

## **FIFTH PROGRESS REPORT (FINAL REPORT)**

### **Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91 – 95 conflict, including cessation of refugee status**

*Reporting period: 1 January 2017-31 December 2017*

#### **A) Introduction**

In April 2014, UNHCR issued its Advisory on the Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91- 95 conflict, including cessation of refugee status (hereinafter Advisory). The Advisory contained UNHCR’s recommendation for the cessation of refugee status of refugees from Croatia displaced by the 1991-1995 conflict pursuant to the “ceased circumstances” cessation clauses contained in paragraph 6(A)(e) and (f) of the UNHCR Statute and Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees. UNHCR recommended that States ensure that all aspects of cessation be implemented in 2014, with cessation to take effect by the end of 2017 at the latest. In tandem, UNHCR provided recommendations on how to resolve remaining displacement challenges and further advance the Regional Durable Solutions Process.

This is the Fifth and the final Progress Report issued in line with UNHCR’s commitment to monitor its cessation recommendation and States’ commitments under the Regional Durable Solutions process. The report covers the period from 1 January 2017 to 31 December 2017, and should be read in conjunction with the initial Advisory.

At the time when the conflict in Croatia ended in 1995, some 950,000 people had been displaced from or within Croatia over the course of the conflict. In order to find solutions for persons displaced from Croatia in South-Eastern Europe by the conflict in the region in the 90s, with a particular focus lately on the Regional Durable Solutions Process (“*Sarajevo Process*”), UNHCR successfully advocated to improve the policies and practices of the Government of Croatia related to housing assistance, status issues, free legal aid, and resolution of property rights. Subsequently, Croatia managed to improve the allocation of housing units, both through the national Housing Care Programme (HCP) and the Regional Housing Programme (RHP), including for vulnerable persons of concern. Awareness on the importance of sustainable solutions for returnees and promotion of national minority rights and reintegration has been continuously raised by UNHCR and civil society organizations (CSOs) throughout the years. Overall, substantial progress has been achieved with long lasting positive effects in the returnee communities.

UNHCR acknowledges the ongoing efforts of the Government of Croatia to ensure access to durable solutions for returnees and refugees from Croatia. However, some of the recommendations contained in the Advisory remain relevant. In UNHCR's view, there has been noticeable progress in implementation of the Regional Durable Solutions Process with the momentum reached under majority of the recommendation points. This is primarily based on the overall positive results achieved in the implementation of the Regional Housing Programme (hereinafter RHP) in all Partner Countries (Bosnia and Herzegovina, Croatia, Montenegro, and Serbia), as 9,600 persons or 2,667 families have received housing assistance during since the beginning of the RHP's implementation. The majority of them are refugees from, or returnees to Croatia. This progress was recognized by UNHCR as well as by OSCE particularly in relation to RHP.

## **B) Update on the refugee situation**

Although the majority of persons from Croatia displaced by the conflict in the 1990s had either returned to their country of origin or acquired the nationality of their country of asylum when the Advisory was issued in 2014, there were still 49,055 persons from Croatia registered as refugees in the region.

More than three and a half years later, as of 31 December 2017, a total of 24,178 refugees from Croatia remained registered in the region, of which 19,038 were in Serbia; 5,120 in Bosnia and Herzegovina; 14 in Montenegro; and 6 in Kosovo (S/RES/1244 (1999))<sup>1</sup>. **Overall, this represents a decrease by 24,877 persons compared to the situation at the time the Advisory was issued.**

It should be noted that this decrease is largely due to cessation of refugee status of persons from Croatia on the basis of re-acquisition of the national protection of the country of origin or acquisition of the nationality of the host countries pursuant to Article 1C(1) or (3) of the 1951 Convention.<sup>2</sup> Cessation on this ground, initiated in Serbia and in Montenegro well before UNHCR issued its Advisory in April 2014, continues.

22 years after the end of the conflict the interest for returns among the population remains limited. Between 1 January and 31 December 2017, UNHCR Croatia registered 44 minority returnees. In 2017, there were 22 organized convoys from Bosnia and Herzegovina and the Republic of Serbia. Through these Government-sponsored convoys<sup>3</sup>, returnees managed to

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<sup>1</sup> All references to Kosovo in this Progress Report are to be understood in the context of S/RES/1244 (1999). This designation is without prejudice to positions on status.

<sup>2</sup> According to Article 1C(1) of the 1951 Convention, a person's refugee status shall cease if s/he has re-availed himself / herself of the protection of his / her country of nationality, while according to Article 1C(3) a person's refugee status shall cease if s/he has acquired a new nationality and enjoys the protection of the country of his / her new nationality.

<sup>3</sup> Serbia and Croatia, together with the respective national Red Cross Societies, continue to support voluntary repatriation from Serbia to Croatia, mainly through transport of personal belongings.

transport their household belongings and agricultural machinery free of charge. In general, repatriation from Serbia continues to function well for those wishing to return and the transportation of most personal belongings is processed in an expedited manner in keeping with the humanitarian character of the operation. Although the transfer of personal belongings and household items from Bosnia and Herzegovina (facilitated by UNHCR's partners) was treated as common commercial cargo subject to standard customs clearance procedures, it was carried out with no major obstacles.

In Montenegro, persons displaced from the former Yugoslavia in the 1990s were granted the status of "displaced persons." Under the 2009 amendments of the Law on Foreigners, displaced persons from the former Yugoslavia were granted privileged access to the status of foreigner with a simplified application procedure to facilitate local integration. Following several years of extending the deadline for submitting applications to obtain status as foreigners under the privileged regime, the Government decided to cease the status of "displaced persons" of all persons who had not applied by 31 December 2014. Persons who acquire status as foreigners are required to obtain documents from Croatia and are also no longer recognized as displaced. As of 31 December 2017, there were only 14 persons from Croatia still holding "displaced person" status in Montenegro as their applications for the status of foreigner were still pending. Some concerns still remain with respect to the temporary residence status granted to 11 persons.

### **C) Comments on progress on UNHCR's recommendation regarding application of the "ceased circumstances" cessation clauses to refugees from Croatia**

While cessation on an individual basis on grounds of acquisition of nationality has been ongoing in Serbia, Montenegro, and Kosovo (S/RES/1244 (1999)) as outlined above, cessation for refugees from Croatia on the basis of ceased circumstances pursuant to Article 1C (5) and (6) of the 1951 Convention and in line with the recommendation contained in UNHCR's Advisory has not been initiated anywhere in the region. Equally, no host States outside the region have indicated an intention to implement cessation on this basis to the knowledge of UNHCR.<sup>4</sup>

The Government of **Serbia** remains in disagreement with the cessation recommendation made by UNHCR in the Advisory.

In **Bosnia and Herzegovina**, refugees from Croatia were never registered or formally recognized as refugees at State level, but rather at Entity level in Republika Srpska. The Ministry for Refugees and Displaced Persons of Republika Srpska continues to express willingness to de-register persons who have repatriated voluntarily to Croatia or who have fully integrated locally. However, this has not been completed by the end of 2017. The issue of naturalization of the 159 refugees from Croatia, lacking registered residence and therefore

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<sup>4</sup> The exception is Switzerland, where cessation for refugees from Croatia pursuant to Article 1C (5) and (6) was implemented prior to the issuance of UNHCR's advisory between the period of June 2010 and August 2013.

unable to naturalize under facilitated conditions, has been repeatedly discussed between UNHCR and the authorities, without a conclusive agreement reached. Over the last two years, out of 278 refugees from Croatia who expressed the wish to locally integrate and naturalize in Bosnia and Herzegovina, 79 were naturalized, 21 applied for naturalization and are awaiting decisions, 47 were assisted to obtain temporary or permanent residence permit, while 131 remained in need of assistance for the regularization of their stay and eventually naturalization. During 2017, only 44 persons (former refugees from Croatia) were removed from the official records by the respective authorities. At the end of 2017, there were 5,163 registered refugees from Croatia in Bosnia and Herzegovina (*please see more details on page 15, para 3, a*)).

## **D) Recommendations relating to the implementation of the Regional Durable Solutions Process**

### **1. Update on the Regional Durable Solutions Process**

In UNHCR's view, there has been continuous and tangible progress made under the Regional Durable Solutions Process since its Advisory in April 2014. The most positive developments observed have come about as a result of the implementation of the Regional Housing Programme (RHP). Selection of RHP beneficiaries for the approved sub-projects in all four Partner Countries, namely Bosnia and Herzegovina, Croatia, Montenegro, and Serbia, is progressing despite sporadic delays. Prevailing number of the RHP beneficiaries in Serbia are refugees from Croatia. In parallel, most of the RHP beneficiaries in Croatia are Serb national minority members - returnees to Croatia.

Of the EUR 284 million pledged by RHP donors, EUR 183 million were approved and a total of EUR 173 million paid into the RHP Fund. The European Commission is the largest donor (EUR 232 million, while the United States of America is the second largest donor (EUR 24 million).

At present, 24 sub-projects have been submitted and grants approved to the amount of EUR 183 million (105 million for Serbia, 49 million for Bosnia and Herzegovina, 16 million for Montenegro, and 14 million for Croatia). The process of selecting RHP beneficiaries for these sub-projects (7,205 in total) is ongoing in all four Partner Countries. To date, 3,382 families have been selected (60% of the total). Selection criteria are vulnerability-based. So far, some 9,600 persons (2,667 families) have received housing assistance in the region. Some 3,600 families are expected to receive housing assistance in 2018. It is hoped that by the end of 2020, some 28,000 persons will benefit from the RHP. This will be possible only if the current pace of implementation is maintained and if quality sub-projects are submitted.

As of 2018, UNHCR has shifted its focus on capacity building, advocacy and strategic interventions related to persons displaced during the conflicts of the '90s. As a consequence, UNHCR in partnership with OSCE, reviewed its involvement in the RHP, whose completion had been set at the end of 2021. UNHCR evaluated the positive results achieved and

recognized the progress made by the Partner Countries in their implementation of the RHP. UNHCR acknowledged the establishment of respective national capacities, particularly regarding the beneficiary selection process, based on vulnerability criteria, which will continue undertaking transparent and fair selection decisions beyond 2017. UNHCR thus concluded that the conditions have been met for the transfer of tasks and responsibilities for the selection of the most vulnerable refugees to the national authorities. As of January 2018, UNHCR will focus towards more strategic interventions to ensure that the process of beneficiary selection and acquiring sustainability of the solutions offered is achieved.

At the same time, UNHCR will continue to maintain full access to the respective decision-making bodies (when/if needed) and continue to support and advise the RHP Partner Countries in conducting impartial and accurate assessment of the beneficiary selection process by strictly adhering to RHP set criteria and provide accountable overview of the process, identifying gaps and facilitate policy solutions.

With regard to the sustainability measures, UNHCR assesses that basic frameworks for monitoring the sustainability of solutions offered through RHP have been identified in all Partner Countries. UNHCR will continue to offer assistance and advice to the respective institutions in order to facilitate that the main sustainability elements are reflected in the future sub-projects proposals, including mechanisms to establish complementary measures and provide for access to rights in a non-discriminatory manner.

*UNHCR would like to commend all the RHP Partner Countries and wish to encourage them further to do their utmost to ensure that persons of concern are able to achieve sustainable solutions, or that the solution has been clearly identified and is under implementation and is not adversely impacted or curtailed by the cessation of refugee status.*

UNHCR further notes that there may be refugees from Croatia who continue to be in need of a solution, but have not yet been identified, due to the extent of their vulnerabilities and isolation. Consequently, the UNHCR offices in the region, in close consultation with the Governments concerned, aim to continue their efforts to identify cases of particular concern and to review the residual problems they and other refugees from Croatia may face, in line with the recommendations of UNHCR's Advisory.

## **2. Comments on the progress of UNHCR's recommendation to remove barriers to voluntary repatriation and sustainable reintegration in the country of origin**

### **a) Difficulties to regularize stay for refugees from Croatia without Croatian citizenship**

The majority of refugees from Croatia in Bosnia and Herzegovina never obtained Croatian citizenship and are required to regularize their stay in Croatia upon return.<sup>5</sup> UNHCR continued

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<sup>5</sup> Article 94, para 2 of the Croatian Law on Foreigners stipulates: "Permanent residence could be approved to foreigners who had permanent residence in Croatia on 8 October 1991 and who are beneficiaries of the Return Programme or Reconstruction Programme or Housing Care Programme, which has to be proved by a certificate

to note that there have been significant improvements with respect to mitigating the challenges faced by former habitual residents of Croatia to regularize their stay in Croatia. This is in line with specific provisions for regularization of stay for former habitual residents introduced in Croatia's 2013 Act on Foreigners. The regularization process functions smoothly and improvement is noted in exemption of fees. The improvements noted in the new Act on Administrative Fees, in force since 1 January 2017, significantly relieved all eligible beneficiaries from high costs and thus fostered their reintegration. Access to returnee status and social welfare rights remained unhindered.

*UNHCR commends the progress made and recommends that the Government of Croatia further extends free legal aid to all former habitual residents wishing to regularize their stay; and favorably take into consideration requests for exemptions from administrative fees. UNHCR also commends improvements in acceleration of granting Returnee Status and implementation of the Act on Administrative Fees.*

#### **b) Need for adequate housing**

Croatia has been implementing various national housing programmes as well as the region alone. Even though the national programme schemes (organized reconstruction of houses and “housing care”) are based on individual rights, unlike the needs-based RHP, both programmes remain complementary. Based on the outstanding requests for this type of assistance, UNHCR estimates that in 2017 (period covered by this Report) approximately 10,000 persons displaced during the 90s remain without a solution in Croatia<sup>6</sup>. In the context of RHP and by taking into account specific RHP set vulnerability criteria, UNHCR supported the Government to better articulate any outstanding needs in its revised Country Feasibility Report (June 2016) by suggesting specific tailor-made housing modalities in specific locations. In this respect, UNHCR supported the making of new RHP concept notes, i.e. sub-project proposals.

#### **Regional Housing Programme (RHP)**

UNHCR maintained efficient cooperation with the Croatian Lead Institution for RHP (the Central State Office for Reconstruction and Housing Care - CSORHC), particularly in the area of beneficiary selection. During the reporting period, the Joint Working Group (JWG) led by the Central State Office for Reconstruction and Housing Care finalized the selection for all six approved RHP sub-projects in Croatia.

To date, 150 families (364 persons) received housing under RHP in Croatia. Of this number, 63 families (150 persons) received RHP assistance in 2017. Two out of six approved RHP sub-

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*of the competent state body for refugees, and who are assessed as having returned with intention to permanently live in Croatia.”*

<sup>6</sup> Based on the current number of pending applications for various types of housing programmes in Croatia (national programmes), and taking into consideration the pace and type of administrative decisions issued so far, UNHCR estimates that there are some 2,190 families (or 4,400 persons) who are awaiting housing solutions in Croatia, at the time of issuance of this Report;

projects (apartment building in Korenica and two apartment buildings in Knin) are completed. The other four, although supposed to be finalized by end 2017, remain pending for various administrative and technical challenges. UNHCR will closely monitor their progress until their full completion. Considering the extension of RHP in the region until the end 2020, Croatia submitted additional four project concepts and their approval is pending donor's decision, expected in January 2018.

Brief overview per each pending sub-project:

**RHP HR03 (Home for Elderly and Infirm Persons in Glina)** - despite the fact that the construction of the facility was completed in April 2017 and handed over to Sisak- Moslavina County in July 2017, the Home was still not operational at the end of 2017. The selection procedure was completed in October 2017 and all 74 beneficiaries are awaiting to be accommodated in the Home. UNHCR notes several obstacles that prevented planned opening of the facility by the end of 2017 that are related to:

- staffing (to date only eight out of 30 planned staff are employed in the Home),
- securing funds for basic materials required for daily functioning of the Home,
- the dispute between Sisak-Moslavina County and the Ministry of Demography, Family, Youth and Social Politics on the final price per beneficiary and, lengthy administrative procedures by the respective centers for social welfare to issue individual decisions on the accommodation in the Home.

UNHCR addressed all pending issues directly with the Head of CSORHC on 21 November and got assurances that the Home will become operational latest by February 2018<sup>7</sup>.

**RHP HR 04 (Purchase of 101 apartments)** - To date, the State Real Estate Agency purchased 97 apartments. 85 families (218 persons) received apartments (78 within the areas of special state concern and five in urban areas). 12 apartments still need to be allocated to beneficiaries. Four more apartments need to be purchased. UNHCR has been continuously advocating for speedier and more effective and timely allocations of 12 purchased apartments, which have been pending for more than six months because of lengthy administrative procedures.

UNHCR was particularly concerned about the case of seven former refugees from Bosnia and Herzegovina who have been granted right to housing care in Zagreb. Following UNHCR's interventions, five of them received apartments and two are pending. In all cases, the State Attorney Office has been appealing against the first and second instance decisions in administrative procedures and initiated dispute before the Administrative Court against CSORHC, disputing allocation of apartments. UNHCR intervened with CSORHC in September and November 2017 and still awaits response on their activities to address this issue.

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<sup>7</sup> The Home was officially opened in May 2018.

At this stage, the cases are pending before the Administrative Court (all seven) with two families still awaiting allocation of apartments.

**RHP HR 05 (Apartment building in Benkovac with 21 apartments)** - although planned for completion by the end of 2017, the apartments are still not allocated to beneficiaries whose selection was finalized in March 2017. The delays are related to construction challenges. CSORHC informed UNHCR that the handover of apartments to beneficiaries would be organized in late January 2018.

**RHP HR 06 (Reconstruction of 62 family houses)** - The reconstruction did not start yet. The main challenges that hinder timely and effective implementation of this project relate to complex and long public purchase procedures and difficulties of beneficiaries whose construction permits have expired. Beneficiaries are obliged to initiate issuance of new permits, in a very costly and timely consuming procedure. At the time of reporting for 5th report, CSORHC informed UNHCR that associated costs for vulnerable beneficiaries will be covered by the Government of Croatia.

#### ***New potential RHP sub-projects in Croatia***

UNHCR Croatia communicated its assessment on newly proposed four project concepts to CSORHC in 2017. UNHCR commended the efforts behind the projects to strike geographical balance, reflecting the needs assessed in the field. Projects concerning reconstruction and purchase of apartments were assessed as most suitable and prioritized. In case of availability of funds, UNHCR assessed the project proposal in Vukovar as appropriate one as well.

#### **RHP-related public information/awareness activities:**

To promote the RHP, its achievements and solutions options it offers to potential beneficiaries, returnees and refugees, in Croatia and other RHP Partner Countries, the Croatian CSORHC in cooperation with the UNHCR facilitated the production of an RHP-dedicated show, as part of the weekly programme for ethnic minorities ‘Prizma’ on the Croatian public broadcaster HRTV. The show, which is also seen in the neighboring countries, was broadcast on 24 June 2017, featuring a documentary about the RHP implementation and a conversation with the representatives of the CSORHC and UNHCR.

A media event was organized on the occasion of the handover of keys to the beneficiaries of the HR2 sub-project in Knin on 4 October 2017. The event was widely covered by the national and regional media, including the outlet TV Vojvodina/Serbia, which aired the feature in its programme for refugees from Croatia titled “Putevi nade” (Paths of Hope).

*UNHCR recommends acceleration of pending four sub-projects to reach their full completion by April 2018. UNHCR commends the Croatian authorities for continuous public information activities aimed at promoting solutions for potential beneficiaries, returnees to Croatia, offered within the Regional Housing Programme. UNHCR acknowledges the plan to CSORHC in*



*exempting vulnerable beneficiaries from paying for building permits and recommends for timely implementation of this planned measure.*

### **National Housing Care Programme**

The continuing backlog in implementation of Croatia's Housing Care Programme (HCP) remains of concern.

By end of November 2017, there were 1,167 pending requests for housing care from former occupancy/tenancy rights holders. In comparison to 2,443 pending requests in December 2016, this is a significant decrease. However, the trend of stark difference between issuing negative decisions (3,298) in comparison to positively decided (570) signals that majority of cases will end up in the second instance procedures and thus cannot be considered as final. In terms of accelerating the issuance of administrative decisions, UNHCR Representation in Croatia confirmed a steady progress has been demonstrated at the time of writing this Report.

*UNHCR recommends conducting an analysis on the negatively decided requests on housing care.*

The Central State Office for Reconstruction and Housing Care reported that 193 former tenancy/occupancy rights holders have received housing units in 2017 through national housing care program. This is an improvement in comparison to 2016 when 147 former tenancy/occupancy rights holders received housing under national housing care program. Eight local Serb National Council's coordinators were engaged in facilitating contacts between housing care applicants and local county offices of state administration until the completion of the project on 30 June 2017, assisting in total 508 beneficiary families.

The budget of the CSORHC for the national housing care has been increased for HRK 23,824,441 (some EUR 3, 1 million) in comparison to 2016 and for 2017 was HRK 87,324,441 (some EUR 11, 6 million). The budget for former occupancy tenancy rights holders remained the same (HRK 3 million or EUR 400,000). The budget for reconstruction was decreased from HRK 5 million in 2016 to HRK 2 million (EUR 266,000) in 2017. CSORHC reported that 689 beneficiary families received housing units under national housing care programme of which 193 were former tenancy occupancy holders. 1,361 beneficiary families received building material under national housing care.

The implementation of the State-run reconstruction program also needs to be accelerated as at least 841 families still await assistance. In 2017, 340 beneficiary families received reconstruction assistance.

In 2017, 250 families purchased housing units, which is a slight increase, compared to 2016 when 223 purchase contracts were signed. CSORHC needs to address and resolve 3,683 pending purchasing requests. Further improvements are required to accelerate the purchase procedure and to introduce favorable conditions for urban areas.

*UNHCR commends the increase of budget for housing care in 2017 and calls for further improvements in the application and purchase procedures.*

### **c) Access to basic public infrastructure**

Positive developments in terms of increase and timely distribution of funds to local self-governance units in the areas of return have been noted in 2017. In comparison to 2016 when two million HRK (EUR 266,000) were allocated to eight return communities in December 2016, for 2017, 3 million HRK (EUR 400,000) were allocated in June 2017 to 11 communities (Benkovac, Obrovac, Virovitica, Vukovar and Knin and municipalities Gracac, Oprisavci, Plaski, Ervenik, Jasenovac and Kistanje).

The Areas of Special State Concern where most Serb refugees return to, continue to lack adequate infrastructure. One specific problem that affects primarily Serb returnees is the (re)connection to the electrical grid of some 50 rural and remote settlements still without access to electricity.

*UNHCR praises the increase and timely distribution of funds to local self-government's units for supporting return and calls for re-electrification of returnee villages.*

### **d) Employment and basic means of subsistence**

In July 2017, the Croatian Parliament adopted *The Strategy of Regional Development by 2020*<sup>8</sup>, followed by the *Action Plan for Implementation of the Strategy for the period 2017-2019*<sup>9</sup>. This comprehensive document recognizes the so-called *assisted areas*, all of whom are encompassing return areas. Those areas are, based on the development index, in need of further support. The Government will assist them in order to achieve balanced development of the country and prevent their further economic and social decline. The Action Plan suggests strengthening employment measures, social welfare, health services and civil society development and provides a sound basis for structured reforms to enhance development of deprived areas. In July 2017, UNHCR Croatia met with the Minister of Regional Development and EU Funds and addressed the need for comprehensive approach in assisting war-affected areas. The Minister announced the above-mentioned strategy, which was at this point in the

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<sup>8</sup> Ministry of Regional Development and EU Funds, *The Strategy of Regional Development until 2020*, July 2017,

<https://razvoj.gov.hr/UserDocsImages/O%20ministarstvu/Regionalni%20razvoj/razvojne%20strategije/Strategija%20regionalnog%20razvoja%20Republike%20Hrvatske%20za%20razdoblje%20do%20kraja%202020.%20HS.pdf>

<sup>9</sup> Ministry of Regional Development and EU Funds, *The Action Plan for the Implementation of the Strategy of Regional Development for the Period 2017-2019*, November 2017,

<https://razvoj.gov.hr/UserDocsImages/O%20ministarstvu/Regionalni%20razvoj/razvojne%20strategije/Akcijски%20plan%20za%20razdoblje%202017.-2019.%20za%20provedbu%20Strategije%20regionalnog%20razvoja%20Republike%20Hrvatske%20za%20razdoblje%20do%20kraja%202020.%20godine%2027%2011%202017.pdf>

preparatory phase and reiterated full dedication of the Ministry to address and prevent economic and social decline of return areas.

UNHCR commends the adopted Strategy and the Action Plan for the Implementation and commends further achievements in implementation of the Croatia's Program for integrated physical, economic and social reintegration of five return areas. The Minister announced the expansion of this project to other areas.

*UNHCR commends the efforts of the Government of Croatia to support harmonized development of socially and economically deprived areas, many of whom are hosting returnees.*

#### **e) Difficulties related to private property repossession**

CSORHC reported that in 2017, two remaining cases of occupied properties and two pending cases of unsolicited investments have been finalized favorably for beneficiaries.

*UNHCR considers this recommendation point as fully met as all the remaining cases related to private property repossession in Croatia, particularly the cases of unauthorized investments by temporary occupants who were permitted by the government to use these properties, were resolved in just manner.*

#### **f) Access to free legal aid**

The legislative framework for free legal aid provides a comprehensive basis for vulnerable beneficiaries. However, lack of available funds remains a major challenge.

The Act on Free Legal Aid<sup>10</sup> provides comprehensive basis for effective state funded free legal aid, comprised of primary and secondary free legal aid. Lack of available funds, low apportionments to primary free legal aid in comparison to secondary free legal aid and late allocation of funds to NGOs hampered the effective implementation of the State funded primary free legal aid. The Ministry of Justice has continuously been reducing the funding allocations to NGOs for primary legal aid. Additionally, in the last three years, the funds were allocated only in the third quarter of the year, which left NGOs to spend funds within very short periods. These shortcomings have had detrimental effect on reintegration of returnees. Allocated funds are not sufficient and UNHCR therefore funded three NGOs who provided free legal aid in 2017; I Want to Go Home from Knin, Civil Rights Project from Sisak and Serb National Council. In 2017, UNHCR legal aid partners assisted 4,552 beneficiaries with free legal counseling.

For 2017, UNHCR notes increase of the budget in the state funded free legal aid for primary free aid from initially planned 700,000 HRK (93,000 EUR) to 1,051,454 HRK (140,193 EUR).

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<sup>10</sup> Act on Free Legal Aid, Official Gazette, no. 143/13, in force since 1<sup>st</sup> January 2014.

However, the additional increase of 351,454 HRK (46,860 EUR) occurred in mid-December 2017, leaving NGOs to spend funds in a very short period of time.

According to the latest CEPEJ (The European Commission for the Efficiency of Justice) evaluation report<sup>11</sup>, Croatia is among the Council of Europe member states with the lowest annual public budget allocations for legal aid. The European Commission against Racism and Intolerance (ECRI)<sup>12</sup> and the Croatian Ombudsperson<sup>13</sup> have expressed concerns in this context.

On 15 September 2017, UNHCR met with the Assistant Minister from the Ministry of Justice to address the challenges and shortcomings in the current implementation of free legal aid. UNHCR suggested to the Ministry to increase the funding, allow timely allocations and introduce a multi-year funding for the NGOs. The Ministry informed UNHCR that they have proposed that the state funds for this activity in 2018 are increased to 1.5 million HRK or approx. EUR 200,000, the amount similar to 2015 funding. Consequently, the funds for 2018 have been increased to 1,300,000 HRK (173,300 Euros), which is a positive development in comparison to previous years. However, the further increase of funds and efforts to ensure timely allocations are required to achieve effective system of free legal aid. For 2018, the funds will be in the best-case scenario allocated in June. In November 2017, ten NGOs sent an open letter<sup>14</sup> to the Minister of Justice calling for a substantiated reform of the system of free legal aid due to its current serious shortcomings.

*UNHCR welcomes the increase of funds for 2018 and recommends the improvements in the processes of granting free legal aid to beneficiaries by further increasing the funds for primary free legal aid, introducing multi-year programmes for NGOs and timely allocations of funds.*

### **g) Representation of minorities**

In August 2017, the Government of Croatia adopted Operational Plans for National Minorities for the period 2017-2020<sup>15</sup>, concerning Serb, Italian, Czech, Slovak, Hungarian, Albanian and Roma national minorities. The first Operational Plan concerns protection and improvement of the current level of rights of national minorities and comprises of nine goals and 36 specific

<sup>11</sup> “European judicial systems Efficiency and quality of justice CEPEJ STUDIES No. 23, edition 2016 (data 2014)”,

<http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/publication/CEPEJ%20Study%2023%20report%20EN%20web.pdf>, pp.66-79.

<sup>12</sup> ECRI Report on Croatia, fourth monitoring cycle, 2012, <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Croatia/HRV-CbC-IV-2012-045-ENG.pdf>

<sup>13</sup> Public Ombudsman Report for 2016, <http://ombudsman.hr/hr/component/jdownloads/send/76-izvjesca-2016/854-izvjesce-pucke-pravobraniteljice-za-2016>, pp. 15-17.

<sup>14</sup> Open Letter of Free Legal Aid Providers to the Minister of Justice, 30 November 2017, available at: <http://www.crpsisak.hr/2017/12/04/kriza-sustava-besplatne-pravne-pomoci-u-rh/>.

<sup>15</sup> Government of Croatia, *Operational Plans for National Minorities 2017-2020*, August 2017, <https://vlada.gov.hr/UserDocsImages/Sjednice/2017/08%20kolovoz/53%20sjednica%20VRH/53%20-%204.pdf>

actions to uphold and protect rights of national minorities focusing on: use of language and script, education, cultural autonomy, access to media, self-organization, representation in the state and local government and admin and judicial bodies, and participation in the minority councils.

*UNHCR particularly commends the goal that concerns improvement of development programs in the areas with national minorities<sup>16</sup> by introducing legislative changes to foster economic and social development in the areas of return. UNHCR commends the goal to promote peace and tolerance under which the Government shall establish a multi-sectorial working body under the Deputy Prime Minister to develop programs to promote peace and tolerance and establish a long-term strategy of combating hate speech, intolerance and discrimination in all aspects of public life.<sup>17</sup>*

The Operational Plan for Serb national minority stipulates that analysis and the revision of the current legislative framework will be made in order to provide: 1) simplified procedures for regulation of housing care (also including former tenancy/occupancy rights holders, occupied properties and unsolicited investment cases), 2) integration of Serb national minority (including analysis of the current pensions relations)<sup>18</sup>, 3) restitution of properties belonging to Serb Orthodox church and other Serb organizations appropriated during Yugoslav times, 4) creation of political atmosphere to allow processing of all war crimes and identification of war victims and civil war victims and 5) improving regional co-operation.

In December 2017, UNHCR Implementing Partner Serb National Council issued the Bulletin *Unrealized rights and failed policies 2*<sup>19</sup>, comparing the level of representation of Serb national minority in the state administration institutions from their first survey in 2013 to the situation at end of 2016. According to the survey, by the end of 2016, there were 1,689 persons, or 3.4 percent of national minority members, in state administration institutions, of which 2.22 percent were Serbs. In comparison to situation in 2013, the total share of national minorities employed increased by 0.09 percent whilst the share of Serbs decreased by 0.13 percent<sup>20</sup>. Serb National Council concludes that “national minorities remain significantly underrepresented in public administration institutions and that there is no progress and affirmative measures intended to support national minorities”<sup>21</sup>.

Primary and secondary education in return areas for Serb minority is smoothly implemented.

*UNHCR commends the comprehensive Operational Plans for Protection and Enhancing of Rights of all National Minorities and calls for their systematic and consistent implementation.*

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<sup>16</sup> Ibid, p.11.

<sup>17</sup> Ibid, p.13.

<sup>18</sup> Ibid, p.15.

<sup>19</sup> Serb National Council, Bulletin 11, *Unrealized rights and failed policies 2, December 2017*, <https://snv.hr/obavijesti/zastupl-enost-nacionalnih-manjina-u-drzavnoj-upravi-pravosudju-i-policiji>.

<sup>20</sup> Ibid., p.6.

<sup>21</sup> Ibid, p.29.

*UNHCR commends the Government's efforts to streamline the rights of national minorities through implementation of the Constitutional Act on the Rights of National Minorities and recommends to Government to continue to promote awareness about the importance of usage of national minority languages and scripts. Such policies would contribute to the building of a tolerant society and encourage sustainable reintegration of returnees.*

#### **h) Remaining security issues**

UNHCR observed an environment of intolerance and animosity towards the Serbian national minority, throughout 2016 and 2017. This heightened atmosphere of animosity is demonstrated in incidents of hate speech, sentiments expressed in media, including social media, and public use of Nazi-era slogans. The most noticeable incidents involve placing of memorial plaque featuring fascists' slogan in Jasenovac, known for being the place of the biggest and most notorious concentration camp during WWII in the region and public burning of the Serb weekly Novosti. Perceived stigmatization of Serbs, nationalistic rhetoric, and above described manifestations may have prevented larger interest for minority returns.

On 20 December 2017, the Croatian Government adopted the National Plan for Combating Discrimination for the period 2017-2022 and the Action Plan for the Implementation of the National Plan, covering the period 2017-2019. Both National and Action Plans were adopted with more than four years of delay as the previous plan expired in 2013. Both documents highlight the importance of education of public servants and addressing discrimination in the media and offer comprehensive framework for combating discrimination. However, its goals can only be achieved through proper implementation. In 2017, UNHCR Croatia, in cooperation with the Implementing Partner Croatian Red Cross (CRC), developed a curriculum for the promotion of tolerance towards refugees, asylum-seekers, stateless individuals and returnees. The curriculum is intended for the pupils of 7th and 8th grades of elementary school and all secondary education under the civics education. To support the implementation of the curriculum, UNHCR and CRC have also developed a handbook for teachers and accompanying multimedia materials. Both the curriculum and the handbook have been submitted to the Croatian Education and Teacher Training Agency in September 2017 for the approval. Once approved, UNHCR and CRC will organize trainings for teachers and develop more materials to ensure smooth implementation of the curriculum and the sustainability of the curriculum and the handbook as tool of promotion of tolerance and creation of welcoming communities. The main aim of this project is for children to receive information on people UNHCR serves in protection-oriented, age-appropriate and student friendly manner. Based on the monitoring results (surveys and teachers feed -back), UNHCR will follow-up the trends in public attitudes.

*UNHCR commends the efforts of the Government of Croatia to address the instances of ethnic intolerance through measures in the Operative Programme for Protection and Enhancement of all National Minorities as well as the adoption of the National and Action Plan for Combating Discrimination. UNHCR suggests initiating a national campaign to promote the rights of national minorities and sensitize the media and public. UNHCR further recommends*

*to Croatia to timely and efficiently address the security incidents for individuals from minority groups which are sporadically reported by investigating, prosecuting and documenting ethically based incidents.*

### **i) Discrimination against Roma returnees**

The National Strategy for Roma Inclusion 2013-2020<sup>22</sup> and its Action Plan provide a solid basis for regularization of undocumented Roma population. The Foreigner's Act provides relaxed provisions including mitigating changes in process of approving residence for foreigners thus facilitating access to documentation through the following key improvements: the ownership certificate (title deeds) of the property at which address beneficiary is applying is no longer required as one of the conditions for temporary and permanent residences; proof of medical insurance is no longer a prerequisite for residency; any debt incurred with the State Tax Administration Office regarding health insurance fees is no longer an obstacle in resolving status issues of beneficiaries; and provisions have been relaxed for residency based on humanitarian reasons. For the benefit of a certain number of Roma returnees who are either stateless or at risk of statelessness, the Government should ensure the protection of their rights and establish statelessness determination procedures. The exact number of stateless Roma returnees as well as of that Roma who are at risk of statelessness is not known.

The recently adopted Operational Program for Roma National Minority includes revision of the National Strategy for Inclusion of Roma. The Operational Plan also includes employment, education, housing care and civic engagement and thus provides sound basis for systematic and comprehensive framework for the full acknowledgment of the rights of Roma.

*UNHCR commends the efforts of the Croatian Government to introduce effective measures to protect the Roma minority and calls for concrete and tangible implementation mechanisms.*

*UNHCR recommends that the Government of Croatia addresses and resolves remaining obstacles facing Roma returnees, such as limited access to free legal aid, lack of registration of children's births or residence, non-possession of identity documents, and high administrative fees.*

*UNHCR recommends that the Government conducts a comprehensive mapping exercise to obtain reliable data on stateless Roma and Roma at risk of statelessness and assists the persons in need.*

*UNHCR further recommends that the Government establishes a statelessness determination procedure to identify persons who are stateless and to ensure protection of their rights, and,*

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<sup>22</sup> National Strategy for Roma Inclusion, 2013-2020, available at: <https://pravamanjina.gov.hr/UserDocsImages/arhiva/23102013/National%20Roma%20inclusion%20strategy%202013-2020.eng.pdf>.

*in parallel, adopt further measures to ensure that citizenship is confirmed for those at risk of statelessness.*

### **3. Comments on progress in respect of UNHCR's recommendation to pursue opportunities for local integration or alternative legal status in countries of asylum in the region**

#### **a) Regularization of stay**

**Bosnia and Herzegovina:** At the end of the reporting period there were 5,120 persons formally registered as refugees from Croatia by the line ministry of the entity of Republika Srpska. However, some 3,000 of these persons are members of families whose heads of households do have Bosnia and Herzegovina citizenship. UNHCR is currently working with the authorities of Bosnia and Herzegovina at the State and entity level to ascertain the remaining number of refugees.

Following an outreach and information campaign conducted in 2015/2016, which UNHCR organized in coordination with the Ministry for Human rights and Refugees (MHRR) and the competent ministry from the entity of Republika Srpska, 278 persons<sup>23</sup> were identified by the end of 2017. Of this number, 100 refugees applied for naturalization, of whom 79 have in the meantime obtained citizenship, while 21 are awaiting decision on naturalization based on facilitated conditions. Additional 47 refugees were assisted to apply for temporary residence permit, i.e. extension of this permit or permanent residence permit based on the Law on Foreigners. 112 refugees remained in need of further assistance to regularize their stay in Bosnia and Herzegovina and eventually naturalize. Many of the 278 persons identified are socially isolated, reside in remote areas and have limited or no financial means. In these circumstances, loss of refugee status through cessation without acquisition of nationality would further increase their vulnerability.

The Citizenship Law of Bosnia and Herzegovina of 2013 eased the requirements for refugees to naturalize and was thus beneficial for some individuals. However, the procedure to obtain citizenship of Bosnia and Herzegovina remains complex, costly, and time consuming.

*UNHCR recommends that the authorities of Bosnia and Herzegovina better identify the extent of the residual impediments to acquisition of nationality for refugees from Croatia by jointly mapping problem areas and vulnerable cases with a view to further simplify the naturalization process. In this regard, UNHCR continues to advocate for facilitated naturalization for all remaining refugees who wish to naturalize.*

**Montenegro:** As noted above, the Ministry of Interior of the Government of Montenegro continues to process pending applications for foreigner status. Persons wishing to obtain the status of foreigner were obliged to re-avail themselves of the protection of their country of

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<sup>23</sup> Out of 278 persons, 19 passed away or decided not to pursue local integration / could not be found at their last reported residence.



origin, i.e. nationality, in order to obtain valid Croatian documents, including national passports. These documents were required in order to apply for the status of foreigner with temporary or permanent stay residence in Montenegro, and will subsequently be necessary in order to naturalize. Following a request from the Government of Montenegro and UNHCR, Croatian diplomatic-consular services have shown flexibility in extending services to this category of (former) refugees. As of 31 December 2017, 14 refugees from Croatia held the status of displaced persons, as their applications for status of foreigner were still pending, while 997 had been granted the status of foreigner with permanent residence, and 11 the status of foreigner with temporary residence (valid for three years). Further to this, 14 applications for the permanently residing foreigner status have remained pending for more than two years and a half.

*It remains UNHCR's position that long-staying recognized refugees from Croatia and/or those on a pathway to citizenship should retain their refugee status pending their transition to a permanent residency status or citizenship.*

*UNHCR recommends that the Government of Montenegro grants facilitated access to permanent residence to all former refugees from Croatia.*

*UNHCR recommends that Montenegro provide further support for socially vulnerable persons among former refugees to help resolve their housing needs and to ensure effective access to health and social protection.*

*Montenegro is also encouraged to ensure that children born to parents who obtained Foreigner Status similarly obtain a facilitated permanent residence status in Montenegro.*

In February 2017, the *Strategy for Durable Solutions of Issues regarding Displaced and Internally Displaced Persons in Montenegro, with Special Emphasis on the Konik Area* was extended for the period 2017 - 2019. The Government of Montenegro and UNHCR included the remaining unresolved obstacles faced by the refugees from former Yugoslavia in their pursuit for local integration. Subsequently, the Ministry of Labour and Social Welfare was again tasked to coordinate the strategy's implementation. The Strategy and the 2017 Action Plan for its implementation were drafted in close cooperation with UNHCR.

**Serbia:** De-registration of refugees on the basis of acquisition of Serbian nationality has slowed down during the reporting period. In the past, this accounted for the greatest decline in the number of refugees from Croatia. However, as there are refugees from Croatia who have acquired a Serbian citizenship certificate, but who have yet to acquire an identity card as citizens, the factual number of refugees is likely to be even lower. The refugee identity card is withdrawn and refugee status formally ceased only once the individual concerned acquires or seeks to acquire an identity card as a citizen.

In order to provide conditions for local integration for all who opt for this solution, the Government has adopted a comprehensive policy and legal framework for providing support

to refugees. As part of this, the Serbian authorities grant citizenship and access to political, social, economic, and civil rights to all refugees and former refugees.<sup>24</sup> In addition, the Serbian Commissariat for Refugees and Migration (SCRM) is providing housing support (see below) as well as support for the economic empowerment of refugees. Funds are planned and allocated on an annual basis in the State budget. According to the available data, in 2017, SCRM budgeted RSD 250,000,000 (approx. EUR 2,080,000) for housing projects (village houses and donation of building material) for refugees from Croatia and Bosnia and Herzegovina. Only a small part of that amount was spent on provision of livelihoods assistance.

While Serbia adopted the National Strategy for Resolving Issues of Refugees and IDPs for the period from 2015 - 2020, its Action Plan, aimed at setting up concrete action points and corresponding time lines, still needs to be operationalized.

*UNHCR recommends that Serbia adopt the Action Plan for the implementation of the Strategy without further delay.*

**Kosovo (S/RES/1244 (1999)):** All 6 remaining refugees from Croatia, at the end of 2017, have expressed the wish to integrate locally. 5 of them enjoy the right to acquire multiple personal documents from different institutions and governments (e.g. Serbia, Croatia, Kosovo (S/RES/1244 (1999))) and they are well informed on this right. For the remaining one, a solution is being pursued through the naturalization process due to lack of personal documentation issued by the United Nations Interim Administration Mission in Kosovo (UNMIK).

According to legislation in force in Kosovo (S/RES/1244 (1999)), from 1999 to 2008, refugees have gained the right to register with UNMIK (as habitual residents) and receive UNMIK ID cards and travel documents. By doing so, they formally gain full rights as citizens and have access to public services. Further to this and based on post-2008 legislation, refugees have gained the right to acquire Kosovo (S/RES/1244 (1999)) “citizenship” and formally obtain full rights for access to public services, while retaining refugee status with the Serbian Commissariat for Refugees and Migration.

## **b) Adequate housing**

The prospects and opportunities for local integration in the place of displacement are improving in the region, especially due to the continued implementation of the RHP.

In **Bosnia and Herzegovina**, more than 5,000<sup>25</sup> refugees from Croatia have applied for housing within the RHP scheme. A total of 151 families from Croatia should benefit from RHP sub-projects that have been approved. To date, 20 refugee families from Croatia have received construction material to build a house. Given their vulnerability, the competent Ministry in the Republika Srpska provided additional financial means to cover the cost of installation of those

<sup>24</sup> Stipulated in Article 1 of the Law on Refugees in Serbia.

<sup>25</sup> A total of 1,550 families/5,208 persons originating from Croatia have applied for housing within the RHP.

materials. Additional complementary sustainability measures have been provided through a project funded by the Bureau for Population, Refugees and Migration of the United States of America.

In **Montenegro**, refugees from Croatia stand to benefit from five out of six approved RHP sub-projects. Since the selection of beneficiaries for the approved sub-projects is still to take place, exact number of refugees from Croatia is unknown at the moment. So far, out of 59 families who moved in first ever finished RHP sub-project in Montenegro, 3 families (13 persons in total) were from Croatia.

The largest group of RHP beneficiaries is in **Serbia**, where the provision of housing is an important part of a programme to support sustainable local integration. Refugees from Croatia are expected to constitute between 70 and 75 per cent of the beneficiaries for the 6,295 planned housing solutions under the RHP Country Housing Programme for Serbia. So far, close to 4,500 beneficiaries have been selected while the housing solutions have been delivered to 1,717 refugee families. About two thirds of them originate from Croatia.

The results of the implementation of the RHP in Serbia indicate that the existing needs are higher than the funds available under the Country Housing Programme in Serbia. Based on the results of the selection process, there is a need for continuation of such programme for the most vulnerable, especially in the urban centres, since the identified needs and the number of eligible beneficiaries are found to be several times higher than the number of solutions offered so far through RHP. In this respect, Serbia should also be able to address the challenges identified in the field by ensuring the technical sustainability of the housing provided - some of the most vulnerable beneficiaries are found not to be able to install themselves the received building material, or to connect to the infrastructure.

In the absence of State-funded free legal aid mechanisms, UNHCR continued supporting provision of free legal aid. Particular focus was placed on provision of information and counselling related to the RHP and on acquisition of personal documents, including for 83 refugees accommodated in seven collective centres who are in the process of naturalization.

In **Kosovo (S/RES/1244 (1999))**, lack of housing solutions, represents a major impediment to the sustainable integration of refugees from Croatia. Naturalised refugees (2 families/5 individuals) have been included in housing project under the IPA funds “*Supporting DS for Collective Centre residents in Kosovo - phase one*” while the remaining refugees residing in collective accommodation (11 families/15 individuals) are expected to benefit from IPA phase II project.

### **c) Employment**

Economic and employment prospects in the region have not improved in the reporting period. It is not known how many refugees from Croatia secured jobs during this period, and no data is available regarding State programmes for employment for this category of persons.

UNHCR notes ongoing challenges with respect to access to employment for refugees from Croatia in host countries in the region, whether due to existing restrictions based in law or a lack of implementation of more favorable provisions where these exist.

Within the context of the RHP, UNHCR has continuously reiterated to Partner Countries the commitment they made in the Belgrade Declaration of 7 November 2011 (Joint Declaration on Ending Displacement and Ensuring Durable Solutions for Vulnerable Refugees and Internally Displaced Persons) to ensure that a comprehensive solutions-oriented approach is taken to ensure sustainability. This should include measures to provide for better employment and livelihood opportunities. UNHCR has, *inter alia*, requested RHP Partner Countries to provide more detailed plans for economic and socio-cultural sustainability for any new sub-projects, including examination of social integration and employment programme opportunities, and has encouraged good practices from nationally or externally-funded programmes in the region to be integrated into RHP sub-projects with financial resources identified for this purpose.

UNHCR is pleased to confirm all the newly submitted RHP project proposals provide more detailed information and corresponding actions that would be undertaken to achieve the comprehensive, sustainable solutions of the RHP beneficiaries.

*UNHCR continues to advocate for improved employment opportunities through income generation programmes as part of projects undertaken to support the Regional Durable Solutions Process.*

#### **d) Access to acquired pension rights**

There was no progress on resolving the issue of outstanding pension payments between Croatia and Serbia. Consequently, the issue of due, outstanding pensions remains open. The issue remains on the agenda of a regular coordination body of the RHP, Regional Coordination Forum, as it is an integral part of the agenda of the Regional Durable Solutions Process (the Sarajevo Process).

In June 2017, the International Labour Office (ILO) issued its Second supplementary report of the Director-General: “*Report of the Committee set up to examine the representation alleging non-observance by Croatia of the Maintenance of Migrants’ Pension Rights Convention, 1935 (No. 48), made under article 24 of the ILO Constitution by the Association of Trade Unions of Pensioners of Serbia (USPS)*”.<sup>26</sup>

In the ILO Report, the following was *inter alia* concluded: “*With regard to persons who resided in the occupied territories, the situation is extremely complex as the period during which they resided in the occupied territories varied for each beneficiary, certain pensioners were able to get judicial redress while others were not and many received payments from the para-funds. Moreover, as the facts date back to more than 25 years ago, it is uncertain how many persons*

<sup>26</sup> GB.330/INS/7/2 [http://www.ilo.org/gb/GBSessions/GB329/ins/WCMS\\_559242/lang--en/index.htm](http://www.ilo.org/gb/GBSessions/GB329/ins/WCMS_559242/lang--en/index.htm)

*who were already receiving pensions at that time, are still alive today and whether their individual situations present documented cases of denial of acquired pension rights. In these circumstances, the Committee stresses that compliance with the Convention could be assessed only on a case-by-case basis at the national level, identifying the pensioners concerned and the volume of their acquired rights. Therefore, considering that acquired rights are individual rights, and given the lack of documented evidence as regards the number and identity of the actual beneficiaries concerned, more than 25 years after their pensions were suspended, as well as the actual amounts of these pensions pursuant to the Croatian social security system, the Committee considers that it is not in a position to pronounce itself as regards the situation of every potential beneficiary concerned. In view of the above, the Committee recalls that for safeguarding the acquired rights in such complex situations, Part IV of the Convention specifically provides for mutual assistance of the Members concerned.”*

Therefore, it could be assumed that the ILO was not in position to enter into the merits as they were lacking documented cases, i.e. subsequent target group of pensioners (Croatian citizens) who during the armed conflict were not in position receive their due pension payments neither from official Croatian pension fund nor from the so-called para-fund established in the non-government controlled territories.

The Ministry of Labour and Pension System of Croatia continued to claim that the new bilateral agreement with Serbia should not address issues that had not been included already in the existing Agreement on Social Insurance. This includes the issue of outstanding pensions.

According to the Government of Serbia, issues to be resolved include: establishment of lists of affected beneficiaries; agreement that full compensation will be provided; resolution of all requests; and provision of funding for the compensation.

*UNHCR would like to once again call upon the Governments of Croatia and Serbia to urgently resolve this longstanding issue, which hinders the enjoyment of acquired rights for a significant number of Croatian pensioners, including considering to implement the proposals provided by TAIEX experts.<sup>27</sup> While UNHCR regrets that this important issue remains unresolved after such a long period of time, we wish to repeat and reiterate our position: UNHCR supports any approach/solution which leads to the satisfactory resolution of this issue, based on good*

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<sup>27</sup> In February 2012, the EC (Technical Assistance and Information Exchange instrument using the TAIEX instrument) engaged two independent pension experts, who conducted a mission in order to analyse Croatian legislation on pension and disability insurance and its application. The experts subsequently issued an evaluation report from the mission containing a non-binding recommendation on how to resolve the contested issue. The report recognized legitimacy of claims and invited parties to: 1) agree on the straightforward definition of the problem and 2) find a compromise solution, either through bilateral agreement or a unilateral legal instrument addressing specific cases. The experts have also advised that both administrations should try to come up with their own solutions, which fit their needs rather than leaving the matter for the courts to resolve. The experts also referred to the emphasis that the European Court of Justice places on the protection of social security rights which represent the counterpart of contributions paid by beneficiaries. Thus, the experts stressed that if there are pensioners who are left without any income and for certain periods of time have not received any form of pension payments, these persons should be compensated for what they have lost.

*neighbourly relations and in the pursuit of regional reconciliation. The resolution of this issue should also be taken in the spirit of the Sarajevo and Belgrade Declarations, and should respect commitments undertaken in the latter. Furthermore, UNHCR is of the opinion that addressing this issue once and for all, should be taken in the positive spirit of the overall Sarajevo Regional Process, a process that has ultimately given rise to the concrete progress we are witnessing today within the Regional Housing Programme.*

#### **e) Social assistance and health care**

In January 2016, a new Law on Health Insurance came into force in **Montenegro**, stipulating among other provisions that all foreign citizens must submit a certificate from their country of origin to prove that they are not beneficiaries of health insurance in that country in order to enjoy health insurance provided by Montenegro. Upon UNHCR's intervention the Health Fund accepted not to request certificate from the country of origin at each renewal of the health booklet, but only during first registration in the health care system. However, UNHCR still records non-harmonized practice in different municipalities and intervenes as needed. It is unclear how often such a certificate must be submitted, whether once, or each time health care services are sought. As per the Law there is a need to renew a health booklet every three months, of which the validity is three months for adults and one year for children.

Access to social assistance or health care is generally granted to refugees from Croatia in other countries in the region with an exception to those in **Bosnia and Herzegovina** without registered residency.

*UNHCR recommends that Montenegro simplifies the procedure to allow refugees from the former Yugoslavia to benefit from health insurance and that Bosnia and Herzegovina enables unhindered registration of residency for all refugees from Croatia who wish to locally integrate, including their subsequent, unhindered access to social and health care.*

#### **E) Conclusion**

The issuance of UNHCR's Advisory in 2014 was triggered by fundamental changes in the region, including: the fact that many former refugees from Croatia have either returned or locally integrated in their host countries; the successful implementation of the Regional Durable Solutions Process (the Sarajevo Process) and the subsequent Regional Housing Programme (RHP). The Advisory, which also provided recommendations on how to resolve remaining displacement challenges and advance the solution process, further recommended that States declare cessation by the end of 2017 at the latest.

To date, UNHCR's recommendation to declare the cessation of refugee status for refugees from Croatia displaced by the 1991-1995 conflict, pursuant to the "ceased circumstances" cessation clauses contained in paragraph 6(A)(e) and (f) of the UNHCR Statute and Article 1C(5) and (6) of the 1951 Convention by the principal host States, has not been implemented.

UNHCR welcomes, however, the continued reduction in the numbers of registered refugees from Croatia in line with Article 1C (1) or (3) of the 1951 Convention.

UNHCR acknowledges the ongoing efforts of the Republic of Croatia in ensuring access to durable solutions for returnees to Croatia. Notwithstanding this, some specific recommendations contained in the April 2014 Advisory remain relevant.

UNHCR recalls that the Advisory was issued given the changes on the situation for Croatian refugees. Yet, significant unaddressed needs requiring continued attention remain, as they hamper sustainable integration in Croatia. As elaborated in the UNHCR Progress Reports, these include, *inter alia*, access to free legal aid, access to housing, increased atmosphere of ethnic intolerance, and issues related to acquired pension rights and entitlements.

In Croatia, UNHCR has called on the Government to take further measures to ensure effective implementation of policies, and programmes aimed at improving housing assistance and facilitating access to free legal aid. It is also important to further promote tolerance, trust, coexistence, and reconciliation through prevention mechanisms and timely and efficient law enforcement in cases of hate crimes, anti-minority speech and incidents.

In line with its supervisory role pursuant from its Statute and from the 1951 Convention, after 31 December 2017, UNHCR will continue to monitor the situation in the region and report, on a semi-annual basis, on the major trends and patterns related to implementation of the Regional Housing Programme (RHP). UNHCR (in close partnership with OSCE, where applicable) will continue to engage in the RHP in the region, by providing advice in order to ensure that the selection of beneficiaries is conducted in an impartial and transparent manner thus providing unimpeded access to RHP for the most vulnerable displaced population, regardless of their status.

In this respect, UNHCR would like to underline that the implementation of the Advisory does not in any way jeopardize an individual's possibilities and rights under the RHP or other specific programmes and schemes for displaced populations. An individual's right to access his/her acquired rights is independent from refugee status. Most importantly, we again strongly urge the Governments of Croatia and Serbia to reach a just solution for all affected by the unpaid pension entitlements.

UNHCR will be working closely with all counterparts to ensure that the durable solutions process continues to progress and is not adversely impacted or curtailed by the cessation of refugee status. As for the potential RHP applicants, their eligibility does not depend on their status as refugees. Those who have been displaced during the given period, regardless of their current status, may be eligible, depending on their vulnerability and needs.

UNHCR would like to express its satisfaction with the RHP implementation progress and with the impact that the programme has on regional reconciliation in South East Europe. The donor community has also recognized this as they re-confirmed their commitment to the RHP.

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The RHP will continue to provide a platform to discuss all outstanding issues related to the protracted displacement in South Eastern Europe.

UNHCR calls upon all Governments in the South Eastern Europe to remove unnecessary administrative hurdles that affect all the displaced, including obstacles to regularizing status; obtaining nationality; enjoying rights, including housing, acquired pension rights and entitlements; and accessing basic services, including water, electricity, and healthcare.

UNHCR  
March 2019