



BOSNIA AND HERZEGOVINA

MINISTRY FOR HUMAN RIGHTS AND REFUGEES

A STRATEGY OF BOSNIA AND HERZEGOVINA  
FOR THE IMPLEMENTATION OF ANNEX VII (GFAP)

SARAJEVO, DECEMBER 2003

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## I. RESULTS OF RETURN AND CURRENT SITUATION

### 1. Return

Since the signing of the Dayton Peace Agreement till 30 November 2002<sup>1</sup>, a total of 919,746 returns of refugees and displaced persons in Bosnia and Herzegovina were registered, of which 420,485 involved refugee return and 499,261 involved the return of displaced persons. 682,365 persons, or 74% of the total, returned within or to the territory of the Federation of Bosnia and Herzegovina, 278,717 persons, or 30% of the total, returned within or to the Republika Srpska, and 18,385 persons, or 2%, returned within or to the Brcko District. Particularly positive trends were recorded last year and this year. From the perspective of so-called minority returns, 2001 was the most positive year since the signing of the Peace Agreement.

During the year 2002, the positive trend continued: in the first eleven months of 2002 a total of 96,967 returns were registered, of which approximately 95%, that is 91,969, are "minority returns". The returns realized from the beginning of the year to 30 November 2002 are equivalent to some 98% of all returns realized in the previous year. This was higher than expected, especially when the fact that neither the State and Entity budgets nor international community funds aimed at return for this year were operating at their full level during that period, are taken into consideration.

It is also significant that in 2001 and during the last year there was a reduction in the difference between the number of returns within and to the Federation of BiH and the Republika Srpska, given the disparity between the Entities in previous years.

This results from gradual normalization and stabilization of the security situation throughout Bosnia and Herzegovina, as well as being due to improved cooperation between the respective ministries at the level of BiH and its Entities, particularly through the work of the State Commission for Refugees and Displaced Persons (SCR). The cooperation of the State Ministry with representatives of the International Community and donors in BiH has also increased during this period.

The MHRR's estimate was that by the end of 2002 some 150,000 persons would have returned to their homes. If this objective will be confirmed, Bosnia and Herzegovina's return total would have exceeded 1 million by the end of 2002.

### 2. Current situation

The MHRR estimates<sup>2</sup> that at present just over half a million people are living outside BiH, registered as refugees in the various host countries in the period 1992-1996. Out of this number, almost 80% (some 400,000) have been integrated through acquiring a permanent stay permit, or by acquiring citizenship, while the remainder, some 100,000 refugees, still need durable solutions, in the first place through return to BiH.

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<sup>1</sup> Although MHRR in its Information on the Course of Implementation of Annex VII of GFAP in BiH in 2002 expressed the need for correction of indicators on return so far, since it is estimated on the basis of official data on number of remaining refugees from BiH in FRY and Croatia, published by the FRY and the Republic of Croatia Governments, that the real number of returns is significantly higher, in this part data from the Statistics on Registered and Estimated Returns, published by UNHCR, as the only official indicator on returns in BiH are used.

<sup>2</sup> Information on Implementation of Annex VII of GFAP in 2002, September 2002

Regarding the number of displaced persons in BiH, the MHRR estimates<sup>3</sup> that less than 300,000 persons in BiH genuinely require displaced person status.

In order to have a reliable base for planning the finalization of the return and reconstruction processes, up to date indicators of the current numbers of BiH refugees and displaced persons are needed. The estimates of the MHRR are here used as the starting points to identify basic strategies.

## II. BASIC CONDITIONS FOR RETURN AND REINTEGRATION IN BIH

Considerable legal variation and the absence of a fully uniform legal framework and criteria to regulate issues in this area still create a certain insecurity in the processes of return and reintegration.

To ensure full implementation of Annex VII (GFAP), it is necessary to secure the basic preconditions for sustainable return, and the creation of an environment that will continue to attract new returns throughout BiH in the future. This is an exceedingly complex task requiring significant financial resources.

As one of basic rights of refugees and displaced persons, property and occupancy rights repossession still tends to be affected by reconstruction of devastated housing stock and the provision of alternative accommodation. It is, therefore, necessary to make additional efforts to ensure that reconstruction, as a basic precondition for return, keeps pace with the increased interest in return. Likewise, infrastructure reconstruction is an integral component of reconstruction and sustainable return.

In the context of sustainable return and reintegration, the main fields requiring action are employment, access to pensions and health care, the harmonization of the school system, and especially continued demining.

### 1. RECONSTRUCTION OF HOUSING UNITS FOR THE NEEDS OF RETURN

In the framework of the activities of the SCR (chaired by the MHRR, whose permanent members include the Entity Ministries for DPs and refugees, and the UNHCR), a List of 65,000 housing units in need of reconstruction in priority areas of return in 2002, as defined by RRTF (OHR/UNHCR), has been adopted.

Based on this list of needs, a List of 16,000 housing units for priority reconstruction in 2002 was created. The List was adopted by the SCR at its 9<sup>th</sup> meeting of 26 February 2002, and it represents a component of the signed Protocol on Mutual Cooperation in the Planning and Realization of Refugee and DP Return in BiH in the year 2002.

The signing of this Protocol represents a major step forward through commitment of respective institutions at the State and Entity levels to jointly solving issues of reconstruction and return in BiH.

About 91 million KM (ca. 46.5 million EURO) will have been secured for return issues in 2002 from budgets at all levels in BiH, out of which approximately 8 million KM (ca. 4 million EURO) are allocated for providing alternative accommodation, while the remainder targets the direct return of refugees and DPs.

*The Agreement on Association and Manner for Realization of the Funds for the Reconstruction of the Housing Units of Returnees in 2002*, which was signed in the framework of the SCR, secured approximately

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<sup>3</sup> Ibid

16 million KM (ca. 8 million EURO), which was placed at the joint disposal of the members of the SCR, in accordance with the SCR-defined criteria. These joint projects of the State and its Entities, which have attracted additional resources from the International Community, have proved to be an excellent tool for directing available resources to real priorities for return.

The funds of the International Community for reconstruction needs in 2002 are estimated at approximately more than 100 million KM (ca. 50 million EURO).

Unfortunately, both totals represent only a part of the needs for return in 2002.

Resources provided for reconstruction are declining, and the interest in and numbers of returns are in constant growth. Currently, the disparity between the level of interest in return and the existing potential for reconstruction is at its highest since Dayton.

If the necessary resources for reconstruction of housing units for refugees and DPs could be secured by merging and rationalizing all available funds for reconstruction and return in BiH, this would guarantee that, in combination with property law implementation, the majority of requests for voluntary return to and within BiH could be realized in the following two to three years, and the process be entirely completed by 2006.

## 2. PROPERTY LAW IMPLEMENTATION

The creation in the property laws of a clear legal basis for the repossession of property in BiH, especially in the last two years, has been a great step forward, enabling the ongoing elimination of all discrimination legalized during the conflict period. The net effect has been to create security on the part of prewar owners and occupancy right holders that they will repossess their housing units.

Statistical indicators<sup>4</sup> show that the property law implementation rate has risen countrywide by a total of 26% since at the end of 2001, or approximately 3% per month. The implementation rate for BiH is now 67%; that is, prewar owners/occupancy rights holders have repossessed a total of 166,287 claimed housing units.

In Federation of BiH, out of 137,833 claims, 125,834 or approximately 91% have been decided. Of that number, a total of 98,155 housing units have been repossessed, giving an overall implementation rate of 71%. This represents a rise of approximately 20% since the end of 2001.

Out of 103,365 claims filed for property repossession in the RS, a total of 79,383 or 77% have been decided, while 63,155 or 61% of the claimed properties have been repossessed. The percentage of implementation of 31% at the end of 2001 has risen by 30% in the first eleven months of 2002.

In the Brcko District, a total of 6,844 claims for property repossession were filed, and a total of 5,864 or 86% have been decided. A total of 4,977 properties were repossessed, giving an implementation rate of 73%. This represents a rise of 34% since the end of 2001.

## III. STRUCTURES AND CAPACITIES OF ORGANIZATIONS AND INSTITUTIONS RESPONSIBLE FOR THE IMPLEMENTATION OF ANNEX VII (GFAP)

### 1. International organizations

The efforts of the International Community to ensure fulfillment of Annex VII (GFAP) are to a large extent coordinated, jointly with the UNHCR, by the OHR component of the

<sup>4</sup> Statistics on Property Laws Implementation, released by PLIP agencies, are available as of 30 November 2002.

Reconstruction and Return Task Force. The OHR-RRTF has a Central Secretariat in Sarajevo and representation in the four regional offices of the OHR (five including Brcko) and in ten additional branch offices in the field.<sup>5</sup>

UNHCR, in the framework of its international mission and mandate stemming from Annex VII (GFAP), has a significant influence on the process of return and reintegration of refugees and displaced persons, in particular relating to protection.

OSCE and CRPC play particular roles in the field of property rights repossession, while several other international organizations and institutions are responsible for overseeing certain aspects of the GFAP, notably UNMIBH (whose mandate ended on 31 December 2002, and which will be succeeded by the EUPM).

In the context of multilateral and bilateral cooperation with countries and international institutions and organizations assisting in the process of return and reconstruction, the roles of the European Union, USAID, UNDP, IOM, and numerous other international governmental and non-governmental organizations should be highlighted.

## 2. Domestic institutions

### ➤ Institutions at the level of Bosnia and Herzegovina

On the grounds of the Constitutional decisions, the core responsibilities of the RRTF are to be transferred to BiH bodies. Since the Law on the Council of Ministers of BiH places these issues under the competence of the Ministry for Human Rights and Refugees, the International Community recognizes this Ministry as a partner for the issues of forthcoming transfer of tasks from international community institutions to the authorities of BiH.

In the present organizational model, the Ministry for Human Rights and Refugees does not have the capacity to react adequately to the demands of such a complex task. Although this Ministry has 80 members envisaged under its current structure, only 16 are designated for tasks from this field, and only 14 are currently engaged in these issues at present (including Assistant Ministers in two Departments). Among these are the five members of the Department for Refugees and Displaced Persons, who provide all expert and administrative support to the work of the SCR. On the other hand, a large number of personnel at other levels of government in BiH are involved in the bulky and ineffective structures dealing with tasks related to return.

In addition to this, there is an ineffective vertical relationship between the respective institutions at the various levels of authorities in the State, Entities, Cantons and municipalities.

Recognizing this as a problem at the State level, there was an attempt to ease this dysfunctional relation by establishing the SCR, in accordance with Article 23 of the BiH Law on Refugees and Displaced Persons.<sup>6</sup>

Unfortunately, the SCR is a coordinating body and its decisions are not binding in practice, although the cooperation realized through this forum has had a significant role in terms of promoting and harmonizing the process of return and reintegration in BiH.

### ➤ Institutions in the Federation of BiH

- The Federation Ministry for Social Affairs, Displaced Persons and Refugees has a total of 141 members. It has an Inspectorate, Secretariat and five offices (the Office for DPs

<sup>5</sup> PE International: "Final Report on Assessment of Local Authorities Capacity to Implement Return Programmes", 21 June 2002 – Annex 11 (Organization Charts)

<sup>6</sup> "Official Gazette of BiH", no 23/99, 29 December 1999

and Refugees alone has 56 members in four Departments), and 12 additional regional offices in the RS, with 57 employees contracted for field work.<sup>7</sup>

- Further, all 10 Cantons at the territory of the Federation of BiH have ministries with competence for displaced persons, refugees and returnees. In the Central Bosnia Canton, these competences are under the Ministry for Urban Planning, Reconstruction and Return, while in the other nine Cantons this issue falls under the ministries covering social welfare.
- In almost all 84 Municipalities within the Federation of BiH there are separate departments competent for issues relating to displaced persons and returnees.
- **Institutions in the Republika Srpska and the Brčko District of BiH**
  - The Ministry for Refugees and Displaced Persons of the Republika Srpska does not have regional offices comparable to those of its Federation counterpart. It is organized into four Directorates, 52 Municipal departments (OMIs) and has four regional offices in the Federation. This Ministry has a total of 520 members.<sup>8</sup>
  - In the Brcko District the competences in this field rest with the Department for Refugees and the Department for Planning and Economic Development in the Government of the District.
- **Public administration at all levels of BiH**

It is estimated that more than 1,000 officials within public administration<sup>9</sup> at all levels of authority in the ministries and institutions of BiH, its Entities and the Brčko District are dealing with problems related to the realization of Annex VII (GFAP). The financing of these personnel consumes a large amount of resources.

These resources should be combined with the current costs of the administration of the International Community organizations in BiH engaged in similar issues for an overall view of resources currently dedicated to Annex VII (GFAP).

Besides the level of resources of the continued implementation of Annex VII (GFAP), of particular importance is also an efficient, coordinated and targeted allocation of the available funds.

#### **IV. ORGANIZATION OF PUBLIC ADMINISTRATION ENGAGED IN ANNEX VII (GFAP) ISSUES**

A huge number of institutions are engaged in the process of return of refugees and displaced persons and their reintegration in BiH, in an unwieldy structure without any clear distribution of competences and with insufficient correlation between performers. This represents a serious obstacle to the efficient functioning of the system and the final completion of the return process.

Under the dysfunctional current system whereby the Federation of BiH has established regional centers for return in the RS, and the RS has established offices for return in the Federation of BiH, there is a perception that the institutions of each Entity are incapable and/or unwilling to carry out constitutionally and legally required tasks on "their" territory. Thus the services of the counterpart Entity are installed to compensate for these shortcomings. Essentially, this represents a multiplication of services, which results in further multiplication of costs.

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Information on Implementation of Annex VII of GFAP in 2002, September 2002

This situation is unacceptable and it further emphasizes the need for urgent reorganization and rationalization of the administration dealing with Annex VII (GFAP) issues.

The establishment of a transparent system, based on principles of subordination and subsidiarity, is recommended. This would ensure that the MHRR, in the role of an umbrella organization at the BiH level, would lead policy in the field of return, and coordinate and implement it through the respective Entity and District structures, while the Cantonal and municipal structures would be the basic units for the realization of tasks, producing a more logical and efficient structure.

With the aim of harmonization of all issues common to the Parties to Annex VII (GFAP), the role of the SCR should be additionally strengthened. In this context it is necessary to re-visit the legal basis of the SCR and the possibility of its extension through inclusion of the RRTF representatives.

## V. BASIC STRATEGIC GOALS

1. To complete the process of return of refugees and displaced persons to and within BiH
  - Planned dynamics
  - Intensive phase: from the beginning of 2003 to the end of 2004
  - Finalization: year 2005/2006
2. To complete the process of reconstructing housing units for the needs of return
  - Planned dynamics
  - Intensive phase: from the beginning of 2003 to the end of 2004
  - Finalization: year 2005/2006
3. To realize property and occupancy rights repossession
  - Planned dynamics
  - Intensive phase: until the end of 2003
  - Remaining cases: 2004
4. Secure conditions for sustainable return and reintegration in BiH  
(access to employment, social welfare, health, education, pension-disability insurance, etc.)
  - Planned dynamics
  - Intensive phase: full legal regulations by the end of 2003
  - Implementation: continued

## VI. DIRECTIONS FOR STRATEGIC ACTION

In order to provide for the envisaged dynamic in the realization of these strategic goals, it is necessary to make reforms in various fields related to the processes of return and reconstruction.

This includes the need for harmonization of legal bases in BiH, its Entities and the Brčko District, as well as organizational reform, unified planning and realization of reconstruction, the consistent and full application of the New Strategic Direction for property law implementation in BiH, the existence of a unified database system, and systematic de-registration of displaced persons in BiH. This implies the full implementation of the agreed capacity building strategy for transfer of responsibilities, explained and planned in Chapters Two and Three of this Annex VII (GFAP) Strategy document.



## 1. Legal reform and harmonization of regulations

After passing of the Decision on Constituency of All Peoples Throughout the Territory of BiH, the task remains of full harmonization of specific legal regulations, in order to *de facto* guarantee this equality, as regulated by the Constitution.

The majority if not all of these issues are closely related to the processes of BiH refugee and DP return and reintegration.

### ➤ Regulations at the level of BiH

Activity: Following the coming into force of the State law that regulates the issues of competence of the ministries within the Council of Ministers, it will be necessary to pass a new law or to amend the present Law on Refugees from BiH and Displaced Persons within BiH, in order to clearly define the responsibility of the Ministry for Human Rights and Refugees and the respective Entity ministries. The law, or amendments, would act as a State level umbrella, ensuring uniform regulation of status and other issues concerning refugees and displaced persons throughout BiH.

Incumbent: MHRR

Deadline: mid February 2003

### ➤ Entity regulations harmonization

Activity: Harmonization of Entity laws with the State Law on Refugees from BiH and Displaced Persons in BiH

Incumbents: MHRR, FMSA, MRDP, Brčko District Government

Deadline: end April 2003

### ➤ Adoption/harmonization of bylaws

Activity: Adoption and necessary harmonization of bylaws related to the State and Entity Laws on Refugees from BiH and Displaced Persons within BiH

Incumbents: MHRR, FMSA, MRDP, Brčko District

Deadline: end May 2003

- Harmonization of regulations in the field of education
- Harmonization of regulations in the field of health
- Harmonization of regulations in the field of pension-disability insurance
- Harmonization of regulations in the field of allocation of socially owned property
- Harmonization of property laws application

## 2. Structural and organizational reforms

The huge, expensive and inefficient administration dealing with return and reconstruction issues in BiH must be restructured at the start of applying the new strategy.

The establishment and strengthening of a strong subordinating relation between different institutions and the BiH authority levels dealing with return and reconstruction issues, and elimination of parallel structures on the field, is a key issue of this segment of reform.

The Ministry for Human Rights and Refugees would, in close cooperation with the respective Ministries and institutions in the Entities and Brčko District, directly and through the State Commission for Refugees and Displaced Persons, coordinate all activities related to return and reintegration. This Ministry would be primarily responsible for all returns to BiH from abroad and for inter-entity returns, while the Entities would be primarily responsible for intra-entity

returns, issues of property and occupancy rights repossession, and care on collective centers. The implementation of programs and plans of reconstruction will be realized at the Entity, Canton and Municipality level, with emphasis on local/municipality administration and operational capacities of this level of public administration. However, it should be noted that the here foreseen distribution of responsibilities will have to be put in line with the provisions of the forthcoming Law on Ministries of Bosnia and Herzegovina.

The partner of the State in this task would be the NGO sector, which can provide information and identify priorities for reconstruction and other activities. The practice of regular meetings, already introduced by Ministry for Human Rights and Refugees, will be promoted in forthcoming period, to encourage local authorities to cooperate more regularly with NGOs and jointly define priorities for action, or for referring to higher structures (see also Chapter Two, capacity building in civil society.)

In the context of current initiatives for transfer of responsibility for project implementation to local authorities, and with the aim of promoting return and accelerating property law implementation, the SCR has adopted a Draft General Assessment Plan: Criteria for Assessing Commitment to Full Implementation of Annex VII of Dayton at All Levels of Government.

Principles that have to be taken into consideration with such assessment are grouped into three fields of law, stemming from Annex VII (GFAP):

- Right to return freely to homes/property
- Right to safe return: creation of suitable conditions for return
- Right to return without risk of discrimination on account of ethnic origin, religious beliefs or political opinion

Given that immediate radical reforms would be difficult to implement, and that they would possibly require Constitutional changes, it is necessary to adjust the current structure to present needs and to further develop the idea on joint return and reconstruction projects that are already being implemented in BiH.

Positive experiences from 2002, during which the work of the SCR and the MHRR has been fully affirmed and the concept of joint return and reconstruction projects was fully launched, also point towards further utilization of the SCR structure.

The UNDP will also be a partner to the domestic structures in the transfer of competence from international community structures to local authorities, and envisaged cooperation is based on the Project "SUTRA", endorsed by the RRTF. This project will be directed towards promotion of capacities at the State and other levels, with the aim of providing for planning, coordination and managing the process of return and reintegration in BiH (see Chapter Two, section III, capacity building at municipal levels.)

To assume more responsibilities, the following re-organizations are foreseen in the BiH State and Entity- structures:

## 2.1 State level

### 2.1.1. Ministry for Human Rights and Refugees

This Ministry should harmonize its organization with the demands made upon it, and, in the forthcoming process of restructuring within the Council of Ministers, clearly define competences, and systematize services and posts. This process should take into consideration all expected changes in the process of transfer of competence from international community institutions, and systematize its structure in preparation for the CRPC's handover of responsibilities, the management of databases, possibly the management of regional centers, and other foreseen activities.

Activity: Perform internal re-organization and recruit for established, but vacant posts  
Incumbent: MHRR  
Deadline: end of March 2003

#### 2.1.2. State Commission for Refugees and Displaced Persons

Given the excellent results achieved by the SCR in 2001 and 2002, and the resulting confidence placed in this body, the SCR has become a genuine forum for coordination of domestic and international efforts directed at full realization of Annex VII (GFAP).

In order to prevent the SCR's tasks from exceeding its capacity, it is necessary to additionally strengthen and develop the structure of the Commission, by extending its membership in 2003. This will be the period of transfer of the RRTF's competence, and it is therefore important that all concerned representatives of international structures participate actively in this membership. In connection, it is necessary to analyze legal possibilities for including the OHR and OSCE in the official membership of the Commission. For the aspect related to the Sector for supporting the work of the SCR, the realization of joint reconstruction projects, etc, it is necessary to analyze in detail and to reorganize and fully staff these services.

Activity: Analyses and proposal of possible organizational solutions  
Incumbent: MHRR, in cooperation with FMSA, MRDP, UNHCR and OHR.  
Deadline: end of January 2003

#### 2.1.3. The Return Fund

In view of the above, and taking into consideration experiences and problems occurring in the realization of joint projects in 2002, it is necessary to place the Return Fund into function at the level of BiH. The Fund would operate under the aegis of the Commission for Refugees and Displaced Persons, and would represent a steady and safe source of reconstruction projects funding in BiH.

The legal basis to perform its required functions already exists under the CoM's Decision establishing a SCR managed Return Fund (established in 2000, but never put in operation), which, if revived and endorsed by the IC, will have potential to increase transparency and efficiency in the expenditure of funds and to encourage municipalities to cooperate directly with the State. The current "Joint Project Fund" structure is less ambitious, depends on funding by the Entities, but is in operation. It could be considered whether the current structures could evolve in the Fund envisioned in 2000.

The Fund management structures (see the enclosed CoM's Decision on the Formation of a Returns Fund) would guarantee transparency, efficiency and efficacy of realization of funds aimed for return.

Over time, however, the success of the Fund would depend primarily on whether other donors adopt a similar approach and whether the Fund management structures have sufficient capacity to monitor projects funded via this body, or whether they must depend entirely on the reports of the Entities/Cantons and the municipalities themselves.

Activity: It is necessary to amend the Decision on the Formation of a Returns Fund, in order to adjust the 2000 Decision to the present needs.  
Incumbents: MHRR, Commission for Refugees and Displaced Persons  
Deadline: end of January 2003

Regarding the Fund management, it is foreseen that the operational structures of the Fund, supported by the NGO sector in the identification of priorities, would suggest reconstruction

priorities and nominate projects, while the management structures would take decisions on and ensure a high-quality monitoring of ongoing projects.

Activity: It is necessary to amend the Decision on the Establishment of a Return Fund, in order to adjust the 2000 Decision to the present needs and agreed solutions.

Incumbents: MHRR, Commission for Refugees and Displaced Persons

Deadline: end of January 2003

The Fund will have a unique account for all financial transactions related to the Fund's operations. That account will be opened with the MHRR.

Activity: Account opening

Incumbents: MHRR and Commission for Refugees and Displaced Persons, in cooperation with the Ministry for Treasury of the BiH Institutions.

Deadline: end of February 2003.

The Fund will be fed by earmarking funds from the State and Entity budgets<sup>10</sup>, as well as from international sources (to be matched by international funds). The Entities would earmark 60% of the budget funds aimed for the reconstruction for the needs of return into the Fund, while remaining resources would be at their disposal for their priority needs (intra-entity return, PLIP, Alternative Accommodation, collective centers, etc.). Means for the well functioning of the new State regional centers (see Chapter 2.2) will have to be agreed in the SCR.

Activity: Regulation of earmarking of funds from the budget

Incumbents: FMSA, MRDP, MHRR, Commission for Refugees and Displaced Persons

Deadline: end of February 2003.

With clear principles and organization as proposed, there is potential for international community and donors to decide on merging their donated funds and investments within the Fund.

## 2.2 Entity levels

The Regional centers of the Federation Ministry of Social Affairs, Displaced Persons and Refugees operating in the Republika Srpska, and the offices of the RS Ministry for Refugees and Displaced Persons operating in the Federation of BiH, have proved to be a very inefficient solution, while demonstrating all the negative consequences of locating institutions from one Entity in another.

The provision of regular funding and material for the work of these offices, and their relationship with their respective ministries, has been burdened with problems. Moreover, these are parallel structures relating to the present organizational framework within the Entity systems, which would be altered by the proposed new strategy.

Complementing these changes and taking into consideration the obligation of each Entity to fulfill Annex VII (GFAP) on "its" territory, the present structure of regional offices should be adjusted to field needs, working in the interest of return to that particular area.

It is proposed for 2003 that the work and tasks of the present regional centers and offices will gradually be transferred to the new State regional centers in, for example, Tuzla, Banja Luka and Mostar, in full coordination with the SCR, the MHRR and the Entity Ministries. The RRTF (field offices) can support this process.

<sup>10</sup> The Joint Project Fund, in its current form, represents Entity payments toward agreed upon projects and do not represent "pooled resources" against which project proposals are made. See separate section on return funds below.

The ultimate goal is that, following termination of OHR-RRTF activities at the end of 2003, the respective ministries would completely assume responsibility for return to their respective territories, i.e. institutionally.

#### 2.1.4. First phase of re-organization

Activity: Closure of present Entity offices  
Incumbents: MRDP, FMSA, in cooperation with MHRR and RRTF  
Deadline: end of February 2003

#### 2.1.5. Second phase of re-organization

Activity: Establishment of the State regional centers and material/technical and staff capacity building  
Incumbents: MRDP, FMSA, in cooperation with RRTF  
Deadline: end of March 2003

### 3. Enabling and putting a uniform database into function

The State and the Entity structures, and especially the Return Fund structures, operating on realization of joint projects and other important program tasks, would benefit from enabling, strengthening and putting of a unique database into full function.

The MHRR has so far led all activities in this field. Significant results have been achieved, especially with regard to the takeover of the CRPC reports and some other segments, which have now become an integral part of the central database. The ultimate goal, however, is directly related to the completion of the CRPC's mandate, which would, in the process of transfer of responsibilities, result in the MHRR's takeover of additional tasks, including the responsibility for and management of the CRPC databases. A Memorandum of Understanding will regulate the mutual relations stemming from these issues.

Incumbent: MHRR, in cooperation with CRPC, RRTF and UNHCR  
Deadline: end of 2003, and then continued

The contacts with the EC on taking over the individual reports on international donor aid beneficiaries in BiH are currently ongoing. This transfer would create the preconditions for eliminating double beneficiaries and it would make possible that aid be allocated for priorities and to places where it has not been received up to date.

Activity: Takeover of reports on beneficiaries of reconstruction related donor and budgetary aid, based upon the MoU with the EC and the others.  
Incumbent: MHRR, in cooperation with the responsible Entity Ministries, EC, RRTF and UNHCR  
Deadline: end of March 2003.

Following the takeover of the reports, the activities on building capacity of the MHRR to fully take over and independently maintain and manage the database on reconstructed property will be continued.

Incumbent: MHRR, in cooperation with the responsible Entity Ministries, EC, RRTF and UNHCR  
Deadline: gradual takeover by end of 2003

Apart from the above activities, the exchange of data in the region represents a key issue in the process of establishing a unique database in BiH. The MHRR, in cooperation with the UNHCR,

will ensure the exchange of all necessary data and data for which there are no restrictions in terms of international legal standards of personal data protection, currently possessed by the Federal Republic of Yugoslavia and the Republic of Croatia, and it will simultaneously provide these neighboring countries with the data from the BiH central database.

#### 4. De-registration of displaced persons and update of indicators

The existing database on displaced persons (DDPR) offers a great number of important and high-quality information. If it is updated by means of recording returns and other facts important for the cessation of the status of displaced person, i.e. if the de-registration of displaced persons in all BiH places is completed, this database, which would be a component of the central database at the BiH level, could offer reliable indicators in a very short time.

This issue is very important, as there are indications that a great number of persons who are still registered in the database as displaced persons meet, for some time already, one of the requirements for the cessation of this status, either by their return into their prewar residences or by permanently resolving their status in some other way (property repossession, sale or exchange of property, allocation of land for housing construction, moving abroad, etc.).

By updating the figures and by determining the actual number of remaining refugees and displaced persons who are still in need of durable solutions, a reliable basis for future planning of an organized/arranged and successful completion of the return process could be established.

|                               |  |
|-------------------------------|--|
| <u>Activity:</u>              | De-registration of displaced persons and update of databases |
| <u>Incumbents:</u>            | MHRR, FMSA, MRDP, District Brčko, UNHCR                      |
| <u>Beginning of activity:</u> | December 2002  |
| <u>End of activity:</u>       | July 2003  |

#### 4. Creation of preconditions for return

##### 5.1 Housing units reconstruction

BiH is still unable to fully afford total physical reconstruction of devastated housing stock and infrastructure and, therefore, competent institutions, through planning, commit themselves to reconstruction of that proportion of devastated housing units that are most important for the return process.

It can be estimated that, with the aim of meeting the increased level of interest in return, the priority for reconstruction is some 50,000 housing units before end 2006, which would secure the direct return of some 200,000 DPs and refugees over the next four years. In combination with property law implementation, this would represent a substantial contribution to the implementation of Annex VII (GFAP) and the return process, in accordance with the criteria for an assessment of the implementation of Annex VII (GFAP).

In order to achieve this ambitious strategic goal, it is necessary to harmonize politics and regulations in this field, revive the Return Fund, and in view of this, harmonize priorities, joint projects and criteria for selection of beneficiaries and realization of projects. This will increase the potential for interesting the International Community in directing resources into the Fund and in participating in joint activities.

Taking into consideration that the level of devastation of remaining, unreconstructed housing units stands at present between 80% to 100%, according to the IMG standards, it is necessary to provide for some 900 million of KM (ca. 450 million EURO) to finance the reconstruction of some 50,000 housing units.

### First reconstruction phase

In the first two years of intensive phase, in which the MHRR still expects significant international support, the MHRR plans the realization of 60% of the goal, which is reconstruction of some 30 000 housing units, for which some 540 million KM (ca. 276 million EURO, i.e. average per housing unit is 9 000 EURO) should be secured. Out of this number, 250 million KM (ca. 128 million EURO) will be secured through budgets at all levels of BiH authorities, while the other part should be secured by the International Community in BiH (European Commission, Stability Pact, bilateral donors, OIC, etc.).

Deadline: year 2003/2004.

Incumbents: MHRR, respective ministries and services in Entities and Brčko District, Cantons, municipalities, International Community.

### Second reconstruction phase

In the second phase, which will take place during years 2005 and 2006, the International Community structures will probably approach completion of their mandate in BiH, and it is not real to expect significant aid from international sources. Therefore, domestic institutions will bear the biggest burden in this phase, and are expected to have increased and better focused the relevant budgets and be qualified for adequately addressing the need for reconstruction of the remaining 20,000 devastated housing units. Some 360 million KM (ca. 185 million EURO) will have to be secured through budgets and credit indebtedness for the successful realization of this second phase.

Deadline: year 2005/2006

Incumbents: MHRR, respective ministries and services of Entities, Brčko District, Cantons, municipalities

## 5.2. Property law implementation

Seven years after reestablishment of peace in BiH, there are still over 110 000 families that have not realized their property repossession rights in BiH, which many local authorities have tried to justify by referring to the lack of alternative accommodation.

On 1 August 2002, the High Representative issued the Decision stating that all bodies competent for managing collective/transit reception centers are obliged to maintain facilities, which fulfill minimal standards for temporary accommodation, at their operational level and determine space which would be used for alternative accommodation.

This Decision will further stimulate property law implementation through the removal of a continued lack of alternative accommodation, which represents one of the key obstacles to the property law implementation.

International agencies<sup>11</sup>, which have created PLIP, have launched the New Strategic Direction (NSD) to promote the full implementation of the property laws.

According to the NSD, selective property law implementation has to stop, and the authorities have to respect basic objectives, such as lawfulness, efficiency, transparency, and in particular two key principles:

- the obligation to proceed and solve a claim in chronological order, and
- compliance with deadlines for the implementation of decisions.

<sup>11</sup> PLIP agencies are five international organizations (OHR, UNHCR, OSCE, UNMIBH and CRPC)

In this particular case this means that practice often performed by a respective service up to date, consisting in delaying enforcement of a decision due to impossibility to provide for alternative accommodation, will not be tolerated any longer.

In view of the above, competent canton-municipality bodies will additionally provide for mechanism for preventing devastation of housing units during moving out of temporary beneficiary.

The NSD and the capacity building program in Chapters Two and Three of this document expect that full property law implementation at the entire territory of BiH be achieved by the end of 2003. The NSD considers any aberration from a strict property law implementation as an obstruction of the full implementation of Annex VII (GFAP). A remaining caseload of property claims (i.a. transferred from the CRPC), including cases of property law implementation that have been placed before courts for dispute settling, will certainly be transferred into year 2004, and monitored then mainly by the BiH institutions.

Application of property regulations in BiH will be combined with the reconstruction process, in order to achieve the biggest effects with as little resources as possible. This will strengthen cooperation at all levels of authority in BiH and the International Community, taking into account the planned re-organizations and transfer of responsibilities set out in this strategy (central database, Return Fund, joint projects, joint criteria, monitoring, capacity building etc.).

## 6. Promotion of reintegration of returnees conditions

A very important issue making return possible and sustainable is reintegration of returnees, the most important objectives being:

- Employment (agricultural credits, mini-projects, state enterprises, employment according to the 1991 census structure and the Decision on Constituency of All Peoples Throughout the Territory of BiH);
- Health (promotion of implementation of agreements on health between the Entities);
- Pensions (realize agreements between entities, as well as agreements on social insurance with FRY and Republic of Croatia);
- Education (implementation of agreement on schools between the Entities);
- Safety (physical safety, promotion of employment of so-called "minority returnees" into State enterprises, administration, police, courts, according to the Decision on Constituency and the 1991 census);
- Demining (in connection with priority spaces of reconstruction and other work programs of international and domestic institutions at all levels of BiH).

In this phase, taking into consideration that these issues belong to the Entities' competences, it is not possible to estimate financial needs for all of these segments of reintegration, but resources for these purposes will be planned through budgets of competent ministries and services in BiH, its Entities and Brčko District.

The MHRR and the SCR, in cooperation with the respective Entity ministries and services, will perform activities on promotion of conditions and reintegration of returnees in the entire BiH territory.

|                    |   |
|--------------------|---|
| <u>Activity:</u>   | Analyze situation in view of all those issues, coordinate activities and give proposals for promotion of situation. |
| <u>Incumbents:</u> | MHRR, Commission for Refugees and Displaced Persons, respective Entity ministries                                   |
| <u>Deadline:</u>   | continued   |



## ACTION PLAN

### FOR REALIZATION OF LEGAL, ORGANIZATIONAL AND OTHER ASSUMPTIONS FOR THE BEGINING OF IMPLEMENTATION OF THE "STRATEGY OF BOSNIA AND HERZEGOVINA FOR IMPLEMENTATION OF ANNEX VII DAYTON PEACE AGREEMENT"

Framework deadline for implementation of Plan of Action is from: 15<sup>th</sup> of February 2003 to 30<sup>th</sup> of April 2003.

#### FOR REFERENCE:

This action plan is regarding only on reaching the priority solutions for the begining of implementation of Strategy of Bosnia and Herzegovina for implementation of Annex VII of Dayton Peace Agreement and also includes all neccesary activities for period until 1<sup>st</sup> of May 2003, where would be made other developings of strategic activities depending on the needs.

Suggested deadlines by this action plan are based on deadlines which have been precisely detirmened by "Strategy of Bosnia and Herzegovina for Implementation of Annex VII Dayton Peace Agreement". For this reason, and fully aware of the fact that in regards to some deadlines being already late, with this plan we would like to invite all responsible institutions responsible for strategy implementation, to imediately approach the realization of their part of the obligation.

Strategy has been adopted by the Council of Ministers as well as from the Presidency of Bosnia and Hercegovina, supported by the international institutions and organizations authorized for implementation of Annex VII, and like that adopted and supported at the meeting of political directors of Council for peace implementation in Bruxells on 30<sup>th</sup> of January 2003.

Strategy of Bosnia and Herzegovina for implementation of Annex VII Dayton Peace Agreement is the framework document, developed in Ministry for human rights and refugees, and later adopted at Commission for refugees and displaced persons, which followed Council of Ministers BiH, Presidency of BiH, as well as at the meeting of political directors Council for Peace Implementation, which was held in Bruxells on the 30<sup>th</sup> of January 2003.

That is the document on the base of which all of the administrative levels in BiH, as well as the structures of the international communities have to develop plans and activities and to adapt the same ones to their full implementation.

With this in regard we are presenting following Plan of Action:

- Change of regulations at the State level

- Activity: After entering into force the new Law on ministries at State level, with which the authority issues of the ministries in the Council of Ministers have been regulated, should be reconsidered if there is a need of passing the new Law or to change existing Law on refugees from BiH and displaced persons in BiH,  
Incumbent: MHRR – Department for refugees from BiH and displaced persons in BiH,  
Deadline: middle of March 2003.

- Harmonization of Entity Laws

- Activity: Harmonization of Entity laws with State law on refugees from BiH and displaced persons in BiH,  
Incumbent: MHRR (Ministry for human rights and refugees, FMSA (Federal ministry for social affairs, MIRL (ministry for refugees and displaced persons of Republika Srpska), Government of District Brcko of BiH,  
Deadline: end of April 2003.

- Suggestion/harmonization of other legal and bylaws

- Activity: Suggestion of new laws and necessary harmonization of bylaw acts in regards to state and entity laws on refugees from BiH and displaced persons in BiH, as well as with issues of returns sustainability (healthcare, education, pensions, security and other),  
Incumbent: MHRR – Department for refugees from BiH and displaced persons in BiH, Department for human rights, Department for projects, FMSA, MIRL, District Brcko and other BiH ministries and Entities,  
Deadline: end of May 2003.

- Organisational Reforms

Ministry for Human rights and Refugees

- Harmonization of internal organization of Ministry for human rights and refugees with needs and in a on-going proces of structurising inside Council of Ministers clearly defining jurisdiction, sistematization of the services and working places. Take into account all of the expected changes in a proces of transfer of jurisdiction from international community institutions to the authorities in BiH, and with that in regards sistematization of the structure for take over of jurisdiction on issues of CRPC, RRTF, control of the database, forming of regional centers in Tuzla, Mostar and Banja Luka and others.

- Activity: Internal reorganisation and filling of sistemitised, but vacant positions,  
Incumbent: MHRR- Secretary Minister, Department for refugees and displaced persons in BiH, Department for projects, Department for human rights,  
Deadline: end of March 2003

- Activity: Ensurance of necessary personal, accomodational, materialy-technical and other assumptions for work of regional centers,  
Incumbent: MHRR – Secretary Minister,  
Deadline: end of March 2003

### Commission for refugees and displaced persons

- Activity: Analyse legal possibilities for inclusion of RRTF (OHR, OSCE) into full Commission membership.
- Incumbent: MHRR – Secretary Minister, Secretary of Commission for refugees and displaced persons, Sector for support of the work of commission,
- Deadline: end of February 2003
- 
- Activity: Discuss the interest and functionality of inclusion of Brcko District representatives into the work of Commission,
- Incumbent: MHRR – Department for refugees and displaced persons, District Brcko, RRTF
- Deadline: until the 5<sup>th</sup> of March 2003
- 
- Activity: Analyse, suggestion and adoption of possible organisational solutions in a section regarding to the functioning of Department for support of the work of the Commission, expert services and working bodies, on realisation of mutual projects of reconstruction and others. Procurement of the members and commissions working bodies,
- Incumbent: MHRR – Secretary, Department for refugees from BiH and displaced persons in BiH, Secretary of Commission for refugees and displaced persons, Sector for support of the work of Commission, Department for projects, in cooperation with FMSA, MIRL and RRTF,
- Deadline: until the 15<sup>th</sup> of March 2003
- 
- Activity: Harmonization of operating procedures on Commission work and other necessary acts for normal functioning of Commission.
- Incumbent: MHRR – Secretary of Commission for refugees and displaced persons, Department for support of the work of Commission in cooperation with FMSA, MIRL and RRTF,
- Deadline: until the 15<sup>th</sup> of March 2003

### The Return Fund

- Activity: Analisation of existing organisation and Returns Fund structure and suggesting of eventual changes and amendmends. Analisation of legal possibilities for creation of unified Returns Fund account.
- Incumbent: MHRR – Department for return projects, repatriation and taking care of refugees, Secretary with special task, Department for refugees from BiH and displaced persons in BiH, in cooperation with the Ministry for Treasury of the BiH, MIRL, FMSA, RRTF,
- Deadline: end of February 2003.
- 
- Activity: Making decision on changes and amendmends of Decision on Fund Creation(from year 2000), with the aim of regulating the actual needs and harmonized solutions.
- Incumbent: MHRR, Department for return projects, repatriation and taking care of refugees, Secretary with special task, Department for refugees from BiH and displaced persons in BiH,
- Deadline: until the 15<sup>th</sup> of March 2003
- 
- Activity: Fund will have unique account through which will be performed all financial transactions in regards to the work of the Fund. That account will be open within Ministry for human rights and refugees. Opening of the account.

Incumbent: MHRR – Department for return projects, repatriation and taking care of refugees, Secretary with special task, Department for refugees from BiH and displaced persons in BiH, in cooperation with the Ministry for Treasury of the BiH, MIRL, FMSA, RRTF,  
Deadline: end of March 2003

Activity: The Fund will be fed by earmarking funds from the State and Entity budgets, as well as from the international sources. Harmonization between Entity institutions and resors of BiH in connection with earmarking funds from the budget into mutual fund. Incorporation of harmonized directions into the BiH budget and Entities.

Incumbent: MHRR – Department for return projects, repatriation and taking care of refugees, Secretary with special task, Department for refugees from BiH and displaced persons in BiH, in cooperation with MIRL, FMSA, RRTF,  
Deadline: begining of March 2003

Activity: Regulation of the accomodation issues or accomodation for working purposes and archive of the Fund for return with all of their Fund structures(Administrative Council, Superior Council, Bureau for coordination and media, Units for implementation)

Incumbent: MHRR – Secretary, Secretary with special task, Department for return projects, repatriation and taking care of refugees, Department for refugees from BiH and displaced persons in BiH, in cooperation with MIRL, FMSA, RRTF  
Deadline: end of March 2003

#### Entity levels

Activity: Harmonization of the acts of internal organisation with needs for undisturbed realization of the State Strategy, filling of those vacant positions.

Incumbent: FMSA, MIRL in cooperation with RRTF  
Deadline: end of March 2003

Activity: Closure of existing regional entity centers and offices.  
Incumbent: FMSA, MIRL, and RRTF, in cooperation with MHRR - Secretary  
Deadline: end of March 2003

Activity: Establishment of regional offices of Ministry for human rights and refugees in Mostar, Tuzla and Banja Luka, personal, accomodational and materialy-technical training for work

Incumbent: MHRR, FMSA, MIRL in cooperation with RRTF  
Deadline: end of March 2003

#### - Housing Fund Reconstruction

Activity: With the aim of establishment of transparent and for complete BiH acceptable procedures and criteriums for selection of localities and users help in reconstruction, it is necessary on the level of Commission for refugees and displaced persons and Return Fund, to ratify Instruction for realisation of the help with reconstruction, as well as the Criteriums for the selection of the reconstruction and help users.

Incumbent: MHRR- Secretary with special task, Department for return projects, repatriation and taking care of refugees, Commission for refugees and displaced persons, RRTF  
Deadline: March 2003

- Property Law implementation

Activity: With the aim of successful completion of the process of property return and housing right in BiH, continuation of close cooperation of PLIP agencies together with BiH resors ministries is necessary. In the first phase complete the discussions on necessary activities in regards with transfer of authority of CRPC and taking over the base of CRPC, as well as in regards to the completion of the harmonization of property legislations, solution revision process on assigning of the use of units(civil and military), accomplished solutions for right on return of military units and other.

Incumbent: MHRR - PLIP coordinators, Department for refugees from BiH and displaced persons, Department for human rights, RRTF, CRPC

Deadline: end of March 2003

- Central Data Base

Activity: Incorporating everything what was done at this plan until now, one of the most important previous issues for successful completion of the work in regards to Annex VII is centralisation of the data on State level.

Incumbent: MHRR- Department for refugees from BiH and displaced persons in BiH, Department for projects, Department for human rights

Deadline: end of April 2003

Activity: Undertaking of reports on users of donator and budget assistance based on memorandum on understanding with EC and others.

Incumbent: MHRR- Department for refugees from BiH and displaced persons in BiH, in cooperation with authorised Entity ministries, European Commission, RRTF and UNHCR

Deadline: until the 15<sup>th</sup> of April 2003

Activity: Exchange of data in the region is is the main issue with the formation of centralised data base in BiH. With the aim of eliminating multiple users of the assistance in the region, Ministry for human rights and refugees in cooperation with UNHCR will ensure exchange of all necessary and data of those with no limit in a way of international-legal protection and delivery of personal data, which are at the moment in possession of Republic of Croatia and FRY, and at the same time will ensure for the neighboring countries the data from the central data base in BiH

Incumbent: MHRR- Department for refugees from BiH and displaced persons in BiH, Department for immigration and asylum, in cooperation with authorised Entity ministries, RRTF

Deadline: until the 15<sup>th</sup> of April 2003

- De-registration of displaced persons and update of indicators

Activity: With the update of indicators on the numbers and confirmation on real number of remaining displaced persons and refugees which are still in the need of permanent solutions, would be the stable foundation for future planning with aim of organised/systemised and successful completion of the return process. Signing of procedures and beginning of the process of de-registration in BiH.

Incumbent: MHRR- Department for refugees from BiH and displaced persons in BiH, FMSA, MIRL, Brcko District, UNHCR

Deadline: end of April 2003

- Promotions of reintegration of returnees conditions

- Activity: With the respect of existing changes in regards to the authority issues at the State level, as well as authority of Entities, organisation of the sessions of Commission for refugees and displaced persons on the issues of returns sustainability (security-demining, employment, healthcare, pensions, education). Analyse of the situation on all of these issues, coordinations of activities and giving the suggestions for situation improvement.
- Incumbent: MHRR- Department for refugees from BiH and displaced persons in BiH, Department for projects, Department for human rights, through Commission for refugees and displaced persons, and in cooperation with authority ministries on the State level (Ministry of Justice, Ministry of Security, Ministry for Civil Affairs) and Entity ministries, RRTF.
- Deadline: end of April 2003

- UNDP Project "SUTRA"

- Activity: Designating the project coordinator and personel for UNDPs project "SUTRA", and start with activity on the implementation of project.
- Incumbent: MHRR- Department for refugees from BiH and displaced persons in BiH, Secretary with special task, Department for return projects, repatriation and taking care of refugees.
- Deadline: end of February 2003

Minister for Human Rights and Refugees

Mirsad Kebo