214	50	1,687	50	1,687	114	3,846					248	7,220	2012
Kozarska Dubica	10	44	44	1,510									54	1,510	2010
Krupa na Uni		9	9	338									9	338	2010
Kupres, RS	6	32	32	1,185									38	1,185	2010
Laktaši		10	10	375									10	375	2010
Lopare		174	50	1,740	124	4,316							174	6,056	2011
Ljubinje		25	25	938									25	938	2010
Milići	8	128	50	1,732	78	2,689							136	4,421	2011
Modriča	42	78	50	1,848	28	1,035							120	2,883	2011
Mrkonjić Grad		360	50	1,656	50	1,656	100	3,312	160	5,298			360	11,922	2013
Nevesinje	6	45	45	1,659									51	1,659	2010
Novi Grad	25	168	50	1,692	118	4,000							193	5,692	2011
Novo Goražde		173	50	1,829	123	4,501							173	6,330	2011
Osmaci	10	171	50	1,768	121	4,277							181	6,045	2011
Oštra Luka		8	8	265									8	265	2010
Pale		62	50	1,867	12	448							62	2,315	2011
Pelagićevo	20	199	50	1,875	50	1,875	99	3,713					219	7,463	2012
Petrovo		2	2	58									2	58	2010

2. RS	2009	Total	2010	in 000 KM	2011	in 000 KM	2012	in 000 KM	2013	in 000 KM	2014	in 000 KM	Total	in 000 KM	Year
Prijedor	32	334	50	1,740	50	1,740	100	3,479	134	4,648			366	11,607	2013
Prnjavor		49	49	1,785									49	1,785	2010
Ribnik		68	50	1,502	18	541							68	2,043	2011
Rogatica	26	592	50	1,842	50	1,842	100	3,683	392	14,438			618	21,805	2013
Rudo	13	135	50	1,830	85	3,103							148	4,933	2011
Sokolac	20	237	50	1,813	50	1,813	137	4,968					257	8,594	2012
Srbac		3	3	113									3	113	2010
Srebrenica	87	1,958	50	1,755	50	1,755	200	7,021	200	7,021	1,458	51,168	2,045	68,720	2014
Šamac	10	170	50	1,859	120	4,460							180	6,319	2011
Šekovići		20	20	715									20	715	2010
Šipovo	14	409	50	1,755	50	1,755	100	3,510	209	7,335			423	14,354	2013
Teslić	22	260	50	1,851	50	1,851	160	5,925					282	9,628	2012
Trebinje		58	58	2,284									58	2,284	2010
Trnovo, RS	12	68	50	1,916	18	690							80	2,606	2011
Ugljevik		77	50	1,659	27	896							77	2,555	2011
Višegrad	28	588	50	1,828	50	1,828	100	3,657	388	14,187			616	21,501	2013
Vlasenica	26	594	50	1,733	50	1,733	100	3,466	394	13,656			620	20,588	2013
Vukosavlje	24	87	50	1,875	37	1,388							111	3,263	2011
Zvornik	36	1,651	50	1,704	50	1,704	200	6,816	200	6,816	1,151	39,215	1,687	56,256	2014
RS - Total	764*	14,549	2,291	81,977	2,049	72,656	2,303	82,153	3,376	120,857	4,531	160,344	15,313	517,988	

3. Recapitulation by return entity and years															
Return entity	2009	Total	2010	in 000 KM	2011	in 000 KM	2012	in 000 KM	2013	in 000 KM	2014	in 000 KM	Total	in 000 KM	
FBiH-Total	1,152	17,895	3,328	124,268	3,301	123,650	4,183	158,635	4,661	174,494	2,422	91,916	19,047	672,963	
RS - Total	764	14,549	2,291	81,977	2,049	72,656	2,303	82,153	3,376	120,857	4,531	160,344	15,313	517,988	
Brčko District	54	504	50	1,944	50	1,944	200	7,778	204	7,933			558	19,600	
BiH – GRAND TOTAL	1,970*	32,948	5,669	208,189	5,400	198,250	6,686	248,566	8,241	303,284	6,953	252,260	34,918	1,210,551	
%	6%	94%	16%	17%	15%	16%	19%	21%	24%	25%	20%	21%	100%	100%	

* Funds for ongoing reconstruction are ensured from the 2008 and 2009 budget

V - PLAN ON SUBSTANTIAL COMPLETION OF THE RETURN PROCESS BY YEARS AND MUNICIPALITIES

1. FBiH				
2010	2011	2012	2013	2014
1. Breza	1. Banovići	1. Foča-Ustikolina	1. Bihać	1. Bosansko Grahovo
2. Bužim	2. Busovača	2. Kakanj	2. Bosanska Krupa	2. Donji Vakuf
3. Čazin	3. Dobretići	3. Kladanj	3. Bosanski Petrovac	3. Glamoč
4. Čelić	4. Gornji Vakuf-Uskoplje	4. Livno	4. Bugojno	4. Goražde
5. Doboj-Istok	5. Gračanica	5. Odžak	5. Čapljina	5. Lukavac
6. Doboj-Jug	6. Gradačac	6. Olovo	6. Drvar	6. Maglaj
7. Domaljevac-Šamac	7. Jablanica	7. Prozor	7. Jajce	7. Mostar
8. Fojnica	8. Kalesija	8. Sarajevo-Ilidža	8. Ključ	8. Zavidovići
9. Grude	9. Kiseljak	9. Sarajevo-Novigrad	9. Konjic	
10. Kreševo	10. Kupres, FBiH	10. Sarajevo-Novo Sarajevo	10. Novi Travnik	
11. Ljubuški	11. Pale-Prača	11. Stolac	11. Sanski Most	
12. Neum	12. Ravno	12. Zenica	12. Sarajevo-Ilijaš	
13. Orašje	13. Sapna		13. Travnik	
14. Posušje	14. Sarajevo-Centar		14. Tuzla	
15. Široki brijeg	15. Sarajevo-Hadžići		15. Vareš	
16. Teočak	16. Sarajevo-Stari Grad			
17. Tešanj	17. Sarajevo-Trnovo			
18. Tomislavgrad	18. Sarajevo-Vogošća			
19. Usora	19. Srebrenik			
	20. Velika Kladuša			
	21. Visoko			
	22. Vitez			
	23. Žepče			
	24. Živinice			

2. RS				
2010	2011	2012	2013	2014
1. Berkovići	1. Banja Luka	1. Čajniče	1. Doboj	1. Bosanski Brod
2. Bileća	2. Bijeljina	2. Kotor Varoš	2. Mrkonjić Grad	2. Bratunac
3. Čelinac	3. Han Pijesak	3. Pelagićevo	3. Prijedor	3. Derventa
4. Gacko	4. Kalinovik	4. Sokolac	4. Rogatica	4. Foča
5. Gradiška	5. Lopare	5. Teslić	5. Šipovo	5. Srebrenica
6. Istočna Ilidža	6. Milići		6. Višegrad	6. Zvornik
7. Istočni Drvar	7. Modriča		7. Vlasenica	
8. Istočni Stari Grad	8. Novi Grad			
9. Istočno Novo Sarajevo	9. Novo Goražde			
10. Jezero	10. Osmaci			
11. Kneževo	11. Pale			
12. Kostajnica	12. Ribnik			
13. Kozarska Dubica	13. Rudo			
14. Krupa na Uni	14. Šamac			
15. Kupres, RS	15. Trnovo, RS			
16. Laktaši	16. Ugljevik			
17. Ljubinje	17. Vukosavlje			
18. Nevesinje				
19. Oštra Luka				
20. Petrovo				
21. Prnjavor				
22. Srbac				
23. Šekovići				
24. Trebinje				

3. BiH Brčko District BiH

Having in mind that 500 potential assistance beneficiaries have been registered in BiH Brčko District, the sustainable return process has been planned in phases of 5 years period. The process will be substantially completed in 2013, one year before the last year of the programme implementation.

VI – IMPLEMENTATION OF THE PLAN ON SUBSTANTIAL COMPLETION OF THE RETURN PROCESS

a) Expected outcome

- **Reconstruction and construction/adding of a wing for cca 35,000 housing units**, of which reconstruction has been planned for around 30,000 kuća and around 2,000 apartments, and construction/adding of a wing for around 3,000 individual housing units for return purpose;
- **return of around 110,000 persons in total**, of whom around 24,000 refugees and around 86,000 displaced persons into their reconstructed prewar homes;
- **reduction of the number of refugees** from BiH in need of durable solutions for around 30% **and recognized DPs** for 2/3 (75%);
- **advancing towards a prewar demographic structure** through return of **41.7% of Bosniaks, 13,5% of Croats, 44,8% of Serbs** of whom majority are the so called minority returnees.

The implementation of the plan requires around KM 1.3 milliards of which around KM 900 mil. for reconstruction of housing units and around KM 400 mil. for reconstruction of the supporting infrastructure.

b) Implementation methodology

The programme for substantial completion of the return process from 2009 until 2014 includes all municipalities where there exists the need for the return of refugees and DPs. In some municipalities which did not suffer major destruction and migration movements, the capacities for the implementation of the sustainable return projects are most often underdeveloped. Nevertheless, if the funds for the implementation of the present plan are approved, municipalities should be called upon to implement the programme by themselves. The back-up option would be the engagement of other implementing agencies through the Return Fund.

c) Foreseen actions	Focal points
- Individual identification of potential assistance beneficiaries from the database;	BiH Ministry of Human Rights and Refugees (MHRR)
- Check-up of previously used assistance;	
- Public information on the implementation of the plan in those municipalities and calling potential beneficiaries who have applied to submit evidence on meeting general (lawful) criteria as well as those who have not done that and who meet those criteria to submit their applications too;	
- Processing of documentation;	Municipalities or other implementing agencies
- Determination of criteria fulfillment;	
- Public announcement of the results;	
- Interview with potential beneficiaries who meet the criteria to receive assistance;	
- Field visit and preliminary cost assessment for renovation of housing units and necessary infrastructure;	
- Drafting project proposals for the plan implementation in the municipality;	SCRDP
- Harmonization of project proposals and approval of funding resources;	Implementing agency
- Implementation of tender procedures and contracting the implementing agencies;	Selected implementing agencies
- Implementation of contractual works;	MHRR, FMRDP, RSMRDP and BD
- Monitoring the project implementation	Return Fund
- Financial implementation of selected projects	MHRR
- Co-ordination of participants	MHRR
- Overall monitoring/supervision of project implementation	All focal points
- Reporting	



BOSNIA AND HERZEGOVINA
Ministry of Human Rights and Refugees

APPENDIX 2

**CONCEPT FOR ADDRESSING THE ISSUE OF DAMAGE COMPENSATION
FOR PROPERTY WHICH CANNOT BE RESTORED
TO DISPLACED PERSONS AND REFUGEES
IN TERMS OF THE RIGHTS ENSURED IN ANNEX VII
OF DAYTON PEACE AGREEMENT**

Sarajevo, December 2009

Overview

In all phases of the process focused on drafting the Revised Strategy this was one of the issues discussed most, given that most controversies and open questions were related to it. It could be seen clearly how polarized and contradictory the requests of the Working Group members were while trying to analyze this issue and propose solutions to it, as confirmed later in the course of deliberation on the issue concerned before the structures of both executive and legislative authorities in BiH.

In Annex VII of the Dayton Peace Agreement, the following is set out in Article I ("The Rights of Refugees and Displaced Persons") of its Chapter I entitled "Protection":

"All refugees and displaced persons **have the right freely to return to their homes of origin.** They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 **and to be compensated for any property that cannot be restored to them.**

The early **return** of refugees and displaced persons is an important objective of the settlement of the conflict in Bosnia and Herzegovina. The Parties confirm that they will accept the return of such persons who have left their territory, including those who have been accorded temporary protection by third countries.

The Parties shall ensure that refugees and displaced persons are permitted to return in safety, without risk of harassment, intimidation, persecution, or discrimination, particularly on account of their ethnic origin, religious belief, or political opinion.

The Parties shall take all necessary steps to prevent activities within their territories which would hinder or impede the safe and voluntary return of refugees and displaced persons..."

"...The Parties call upon the United Nations High Commissioner for Refugees ("UNHCR") to develop in close consultation with asylum countries and the Parties a repatriation plan that will allow for an early, peaceful, orderly and phased return of refugees and displaced persons, which may include priorities for certain areas and certain categories of returnees. The Parties agree to implement such a plan and to conform their international agreements and internal laws to it. They accordingly call upon States that have accepted refugees to promote the early return of refugees consistent with international law..."

"...The Parties undertake to create in their territories the political, economic, and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group. The Parties shall provide all possible assistance to refugees and displaced persons and work to facilitate their voluntary return in a peaceful, orderly and phased manner, in accordance with the UNHCR repatriation plan..."

Concerning **the choice of destination of residence**, Annex VII sets out that:

"Choice of destination shall be up to the individual or family, and the principle of the unity of the family shall be preserved. The Parties shall not interfere with the returnees' choice of destination, nor shall they compel them to remain in or move to situations of serious danger or insecurity, or to areas lacking in the basic infrastructure necessary to resume a normal life. The Parties shall facilitate the flow of information necessary for refugees and displaced persons to make informed judgments about local conditions for return. "

It is clear from the mentioned provisions of the Dayton Peace Agreement that, in addition to the right to free return and repossession of property, which was elaborated in great detail, Annex VII also guaranteed the right to choice of destination of residence for refugees and displaced persons, as well as the right for all refugees and displaced persons to **compensation** for such property

that cannot be restored to them. It also provided for a mechanism ensuring the right to the refugees and displaced persons to receive compensated "in lieu of return".

Therefore, in addition to the right to free return and choice of destination for their residence, Annex VII of the Dayton Peace Agreement guarantees the right of refugees and displaced persons to compensation for their property that cannot be returned to them.

Based on this right guaranteed by the Dayton Peace Agreement, a large number of refugees and displaced persons submitted their claims for compensation to the Independent Commission for Displaced Persons and Refugees (Dayton Peace Agreement – Chapter II, Article VII), while others initiated lawsuits and administrative procedures before courts and other administrative bodies for the same purpose.

Although the mentioned options were envisaged by Annex VII, as well as by the valid state and entity laws on the rights of refugees and displaced persons, access to these rights has not been either elaborated or ensured by the current procedures or by relevant by-laws, apart from the fact that a certain form of, mostly material, compensation and indemnification of damage was ensured through reconstruction of the refugees' and displaced persons' pre-war property.

Regarding the right to choice of destination of residence, another kind of misunderstanding has been established in the political practice. Some politicians made promises to displaced persons, who were not entitled to it, that they would build houses in their chosen destinations where they decide to reside. Such expectations have no legal grounds whatsoever either in the Annex VII or in any other part of the Dayton Peace Agreement.

In the process of drafting the Revised Strategy, some official representatives of the ministries and other institutions concerned from the Federation of BiH, Republika Srpska and Brčko District BiH, set out their requests on certain solutions as undisputable ultimatums, and, therefore, it was almost impossible under such circumstances to reach a solution that would be fully acceptable for all parties involved.

On one hand, **the representatives of the FBiH ministries in charge of refugees and displaced persons** resist any compensation mechanism, as well as any discussion on solution in this area, as long as the process of return is not completed in BiH.

At the meeting held in Posušje in February 2008, the representatives of the Federal Ministry for Displaced Persons and Refugees, of the Committee for Return of the BiH Parliament's House of Representatives, and of the canton ministries/directorates/offices for displaced persons and refugees, agreed on the following:

1. "The issue of compensation regarding the property of the displaced families cannot be addressed until the process of return and a quality population census are completed in the territory of BiH. The first phase of the process of property repossession has been completed almost fully, the second phase focused on reconstruction of property and reintegration of returnees is in progress, and it can be done only after the second phase is fully implemented that the issue of the third phase, focused on compensation of property under certain conditions, is open.

2. Opening of the issue of a possibility of compensation by both local authorities and the international organisations would lead to blocking the overall process of return, deceit of returnees, confirmation of ethnic cleansing and annulling of all results achieved so far in the process of return and reintegration of returnees.

3. Before opening of a discussion on a possibility of compensation provision, a detailed analysis of participation of all administrative levels in BiH in the restoration and reconstruction should be

done, in the sense of funding levels they provided for these issues. Based on the results of such analysis, we would confirm the level of financial involvement of the entities in the reconstruction process, which would in turn influence the proportion of funds needed from them for compensation provision.

4. Having the analysis described in the previous paragraph in mind as a model, an estimate should be made regarding the funding provided for restoration and reconstruction projects by the international organisations which participated in the implementation of Annex VII of the Dayton Peace Agreement (DPA)..."

On the other hand, a request for making the rights to compensation and to return equally important has come from both the displaced persons and **the representatives of RS authorities**, and the issue has been pushed even further by requesting that the right to choice of destination of residence is treated equally to the mentioned two rights, by ensuring financial support from the budgets to exercising this right.

The standpoint of the Ministry for Refugees and Displaced Persons and of the Government of Republika Srpska regarding the issue of indemnification of damage for displaced persons, refugees and returnees is as follows:

1. The issue of indemnification of damage is a broad term, which, in the context of revision of the Annex VII Strategy, should be looked at as a compensation in lieu of the right to home that displaced persons used to have and that could not be returned to them, or if there is a very good justification why their homes could not be returned to them.

2. At the level of BiH or the entities there is no separate law which would, in accordance with Annex VII of the Dayton Peace Agreement, regulate in an adequate way the issue of the right to a fair reimbursement or compensation for such property that cannot be returned. Republika Srpska has a law on access to rights to indemnification of material and non-material damage inflicted in the war period between 20 May 1992 and 19 June 1996 ("The Official Gazette of RS" number 103/05). However, this law does not refer to a fair indemnification of damaged property or of the property that cannot be returned to its original owners in the way envisaged by Annex VII of the Dayton Peace Agreement. That is why this issue has to be regulated by separate laws.

3. The issue of indemnification of damage should be treated equally as all other options envisaged by Annex VII Agreement on Refugees and Displaced Persons, as set out in the chapters entitled Protection of Rights of Refugees and Displaced Persons, and Commission for Displaced Persons and Refugees. So, we believe that it is high time to start treating all options equally, while respecting the rights of refugees and displaced persons to free choice of destination.

4. Provision of equal treatment for solutions to these issues is our obligation under Dayton, and we are of the opinion that by fair indemnification of damage or compensation we are not causing violation of other rights, and particularly not the right to return, right to reconstruction and restoration, durable return, e.t.c., and hence we dismiss any allegation that provision of this option would deceit returnees or obstruct the process of return.

5. More clear criteria are certainly needed to find solutions to all these issues. Such criteria should give priority to certain groups, such as most vulnerable social categories, displaced persons, refugees who lived through various traumas, e.t.c. but would not, in future, exclude other categories of those who were not able to solve their housing issues.

6. Compensation, as is the case with restoration and reconstruction, should refer to the period from 30 April 1991 to entering into force of the Property Laws in both entities, i.e. in the Federation of BiH until 04 April 1998, and in Republika Srpska until 19 December 1998. Limiting the right to compensation or other form of indemnification of damage to the period from the war

to signing of the Dayton Peace Agreement would, in our opinion, right from the start, discriminate against those who already exercised their rights to return, restoration and reconstruction.”

The official standpoints of the Department for Displaced Persons, Refugees and Housing Issues of the **Brčko District Government** are as follows:

The implementation of property laws has been essentially completed by 30 November 2003 with the success rate of 100% solved property claims, which represents the first of the three implementation phases for DPA Annex VII.

Reconstruction, as the second phase of DPA Annex VII, is still in progress. Until 31 December 2007 the Government of Brčko District BiH disbursed 52 million KM from its budget for solving the issue of reconstruction of housing units. 7,366 houses were restored with these and the funds provided by the international organisations, as well as by the entity governments in Bosnia and Herzegovina.

The third phase of DPA Annex VII, which envisages indemnification of damage, which refers to homes of 1991, is the responsibility of Bosnia and Herzegovina. This is a lawful and legitimate claim of the citizens of this country.

The takeover of the responsibilities from this phase of DPA Annex VII by the state may start as soon as the reconstruction process is completed, which is in late 2010. Until this deadline, necessary preconditions, such as legal, financial, institutional and other ones, should be created.

We believe that this kind of activity plan is fully justified. Otherwise, if a possibility of compensation provision is introduced before 2010, we are certain that the overall process of return would be blocked, the expectations of citizens in regards to return would not be met, and our current participation in the national balance of BiH population in relation to the population census of 1991 would be significant, impacting on the level of funds that would be earmarked for compensation provision.

We also believe that the citizens who invested their private funds in restoration of their housing units (homes of 1991) in Brčko District BiH which were destructed or damaged due to the war, thus contributing to faster implementation of DPA Annex VII, as well as the citizens who procured other adequate housing units (who either built private houses or bought apartments by their own money) in Bosnia and Herzegovina should also be entitled to enjoy the right to indemnification of damage.

The reason for this is that the current legislation, and its restrictive enforcement, does not recognize such citizens as beneficiaries in reconstruction projects, which poses certain difficulties to our work, given that the citizens concerned keep addressing us and expecting a certain form of reimbursement for the funds they invested into reconstruction of their homes of 1991. In this particular case, there are around 5,000 citizens of Brčko District of BiH in such situation.

The responsible entity authorities and the Brčko District Service for Refugees and Displaced Persons were not alone in providing different interpretations of this issue from DPA Annex VII. Namely, there was no full agreement on this issue either at the international organisations and institutions concerned (the opinion and standpoints of UNHCR, OSCE, European Commission, and e.t.c. were provided accordingly).

In particular, associations of citizens, non-governmental organisations and other civil society representatives had extremely contradictory standpoints on the issues concerned.

While there are such civil sector representatives who reject any attempt for indemnification of damage for property to be defined until the issue of return is solved as, according to them, DPA Annex VII is based on the issue concerned; some are in favour of equal treatment of all rights set out in DPA Annex VII, whereas others are requesting indemnification of damage for all property, including both fixed assets and movable property, acquired rights, profit they omitted to acquire, fear and pain they suffered, e.t.c.

In this situation, and due to the mentioned different perceptions and interpretations of the right to indemnification of damage, **the Office of the High Representative (OHR)** was asked to provide an interpretation. Pursuant to Annex VII, and within the limits of the authorization set out in DPA Annex X, OHR provided the following interpretation of DPA in regards to the issue concerned:

Commending you for completion of the revision process of the Strategy for Implementing Annex VII and for successful involvement in these activities of all state actors, as well as of the civil society representatives concerned, the High Representative to BiH explained the term compensation, in the sense of Annex VII, as the compensation in lieu of a lost housing unit – home of displaced persons or refugees, as, according to OHR's interpretation, the term "property" is defined by Annex VII to mean housing units, both privately and socially owned ones. Thus, compensation would be an option for solving housing issues only for the refugees and displaced persons who, due to objective reasons, cannot return to their pre-war habitual residence addresses.

OHR particularly underlined that the compensation plan would not cancel other mechanisms for compensation that should be enforced in accordance with the laws of Bosnia and Herzegovina, or internationally recognized instruments for the protection of human rights. These other mechanisms exist independently and separately from the compensation discussed within the current Working Group for Annex VII, and all agreed mechanisms should not violate or limit the applicants' rights to enjoy other forms of compensation.

After compiling all opinions and standpoints received on the issue, the Working Group drafting the Strategy harmonized its joint standpoint, and, although no party was fully satisfied with the agreed solutions, given that the parties' standpoints had been extremely contradictory, OHR's interpretation was built into the text of the Strategy. The representatives of the ministries in charge of R Srpska, FBiH, Brčko District and international institutions concerned agreed with such solutions at the meeting held at the Ministry for Human Rights and Refugees, when the final draft of the Revised Strategy was harmonized.

Therefore, the model suggested by the Strategy, as well as by the subsequent amendments and conclusions made by the Council of Ministers, talks about a need for arranging the right to indemnification of damage for displaced persons and refugees as an adequate compensation for their lost homes – housing units.

In short, by accessing the right to indemnification of damage, a possibility is opened for each displaced person or refugee, in a way that the person concerned finds acceptable, to choose the place of residence and, through provision of indemnification of damage suffered by his housing unit, to enjoy his rights, including the right to choose his residence location.

This model should certainly be elaborated; assessment of the current situation and needs should be done first, and then drafting of adequate laws and action plans should be ensured, as well as analyzing and agreeing the ways in which appropriate budget will be secured for implementation.

Dayton Peace Agreement set out the mechanism for solving this issue.

Please note that, pursuant to Article VII of DPA Annex VII, it is envisaged that **an Independent Commission for Refugees and Displaced Persons** will be established, and its mandate,

pursuant to Article XI of DPA Annex VII, is to decide on any real property claims in Bosnia and Herzegovina, where the property has not voluntarily been sold or otherwise transferred since 1 April 1992, and where the claimants do not currently enjoy possession of that property. **Claims may be filed for return of property or for a fair compensation in lieu of return.** (This is the key sentence in understanding and interpreting the intentions of DPA creators and in defining this right of refugees and displaced persons).

Article VII sets out that the Parties will co-operate with the Commission, and shall respect and implement its decisions expeditiously and in good faith, in cooperation with relevant international and non-governmental organisations having responsibility for the return and reintegration of refugees and displaced persons.

For understanding of tasks and mandate, and in the context of recognizing the objectives from DPA Annex VII on the issue concerned, the following articles are particularly important: Article XI ("Mandate") and Article XII ("Proceedings before the Commission").

The mentioned and other provisions of the DPA set out the following:

- "The Commission shall receive and decide any claims for real property in Bosnia and Herzegovina, where the property has not voluntarily been sold or otherwise transferred since April 1, 1992, and where the claimant does not now enjoy possession of that property. Claims may be for return of the property or for just compensation in lieu of return".

- "Upon receipt of a claim, the Commission shall determine the lawful owner of the property with respect to which the claim is made and the value of that property. The Commission, through its staff or a duly designated international or nongovernmental organization, shall be entitled to have access to any and all property records in Bosnia and Herzegovina, and to any and all real property located in Bosnia and Herzegovina for purposes of inspection, evaluation and assessment related to consideration of a claim".

- "Any person requesting the return of property who is found by the Commission to be the lawful owner of that property shall be awarded its return. Any person requesting compensation in lieu of return, who is found by the Commission to be the lawful owner of that property, shall be awarded just compensation as determined by the Commission. The Commission shall make decisions by a majority of its members".

- "In determining the lawful owner of any property, the Commission shall not recognize as valid any illegal property transaction, including any transfer that was made under duress, in exchange for exit permission or documents, or that was otherwise in connection with ethnic cleansing. Any person who is awarded return of property may accept a satisfactory lease arrangement rather than retake possession".

- "The Commission shall establish fixed rates that may be applied to determine the value of all real property in Bosnia and Herzegovina that is the subject of a claim before the Commission. The rates shall be based on an assessment or survey of properties in the territory of Bosnia and Herzegovina undertaken prior to April 1, 1992, if available, or may be based on other reasonable criteria as determined by the Commission".

- "The Commission shall have the power to effect any transactions necessary to transfer or assign title, mortgage, lease, or otherwise dispose of property with respect to which a claim is made, or which is determined to be abandoned. In particular, the Commission may lawfully sell, mortgage, or lease real property to any resident or citizen of Bosnia and Herzegovina, or to other Party, where the lawful owner has sought and received compensation in lieu of return, or where the property is determined to be abandoned in accordance with local law. The Commission may also lease property pending consideration and final determination of ownership".

- "In cases in which the claimant is awarded compensation in lieu of return of the property, the Commission may award a monetary grant or a compensation bond for the future purchase of real property. The Parties welcome the willingness of the international community assisting in the construction and financing of housing in Bosnia and Herzegovina to accept compensation bonds awarded by the Commission as payment and to award persons holding such compensation bonds priority in obtaining that housing".
- "Commission decisions shall be final, and any title, deed, mortgage, or other legal instrument created or awarded by the Commission shall be recognized as lawful throughout Bosnia and Herzegovina".
- "The Commission shall promulgate such laws and regulations, consistent with this Agreement, which may be necessary to carry out its functions. In developing these rules and regulations, the Commission shall consider domestic laws on property rights".
- "Five years after this Agreement enters into force, responsibility for the financing and operation of the Commission shall transfer from the Parties to the Government of Bosnia and Herzegovina, unless the Parties otherwise agree. In the latter case, the Commission shall continue to operate as provided above".

However, the mandate of the Commission for Displaced Persons and Refugees (CRPC) ended, and a domestic Commission for Real Property Claims of Displaced Persons and Refugees was established, with a mandate considerably narrowed in relation to the Dayton Commission mentioned, whereas the issue of compensation for the property that cannot be returned to its pre-war owners has not been tackled at all.

The mandate of the new Commission used to be (as this Commission also ended its work in the meantime) to decide on claims for reconsideration of decisions made by the Commission for Real Property Claims of the Displaced Persons and Refugees (CRPC), 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.

The domestic Commission for Real Property Claims of Displaced Persons and Refugees was established because, within the mandate of CRPC, a certain number of requests for reconsideration of CRPC' decisions were filed, and CRPC did not manage to solve such requests within its mandate, having in mind that, according to Dayton Peace Agreement, as well as to BiH laws, the decisions made by CRPC are final and binding. Hence, CRPC' decisions could not be reconsidered by any administrative body or court in BiH, and a domestic CRPC was therefore established by a separate agreement made by the Parties.

Regarding the functioning of the Commission for Refugees and Displaced Persons and implementation of its decisions, a particular importance is given **to a Refugees and Displaced Persons Property Fund**.

The Dayton Agreement stipulates that a Refugees and Displaced Persons Property Fund (the "Fund") shall be established in the Central Bank of Bosnia and Herzegovina to be administered by the Commission. The Fund shall be replenished through the purchase, sale, lease and mortgage of real property which is the subject of claims before the Commission. It may also be replenished by direct payments from the Parties, or from contributions by States or international or non-governmental organisations.

Compensation bonds shall create future liabilities of the fund under terms and conditions defined by the Commission.

De facto response to the above Dayton solutions was as follows:

The Commission for Refugees and Displaced Persons (the so-called CRPC) was established in March 1996. It was chaired by the international community but its actual mandate was considerably restricted in relation to its envisaged mandate set out in DPA Annex VII.

In addition to other limitations, a Refugees and Displaced Persons Property Fund, envisaged by DPA Annex VII, has never been established.

During its mandate, the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) has never considered the issue of compensation for property that cannot be returned, contrary to what was envisaged by the Dayton Peace Agreement. Its mandate included only passing decisions confirming ownership, occupancy rights and lawful regular possession of real estate of displaced persons or refugees so that access to the right to compensation has remained open and unsolved until now.

The second segment set out in Annex VII referring to "indemnification of damage in lieu of property return" and the right to the so-called "fair compensation" has been neglected altogether.

However, the mandate of the Commission for Displaced Persons and Refugees in Bosnia and Herzegovina ended on 31 December 2003. After that, domestic institutions in BiH signed "The Agreement concluded by BiH, Federation of BiH, and Republika Srpska on transfer of responsibility and continuation of funding and work of the Commission for Real Property Claims of Displaced Persons and Refugees, pursuant to Article XIV of Annex VII of the General Framework Agreement on Peace in BiH", noting that the mandate of CRPC was only partially transferred to domestic authorities, in the part referring to requests filed within the mandate of "Dayton" Commission (CRPC) for reconsideration of decisions made by CRPC, which CRPC did not manage to reconsider and make decisions upon them within the duration of its mandate.

Hence, having in mind the fact that the process of property return has been completed almost fully, the envisaged principle of replenishment of a Refugees and Displaced Persons Property Fund is meaningless now, and an alternative model should be found.

On the other hand, given that, since DPA was signed, nobody in Bosnia and Herzegovina has been dealing systematically with the issue of right to indemnification of damage for property that cannot be returned to its owners, it thus follows that no institution at any administrative level in BiH holds data on this issue.

Nobody has defined this problem from a legal point of view, so that, as a prior question, it should be established how politics sees this activity in BiH, and then, based on the initial input obtained from politicians, laws should be adopted, appropriate operational procedures introduced, assessment of the current situation and needs carried out, funding should be ensured, e.t.c.

It is assumed that, within the mentioned procedures, a certain Fund will need to be established, e.t.c.

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 325,000 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 "in lieu 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 or alternative accommodation, who cannot return and who need some other solution for their displacement apart from reconstruction of their pre-war homes. However, in order to find a durable solution, they need some kind of assistance. These people expect competent authorities to find some other durable solution for them, apart from reconstruction of their pre-war housing units, and one of the possible solutions is establishment of the mechanism for provision of adequate compensation. This model was particularly supported by UNHCR, as well as by other members of the Working Group that was tasked with drafting a Revised Strategy who were unanimous that such vulnerable groups must be treated as a priority.

It has been noted 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 such compensation could be a significant factor to start a new life and end displacement.

Today, 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 their pre-war 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 some kind of 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, both state authorities and international community have responsibility to consider all options that support durable solutions for displaced persons and other populations.

Identified problems and recommendations for improvements in relation to access to the right to indemnification 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 that introduction of the right to compensation may have upon the return process;
- Lack of domestic legal framework on this issue;
- A missed opportunity since signing of the Dayton Agreement to regulate this issue in accordance with the provisions of Annex VII of the Dayton Agreement;
- Lack of definition of compensation in the context of BiH and Annex VII, i.e. its scope as well as the timeframe that should be used for implementation;
- A need to define potential beneficiaries and priorities related to the right for compensation;
- Harmonization of different positions of the authorities concerned with this issue in BiH and achieving a framework agreement which would contribute to resolving problems of the most vulnerable population categories in BiH;
- Identifying budget capabilities and capacities for addressing this expensive process.

The main undefined problems and issues related to indemnification of damage – compensation are as follows:

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

On one hand, there is a concern that the compensation, if ensured at this time, would hinder return efforts. On the other hand, the obligation of the State to solve this issue is emphasized; and the beneficiaries falling under this category of BiH citizens expect that this form of solution, as provided in the Dayton Peace Agreement, is regulated through national legislation in BiH.

There have been manifold polarized positions on this issue, starting from those requesting that nothing should be done in this area until the completion of the return process in BiH, to those requesting that this right should be regulated straight away in BiH and made accessible to beneficiaries concerned, and not only for damage inflicted upon their housing units, but also for damage inflicted upon the overall movable and fixed property of displaced persons and refugees.

However, the interpretation provided by OHR or, more precisely, clarification of the meaning of this term as envisaged by in Annex VII of the Dayton Peace Agreement, in regards to explanation of this mechanism has been generally accepted, stipulating that compensation, in the sense of Annex VII, refers to compensation for a housing unit (dwelling) or home only.

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

Taking into account 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 the ongoing return process.

Some representatives of the non-governmental sector insisted that both BiH and international law, including the European law on human rights, must be followed in a way that the issue concerned is tackled in its full capacity, as set out not only in Annex VII but also in Annex IV and Annex VI of DPA.

OHR and UNHCR reiterated 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 its Annex IV, Annex VI and Annex VII).

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

“Adequate compensation” versus “financial compensation” was discussed in great detail. Some representatives participating in the Working Group objected to the term “financial compensation”.

The Working Group considered that the aim of compensation, according to Annex VII, was to re-ensure access to the right to adequate home. Some alternative solutions were suggested to monetary/financial compensation for vulnerable beneficiaries. For example, one of the models discussed is that municipalities, by using the compensation funds that, potentially, would have been provided to these persons for their former housing units in need of reconstruction, could construct apartments for such vulnerable persons residing in collective accommodation.

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

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

A need was underlined that the competent State, entity and canton ministries and bodies should, within the shortest deadline from the adoption of the revised “Strategy for 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, which would serve as a basis for drafting relevant regulations on this issue.

A precise political framework is needed to define the kind and scope of rights concerned, for which assessment and recommended solutions should be made.

It is of utmost importance to regulate the following issues within the regulations drafting process:

- Definition of categories of persons who will have the right to priority compensation;
- Types of compensational schemes;
- Period covered by the right to compensation;

- Procedural issues, authorities in charge, e.t.c.

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 issues are especially planned and specified in the targeted budgets concerned.

The Working Group, while drafting the Revised Strategy, agreed that compensation in the context of Annex VII at this time is an instrument helping persons who cannot return in finding durable solutions. Such framework and a proposed solution were found too narrow by the House of Peoples of the Parliamentary Assembly of BiH.

The prevailing train of thought on this issue expressed within the Working Group, as set out in its published results and findings, and as agreed by the ministers for refugees and displaced persons of BiH, both entities and by the competent Service of Brčko District, by the Council of Ministers of BiH, UNHCR and OHR, as well as by the House of Representatives of the Parliamentary Assembly of BiH, but rejected by the House of Peoples of the BiH Parliament, is as follows:

1. According to the Working Group, compensation in terms of Annex VII should be understood to be adequate compensation or financial compensation for lost housing units-homes of displaced persons and refugees and as a manner to resolve exclusively housing issues of refugees and displaced persons who cannot return to their pre-war residential addresses for objective reasons;
2. The right to adequate compensation should be ensured, as a priority, for resolving housing needs of specific social categories, namely traumatized individuals, persons with serious disabilities, most vulnerable social cases dependent on care and assistance provided by others, as well as persons who cannot return to their residential addresses due to objective reasons (e.g. urban plan has been changed, there is a land-slide on the return address, e.t.c.);
3. The competent State, entity and canton ministries and bodies will, within six 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;
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 issues are especially planned and specified in their respective budgets.

In subsequent discussions, requests and comments received from various sides, these issues were looked at in a quite simplified way. Namely, no (alternative) responses for many unsolved and unclear issues were provided. Instead, a lot of politicization took place of the issues concerned. Essentially, the issues concerned fall under the scope of basic human rights.

Some of the most important issues that refer to and are related with the right to indemnification of damage for such property that cannot be returned to displaced persons and refugees, and which need to be addressed within a solution to this complex issue, are as follows:

1. What is the actual content of the definition from DPA: "The right to indemnification of damage for such property that cannot be returned"?
2. What are the definitions of 'property' and 'damage' in the context of this issue and DPA Annex VII?
3. Who has the right to receive indemnification of damage, only those who had the status of refugees or displaced persons, or also those who are without status?

4. Whose responsibility is it, according to DPA, to provide indemnification of damage – the state's, entities', joint, or...?
5. Legal definition of the issue concerned?
6. Does the right to indemnification of damage belong only to those persons who used to live in shared households in 1991 (as it was the case with the reconstruction with the purpose of return) or to all successors in accordance with the legislation on inherited property?
7. Does the right to indemnification of damage belong to those who did not legally possess any property but who had been using housing units without regularly solved ownership issues over such property?
8. Does the right to indemnification of damage belong to those whose accommodation in collective centres, social apartments, alternative accommodation, e.t.c. was organised and funded by the State and who wish to stay in such accommodation, or is it implied that these types of accommodation can be considered compensation as such?
9. Is indemnification of damage provided for the overall property or just for its part for which indemnification of damage is approved (for example – a part of the house in a part of the land)?
10. If indemnification of damage is done for the overall property, what happens with the property that will be compensated for – is ownership cancelled or does it remain valid, or, more precisely, does a family indemnified of damage for the property that cannot be returned to it still own the compensated property, though such property may be devastated?
11. For which part of property ownership is cancelled in case when compensation for it is provided to the owner, is such ownership to be cancelled?
12. What happens with the property compensated for – does it continue to be owned by the person indemnified of it, or...?
13. Does such property compensated for, for which pre-war ownership is subsequently cancelled, go into the Property Fund, as envisaged by the DPA?
14. What condition of property is compensated for, is it the condition of 1992, and how is such condition proven?
15. Is indemnification of damage done for the overall property or just for its part adequate to the principles contained in the regulations applied to reconstruction with the purpose of return, and that is within the IMG standards (the prescribed housing minimum)?
16. If indemnification is done of the overall property that cannot be returned, than one more issue needs to be addressed, such as the right to indemnification of damage in accordance with the number of persons returning to a specific housing unit, to those who were granted only partial reconstruction already?
17. Who will carry out assessments of damage inflicted upon property? Then, provide a response to specific legal issues in regards to establishment of such institutions, if they do not already exist, recruitment of state civil servants and other necessary staff, ensuring the conditions necessary for their work, e.t.c.?
18. Do such persons who already restored their property by their own investment, and who apply for indemnification of damage, have the right to be indemnified of damage, and if they do, then how should indemnification of damage be done in such cases?
19. In the process of indemnification of damage, the requests will surely be submitted by those who already received partial compensation through reconstruction. How, who, and in which procedure will make assessments and provide evidence for property owned in 1992, for "compensations" provided so far and for the remaining part of such property not compensated for?
20. In cases in which pre-war owners of damaged property died, how is this issue to be resolved?
21. What happens in cases in which indemnification of damaged property should be provided, there are living family members who are not owners, and they are neither refugees nor displaced persons, but they are inheriting the property concerned?
22. Do those persons who sold their (damaged) property (for meaninglessly low amounts), and who believe that the sale price of their fixed property is not adequate to the damage they

- suffered have the right to request indemnification of damage? If they do, who will carry out such assessments and which procedure will be applied?
23. Do such persons who reconstructed their property by their own investment, and sold it consequently, also have the right to indemnification of damage?
 24. Do such persons who sold their restored property, but believe that the actual sale price was inadequate to the damage they suffered, have the right to indemnification of damage? Who, in such particular cases, and how carries out assessment of the 1992 condition of property, evaluation of restored property, the amount and means of compensation?
 25. Do the “unexpected refugees” – those who happened to be abroad when the war started in BiH and could not return to the country. How are they going to justify their refugee status, and in which procedure?
 26. What about those who were given ownership over alternative housing units by local authorities in locations other than their pre-war places of residence, or those who were given land, construction material or other support free of charge? Do they have the right to indemnification of damage or will the benefits they gained in the mentioned way be counted as indemnification of damage? If they do have such right, then how will the value of their fixed property of 1991 be compared to the value gained from donations they received, how will the amount of appropriate compensation going to be established, and which procedure should be used in such cases?
 27. What shall be done about those persons who were given ownership over other housing units, who were given land or other support free of charge from either international or local donors? Do they have the right to be compensated for their property, or will the benefits gained from such donations be calculated as compensation? If they do have such right, then how will the value of their fixed property of 1991 be compared to the value gained from donations they received, how will the amount of appropriate compensation be established, and which procedure should be used in such cases?
 28. In the sense of the previous two questions, what will be done in cases in which property has been granted in the meantime in some other location, but appropriate ownership has not been regulated or has not been verifiable?
 29. Do such refugees and displaced persons whose property was devastated after DPA have the right to indemnification of damage inflicted upon such property? According to DPA – they do not have such right. However, there is a huge number of such cases. How will such issues be proven and resolved? For example, how can it be proven that a certain property was devastated before DPA was signed?
 30. How will priority criteria for beneficiaries of compensation be established?
 31. How will damage concerned be proven in administrative and court procedures?
 32. In which way will final and binding judgements and adjudications be executed, particularly because there is no adequate budget “provision” for such execution?
 33. Which kind of Fund should be established?
 34. How is this Fund going to be replenished, who will manage it, under which terms and conditions or procedures?
 35. How and where should a central data base be established?
 36. How will various central and field services be established, what will be their recruitment procedures, how will necessary operational funding be ensured for these services – given that enormously high amounts will be needed for this? As a comparison: the Dayton Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) operated for 8 years. It had a huge number of offices in BiH and beyond in the region, a few thousand employees, a huge budget, and all this was funded by the foreign donors’ funds only.
 37. How will access to this right be ensured for a large number of our refugees abroad?
 38. How will this issue be solved in relation to those whose BiH citizenship was cancelled in the meantime?
 39. What will happen with devastated property whose owner will exercise his right to indemnification of damage? Who will be responsible for removing such devastated property from the terrains concerned, or will such property remain devastated and intact forever? In

other words, how to create an obligation to clean the terrain for those who will receive compensation for damage but who will not return? This will become an issue in case that the State (or entities, depending on a pending definition of this issue) does not become the owner of such property once the compensation for it is disbursed.

40. Which regulations, BiH or entity ones, will be used to resolve these issues?
41. What is the relationship and what are the responsibilities of different administrative levels concerning regulation of these issues?
42. Is an in control of the location where damage was inflicted upon property the bearer of responsibility to provide compensation for such property that cannot be returned?
43. Who is in charge of processing administrative cases in the first and in the second instance?
44. How will subsequent legal and status claims filed by the persons who become entitled to exercise their rights to indemnification of damage be resolved (e.g. is the status of a refugee or of a displaced person cancelled for such persons, with all corresponding rights and obligations derived from such status)?
45. Will indemnification of damage be provided in kind, by money, through bonds or in some other way?
46. How should priorities be established?
47. How and within which timeframe to secure funding for this, certainly most "expensive" obligation of the authorities after DPA? It is clear that this will be more expensive than funding reconstruction for the purpose of return.
48. How to balance between expenditure for return and expenditure for indemnification of damage, and how to prevent that opening access to indemnification of damage affects adversely the return process and its sustainability?
49. What would be adequate deadlines for starting this activity and how to project deadlines for its completion, how to establish order and priorities (e.g. persons accommodated at collective centres, socially vulnerable persons, persons without alternative housing solutions, persons who have not received any assistance so far in relation to Annex VII; enforcement of judgements made by responsible international courts, e.t.c.)?
50. How to ensure adequate enforcement of decisions made by the responsible institutions in BiH?
51. What would be the role of guarantors of DPA implementation in the whole process?
52. How to interview all interested beneficiaries? After access is ensured to this law, those who applied for reconstruction in the past should also be interviewed given that, if a new option is offered, according to preliminary findings, a certain number of previous applicants for reconstruction would change their requests and, instead of reconstruction with the purpose of return, they would request indemnification of damage inflicted upon their property.
53. Who and how, within which timeframe, will train the civil servants working at institutions to deal with the issues concerned (regulations, polls, assessments, central data base, procedures, decision making in administrative procedures in first and second instances...)? Who will pay for this, what is the deadline for this to be done?

The answers to these and many other questions remain unknown and adequate responses will have to be found promptly as soon as the Parliamentary Assembly of BiH adopts the final option and establishes strategic guidelines for regulating the issues concerned.

In the context of Annex VII, compensation is not an attempt to ensure the overall indemnification of all damage inflicted upon refugees and displaced persons, but it is about a need to compensate for such property that cannot be returned, in the context of access to right to home, as underlines specifically in the interpretation provided by OHR on this issue.

The responsible institutions will face and finally start solving these outstanding issues set out in Annex VII of the Dayton Peace Agreement as soon as the Revised Strategy is adopted. A prompt adoption of this document will certainly contribute to it.

As soon as the Revised Strategy is adopted, expert working groups would be established and tasked with preparing detailed analysis and elaboration, assessment of the current situation and needs, as well as adequate regulations.

Through mentioned activities, needs would be recognized to establish specific legal and institutional mechanisms and modalities for solving the issue of right to fair compensation for property that cannot be returned to displaced persons and refugees.

It was for these very reasons that the Ministry for Human Rights and Refugees included in its Programme for 2010 adoption of the Law on Changes and Amendments to the Law on Refugees from BiH and Displaced Persons in BiH which would regulate the issues concerned (or there will be a separate law regulating this issue only), and the same Ministry demonstrated its explicit willingness to start solving the issue concerned, at least through pilot projects, when, in its budget projection for 2010, requested and received 50 million KM for the purpose of solving the issues from Annex VII.

From everything presented in this document one can have an impression that a compromise is acceptable, which was made by all participants actively involved in the drafting of Revised Strategy, and by the participants in the discussions held at the Council of Ministers and at the Parliamentary Assembly of BiH, that the issue is to be treated as the right to compensation in lieu of damage for property which cannot be returned to displaced persons and refugees, and that property, in the context of DPA Annex VII, should be looked at in the light of interpretation provided by the Office of the High Representative to BiH ("Property" stands for housing units, regardless of the fact if such units are owned by private or social owners. This would be the way of solving housing issues of refugees and displaced persons only, who, for objective reasons, cannot return to their pre-war residential addresses. Therefore, compensation in the sense of Annex VII is the compensation for a lost housing unit – home of displaced persons or refugees).

By receiving compensation for property in the places of their origin, displaced persons and refugees will be given an opportunity to, by means of their fulfilled interest or compensation received for such property that cannot be returned to them, find durable solutions to their residence in some other place in BiH or abroad, and thus, also, to ensure that their right to chose destination of residence, prescribed in the Dayton Peace Agreement as one of the rights that refugees and displaced persons are entitled to, is exercised.

Note:

«At its 111st session held on 13 January 2010, the Council of Ministers of BiH discussed and agreed on the Proposal of the Revised Strategy of Bosnia and Herzegovina for the implementation of Annex VII of the Dayton Peace Agreement, provided that the text of the Proposal concerned should be harmonized with the amendments accepted unanimously at this CoM session.

It was concluded that the Ministry for Human Rights and Refugees should refer the Proposal of the Revised Strategy to the Parliamentary Assembly of BiH for adoption».

In regards to the mentioned conclusions reached by the Council of Ministers of BiH, the conclusion which concerns compensation for such property which cannot be returned to refugees and displaced persons, was set out as follows:

Compensation, in the sense of DPA Annex VII should be considered as adequate compensation or reimbursement in such volume in which it ensures access to right to home for displaced persons and refugees as a means of solving exclusively a housing issue for those who, for objective reasons, cannot return to their pre-war residential addresses, and who, have not solved their housing issue in some other way in the meantime.

ACTION PLAN

for solving the issue of compensation for property which cannot be returned to refugees and displaced persons in the sense of their guaranteed rights, as defined by Annex VII of the Dayton Peace Agreement

Activity 1

Harmonization of the Revised Strategy of Bosnia and Herzegovina for Implementation of Annex VII of the Dayton Peace Agreement with the representatives of both entity ministries for displaced persons and refugees, the responsible Service of Brčko District BiH, UNHCR and OHR

Focal Point: Ministry for Human Rights and Refugees

Deadline: 20 October 2009

Activity 2

Preparation and submission to the Council of Ministers, with the aim of harmonizing the Revised Strategy of Bosnia and Herzegovina for Implementation of Annex VII of Dayton Peace Agreement, deliberation on the Strategy by the Council of Ministers, and its consequent adoption

Focal Point: Ministry for Human Rights and Refugees and BiH Council of Ministers

Deadline: 15 November 2009

Activity 3

Deliberation upon and adoption of the Revised Strategy of Bosnia and Herzegovina for Implementation of Annex VII of Dayton Peace Agreement by the Parliamentary Assembly of BiH

Focal Point: the Parliamentary Assembly of BiH

Deadline: by 10 December 2009

Activity 4

Informing the authorities concerned in BiH, the international community's institutions and organizations, civil sector and BiH citizens on adoption of the Revised Strategy of Bosnia and Herzegovina for Implementation of Annex VII of Dayton Peace Agreement by the Parliamentary Assembly of BiH

Focal Point: Ministry for Human Rights and Refugees

Deadline: by 20 December 2009

Activity 5

Establishing an expert working group whose task will be to analyze all open questions set out in the Revised Strategy. These questions refer to the right to compensation in lieu of damage for property which cannot be returned to refugees and displaced persons

Focal Point: Ministry for Human Rights and Refugees

Deadline: By 15 January 2010

Activity 6

Analyzing all open questions set out in the Revised Strategy which do not refer to compensation for damage in lieu of property that cannot be returned to refugees and displaced persons

Focal Point: Ministry for Human Rights and Refugees and a newly established expert working group

Deadline: by 15 February 2010

Activity 7

After providing answers to the mentioned questions, explaining what is the purpose, what is the way, and under which conditions specific issues should be addressed, all necessary data will be collected and situation will be assessed in regards to the right to compensation for property that cannot be returned to refugees and displaced persons.

Focal Point: Ministry for Human Rights and Refugees and a newly established expert working group

Deadline: by 15 April 2010

Activity 8

Preparation of drafts of laws and by-laws that will regulate the issue concerned

Focal Point: Ministry for Human Rights and Refugees, in co-operation with entity ministries and Brčko District BiH Department, as well as with UNHCR. Harmonization of Draft Law by the Council of Ministers of BiH and its adoption by the Parliamentary Assembly of BiH

Deadline: 1 July 2010

Activity 9

Establishment of an adequate Fund or appropriate administrative organization which will support financially those returnees and displaced persons whose property cannot be returned to them and who are exercising the right to compensation for such property (legal establishment of such institution, structuring of the administrative organization, recruitment of staff, e.t.c.)

Focal Point: Ministry for Human Rights and Refugees, the Council of Ministers and the Parliamentary Assembly of BiH

Deadline: ongoing until the Law is adopted

Activity 10

Preparation of a specific financial plan for solving the issue of right to compensation for damaged property that cannot be returned to refugees and displaced persons, and a subsequent adoption of that plan by the Council of Ministers and by the Parliamentary Assembly of BiH

Focal Point: Ministry for Human Rights and Refugees, in co-operation with the responsible entity ministries and with the Brčko District Department, as well as with UNHCR. Harmonization at the Council of Ministers and adoption by the Parliamentary Assembly of BiH

Deadline: 1 July 2010

Activity 11

Ensuring a necessary initial budget for the purposes concerned in 2010

Activity owner: Ministry for Human Rights and Refugees, in co-operation with the responsible entity ministries and with the Brčko District Department, as well as with UNHCR. Harmonization at the Council of Ministers and adoption by the Parliamentary Assembly of BiH

Deadline: in the course of harmonization and adoption of the budget for 2010.

M I N I S T E R
Dr. Safet Halilović