

**BOSNA I HERCEGOVINA**  
**Ministarstvo za ljudska prava i**  
**izbjeglice**



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

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

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*Sarajevo, October 2008*

## **PREFACE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Activities stipulated in the Action Plan have been implemented fully and timely although the Draft itself, where individual findings and reports by working sub-groups have been elaborated and compiled, comes a little later than planned due to its complexity and comprehensiveness.

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

- **Institutions of Bosnia and Herzegovina:** Ministry of Civil Affairs; Ministry of Security, BH Mine Action Centre (MAC); Return Fund; Commission for Real Property Claims of Displaced Persons and Refugees;
- **Institutions of the Federation of Bosnia and Herzegovina:** Ministry of Displaced Persons and Refugees and competent cantonal ministries, offices and public administration; Ministry of Energy, Mining and Industry; Ministry of Education and Science; Ministry of Transport and Communication; Ministry of Urban Planning; Ministry of Labour and Social Policy; Ministry of Development, Entrepreneurship and Trade; Ministry of Health; Ministry of Internal Affairs;

- **Institutions of the Republika Srpska:** Ministry of Refugees and Displaced Persons; Ministry of Economy, Energy and Development; Ministry of Education and Culture, Ministry of Labour and Protection of War Veterans/Invalids; Ministry of Traffic and Communication; Ministry of Internal Affairs; Ministry of Urban Planning, Construction and Ecology; Ministry of Health and Social Protection;
- **BiH Brčko District Government:** Department for Displaced Persons, Refugees and Housing Issues; Department of Public Safety; Department of Communal Affairs; Department of Education; Department of Health and Other Services;
- **Public companies:** BiH Elektroprivreda; HZ Herzeg-Bosnia Elektroprivreda; RS Elektroprivreda;
- **NGOs:** BiH Union of Association of Refugees, Displaced Persons and Returnees; RS Union of Associations of Refugees, Displaced Persons and Returnees; Alliance of Croatian Refugees and Displaced Croats in BiH; Canters of Civil Initiatives;
- **International organizations:** UNHCR; World Bank; EC Delegation in BiH; EUFOR; EUPM; OHR; OSCE; UNDP; UNHABITAT; UNICEF; WHO

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We believe that efforts on drafting this revised BiH Strategy for the Implementation of Annex VII of the Dayton Peace Agreement will result in the improved access to rights guaranteed in the mentioned Agreement, for the benefit of all refugees, displaced persons and returnees who are still in need of durable and sustainable solutions.

BIH MINISTER FOR HUMAN RIGHTS AND REFUGEES

Dr Safet Halilovic

# TABLE OF CONTENTS

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<b>INTRODUCTION.....</b>	<b>8</b>
<b>I – SUMMARY OF THE CURRENT SITUATION IN THE FIELD OF REFUGEES FROM BIH AND DISPLACED PERSONS IN BIH.....</b>	<b>10</b>
<b>1. Refugees from Bosnia and Herzegovina.....</b>	<b>10</b>
<b>2. Displaced persons in Bosnia and Herzegovina .....</b>	<b>10</b>
2.1. Displacement resulting from the conflict .....	10
2.2. Registration of displaced persons in BiH in 2000.....	10
2.3. Displaced persons in BiH in the beginning of 2008.....	11
<b>3. Durable solutions for persons affected by forced migration .....</b>	<b>13</b>
3.1. Voluntary return and reintegration .....	13
3.2. Potential durable solutions for displaced persons in BiH.....	13
<b>4. Security situation .....</b>	<b>15</b>
4.1. Anti-mine activities as a security element .....	16
<b>5. Communal and social infrastructure situation .....</b>	<b>16</b>
5.1. Electrification as particularly important element.....	17
<b>6. Housing stock situation .....</b>	<b>17</b>
6.1. Need for priority renovation of a part of the housing stock.....	18
6.2. Reconstruction of a housing stock for return purposes .....	18
<b>II – ACCESS TO RIGHTS OF REFUGEES, DISPLACED PERSONS AND RETURNEES..</b>	<b>21</b>
<b>1. Return .....</b>	<b>21</b>
1.1. Return statistics .....	21
1.2. Return and other durable solutions for displacement issues .....	21
1.3. Investments in the sector of sustainable return.....	21
<b>2. Sustainable Return Elements.....</b>	<b>22</b>
2.1. Health Care .....	22
2.2. Education .....	23
2.3. Labour and Employment.....	25
2.4. Social Protection and Pension and Disability Insurance.....	26
<b>3. Repossession of property and tenancy rights .....</b>	<b>27</b>
<b>4. Compensation.....</b>	<b>28</b>
<b>III – IDENTIFIED PROBLEMS, REDOMMENDATIONS AND PROPOSALS OF MEASURES FOR IMPROVING ACCESS TO THE RIGHTS OF REFUGEES, DISPLACED PERSONS AND RETURNEES .....</b>	<b>30</b>
<b>1. Identified problems and recommendations for improving the situation in the field of return and other durable solutions of displacement problems .....</b>	<b>30</b>
1.1. Substantial completion of the process of sustainable return in BiH .....	30
1.2. Non-discriminatory access to the Annex VII rights of refugees, displaced persons and returnees .....	30
1.3. Ensure preconditions for return through reconstruction of remaining destroyed and damaged housing units of refugees, displaced persons and returnees .....	30
1.4. Monitoring and Coordination of the Return Process in the whole territory of BiH.....	31
1.5. Ensure reliable indicators on problems for the purpose of finding durable solutions for displacement problems.....	31
1.6. Final closing of collective accommodation.....	32
1.7. Housing for persons in poor social situation .....	33

<b>2.</b>	<b>Identified problems and recommendations for improving the situation in the field of security of returnees .....</b>	<b>34</b>
<b>3.</b>	<b>Identified problems and recommendations for improving the situation in the field of communal and social infrastructure.....</b>	<b>36</b>
3.1.	Identified problems and recommendations for improving the situation in the field of electrification of returnee settlements.....	38
<b>4.</b>	<b>Identified problems, recommendations and proposed measures for improvement in the field of sustainability and reintegration or returnees....</b>	<b>40</b>
4.1.	Identified problems and recommendations for improving the situation in the field of health care .....	40
4.2.	Identified problems and recommendations for improving the situation in the field of education .....	42
4.3.	Identified problems and recommendations and proposed measures for improvement in the field of labour and employment .....	44
4.4.	Identified problems and recommendations for improving the situation in the field of social protection and pension-disability insurance.....	46
<b>5.</b>	<b>Identified problems and recommendations to improve the situation relating to implementation of the access to the right of property repossession and reinstatement of occupancy rights .....</b>	<b>48</b>
<b>6.</b>	<b>Identified problems and recommendations to improve the right to damage compensation .....</b>	<b>52</b>

**ANNEX - RELEVANT LEGAL FRAMEWORK**

## **INTRODUCTION**

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

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

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

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

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

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

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

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

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

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

As guaranteed in the BiH Constitution as well as in international standards, displaced persons and returnees are entitled to the same rights as all other BiH residents. However, today, nearly 13 years since signing the Dayton Peace Agreement, many challenges remain to be overcome to ensure access to human rights for many displaced persons and returnees, particularly the most vulnerable persons who need additional financial and social support.

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

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

Therefore, it is necessary to keep the focus as well as to undertake some additional efforts towards continued support for access to the rights to safe and dignified return and full re-integration of returnees, without preferences for any group or individual, thus ensuring a



standardized and harmonized implementation of the goals set out in Annex VII of the General Framework Agreement for Peace in Bosnia and Herzegovina throughout BiH in a way to guarantee the equality of refugees, displaced persons and returnees, without questioning their right to opt for other available and preferred durable solutions, especially keeping in mind standards from the international framework for protection of displaced persons as consolidated in the *Guiding Principles of Internal Displacement*.

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

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

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

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

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

A huge problem represents the return of extremely vulnerable categories of our refugees from the host countries. Despite many years of bilateral efforts, Bosnia and Herzegovina has not managed to efficiently resolve this burning issue through the existing institutions. This particularly applies to return of mentally sick patients who are fully dependent on assistance by the country of their return. Such groups of BiH refugees live in Hungary, Croatia, as well as in some other countries. One such group of 18 refugees lives in the refugee centre in Debrecin, Hungary, while 56 refugees from BiH are accommodated in psychiatric hospitals in Croatia.

Similar examples of extremely vulnerable groups of BiH refugees – mental patients as well as other vulnerable categories of refugees, like physically and mentally disabled persons, former camp inmates, children without escort, etc., BiH has in other countries.

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

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

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

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

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

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

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

#### *- 2005 re-registration*

Revision of the number and the status of displaced persons started after compiling applications for the status revision on the whole territory of Bosnia and Herzegovina, which was finalized on 31/03/2005. On the BiH territory there were 59,825 applications submitted for (re)registration of 186,451 displaced persons.

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

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

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

According to the results of the revision of the status of displaced persons there is an increased number of Serbs in the total number of displaced persons in BiH i.e. in higher percentage of their representation in the ethnic composition of displaced persons, according to which 69,099 displaced persons (55.2%) are Serbs, 47,907 or 38.3% Bosniaks, 7,450 or 6% Croats, and the remaining 616 (0.5%) are members of other ethnicities.

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

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

Furthermore, local displacement i.e. displacement within domicile places of residence is the most frequent in urban areas where there were most socially-owned housing units/apartments. This is directly associated with the significant number of the remaining damaged or destroyed housing units in apartment buildings, the reconstruction of which, due to high renovation costs and other problems, e.g. unresolved ownership issues, etc., has not followed the return needs in a satisfactory way.

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

By linking the indicators on the number of housing units owned or used by virtue of occupancy rights by heads of displaced families, it is evident that they nearly correspond with the number of housing units of displaced persons that are currently destroyed/uninhabitable. The reason for this coincidence is that according to valid legislation one of the basic criteria for confirmation and/or

recognition of the DP status is in accordance with valid legislation, which is primarily linked to ability and/or inability to reside in pre-war housing units due to their uninhabitability and/or uninhabitability.

- *Accommodation of displaced persons in BiH*

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

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

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

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

- *Alternative accommodation of displaced persons in BiH*

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

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

- *Collective forms of housing in BiH*

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

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

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

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

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

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

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

Furthermore, by focusing on conditioning the decision on return with provision of accommodation, on one hand, reconstruction of housing stock will stimulate positive commitments in this area, while on the other hand, exercise of the right to reconstruction will reduce the needs to ensure access to housing rights of refugees and displaced persons.

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

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

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

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

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

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

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

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

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

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

- *Need for local integration*

Of the total number of displaced persons in BiH, almost one fourth of household heads explicitly said in the process of (re)registration that they did not want to return to their places of pre-war residence. Most of them have been displaced in RS, around 7,300 families or around 23,000

persons, who make around 89% of all those who do not wish to return; just above 10% (or 1,000 families/2,700 individuals) are displaced in FBiH, while the remaining 1% (around 100 families/300 persons) in the BiH Brčko District.

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

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

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

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

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

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

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

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

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

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

Beside a general note on satisfactory security situation, especially encouraging is the progress in the field of de-mining, achieved through the implementation of objectives and goals set out in the Strategy, in accordance with the background legal framework, competencies and available budget. All those positive activities have resulted in continuous significant decrease in the number of those suffering from the remaining mines and other explosive devices.

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

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

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

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

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

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

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

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

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



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

The problem of lack of electricity in housing units of returnees goes far beyond all the other problems of average returnee families by its significance and impact upon the life and activities of returnees and their families and by its far-reaching negative implications upon both the implemented and the planned return. Life without electricity is not only the life without any possibility to maintain a minimum hygiene and health, inability to initiate and develop any business activity, total information blockade leading to social exclusion, but also a serious violation of human rights.

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

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

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

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

## **6. Housing stock situation**

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

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

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

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

Based on the data gathered in the field from responsible municipal services, around 150,000 housing units have remained non-rehabilitated in BiH or around 32% of total damaged and destroyed housing stock. Most of those housing units have suffered high degree of damage up to the level of total devastation. In the Federation of BiH, around 80,000 non-reconstructed housing units remain, which makes the rate of 26% of destroyed and damaged housing stock in FBiH; around 66,000, which makes the rate of 48%, in RS; and around 3,000 non-reconstructed housing units, which makes the rate of 20% of destroyed and damaged housing stock, in the BiH Brčko District.

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

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

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

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

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

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

### **6.2. Reconstruction of a housing stock for return purposes**

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

In its previous Strategy, Bosnia and Herzegovina opted for prioritized renovation of a housing stock for return purposes (goal no. 3).

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

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

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

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

- *Potential beneficiaries of reconstruction assistance*

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

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

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

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

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

For example, according to the current Strategy, the State should be responsible for financing the cross-border and inter-entity return, while the entities should be responsible for financing the

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

other "categories", whether they have been displaced within their pre-war municipality or within the entity of their residence, which is at the same time the entity of return. This means that, based on the entered information on potential beneficiaries, the shares in financing of joint reconstruction projects of individual housing units for return purposes from the State budget and from the budget of the entities and Brčko District combined should be almost equal.

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

### **1. Return**

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

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

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

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

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

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

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

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

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

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

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

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

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

Furthermore, analytical monitoring of the process of reconstruction and return has shown that due to high level of damage of the remaining unreconstructed housing stock, and with the increase of prices, average renovation costs of housing units continue to grow.

Moreover, although reconstruction of housing units is the most basic prerequisites for the return, it does not *per se* ensure a durable solution for a displacement issue.

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

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

## **2. Sustainable Return Elements**

### **2.1. Health Care**

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

Very complicated constitutional and legal solutions within the health care system in Bosnia and Herzegovina do not ensure the functional connection between health care and human rights in the broadest sense. At the BiH level, only a very limited coordinating function of state institutions is established in the sense that plans of entity authorities are harmonized and strategies defined at the international level in health care fields.

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

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

Also, it is obvious that there are differences regarding available health care depending on the region, or more precisely, there are significant differences in participation/exclusion from participation in costs for provided health care or in physical availability of an adequate level of health care.

Moreover, "minority" returns are not adequately represented in employment in health sector, and also, persons who are insured exclusively on the basis of their status as a displaced person/returnee risk difficulties in accessing health care after losing their status.

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

## **2.2. Education**

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

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

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

Similarly, as in the health care field, actual legal and institutional competence for education in BiH is established at the level of entities, cantons and BiH Brčko District. While, on one hand, this competence is centralized in the Republic of Srpska, on the other hand, competence for education is divided in the Federation of BiH, institutionally and legally, and it is mostly cantonal competence.

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

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

Keeping in mind the ever increasing needs of returnee families to accommodate educational needs, the Minister of the Ministry of Education and Science of FBiH and the Minister of Education of the Republic of Srpska on 5 March 2002, signed the Interim Agreement on the Accommodation of Specific Needs of Returnee Children<sup>4</sup>. Subsequently, after the signing of the Interim Agreement, all ministries of education in BiH (entity and cantonal) signed the Implementation Plan for the Interim Agreement on 13 November 2002. Considering the ever growing number of returnees, their constitutional right and the right of their children to adequate education, and considering that different analysis and studies show that lack of adequate education is one of the basic obstacles for return, the goal of the Interim Agreement is to create conditions to include returnee

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

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

children in schools throughout BiH and to ensure solutions, although only temporary, which will guarantee legal equality for all constitutional peoples in BiH in the field of education.

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

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

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

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

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

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

Prominent apathy and general negative mood and attitude in society, especially among returnees and displaced persons, due to their impossibility to improve situation, continue to be challenge for engagement of all segments of society in education. Although returnee parents, children, but also teachers and other participants in the process are greatly aware of how important this segment in society is, it seems that they are not familiar enough with their rights to and in education.

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



### 2.3. Labour and Employment

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

Some major characteristics of the labour market in Bosnia and Herzegovina are:

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

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

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

Educational structure of persons in employment shows that the largest share (62.6%) are persons who completed secondary school, followed by persons who completed elementary school or lower education (23.5%) and 13.9% of persons who graduated from university.

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

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

Unemployed persons have slightly different educational structure: 69.9% persons completed secondary school, 26.1% persons completed elementary school or lower education, while 4.1% graduated from college, university or have postgraduate degree, Masters or Ph.D.

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

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

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

## **2.4. Social Protection and Pension and Disability Insurance**

### *- Social Protection*

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

Social need is a temporary or permanent state in which a citizen or a family needs assistance to overcome social difficulties and to meet their needs.

Social protection takes care of beneficiaries who are not able to work, who do not have resources to live or relatives obligated to support them and who for special reasons cannot provide means to live.

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

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

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

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

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

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

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

Competence within the Federation of BiH is decentralized and divided between the entity and cantons, while in the Republic of Srpska this field is centralized and divided between the entity and municipal authorities.

- *Pension and Disability Insurance*

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

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

In percentages, contribution rate of 24% in FBiH is applied to gross salary, while the same rate in RS is applied to net salary, which results in smaller inflow of contributions in the RS Public Pension and Disability Fund and consequently pensions are lower in this BiH entity.

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

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

However, "incompatible legislation between two entities and lack of legislation at the state level that would regulate pensions and other social income caused problems for displaced persons and returnees. Specifically, these problems occurred due to different schemes for calculation of pensions and different amounts of pensions in each entity<sup>9</sup>.

### **3. Repossession of property and tenancy rights**

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

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

The process of return of property to refugees and displaced persons was in accordance with entity property regulations, and substantially this process was completed in late 2006.

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<sup>(2)</sup> *The ruling of the European Court of Human Rights in the case D.K. against Bosnia and Herzegovina of 20/11/2007.*

According to statistics that were published by PLIP agencies<sup>10</sup>, in BiH in total 211,791 claims for repossession of property and tenancy rights were submitted, 197,815 positive decisions were made and 12,642 negative decisions. The number of closed cases is 197,688. In total, more than 99 % cases are registered as closed and this task is in the final phase of realization in BiH.

For the results that were realized regarding the repossession of property and tenancy rights, Bosnia and Herzegovina is perceived as a good example in the region, and outside the region.

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

#### **4. Compensation**

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

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

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

So far, in the application of provisions of Annex VII of the Dayton Peace Agreement, assistance for displaced persons and returnees has been focused on the return process and reconstruction of housing units at return sites, and in recent years limited assistance has begun to be focused on supporting the sustainability of return. The result of this is that persons who cannot return to their pre-war places of residence have not received assistance for durable solutions, and one possible form of this assistance is certainly compensation.

This problem is especially prominent when it comes to persons who cannot return for objective reasons, such as completely destroyed property, lack of basic infrastructure which is necessary for

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

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

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

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

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

Today, almost 13 years after the signing of the Dayton Peace Agreement, there remains resistance to introduce a formal compensation mechanism in Bosnia and Herzegovina. The reasons for this are numerous and various, including great costs and burden that any form of compensation scheme would cause to budgets. However, in the context of the revision of the Annex VII Strategy, compensation and relevant provisions of Annex VII are being discussed, especially because numerous international and local institutions and organizations believe that other forms of providing support to displaced persons should be considered apart from reconstruction of homes.

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

### **III – IDENTIFIED PROBLEMS, REDOMMENDATIONS AND PROPOSALS OF MEASURES FOR IMPROVING ACCESS TO THE RIGHTS OF REFUGEES, DISPLACED PERSONS AND RETURNEES**

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

In conditions where there is doubtless commitment and readiness at all authority levels and relevant international actors for provisions of Annex 7 of the Dayton Peace Agreement to be entirely implemented and that the process cannot be completed until the last refugee, displaced person and returnee is ensured access to rights guaranteed by this Agreement – the completion of displacement problems in accordance with the actual needs of these people is almost entirely dependant on ensuring adequate legal framework and allocating needed funds for this purpose.

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

For different reasons, there is no comprehensive program of substantial completion of the return process in BiH, from which, with the goal for unified and harmonized realization of the Annex VII objectives throughout BiH, action plans of the entities should stem, including cantons in FBiH, BiH Brčko District and municipal projects and priorities.

<p><b>1.1. Based on precise and reliable indicators it is necessary to create a plan of sustainable completion of the return process which would substantially be programmed for the period of four years, without limiting deadlines for access to rights of those who within that period do not solve their interests:</b></p>
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<p>-ensure necessary funds and implement the program in accordance with adopted principles on the whole territory of Bosnia and Herzegovina, with support and participation of all relevant domestic and international organizations and institutions, nongovernmental sector, representatives of civil society, through participatory mechanisms of participation of refugees, displaced persons and returnees.</p>
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##### **1.2. Non-discriminatory access to the Annex VII rights of refugees, displaced persons and returnees**

Durable solutions to displacement problems cannot be restricted to refugees and those displaced persons having the formal and legal status but must encompass supporting returnees and also should be adjusted to the actual needs of all persons who were affected by consequences of the conflict.

<p><b>1.2. The legal framework reforms are necessary that will ensure legally equal access to rights of refugees, displaced persons and returnees in the formal status and of all persons who are <i>de facto</i> displaced.</b></p>
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##### **1.3. Ensure preconditions for return through reconstruction of remaining destroyed and damaged housing units of refugees, displaced persons and returnees**

Due to partial and fragmented interventions in the field, costs of sustainable return per returnee family are high. By moving to the "project approach" in realization of the return process and concentration of assistance to micro-localities of return, these costs will decrease significantly, which would result in a larger number of beneficiaries that would be covered by available funds.

A special problem is a considerable number of remaining destroyed and damaged housing units in multiple family apartment buildings which have not been reconstructed due, among other things, to high reconstruction costs. Consequently, a large number of refugees and displaced persons, even though formally they have regained their tenancy rights, are not able to substantially realize their right to return.

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

- Increase allocations in budgets at all authority levels in BiH,
- Active approach on the part of international and domestic donor community,
- From funds of unallocated VAT surplus,
- From funds of privatization funds,
- Specific-purpose loans,
- Public and private partnership.

**1.4. Monitoring and Coordination of the Return Process in the whole territory of BiH**

Monitoring as a component part of the project cycle represents unavoidable and irreplaceable instrument of project management and quality assurance for end users. The monitoring process assists both providers and beneficiaries in monitoring realized results in comparison to the planned ones.

In order to create preconditions for successful cooperation of different participants in the return process and in the making of quality decisions, it is necessary to ensure efficient and comprehensive monitoring of projects of sustainable return in BiH.

**1.4. In order to successfully coordinate the return process throughout BiH, it is necessary to improve monitoring of sustainable return projects:**

- Build technical and personnel capacities of the Regional Centers of the Ministry for Human Rights and Refugees
- Improve the monitoring process of joint projects of integrated return and reconstruction, with a mutual cooperation and exchange of information among institutions, and in that way ensure a necessary level of coordination of this process.

**1.5. Ensure reliable indicators on problems for the purpose of finding durable solutions for displacement problems**

The peace agreement was signed 13 years ago. It is difficult to say how many refugees and displaced persons have found durable solutions through return. Results have been achieved in the return process, reconstruction of housing units and sustainable return, but except for a good "picture" of the situation in the field in terms of the return process, there are no correct records about the number of reintegrated returnees in their previous places of residence.

**1.5. Improve database on potential beneficiaries of assistance who need durable solutions,** through assistance and involvement of all competent authorities and departments in BiH, relevant international institutions and organizations, civil society, nongovernmental sector, and especially associations representing refugees, displaced persons and returnees:

Upgrade software/web application of a single BiH database that would enable prioritization of claims for reconstruction by including new options for entering documents that prove fulfillment of general and special criteria for receiving assistance, earlier use of assistance by which de-registration of potential beneficiaries would be done, entry of data on the condition of a housing unit and the overall picture of the situation in the field, with general assessment of reconstruction costs;

- Establish a single database on returnees in BiH and based on it define program tasks

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

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

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

#### **1.6. In order to finally close collective accommodation it is necessary to determine methodology of how to get the overall picture of the situation in this field in the territory of BiH:**

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



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

There is disproportion between the actual needs and possibilities to finance different modalities of housing with the goal to find durable solutions for displaced persons and other socially vulnerable categories of population in need of social housing.

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

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

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

- There is no coordination and general integrative approach of invited subjects that are competent and responsible to improve security situation in BiH;
- Lack of official condemnation of individual or group attacks against personal and property safety of returnees by members of other ethnic groups, and reported incidents are not satisfactorily investigated and prosecuted;
- Sometimes media inconsiderately and without previous verification with their hasty reporting about attacks and assaults against returnees and their property damage co-living and reintegration of returnees into local community;
- There is no detailed information on the number and character of incidents concerning attacks against returnees and their property, nor are there separate records about them, which is indicative in itself, and more importantly, consistent exchange of information among responsible police and judicial bodies and institutions on these issues is not satisfactory. This affects up-to-datedness of information on the outcome of court proceedings regarding complaints submitted for initiation of misdemeanour or criminal proceedings. It is necessary to say that assessments of security situation in BiH, provided by governmental institutions and especially by non-governmental sector often differ. Such assessments are separate and subjective and therefore they cannot objectively provide the overall picture of the situation in the field;

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

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

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

**2.2** Take the initiative that staff representation and ethnic balance of employees in police structures should be in accordance with the decision of the Constitutional Court of BiH on the constituency of peoples, and in this way discrimination in employment of returnees

compared to domicile population would be avoided, which would surely improve the situation in the field of security.

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

**2.3** Ensure that the BiH Ministry of Civil Affairs links the process of revision of the Strategy for Implementation of Annex VII of the Dayton Peace Agreement, with the process managed by the Public Prosecutor's Office in preparation and adoption of the National Strategy on War Crimes. Ensure coordination that would help to improve security situation of returnees. The nature of this coordination requires further joint activities of the BiH Ministry of Civil Affairs and the Public Prosecutor's Office.

- In practice there are cases when a certain number of misdemeanours and criminal offences are not reported to police out of fear of consequences or because of general lack of trust in police and for that reason such cases are not processed and perpetrators go unsanctioned. This is one of the reasons why reports and assessments of the security situation for returnees coming from non-governmental sector differ from official reports by competent police authorities;
- There are different cases in the field when returnees report threats to their own life, destruction, usurpation and exploitation of private property, and police structures do not respond and do not take measures prescribed by the law, which contributes to mistrust in competent institutions in places of return;

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

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

**2.5** Within the Anti-Mine Action Strategy in BiH, the BHMIC should continually develop partner cooperation with all relevant subjects in order to ensure support and conditions for a more efficient anti-mine action. Constantly improve communication with the public regarding anti-mine action by means of organizing education where special attention should be paid to the means of informing local communities that face mine contamination problems. Exchange information with members of the Civil Protection about competences in realization of de-mining plans and about presence of

de-miners in a certain area. Also, it is necessary to organize and initiate appropriate campaigns in this field. In this way full cooperation between the BHMAL, the Civil Protection and local community will be established regarding the procedure of de-mining and exchange of information on locations of mines and explosive devices.

- Mine victims are treated as civil war victims in the law and medical assistance for survivors and members of their families is minimal and insufficient, and therefore there is no full involvement of mine victims in the community;

**2.6** Support faster procedure for creation of the new *Law on De-mining of BiH* and the Anti-Mine Action Strategy in BiH for the period 2009-2019. In this way secure conditions for stable and continued financing and improvement of organizational structure at all levels, better security of citizens and good support and assistance to mine victims and their families and their inclusion in the community, through different kinds of aid programs.

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

**2.7** During the drafting of de-mining plans it should be ensured that areas where refugees and displaced persons return are prioritized and in addition to the de-mining of housing units and adjacent lands and properties special attention should be paid to the de-mining of the overall infrastructure facilities. Competent authorities should introduce simplified procedures for submitting de-mining requests.

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

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

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

- There is disproportion between investments in reconstruction of infrastructure facilities as a whole and the needs for reconstruction of remaining damaged and destroyed social and communal infrastructure in BiH.
- The fact that causes concern is that not a small number of returnees for years after return still do not have access to electricity, drinking water, sewage system, roads, etc., and many other components of communal and social infrastructure.

- Regarding this, the Committee on Economic, Social and Cultural Rights confirmed that Bosnia and Herzegovina was not able to implement economic, social and cultural rights in their entirety<sup>11</sup>.
- In addition to the problem of lack of funds needed for overall reconstruction, often there are obstructions against return in some local communities through discriminatory treatment of returnees and in some areas there is incomprehensible "disinterest and ignorance" on the part of local authorities about the needs in their own area.
- Additional problem is that a number of local communities do not respect real priorities, and therefore infrastructure projects are implemented where there is no significant interest for return, and due to inadequately selected projects, real returnees remain deprived and this makes sustainability of their return even harder and in some cases it is brought into question.
- At the same time, there were negative examples where implementation of infrastructure projects did not include monitoring of results, which was good for misuse and which created mistrust in institutions on the part of returnees.
- Furthermore, fragmented interventions in the field where reconstruction of housing units was not followed by reconstruction of communal and social infrastructure resulted in costs of sustainable return per returnee family to be significantly higher.
- With better project approach in the realization of the return process and with concentration of assistance to micro-localities these costs will surely be smaller.

- 3.1.** As a priority, funds for reconstruction of communal and social infrastructure should be provided for the needs of returnees who returned to their reconstructed housing units, and who still do not have access to a number of their rights such as reconstructed communal, social and public infrastructure.  
Necessary funds for return purposes should be provided from the following sources:
- Increased allocations in annual budgets at all authority levels in BiH, international and domestic donor community;
  - Co-financing by authorities at different levels and participants in the project (pooling of funds, construction material, working force, and other forms of participation);
  - Unallocated VAT surplus;
  - Privatization funds;
  - Loans for this purpose.
- 3.2.** Establish database on the state of infrastructure in BiH, for the needs of potential beneficiaries of assistance - returnees, through support and involvement of all competent bodies and departments in BiH, relevant international institutions and organizations, civil society associations representing displaced persons, refugees and returnees.
- 3.3.** Adopt criteria for selection of priority locations (particularly keeping in mind poorer municipalities), where reconstruction of infrastructure facilities is needed based on which selection and implementation of projects will be carried out in a transparent manner through public invitations. In that respect, it is necessary to establish commissions at local level for selection of priority projects, similarly as commissions were established for selection of beneficiaries of assistance for reconstruction of housing units.

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

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

- 3.4.** The BiH Ministry for Human Rights and Refugees, in accordance with its coordinating role, should compile all requests and information relevant for reconstruction of water and sewage network and reconstruction of social infrastructure facilities. In that sense, it is necessary to improve cooperation in terms of exchange of information with institutions responsible for infrastructure facilities and especially with local authorities that will be the primary bearers of proposing and implementing projects.
- 3.5.** It is necessary to improve cooperation with non-governmental sector-associations of returnees, which with their direct presence in the field always have more information and therefore they can be a significant corrector of possible obstructions in the field. For projects that are implemented through the Return Fund, it is necessary that institutions at all levels, which propose and implement infrastructure projects, have obligation to submit information about this to the BiH Ministry for Human Rights and Refugees, for the purpose of updating single database on the condition of infrastructure.
- 3.6.** Keeping in mind technical particularities of infrastructure facilities, it is necessary at the BiH level to pool funds for repair, reconstruction and construction of facilities from the highest to the lowest category of infrastructure facilities. Implementation of complex infrastructure projects should be carried out by competent and expert organizations, which are legally responsible for execution of works on protection, maintenance and exploitation of complex and demanding categories of infrastructure that are not in the territory of only one municipality. Implementation of projects of repair, reconstruction and construction of other communal, public and social infrastructure may be carried out by municipalities, cantons, entities and the BiH Return Fund. For the purpose of transparency and rational spending, donors and implementers are obligated to provide adequate monitoring.
- 3.7.** In the period of application of the Strategy priority should be given to prominently undeveloped municipalities which have that status defined by law or by some other regulation, and to municipalities where real return has been registered.

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

During the years following the war almost all the assistance for returnees, especially budgetary assistance, was channelled for reconstruction of housing units, meaning that «ensuring roofs above heads» was almost always considered as the priority.

Investments into sustainable return including electrification of location/facilities of realized and planned return became more significant only during the past years when majority of activities on repossession of property and reconstruction of a housing stock was finished. That trend is increasing but it is still not sufficient enough.

Municipal data for 2007 may serve as an example, according to which out of the total amount of means invested into sustainable return, under which water supply system, roads, social

infrastructure, assistance with employment, etc., that only 10% (amounting approximately 7 million KM) has been invested into electrification, which indicated to a large disproportion between the needs and means invested.

No large donations exist after "withdrawal" of USAID who supported electrification of returnee housing units. Also in light of the fact that electrification cannot be realized without the participation of the public electro-distribution companies who are owners of the basic means and beneficiaries of income of the electro-energy infrastructure which is planned for reconstruction, and the fact that they are obliged to maintain and develop the electro-energy system, the idea of investing into the basic means of the electro-distribution companies for the purposes of return at least is not acceptable for a certain number of donors.

Generally, a continuously decreasing trend of donations, especially in rural locations of return where it is necessary to invest larger financial means for the repair of electro-network for a small number of returnees, resulted with a large number of returnee locations/facilities without electricity. Current donors in most of the cases apart from reconstructing housing units ensure less than 10% of the project's values into infrastructure needs, which is still not intended for electrification.

Electro-distributions have engaged themselves with connecting housing units of returnees mainly in cases where it has not been necessary to allocate larger financial means. Those were most often facilities which could have been connected in accordance with the Agreement, and facilities which received a donation, most often in electro material. Market oriented electro-distribution companies do not recognize as their priority locations/units of return for which larger financial means need to be ensured for electrification per unit/returnee.

- 3.1. 1. Permanently build and strengthen efficient system of information exchange** between the BiH Ministry for Human Rights and Refugees and electro-distribution companies, competent Entity and Cantonal Ministries, Municipalities, the Non-Governmental Sector, local and international donors for the purpose of following and recording the situation in the field, ensuring and planning the consumption of means, the manner of follow up and the realization dynamics and the evaluation of the electrification project.
- 3.1. 2.** The BiH Ministry for Human Rights and Refugees shall in accordance with its coordinating role **continue to collect and harmonize all information** relating to the electrification of locations/units of realized and planned return.
- 3.1. 3.** The BiH Ministry for Human Rights and Refugees shall in cooperation with Ministries competent over the energy sector in BiH **work on removing all obstacles for unhindered electrification of returnee locations**, including changes of legal provisions regulating these issues.
- 3.1. 4. Electrification of locations/units of realized return and planned return** is an existential need and the right of any returnee is undisputable as well as the interest of all structures of the society and **it needs to be recognized as a priority** by the side of all levels of authorities, including municipalities, especially by the side of electro-distribution companies who are owners of electro-distribution networks in the areas of their responsibilities.
- 3.1. 5.** All measures mentioned have to ensure **equal and non-discriminatory access** of returnees to the electro-distribution networks on the whole territory of BiH. In that sense, the cooperation of institutions of authorities with the non-governmental sector is of crucial importance.

- 3.1. 6.** The BiH Ministry for Human Rights and Refugees shall by way of the Commission for Refugees and Displaced Persons once a year for the period of next 3 years **make a List of electrification priorities per municipality** on the basis of criteria determined for electrification needs of locations/units of realized return. This list shall be public and accessible to all relevant actors and submitted to them, aiming incorporating priorities into yearly plans of electrification by electro-distribution companies.
- 3.1. 7.** Electro-distribution companies **shall harmonize their electrification plans with the List of priorities**, mentioned in the previous item.
- 3.1. 8.** During the realization of electrification projects all participants shall in accordance with their competencies propose and use economically-technical solutions, procedures simplified and efficient up to a maximum, and **decrease administrative and other expenses of beneficiaries/returnees to the maximum extent possible.**
- 3.1. 9.** Aiming prevention of new cases of realized return in which returnees would again have to live in units without connection to electricity **electrification and reconstruction of units of planned return has to be synchronized** and inclusion of the obligation of connecting the reconstructed facility to the electro-distribution network has to exist.
- 3.1. 10. Ensure financial means for the realization of electrification projects of locations/units of realized and planned return**, primarily by the side of electro-distribution companies who are owners of electro-distribution networks and have the responsibility for their reconstruction, as well as all levels of authorities including municipalities, by way of the following:
- Increased allocation of planned funds from own budgets;
  - Allocation of means from the BiH Return Fund;
  - Planned crediting charges;
  - Joining of financial means and other views of participation (materials, labour, etc.);
  - Animating international and local donors;
  - Stimulation and development of partnership aiming the realization of the joint goal.

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

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

- A high level of uninsured persons ensues from the fragmented legal and institutional framework and the fact that contributions for health insurance are not paid, since contributions represent the key system of financing the health sector;
- Also, non-harmonized regulations in other fields influence exercising the right to health care;



- Fear of loss of acquired rights in places of displacement;
- Difficulties within the application of the *Agreement on the Manner and Procedures of Applying Health Care of Ensured Persons on the Territory of Bosnia and Herzegovina*, outside the territory of Entities, i.e. Brčko District under which ensured persons are covered;

**4.1.1.** Start with the initiative within the frame of the BiH Ministry of Civil Affairs on changing and amending the Agreement on the Manner and Procedures of Applying Health Care of Ensured Persons in the territory of Bosnia and Herzegovina, outside the territory of Entities, i.e. Brčko District of BiH under which insured persons are covered, regarding the access to the right to health care of displaced persons and returnees;

- The issue of terminology within regulations relating to refugees, displaced persons and returnees ("basic health care" and similar) is not harmonized with the terminology used within regulations dealing with health care and health insurance;

**4.1.2.** Initiate activities on changing and amending the *Law on Refugees from BiH, Displaced Persons in BiH and Returnees* aiming at harmonization of terminology used in Entity laws and laws of the BiH Brčko District, dealing with issues of health care and health insurance;

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

**4.1.3.** Initiate activities on harmonizing duration of returnee status in the current legal regulations at all levels;

- Issue of continuous and obligatory health care for children regardless the status of their parents;

**4.1.4.** Start with activities by which the changes and amendments to the existing legislation in Entities and Brčko District of BiH would ensure a solution on the basis of which the children will have a status of ensured persons from their birth on, regardless the status of their parents;

**4.1.5.** Initiate activities which by way of changes and amendments of the current legislation in Entities and Brčko District of BiH would ensure solutions on the basis of which children during the time of their regular education in elementary and secondary schools, i.e. their regular attending of university would have health care until the age of 26, in the case they are not insured on the basis of insurance of their parents;

- The problem of acquiring health care of uninsured persons above the age of 65;

**4.1.6.** Initiate activities which by way of changes and amendments of the current legislation in Entities and Brčko District of BiH would ensure solutions on the basis of which persons of the older age group (uninsured persons above the age of 65) would have health care regardless of their relatives whose duty is to take care of them;

- The problem of deadlines to apply to the Bureau for Employment on the basis of which the right to health care is acquired;

**4.1.7.** Initiate activities which by way of changing and amending the current legislation would remove deadlines for applying to the Bureau for Employment, which is considered as the basis for health care of unemployed persons;

- Insufficient informing of returnees and possibilities of exercising their rights to health care;
- The current legal framework does not consider the specific situation of returnees with regard to their access to health care and in terms of conditions of using the health care i.e. participation;

**4.1.8.** Harmonize and balance the unequal conditions of using the health care in order to enable returnees to use health care in places of return, specially with regard to incongruous solutions relating to exemption of payment of fees for certain categories of persons;

- Persons who are exclusively insured on the basis of DP/returnee status shall face a problem of acquiring health care on some other basis upon losing that status and the health care ensuing from that status because they could not acquire this right on any other basis;
- A returnee as a category of an insured person is not recognized in all existing legislation on health care and health insurance at the level of entities, i.e. Brčko District of BiH.

**4.1.9.** Enable persons who are holding health care on the basis of their status of a DP/returnee exclusively, to have unhindered inclusion into the health care upon cessation of that status (e.g. persons who are hardly facing a better situation but those who have the right to health care as social categories and therefore cannot be insured as such, but fall under the criteria of the most vulnerable persons).

- Displaced persons and returnees are facing the same problems as all other vulnerable categories of citizens which cannot acquire the right of health care holder, including additional problems caused by displacement;

**4.1.10.** Start with the initiative on harmonizing legislation regulating the status of certain categories (civil victims of war, disabled war veterans, families of fallen soldiers, families in situations of social need, etc.), which influence exercising the right to health care;

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

- Legal obstacles – lack of will of local authorities to sufficiently respect, protect and implement human rights of returnees, specially economic and social rights still present a huge obstacle in the return's sustainability;
- Non-compatibility of state, entity and cantonal education laws;

- Non-compatibility of state, entity and cantonal bylaws on education;
- Problem of non-detecting durable solutions for issues of education of returnees and satisfying special needs and rights of all constituent people and national minorities;
- Lack of will of local authorities to sufficiently respect, implement signed Agreements in the field of acquiring rights to education still represent a large obstacle in return's sustainability;
- Problem of applying Criteria on the Titles of Schools, school symbols and school events;
- Politicizing of education is still present, school plans and curriculums are divided and defined in accordance with national principles;
- Certain school books from the group of national subjects (language and literature, history, geography and religion), encourage segregation, emphasizing culture of only one ethnicity, emphasizing vulnerability of persons of own ethnicity, insufficiently encourage development of critical opinion and inclusion within education;
- Different practice in lecturing subjects from the national group of subjects;
- Systematic lecturing of the national group of subjects in a systematic and continuous manner is not ensured where the number of students is under the pedagogic standards;
- Presence of discrimination and segregation of students in the practice;
- "Two schools under one roof" still exist in the Federation of BiH;
- Practice of transporting students to schools for one ethnicity outside the enrolment area has not been eliminated yet;
- Complex and non-harmonized procedures of recognizing certificates of international schools;
- Economic difficulties and lack of mechanism for providing support influence accessibility of education of returnee and DP children;
- Problems and different practices while realizing the right to education of returnee and domiciled population in the bordering areas of BiH.

**4.2.1.** Until permanent, systematic solutions are established at BiH level, the revision of the strategy should request consistent implementation of the Interim Agreement on Accommodating Specific Needs and Rights of Returnee Children, in order to protect returnee children and to avoid the education becoming a barrier for return of displaced persons and their children;

**4.2.2.** The Coordination Board should continue with coordination of implementation of Interim Agreement until harmonized system and regular control mechanisms will have been established in education system;

**4.2.3.** Solution of the issue of "two schools under the same roof" is necessary meaning that education should be jointly organized for members of constituent peoples and minorities;

- 4.2.4.** It is necessary to insist on the application of the *Framework Law on Elementary and Secondary Education*. In accordance with the adopted framework Law on state level, perform Entity Laws, Law of the Brčko District of BiH as well as the Cantonal Laws and bylaws.
- 4.2.5.** Protect children from manipulations and abuses;
- 4.2.6.** Consistent implementation of Criteria on titles of schools, school symbols and school events with the aim of creating and ensuring welcoming to all peoples, parents and school staff;
- 4.2.7.** Create and draft framework goals and joint standards for school plans and curriculum;
- 4.2.8.** Create and implement extra-curricula, cultural and other activities and local community programs that foster tolerance and understanding for anything that is "different";
- 4.2.9.** In cooperation with the competent Ministries of Education, create a unique data-base on BiH level upon making a detailed analysis of situation in the field: causes, consequences, possible solutions;
- 4.2.10.** Provide increased budget allocations for supporting systematic education solutions;
- 4.2.11.** Undertake measures and inform returnees and displaced persons about their rights and existing mechanism for applying legal remedies;
- 4.2.12.** Together with the competent Ministries, Regional Centres of the BiH Ministry for Human Rights and Refugees in Sarajevo, Banjaluka, Tuzla and Mostar, which have the monitoring role in the implementation of the Agreement perform monitoring and in addition to that ensure the level of coordination and harmonization of activities in the field of acquiring rights to education of displaced persons and returnees;
- 4.2.13.** Educate the teachers on responses to specific psycho-social and pedagogical needs of displaced and returnee children, that would facilitate their reintegration into the community;
- 4.2.14.** Continuously educate teachers in schools and promote and develop tolerance and acceptance and understanding of the «different»;
- 4.2.15.** Improve capacities of teachers in schools in returnee settlements and schools with combined classes;
- 4.2.16.** Support teaching staff in the areas of return who are faced with the problem of lacking school resources and complications in school plans and curricula;
- 4.2.17.** Establish a method to facilitate access to education of persons who are in economically non-favourable position due to displacement and hard realities of life of a returnee.

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

- Main obstacles in realization of the right to labour in Bosnia and Herzegovina are of complex economy situation, the slow recovery of economy and non-completed process of transition of ownership and discrimination in labour and employment practices;

- On the whole territory of Bosnia and Herzegovina returnees have difficulties to integrate as they are not in the possibility to ensure the basic existential conditions for living and they are often deprived the right to labour and employment under equal conditions;
- Access, in practice, to the right to health care of displaced persons and returnees is closely bound to acquisition of the right to labour;
- Deadlines to apply with the Bureau for Employment upon return represent a problem for returnees and directly affect the return's sustainability. Many returnees are facing difficulties with respecting given deadlines, whether its to do with lack of information provided, non-possession of documents, sickness and physical disability of registration, etc. The fact that they have not registered to the Bureau of Employment in the given deadline often results with the loss of numerous other rights and benefits, such as health insurance;
- Non-existence of the official records on the real number of returnees with regard to the fact that the real number of returnees is hard to determine because returnees who repossessed their property but who sold their properties or exchanged it soon upon its repossession and changed the place of permanent residence;
- Lack of educational programs of vocational trainings for the returnee population who are able to work.

- 4.3.1.** Follow the Decision of the BiH Constitutional Court on constitutionality of peoples in BiH through employment of returnees in authorities, institutions, public administration and public companies mostly owned by the state, with the purpose to achieve the principle in accordance with the 1991 census, and make greater efforts, including adoption and application of necessary implementing regulations in order to follow and ensure constitutional and legal provisions relating to the access to the right to employment without discrimination;
- 4.3.2.** Introduce employment measures aiming promotion of all types of employment, self-employment and vocational training;
- 4.3.3.** Promote employment of targeted groups of BiH citizens, such as returnees and displaced persons and ensure means for facilitating economy subjects to the issue of employing returnees and displaced persons;
- 4.3.4.** Significant means should be allocated within the budgets of the competent ministries to finance employment, self-employment and vocational training of returnee population and displaced persons. Special attention should be given to investing larger means for those returnees who are already dealing with agriculture and cattle breeding.
- 4.3.5.** Higher means for employment of returnees and displaced persons should be allocated in the competent Bureaus for Employment, e.g. co-financing of salaries or contributions of returnees and displaced persons for a certain period of time;
- 4.3.6.** Ensure financial means in the BiH Return Fund, for the purpose of employing returnees and displaced persons;
- 4.3.7.** Work on promoting programs of employment of returnees and displaced persons aiming ensuring donor means for financing projects of micro-crediting, different shapes of grants for initiation of certain business as well as the evaluations of vocational training;

- 4.3.8.** Strengthen mechanisms in municipalities of return to ensure returnees' equality, non-discrimination and full integration into the local community, including in the labour and employment sector;
- 4.3.9.** Establish mechanisms of continuous and full provision of information to displaced persons and returnees on employment programmes aiming equal participation of the labour market;
- 4.3.10.** Analyze legal solutions and propose measures for improving the conditions in the field of acquiring the rights to labour and employment of returnees and displaced persons within the frame of institutions in Bosnia and Herzegovina competent over issues of labour and employment.

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

Although Annex VII of the Dayton Peace Agreement in Article 2 prescribes that adequate conditions for return have to be created, and that among other things adequate social conditions for voluntary return without discrimination have to be created, when it comes to realization of social rights this is hard to implement.

The existing legislation does not ensure equal level of social protection to all categories of population, including refugees and displaced persons. On the other hand, achieving minimum standards on the whole territory of the country is obligation within preparations for the integration into the European Union.

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

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

- Incompatibility of relevant inter-entity regulations prevents exercise of the right to social protection on equal grounds and in equal amounts for all BiH citizens, with reference to refugees, displaced persons and returnees;

- Fundamental right of each BiH citizen to minimum social protection (social minimum) is legally not defined;
- Unequal treatment of returnees in the sense of exercise of their right to social protection;
- Lack of resources for social protection on the Entity level, affecting cantons in FBiH and municipalities in RS and eventually all persons in extreme need of social welfare, particularly displaced persons and returnees;
- Slow processing of the requests for rights of social protection in return areas;
- In some cantons of FBiH provision that the right to social protection can be exercised only after 6-12 months after the date of registering in the place of permanent residence is not in accordance with international regulations on protection of human rights, which brings returnees into specially unfavourable position;
- Constant lack of staff, lack of materials and technical equipment in both entities results in a low level of realization of social protection rights, and ethnically imbalanced representation in social protection services /centres of social welfare contributes to mistrust in the system of social protection on the part of returnee population;
- Increased poverty amongst the population of refugees, displaced persons and returnees and growing social exclusion;
- With a view to treating and protecting equally human rights of returnees who are pension recipients, pension and disability insurers in both entities should initiate activities to amend the *Agreement on Mutual Rights and Obligations in the Implementation of Pension and Disability Insurance* on undivided legal and economic BiH territory. Consequently, pensioners who have returned to their pre-war habitual residences would be equalized with pensioners whose pensions have been paid by the Entity pension and disability insurer. Thus any "discrimination" in the amount of pensions would be avoided, in case that the pension is higher in the other Entity, given that the problems have arisen from the different pension calculation schemes and different pension amounts in each Entity, with a view to intensifying access to pensions by returnees returning from one Entity to the other."<sup>12</sup> This obligation is also contained in the ECtHR judgment on the case *Duško Karanović v. BiH*.
- It is evident that responsible authorities are not adequately implementing activities that would result in adequate informing of returnee population about their social protection rights.

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

- 4.4.1. To initiate legal determination of a social security minimum (social minimum) in BiH and social assistance for vulnerable groups in social need, including returnees and displaced persons.
- 4.4.2. To initiate harmonization of entity and Brčko District laws on social protection, protection of civilian war victims and children's protection in terms of defining fundamental rights and beneficiaries with allocation of significant funds by the government of both entities.
- 4.4.3. To strengthen staffing and technical capacities of social welfare centres in both entities with determination of standards, procedures and normative with a view to providing more efficient services to beneficiaries - returnees and displaced persons.
- 4.4.4. To adopt amendments to the *Inter-entity Agreement on Mutual Rights and Obligations in the Implementation of Pension and Disability Insurance* on the undivided legal and economic BiH territory.
- 4.4.5. To establish mechanisms that ensure keeping records on returnees in BiH with a view to determining a number of existing and potential returnees in order to be able to plan further measures and methods for socio-economic care of those persons.
- 4.4.6. Centres for Social Welfare and competent authorities at all levels should continuously implement targeted and intensive media campaign and other forms of outreach to inform returnees and displaced persons on their social rights.
- 4.4.7. To establish – in local communities – multidisciplinary teams with representatives (of social welfare centres, competent municipal authorities, NGOs, medical institutions) who would plan, on the basis of the assessments, activities focused on social care of returnees.
- 4.4.8. In cases when it favourably responds to returnees enable keeping their previously acquired social rights, pending harmonization of relevant legislation in BiH.
- 4.4.9. To amend regulations in order to simplify procedures and opportunities for a more frequent implementation of a lump-sum financial assistance, which has been confirmed in practice as a type of social benefits.
- 4.4.10. To establish a continuous co-operation with NGOs dealing with provision of social services and intervenient social assistance to displaced and returnee population.
- 4.4.11. To increase allocations for sustainable return projects on all levels, that would contain a targeted line for social needs of returnees.

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

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



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

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

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

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

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

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

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

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

In certain areas of Bosnia and Herzegovina, a high number of disputes has been instigated by pre-war users of the property, challenging legality of the implemented expropriation.

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

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

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

- *Special cases*

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

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

This problem is additionally complicated by the fact that users of those housing units largely fell under the category of socially vulnerable population in Bosnia and Herzegovina.

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

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

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

- *Repossession of military apartments*

The Commission for Real Property Claims of Displaced Persons and Refugees is a legal successor of the CRPC Commission composed of representatives of international community and whose

mandate was to verify occupancy rights, ownership rights and possession rights over the claimed property on the date of 1 April 1992.

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

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

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

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

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

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

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

## **6. Identified problems and recommendations to improve the right to damage compensation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It was underlined that the competent State, Entity and cantonal ministries and bodies shall, within the shortest deadline from the adoption of the revised State Strategy for the Implementation of the DPA Annex VII, make an assessment and a solid summary of the actual situation, jointly with the competent Brčko District Services, through municipal offices in BiH, and in close co-operation with UNHCR. This assessment will constitute a background for drafting relevant regulations for this issue.

Of utmost importance is to regulate the following issues during the drafting process of the legislation:

- Definition of categories of persons who will have the right to priority compensation;

- Types of compensational schemes;
- Time period covered by the right to compensation;
- Procedural issues, competent authorities, etc;

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

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

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

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

## **ANNEX**

### **Relevant Legal Framework**

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

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

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

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Nada Spasojević, Abela Pobrić-Poturović, Minka Smajević,  
Azra Hadžibegić

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*Sarajevo, October 2008*

## ANNEX – RELEVANT LEGAL FRAMEWORK

<b>I - MEĐUNARODNI PRAVNI INSTRUMENTI .....</b>	<b>57</b>
<b>II - KLJUČNI PROPISI I OSNOVNE NADLEŽNOSTI .....</b>	<b>58</b>
<b>III – PROPISI PO OBLASTIMA.....</b>	<b>59</b>
<b>1- Sigurnost i deminiranje 59</b>	
1.1. <i>Bosna i Hercegovina</i>	59
1.2. <i>Federacija BiH</i>	59
1.3. <i>Republika Srpska</i>	59
1.4. <i>Brčko distrikt BiH</i>	59
<b>2- Infrastruktura, obnova i izgradnja 59</b>	
2.1. <i>Federacija BiH</i>	59
2.2. <i>Republika Srpska</i>	59
2.3. <i>Brčko distrikt BiH</i>	59
<b>3- Zdravstvo 60</b>	
3.1. <i>Bosna i Hercegovina</i>	60
3.2. <i>Federacija BiH</i>	60
3.3. <i>Republika Srpska</i>	60
3.4. <i>Brčko distrikt BiH</i>	60
<b>4- Obrazovanje 60</b>	
4.1. <i>Bosna i Hercegovina</i>	60
4.2. <i>Federacija BiH - kantonalni propisi</i>	61
- <i>Predškolski odgoj i obrazovanje</i>	61
- <i>Osnovno obrazovanje</i>	61
- <i>Srednje obrazovanje</i>	62
- <i>Visoko obrazovanje</i>	62
4.3. <i>Republika Srpska</i>	63
4.4. <i>Brčko distrikt BiH</i>	63
<b>5- Rad i zapošljavanje 63</b>	
5.1. <i>Bosna i Hercegovina</i>	63
5.2. <i>Federacija BiH</i>	63
5.3. <i>Republika Srpska</i>	63
5.4. <i>Brčko distrikt Bosne i Hercegovine</i>	63
<b>6- Socijalna zaštita 63</b>	
6.1. <i>Federacija BiH</i>	64
6.2. <i>Republika Srpska</i>	64
6.3. <i>Brčko distrikt BiH</i>	64
<b>7- Imovina i stanarska prava 64</b>	
7.1. <i>Federacija BiH</i>	64
7.2. <i>Republika Srpska</i>	65
7.3. <i>Brčko distrikt BiH</i>	65



<b>I - MEĐUNARODNI PRAVNI INSTRUMENTI</b>
Evropska deklaracija o evropskom prostoru za visoko obrazovanje, „Bolonjska deklaracija“ (1999)
Evropska konvencija o akademskom priznavanju univerzitetskih kvalifikacija (1959)
Evropska konvencija o jednakosti diploma koje vode sticanju prava prijema Univerziteta (1953) i njen Protokol (1964)
Evropska konvencija o jednakosti dužine trajanja univerzitetskih studija (1956)
Evropska konvencija o općoj jednakosti dužine trajanja univerzitetskih studija (1990)
Evropska konvencija o priznavanju kvalifikacija visokog obrazovanja u evropskom regionu (1999)
Evropska Konvencija o priznavanju studija, diploma i zvanja u oblasti visokog obrazovanja u državama koje pripadaju evropskom regionu (1979)
Evropska konvencija o sprečavanju mučenja nehumanog ili ponižavajućeg tretmana ili kažnjavanja (1987)
Evropska konvencija o zaštiti ljudskih prava i temeljnih sloboda (1950)
Evropska konvencija za regionalne jezike i jezike manjina (1994)
Evropska socijalna povelja - revidirana (1996) koja je potpisana ali još uvijek nije ratificirana
Evropski prostor visokog obrazovanja, ostvarenje ciljeva, komunike Konferencije ministara nadležnih za visoko obrazovanje u Bergenu (2005)
Fakultativni protokol uz konvenciju o ukidanju svih oblika diskriminacije žena (2000)
Kopenhagenska Deklaracija evropskih ministara za stručno obrazovanje i usavršavanje i evropske komisije po pitanju evropske saradnje u stručnom obrazovanju i usavršavanju (2002)
London komunike (2007)
MAGNA CHARTA UNIVERSITATUM – Velika povelja univerziteta (1988)
Međunarodni (bilateralni) sporazumi o socijalnom osiguranju
Okvirna konvencija za zaštitu nacionalnih manjina (1994)
Oblikovanje evropskog prostora visokog obrazovanja, Poruka iz Salamanke (2001)
Obrazovanje za sve (Education for All – EFA), Dakarski okvir za akciju (2000)
Principi za restituciju stambenih objekata i imovine izbjeglicama i raseljenim osobama, Principi iz Pinheira (2005)
Protokol za sprječavanje, zaustavljanje i kažnjavanje trgovine ljudima, naročito ženama i djecom uz Konvenciju o transnacionalnom organiziranom kriminalu, Palermo Protokol (2000)
Realizacija evropskog prostora visokog obrazovanja, komunike Konferencije ministara mjerodavnih za visoko obrazovanje u Berlinu (2003)
Rezolucija o jačanju saradnje o stručnom obrazovanju i usavršavanju (2002)
UN Konvencija o pravima djeteta (1989)
UN Konvencija o pravnom statusu izbjeglica (1951) i Dopunski protokol (1967)
UN Konvencija o zaštiti prava radnika-migranata i članova njihovih porodica (1990)
UN Konvencija protiv diskriminacije u odgoju i obrazovanju (1960)
UN Konvencija protiv mučenja i drugih surovih, nehumanih ili ponižavajućih postupaka ili kažnjavanja (1984)
UN pakt o ekonomskim, socijalnim i kulturnim pravima (1968)
UN pakt o građanskim i političkim pravima (1966) i opcioni protokoli (1966 i 1968)
Univerzalna deklaracija o ljudskim pravima (1948)
Vodeći principi internog raseljenja (1998)
Zajednička deklaracija o harmonizaciji strukture evropskog sustava visokoškolskog obrazovanja, Sorbonska deklaracija (1998)
Ženevske konvencije I-IV o zaštiti žrtava rata (1949) i Dopunski protokoli I-II (1977)

<b>II - KLJUČNI PROPISI I OSNOVNE NADLEŽNOSTI</b>
<b>Uredba o ratifikaciji međunarodnih konvencija</b> ("Službeni list R BiH" broj: 5/92)
<p><b>Opći okvirni sporazum za mir u Bosni i Hercegovini</b></p> <p>Aneks 1-a - Sporazum o vojnim aspektima mirovnog rješenja</p> <p>Aneks 1-b - Sporazum o regionalnoj stabilizaciji</p> <p>Aneks 3 - Sporazum o izborima</p> <p><b>Aneks 4 - Ustav</b></p> <p>Aneks 5 - Sporazum o arbitraži</p> <p>Aneks 6 - Sporazum o ljudskim pravima</p> <p><b>Aneks 7 - Sporazum o izbjeglicama i prognanicima</b></p> <p>Aneks 8 - Sporazum o Komisiji za očuvanje nacionalnih spomenika</p> <p>Aneks 9 - Sporazum o javnim preduzećima Bosne i Hercegovine</p> <p>Aneks 10 - Sporazum o civilnoj implementaciji</p> <p>Aneks 11 - Sporazum o međunarodnim policijskim snagama</p>
<b>Ustav Federacije Bosne i Hercegovine, Republike Srpske i Statut Brčko distrikta BiH</b>
<b>Zakon o ministarstvima i drugim tijelima uprave Bosne i Hercegovine</b> („Službeni glasnik BiH“, broj: 5/03, 42/03, 26/04, 42/04 i 45/06), entitetski zakoni kojima se definišu nadležnosti u FBiH i RS i Statut Brčko distrikta BiH
<b>Zakon o izbjeglicama iz BiH i raseljenim osobama u BiH</b> („Službeni glasnik BiH“, broj: 23/99, 21/03 i 33/03)
<b>Zakon o raseljenim licima-prognanicima i izbjeglicama-povratnicima u Federaciji Bosne i Hercegovine</b> („Službene novine FBiH“, 15/05)
<b>Zakon o raseljenim licima, povratnicima i izbjeglicama u Republici Srpskoj</b> („Službeni glasnik RS“, 42/05)
<b>Uputstvo o načinu i procedurama odabira korisnika projekata povratka i rekonstrukcije stambenih jedinica</b> (Službeni glasnik BiH“, broj: 48/06)
<b>Smjernice za primjenu Uputstva o načinu i procedurama odabira korisnika projekata povratka i rekonstrukcije stambenih jedinica, sa tablicom za vrednovanje posebnih kriterija</b> , broj: 06-41-753-3057/06, od 31.08.2006. godine
<b>Uputstvo o načinu i procedurama identifikacije korisnika pomoći iz Podfonda za interventnu pomoć u održivom povratku u Bosni i Hercegovini</b> (Službeni glasnik BiH“, broj: 96/06)
<b>Pravilnik o minimumu stambenih uslova za sanaciju i izgradnju stambenih objekata u svrhu povratka</b> od 09. 05. 2006. godine.
<b>Zakon o javnim nabavkama Bosne i Hercegovine</b> („Službeni glasnik BiH“, broj: 49/04)
<b>Sporazum o ponovnom priključenju stambenih objekata povratnika na elektrodistribucijsku mrežu u BiH</b>
<b>Memorandum o razumijevanju i suradnji na elektrificiranju lokacija/objekata realiziranog povratka</b> (u fazi usvajanja)

### III – PROPISI PO OBLASTIMA

#### 1- Sigurnost i deminiranje

##### 1.1. Bosna i Hercegovina

**Zakon o državnoj agenciji za istrage i zaštitu - SIPA** („Službeni glasnik BiH“, br. 27/04)

**Zakon o nadzoru i kontroli državne granice** („Službeni glasnik BiH“, br. 56/04)

**Zakon o državnoj graničnoj službi** („Službeni glasnik BiH“, br. 50/04)

**Zakon o policijskim službenicima** („Službeni glasnik BiH“, br. 27/04)

**Statut međunarodne organizacije kriminalističke policije – INTERPOL** (1956)

**Krivični zakon BiH** („Službeni glasnik BiH“, br. 37/03)

**Zakon o krivičnom postupku BiH** („Službeni glasnik BiH“, br. 36/03)

**Zakon o nabavljanju, držanju i nošenju oružja** („Sl. list SR BiH“ br. 42/90, 13/93 i 13/94)

**Zakon o deminiranju u Bosni i Hercegovini** („Službeni glasnik BiH“, broj: 5/02)

**Odluka o osnivanju Centra za uklanjanje mina u BiH**

##### 1.2. Federacija BiH

**Krivični zakon FBiH** („Službene novine F BiH“, Broj: 36/03, 37/03, 21/04, 22/05 i 18/05)

**Zakon o krivičnom postupku FBiH** („Službene novine FBiH“, broj: 35/03)

**Zakon o unutrašnjim poslovima FBiH** („Službene novine FBiH“, broj: 19/03)

**Zakon o policijskim službenicima FBiH** („Službene novine FBiH“, broj: 27/05)

**Zakon o prekršajima FBiH** („Službene novine FBiH, broj: 31/06)

##### 1.3. Republika Srpska

**Zakon o krivičnom postupku RS** („Službeni glasnik RS“, br. 50/03)

**Krivični zakon RS** („Službeni glasnik RS“, br. 49/03)

**Zakon o unutrašnjim poslovima RS** („Službeni glasnik RS“, br. 48/03)

**Zakon o prekršajima** („Službeni glasnik RS“, br. 34/06)

**Zakon o javnom redu i miru** („Službeni glasnik RS“, br. 20/07)

**Zakon o zaštiti od nasilja u porodici RS** („Službeni glasnik RS“, br. 118/05)

**Pravilnik o načinu vršenja poslova službe javne bezbjednosti** (Pravilnik SFRJ od 1977)

##### 1.4. Brčko distrikt BiH

**Zakon o policiji Brčko distrikta BiH** („Službeni glasnik BD“, broj: 2/00, 5/01, 2/02, 6/03, 15/04, 42/04, 11/05 i 33/05)

#### 2- Infrastruktura, obnova i izgradnja

##### 2.1. Federacija BiH

**Zakon o prostornom planiranju i korištenju zemljišta** **Zakon o prostornom uređenju, Zakon o građenju, Zakon o preuzimanju Zakona o stambenim odnosima, Zakon o upravljanju otpadom, Zakon o zaštiti zraka, Zakon o zaštiti voda, Zakon o zaštiti okoliša, Zakon o zaštiti prirode, Zakon o Fondu za zaštitu okoliša Federacije BiH, Zakon o električnoj energiji**

##### 2.2. Republika Srpska

**Zakon o uređenju prostora, Zakon o stambenim odnosima, Zakon o privatizaciji državnih stanova, Zakon o održavanju stambenih zgrada, Zakon o komunalnim djelatnostima, Zakon o građevinskom zemljištu, Zakon o zaštiti životne sredine, Zakon o zaštiti prirode, Zakon o zaštiti vazduha, Zakon o zaštiti voda, Zakon o upravljanju otpadom, Zakon o Fondu za zaštitu životne sredine, Zakon o el energiji**

##### 2.3. Brčko distrikt BiH

**Zakon o registraciji zemljišta i prava na zemljište, Zakon o vlasništvu i drugim stvarnim pravima, Zakon o prostornom uređenju, Zakon o legalizaciji bespravno**

## izgrađenih građevina, Instrukcije gradonačelnika

### 3- Zdravstvo

#### 3.1. Bosna i Hercegovina

**Rezolucija o politici zdravlja za sve građane Bosne i Hercegovine** ("Službeni glasnik BiH", broj: 12/02)

**Sporazum o načinu i postupku korištenja zdravstvene zaštite osiguranih osoba na teritoriji Bosne i Hercegovine, van područja entiteta, odnosno Brčko distrikta BiH kome osigurane osobe pripadaju** („Službeni glasnik BiH“, broj: 30/01)

**Uputstvo o načinu prijavljivanja i odjavljivanja osiguranih lica, izdavanja zdravstvenih dokumenata i o drugim elementima bitnim za zakonito, pravilno i blagovremeno ostvarivanje zdravstvene zaštite osiguranih lica u novom mjestu prebivališta.**

#### 3.2. Federacija BiH

**Zakon o zdravstvenoj zaštiti** („Službene novine Federacije BiH“, broj: 29/97)

**Zakon o zdravstvenom osiguranju** („Službene novine Federacije BiH“, broj: 30/97 i 7/02)

**Pravilnik o načinu ostvarivanja prava iz obaveznog zdravstvenog osiguranja** („Službene novine Federacije BiH“, broj: 32/02)

**Sporazum o načinu i postupku korištenja zdravstvene zaštite izvan područja kantonalnog zavoda zdravstvenog osiguranja kome osiguranik pripada** („Službene novine Federacije BiH“, broj: 41/01)

**Odluka o ostvarivanju prava iz bolničke zdravstvene zaštite povratnika u općine Srebrenica, Bratunac, Milići, Žepa i Vlasenica u Republici Srpskoj u zdravstvenim ustanovama u Federaciji Bosne i Hercegovine** („Službene novine Federacije BiH“, broj: 32/07)

**Uputstvo o načinu ostvarivanja bolničke zdravstvene zaštite povratnika u općine Srebrenica, Bratunac, Milići, Žepa i Vlasenica u Republici Srpskoj, dopunjeno sa povratnicima u općinu Zvornik**, o čemu je upućena obavjest Kliničkom centru univerziteta Sarajevo i Univerzitetskom kliničkom centru Tuzla, a o čemu je obavješteno Federalno ministarstvo raseljenih osoba i izbjeglica.

#### 3.3. Republika Srpska

**Zakon o zdravstvenoj zaštiti** („Službeni glasnik RS“, broj: 18/99, 23/99, 58/01 i 62/02)

**Zakon o zdravstvenom osiguranju** („Službeni glasnik RS“, broj: 18/99, 51/01, 70/01 i 51/03)

**Odluka o participaciji** („Službeni glasnik RS“, broj: 54/07)

**Pravilnik o indikacijama i postupku za propisivanje ortopedskih i drugih pomagala koja se izdaju na teret Fonda zdravstvenog osiguranja Republike Srpske** („Službeni glasnik RS“, broj: 54/07)

#### 3.4. Brčko distrikt BiH

**Zakon o zdravstvenom osiguranju Brčko distrikta Bosne i Hercegovine** („Službeni glasnik Brčko distrikta BiH“, broj: 1/02 i 7/02),

**Zakon o zdravstvenoj zaštiti Brčko distrikta Bosne i Hercegovine** („Službeni glasnik Brčko distrikta BiH“, broj: 2/01),

**Zakon o socijalnoj zaštiti Brčko distrikta Bosne i Hercegovine** („Službeni glasnik Brčko distrikta BiH“, broj: 1/03 i 4/04)

### 4- Obrazovanje

#### 4.1. Bosna i Hercegovina

**Okvirni zakon o osnovnom i srednjem obrazovanju u BiH** („Službeni glasnik BiH“, br. 18/03)

**Okvirni zakon o srednjem strukovnom obrazovanju i obuci** („Službeni glasnik BiH“, br.

63/08)

**Okvirni zakon o visokom obrazovanju u BiH** („Službeni glasnik BiH“, br.59/07)

**Okvirni zakon o predškolskom odgoju i obrazovanju u BiH** („Službeni glasnik BiH“, br. 88/07)

**Zakon o Agenciji za predškolsko, osnovno i srednje obrazovanje u BiH** („Službeni glasnik BiH“, br. 88/07)

**Odluka o početku rada Agencije za predškolsko, osnovno i srednje obrazovanje u BiH** („Službeni glasnik BiH“, br. 8/08)

**Srednjoročna razvojna strategija BiH** (PRSP) 2004-2007

**Strategija razvoja predškolskog odgoja i obrazovanja BiH**, 2005

**Privremeni sporazum o zadovoljavanju posebnih potreba i prava djece povratnika** od 05.03.2002. godine

**Plan provedbe privremenog sporazuma** od 13. 11.2002. godine

**Nacrt Okvirnog zakona o srednjem strukovnom obrazovanju i obuci u BiH**, u proceduri

**Strategija razvoja strukovnog obrazovanja i obuke u BiH za razdoblje 2007-2013**, („Službeni glasnik BiH“, br. 65/07)

**Strateški pravci razvoja obrazovanje u BiH s planom implementacije 2008-2015** („Službeni glasnik BiH“, br. 63/08)u pripremi)

#### *4.2. Federacija BiH - kantonalni propisi*

##### *- Predškolski odgoj i obrazovanje*

Zakon o predškolstvu Unsko-sanskog kantona („Službene novine Unsko-sanskog kantona“, br. 3/97)

Zakon o predškolskom odgoju i naobrazbi Županije Posavske („Narodne novine Županije Posavske“, br. 5/98)

Zakon o predškolskom odgoju i obrazovanju Tuzlanskog kantona („Službene novine Tuzlanskog kantona“, br. 8/98)

Zakon o predškolstvu Zeničko-dobojskog kantona („Službene novine Zeničko-dobojskog kantona“, br. 5/97)

Zakon o predškolskom odgoju i obrazovanju Bosansko-podrinjskog kantona („Službene novine Bosansko-podrinjskog kantona“, br. 8/99)

Zakon o predškolskom odgoju i obrazovanju Srednjobosanskog kantona („Službene novine Srednjobosanskog kantona“, br. 11/01)

Zakon o predškolskom odgoju Hercegovačko-neretvanskog kantona („Narodne novine Hercegovačko-neretvanskog kantona“, br. 5/00)

Zakon o predškolskom odgoju i naobrazbi Županije Zapadnohercegovačke („Narodne novine Županije Zapadnohercegovačke“, br. 7/98)

Zakon o predškolskom odgoju i obrazovanju kantona Sarajevo („Službene novine Kantona Sarajevo“, br. 4/98, 9/00, 18/02)

Zakon o predškolskom odgoju i naobrazbi Kantona 10 („Službene novine Kantona 10“, br. 5/99)

##### *- Osnovno obrazovanje*

Zakon o osnovnom i srednjem općem odgoju i obrazovanju Unsko-sanskog kantona („Službene novine Unsko-sanskog kantona“, br. 5/04)

Zakon o osnovnom školstvu Županije Posavske („Narodne novine Županije Posavske“, br. 3,4/04, 4/04)

Zakon o osnovnom odgoju i obrazovanju Tuzlanskog kantona („Službene novine Tuzlanskog kantona“, br. 6/04, 7/05)

Zakon o osnovnoj školi Zeničko-dobojskog kantona („Službene novine Zeničko-dobojskog kantona“, br. 5/04)

Zakon o osnovnom odgoju i obrazovanju Bosansko-podrinjskog kantona („Službene novine Bosansko-podrinjskog kantona“, br. 5/04)

Zakon o osnovnoj školi Srednjobosanskog kantona („Službene novine Srednjobosanskog kantona“, br. 11/01, 17/04); Zakon o izmjenam i dopunama Zakona o osnovnoj školi – Odluka Visokog predstavnika za BiH, od 07.07.2004.

Zakon o osnovnom odgoju i obrazovanju Hercegovačko-neretvanskog kantona („Narodne

novine Hercegovačko-neretvanskog kantona", br. 5/00, 4/04, 5/04)

Zakon o osnovnom školstvu Županije Zapadnohercegovačke („Narodne novine Županije Zapadnohercegovačke“, br. 6/04,8/04); Zakon o izmjenama i dopunama Zakona o osnovnom školstvu - Odluka Visokog predstavnika za BiH, od 07.07.2004.

Zakon o osnovnom odgoju i obrazovanju Kantona Sarajevo („ Službene novine Kantona Sarajevo“, br. 10/04, 21/06)

Zakon o osnovnom školstvu Kantona 10 – Odluka Visokog predstavnika za BiH, od 07.07.2004. („Službene novine Kantona 10“, br. 12/04)

#### *- Srednje obrazovanje*

Zakon o osnovnom i srednjem općem odgoju i obrazovanju Unsko-sanskog kantona („Službene novine Unsko-sanskog kantona“, br. 5/04)

Zakon o srednjem školstvu Županije Posavske („Narodne novine Županije Posavske“, br. 3/04, 4/04)

Zakon o srednjem obrazovanju Tuzlanskog kantona („Službene novine Tuzlanskog kantona“, br. 6/04, 7/05)

Zakon o srednjoj školi Zeničko-dobojskog kantona („Službene novine Zeničko-dobojskog kantona“, br. 5/04)

Zakon o srednjoj školi Bosansko-podrinjskog kantona („Službene novine Bosansko-podrinjskog kantona“, br. 5/04)

Zakon o srednjoj školi Srednjobosanskog kantona („Službene novine Srednjobosanskog kantona“, br. 11/01, 17/04); Zakon o izmjenama i dopunama Zakona o srednjem školstvu – Odluka Visokog predstavnika za BiH, od 07.07.2004.

Zakon o srednješkolskom odgoju i obrazovanju Hercegovačko-neretvanskog kantona („Narodne novine Hercegovačko-neretvanskog kantona“, br. 8/00, 4/04, 5/04)

Zakon o srednjem školstvu Županije Zapadnohercegovačke („Narodne novine Županije Zapadnohercegovačke“, br. 6/04, 8/04); Zakon o izmjenama i dopunama o srednjem školstvu – Odluka Visokog predstavnika za BiH, od 07.07.2004.

Zakon o srednjem obrazovanju Kantona Sarajevo („Službene novine Kantona Sarajevo“, br. 10/04)

Zakon o srednjem školstvu Kantona 10 – Odluka Visokog predstavnika za BiH, od 07.07.2004. („Službene novine Kantona 10“, br. 12/04)

#### *- Visoko obrazovanje*

Zakon o Univerzitetu u Bihacu („Službene novine Unsko-sanskog kantona“, br. 8/98,8/06)

Zakon o visokom obrazovanju Županije Posavske („Narodne novine Županije Posavske“, br. 6/00)

Zakon o visokom obrazovanju Tuzlanskog kantona („Službene novine Tuzlanskog kantona“, br. 10/99, 15/00, 5/05)

Zakon o Univerzitetu u Tuzli („Službene novine Tuzlanskog kantona“, br. 13/99, 12/00, 2/02, 10/02, 11/03, 8/04, 6/05)

Zakon o visokom obrazovanju Zeničko-dobojskog kantona („Službene novine Zeničko-dobojskog kantona“, br. 5/05)

Zakon Univerzitetu u Zenici „Službene novine Zeničko-dobojskog kantona“, br. 6/05, 11/06)

Zakon o visokom obrazovanju Bosansko-podrinjskog kantona („Službene novine Bosansko-podrinjskog kantona“, br. 10/16)

Srednjobosanski kanton - nema usvojenog vlastitog zakonodavstva za oblast visokog obrazovanja

Hercegovačko – neretvanski kanton – Primjenjuju se odredbe:

Zakona o sveučilištu u Mostaru (Narodni list HRHB“, broj 32/94, 24/95, 38/95, 16/96, 44/96) i Zakona o univerzitetu („Službeni list SRBiH“, broj 39/90)

Zakon o visokom školstvu Županije Zapadnohercegovačke („Narodne novine Županije Zapadnohercegovačke“, br. 6/04)

Zakon o visokom obrazovanju Kantona Sarajevo („Službene novine Kantona Sarajevo“, br. 9/07)

Kanton 10 - Zakon o visokom školstvu („Narodne novine Hercegovačkobosanske županije“, br.

8/06)

#### 4.3. Republika Srpska

**Zakon o dječjoj zaštiti – prečišćeni tekst** („Službeni glasnik Republike Srpske“, br. 4/02)

**Zakon o osnovnoj školi** („Službeni glasnik Republike Srpske“, br.38/04)

**Zakon o srednjoj školi** („Službeni glasnik Republike Srpske“, br.38/04)

**Zakon o visokom obrazovanju** („Službeni glasnik Republike Srpske“, br. 85/06, 30/07)

#### 4.4. Brčko distrikt BiH

**Zakon o predškolskom vaspitanju i obrazovanju Brčko distrikta BiH** („Službeni glasnik Brčko distrikta BiH“, broj 13/07, 19/07)

**Zakon o obrazovanju u osnovnim i srednjim školama Brčko distrikta BiH** („Službeni glasnik Brčko distrikta BiH“, broj 9/01, 28/03, 29/04 i 19/07)

**Nacrt Zakona o obrazovanju u osnovnim i srednjim školama** (u proceduri)

**Nacrt Zakona o visokom obrazovanju** (u proceduri), Zakon o visokom obrazovanju nije donesen, a Ekonomski fakultet u Brčkom ogranak je Univerziteta Istočno Sarajevo

### 5- Rad i zapošljavanje

#### 5.1. Bosna i Hercegovina

**Odluka Ustavnog suda BiH o konstitutivnosti naroda**, juli 2000. godine

**Zakon o radu u institucijama Bosne i Hercegovine** („Službeni glasnik BiH“, broj 26/04)

**Zakon o državnoj službi u institucijama Bosne i Hercegovine** („Službeni glasnik BiH“, br.19/02,35/03,4/04,17/04,26/04,37/04,48/05,2/06)

**Okvira principa i standarda u Bosni i Hercegovini u sektoru rada** (u pripremi)

#### 5.2. Federacija BiH

**Zakon o radu** („Službene novine Federacije BiH“, br. 43/99, 32/00, 29/03)

**Zakon o posredovanju u zapošljavanju i socijalnoj sigurnosti nezaposlenih osoba** („Službene novine Federacije BiH, br. 55/00,41/01, 22/05)

**Zakon o državnoj službi u Federaciji BiH** („Službene novine Federacije BiH“, br. 29/03, 23/04, 39/04, 54/04, 67/05 i 8/06)

**Zakon o namještenicima** („Službene novine Federacije BiH“, broj:49/05)

**Pravilnik o finansiranju programa tržišta rada** („Službene novine Federacije BiH“, broj:04/06)

**Pravilnik o evidencijama u oblasti zapošljavanja** („Službene novine Federacije BiH“, broj: 24/07)

#### 5.3. Republika Srpska

**Zakon o radu** („Službeni glasnik RS“, br. 38/00, 40/00, 47/02, 38/03, 12/03, 54/05, 64/06)

**Zakon o zapošljavanju** („Službeni glasnik RS“, br. 38/00, 85/03, 42/05, 54/05, 64/06)

**Zakon o lokalnoj upravi i samoupravi** („Službeni glasnik RS“, br.101/04, 118/05)

**Zakon o administrativnoj službi u RS** („Službeni glasnik RS“, br. 16/02, 62/02, 38/03, 42/04, 49/06)

**Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida** („Službeni glasnik RS“ br.98/04 i 91/06)

#### 5.4. Brčko distrikt Bosne i Hercegovine

**Zakon o zapošljavanju i pravima za vrijeme nezaposlenosti Brčko distrikta BiH** („Službeni glasnik Brčko distrikta BiH“, br.33/04,19/07)

**Zakon o državnoj službi u organima uprave Brčko distrikta BiH** („Službeni glasnik Brčko distrikta BiH“, broj: 28/06)

**Pravilnik o metodologiji i postupku vrednovanja i selekcije programa novog zapošljavanja** („Službeni glasnik Brčko distrikta BiH“, broj: /07).

### 6- Socijalna zaštita

### 6.1. Federacija BiH

**Zakon o osnovama socijalne zaštite, zaštite civilnih žrtava rata i zaštite porodice sa djecom** („Službene novine FBiH“, br. 36/99,54/04 i 39/06)

**Zakon o penzijskom i invalidskom osiguranju u FBiH** („Službene novine FBiH“; br. 29/98, 49/00, 32/01 i 73/05)

**Porodični zakon Federacije BiH** („Službene novine FBiH“, br.35/05)

**Sporazum o međusobnim pravima i obavezama u sprovođenju penzijskog i invalidskog osiguranja** („Službene novine Federacije BiH“, br. 24/00).

**Zakon o zaštiti osoba sa duševnim smetnjama** („Službene novine FBiH“, br. 37/01 i 40/02)

**Pravilnik o ocjenjivanju oštećenja organizma civilnih žrtava rata i sposobnosti za privređivanje članova porodice civilnih žrtava rata u postupku ostvarivanja prava po Zakonu o osnovama socijalne zaštite, zaštite civilnih žrtava rata i zaštite porodice sa djecom** („Službene novine FBiH“, br. 55/06)

**Uputstvo o načinu isplate novčanih primanja civilnih žrtava rata i načinu vođenja evidencije o korisnicima prava** („Službene novine FBiH“, br. 55/06)

**Uputstvo o postupku priznavanja statusa civilne žrtve rata** („Službene novine FBiH“, br. 62/06)

**Pravilnik o ocjenjivanju oštećenja organizma kod lica sa invaliditetom u postupku ostvarivanja prava po Zakonu o osnovama socijalne zaštite, zaštite civilnih žrtava rata i zaštite porodice sa djecom** („Službene novine FBiH“, br. 46/06 - neratni invalidi).

**Kantonalni zakoni o socijalnoj zaštiti, zaštiti civilnih žrtava rata i zaštiti porodice sa djecom** (svih 10. kantona).

### 6.2. Republika Srpska

**Zakon o socijalnoj zaštiti** („Službeni glasnik RS“, br. 05/93,15/96 i 110/03)

**Zakon o dječijoj zaštiti** („Službeni glasnik RS“, br.4/02)

**Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida** („Službeni glasnik RS“, br. 98/04 i 91/06)

**Zakon o zaštiti lica sa mentalnim poremećajima** („Službeni glasnik RS“, br.46/04)

**Porodični zakon** („Službeni glasnik RS“, br. 54/05)

**Zakon o penzijsko invalidskom osiguranju RS** („Službeni glasnik RS“ br. 106/05)

**Sporazum o međusobnim pravima i obavezama u sprovođenju penzijskog i invalidskog osiguranja** („Službeni glasnik RS“, br. 15/00, 10/02)

**Zakon o zaštiti civilnih žrtava rata** („Službeni glasnik RS“, br. 25/93 i 60/07)

### 6.3. Brčko distrikt BiH

**Zakon o socijalnoj zaštiti** („Službeni glasnik Brčko Distrikta BiH“, broj 1/00, 1/03 i 12/04)

**Zakon o dječijoj zaštiti** („Službeni glasnik Brčko Distrikta BiH“, broj 1/00 i 7/04)

**Porodični zakon** („Službeni glasnik Brčko Distrikta BiH“, broj 23/07)

**Pravilnik o uslovima i načinu rješavanja stambenih problema korisnika stalne socijalne pomoći i lica u stanju socijalne pomoći**

**Odluka o otkrivanju, ocjenjivanju sposobnosti, razvrstavanju i evidenciji djece i omladine sa posebnim potrebama**

## 7- Imovina i stanarska prava

### 7.1. Federacija BiH

**Zakon o prodaji stanova na kojima postoji stanarsko pravo** (Službene novine FBiH, br. 27/97, 11/98, 22/99, 27/99, 7/00, 32/01, 61/01, 54/04, 36/06)

**Zakon o izvršenju odluka Komisije za imovinske zahtjeve raseljenih lica i izbjeglica FBiH i RS** (Službene novine FBiH 43/99)

**Zakon o prestanku primjene Zakona o napuštenim stanovima** (Službene novine FBiH, br. 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, 31/01, 56/01, 24/03 i 29/03)

**Zakon o prestanku primjene Zakona o privremeno napuštenim nekretninama u svojini građana** (Službene novine FBiH, br. 11/98, 29/98, 27/99, 43/99, 37/01, 56/01 i 24/03)

**Uputstvo o primjeni Zakona o prestanku primjene Zakona o napuštenim stanovima** (Službene novine FBiH br. 43/99, 46/99)



**Uputstvo o primjeni Zakona o prestanku primjene Zakona o nepokretnoj imovini u svojini građana** (Službene novine FBiH br. 43/99)

*7.2. Republika Srpska*

**Zakon o prestanku primjene Zakona o korištenju napuštene imovine** (Službeni glasnik RS, br. 38/98, 12/99, 31/99, 38/99, 65/01, 39/03 i 96/03)

**Zakon o privatizaciji državnih stanova** (Službeni glasnik RS, br. 11/00, 18/01, 35/01, 47/02, 65/03 and 3/04)

*7.3. Brčko distrikt BiH*

**Zakon o vraćanju napuštene imovine Brčko distrikta BiH** (Službeni glasnik Brčko distrikta BiH, br. 5/01, 1/02, 10/02, 17/04, 41/06)

**Zakon o otkupu stanova na kojima postoji stanarsko pravo u Brčko distriktu BiH** („Službeni glasnik Brčko distrikta BiH“, br. 10/02, 17/04 i 41/06)