



# MINORITY RETURN OR MASS RELOCATION?

ICG Bosnia Project - Report N° 33  
14 May 1998

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## MINORITY RETURN OR MASS RELOCATION?

### EXECUTIVE SUMMARY

International organisations working to help displaced Bosnians return to their pre-war homes -- arguably the most important element of the Dayton Peace Agreement (DPA) -- have declared 1998 the "year of minority returns". Four months into the year, however, there is the distinct possibility that 1998 may instead prove to be the "year of mass relocation". This need not be the case. The political climate in Bosnia and Herzegovina (Bosnia) has shifted in recent months and, despite major setbacks, including in Drvar, minority return success stories are already beginning to emerge. In order to turn the current trickle of minority returns into a steady flow, the lessons of past failures and successes have to be learned.

The ethnic cleansing which characterised the wars of Yugoslav dissolution did not end with the final cease-fire. Instead, hard-line Serb and Croat leaders continued their campaigns of ethnic separation and consolidation after the DPA came into force - terrorising "their" people into leaving areas outside the control of "their" armies and offering incentives for resettlement in strategic areas. This was especially evident in Sarajevo where over 60,000 Serbs abandoned their homes in suburbs which were surrendered to the Federation of Bosnia and Herzegovina in February and March of 1996. This is also the policy of the Bosnian Croat HDZ (*Hrvatska demokratska zajednica*), which organises violence against minority returnees and promotes strategic resettlements of displaced Croats in non-Croat houses.

Early in the peace process, return and return-related reconstruction was entrusted to agencies with non-political mandates, in particular the Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Bank. They and their implementing partners focused on the easiest tasks -- helping displaced persons to return to areas in which they belonged to the majority ethnic group -- and worked closely together with local authorities, themselves often the greatest obstacle to minority return. This policy shifted in the course of 1997. Led by the Office of the High Representative (OHR), international agencies abandoned the deferential approach to Bosnia's nationalist leaders and are, instead, taking them on. This new policy has already borne fruit and, among other advances, led to the appointment of Milorad Dodik, a moderate Prime Minister in Republika Srpska.

Of the over 1.3 million refugees at the end of hostilities, some 208,000 had, according to the UNHCR, returned to Bosnia by the end of 1997, though often not to their own homes. Another 504,000 had acquired permanent status abroad, leaving

612,000 refugees in need of solutions. Of the over 1 million Bosnians displaced internally, a net total of 153,000 had returned to their homes, almost all to areas controlled by their own ethnic group. Only 45,500 had returned to areas in which they formed a minority, of whom a paltry 2,200 had returned to Republika Srpska (plus 2,400 to Brcko's Zone of Separation). Most of the remaining 612,000 refugees and 816,000 internally displaced Bosnians would be in the minority if they returned to their homes. Alternatively, they could be relocated in areas in which they belong to the ethnic majority.

Relocation is the preferred solution of Bosnia's nationalist parties which urge further ethnic consolidation accompanied by property exchanges and the construction of new accommodation. Despite the nationalists' rhetoric of "voluntary relocation", displaced Bosnians have little choice in matters as a result of their precarious existence and the level of official manipulation. Further, relocation makes it increasingly difficult for those who, nevertheless, wish to return home, as is their right under the DPA, to do so. Relocation risks leaving a frustrated, hate-filled and despairing population, which never had a chance to return to their homes, and abandoning entirely the concept of multi-ethnicity in Bosnia.

Germany is host to the largest number of refugees in Western Europe. Of some 345,000 who fled there during the war, about 100,000 had returned by the end of 1997. German refugee policy is made largely by the *Länder* (state) governments. Given that Bosnian refugees cost the *Länder* more than 200 million DM a month, the desire to repatriate as many and as fast as possible is obvious.

German policy is to encourage voluntary repatriation by a variety of means, including incentive packages and repatriation assistance. In addition, the threat of being forcibly repatriated is real: some 1,000 Bosnians were deported in 1997; and tens of thousands of refugees from Republika Srpska have received notice that they must leave Germany before July 1998 or risk deportation. German policy-makers argue that they have already been extremely generous to Bosnian refugees; that the appointment of a new Prime Minister has transformed conditions for return in Republika Srpska; and that increased Western aid to that entity makes minority returns immediately possible. While an intelligent and co-ordinated international policy may in time pave the way for the return of refugees to Republika Srpska, officials on the ground warn that hasty and ill-prepared returns will destabilise the entity and that, unless the German governments work within an international framework, they will undermine prospects for minority returns.

To date, five main strategies have been pursued for minority return in different parts of the country. These are the "Open Cities Initiative"; formally drafted regional return plans; political support for returns initiated by displaced persons; return conferences in Sarajevo and Banja Luka; and internationally-supervised returns to Brcko.

Though the "Open Cities Initiative" forms the backbone of UNHCR's policy towards minority returns and 80 percent of the agency's 1998 funds are earmarked for the programme, the results have been disappointing. The initiative has failed to increase minority returns or to channel significant assistance to municipalities deemed "open" as compared to those not included in the initiative. The initiative suffers from several defects, including the lack of a transparent selection procedure; inadequate monitoring; and failure to address issues such as property rights violations, housing shortages and double occupancy.

The late Senior Deputy High Representative Gerd Wagner helped open the Central Bosnia Canton to minority returns in August 1997 by brokering an agreement

between senior Croat and Bosniac officials following large-scale violence in Jajce. This was then institutionalised into a return plan. Recent developments in Central Bosnia have been cautiously encouraging. However, a number of new planning mechanisms and bodies geared to returns have been set up in recent months, which will inevitably depend on the good will of the authorities. Where this good will is lacking, planning mechanisms will be time-consuming and achieve little.

Displaced persons associations have generated comparatively large-scale minority returns, including to Drvar and Jajce. The groundwork for returns to these two areas was laid by effective displaced persons associations and return initially took place without international assistance. Although returnees face personal danger, they appear to consider this a risk worth taking. However, faced with fresh outbreaks of ethnic violence, these return movements relied on a determined international response to maintain the momentum. While this was the case in Jajce in 1997, violence in Drvar in April 1998, targeted at returnees and international organisations, led to no such response. Some international organisations insinuated that the main fault lay with the returnees and those who encouraged them to return too rapidly, and not with the organisers of the violence. The lack of reaction bodes ill for similar return efforts to Stolac, Prozor-Rama, Prijedor and Sanski Most.

A highly-visible return conference took place in Sarajevo in February 1998 hosted by the OHR, the US Government and the European Commission. The conference led to key amendments in the hitherto discriminatory property legislation and to the formation of the Sarajevo Housing Commission, intended to curb the misallocation of housing. Overall, however, the results of the conference have been disappointing. Another return conference was held on 28 April in Banja Luka.

In Brcko, a contested municipality whose fate is still to be decided by international arbitration, an international supervisor is overseeing returns. As a result, some 930 Bosniac and Croat families have returned to their homes in Republika Srpska and the pace of return has accelerated since the change in regime in that entity. Nevertheless, the most difficult challenge -- initiating minority returns to Brcko town -- lies ahead. Further, Brcko's unique position and the intense commitment of resources to the area mean that it is not a model which can be repeated elsewhere in Bosnia.

Important lessons can be drawn from the various approaches tried to date. First, the key actors in making minority returns successful are not local authorities or international organisations, but the displaced persons themselves. The Coalition for Return, formed in October 1996 by the OHR, has been a low-budget, high-impact initiative. The North-West Reconstruction and Return Task Force (RRTF) has been particularly effective in harnessing the creative energy of displaced persons in supporting minority return. Second, successful minority return is in general the return of groups, not of isolated individuals. Third, in all cases of successful minority return security risks could not be eliminated but could be contained. In cases of violent obstruction, a robust and immediate response by SFOR and other members of the international community has been crucial. Fourth, an inter-agency approach -- modelled on the work of the North-West RRTF -- is essential.

In order to build on the experience of the first two years of the peace process and make the "year of minority return" more than just a hollow promise, ICG urges the following:

- robust response by the international community to the violence at the end of April in Drvar, including significant measures against the HDZ and those in Croatia ultimately responsible for the HDZ's obstruction of DPA implementation in Bosnia;
- credible pressure against Croatia to allow the return of Croatian Serbs to their homes, including the threat of sanctions;
- improved security framework for minority returnees, including the recruitment of minority police officers, the removal of security personnel who fail to respond effectively to violence against returnees, and the deployment of international troops with experience in dealing with crowds of hostile civilians;
- a stop to deportations when a refugee's home municipality is not open to minority returns and the refugee has no other choice but to relocate upon return;
- fundamental reform of the Open Cities Initiative, including tighter criteria for selection, substantially improved monitoring, and reallocation of resources;
- increased support for the Coalition for Return and other displaced persons associations;
- identification of opportunities for sustainable minority return based on consultations with displaced persons associations;
- improved targeting of resources to areas where minorities are returning or are likely to return and creation of a flexible fund with the capacity to disburse rapidly when breakthroughs in minority returns occur;
- improved co-ordination of international political intervention, backed by willingness to exert financial, diplomatic and military pressure; and
- increased resources and authority for regional RRTFs, to enable them to pursue a pro-active approach.

**Sarajevo, 14 May 1998**

# MINORITY RETURN OR MASS RELOCATION?

## I. INTRODUCTION

International organisations working to help displaced Bosnians return to their pre-war homes have declared 1998 the “year of minority returns”. This is because the vast majority of the 612,000 refugees and 816,000 internally displaced Bosnians who continue to live in hope of returning to their pre-war homes<sup>1</sup> -- as is their right under the Dayton Peace Agreement (DPA)<sup>2</sup> -- would belong to a minority if they did so.<sup>3</sup> Because of the complexity of minority returns, international agencies focused during the first two years of the peace process on the easier task of returning displaced Bosnians to their homes in areas controlled by the armed forces of the ethnic group to which they belong. As a result, by the end of 1997 only 45,500 Bosnians had returned to areas in which they formed a minority, of whom a paltry 2,200 had returned to Republika Srpska (plus 2,400 to Brcko’s Zone of Separation). Despite the shift in priorities towards minority returns, four months into the year there is the distinct possibility that 1998 will become a “year of mass relocation”. This need not be the case. The political climate in Bosnia and Herzegovina (Bosnia) has shifted in recent months and, despite a major setback in Drvar in April, minority return success stories have begun to emerge. In order to turn the current trickle of minority returns into a steady flow, the lessons of past failures and successes have to be learned.

This paper examines the evolution of approaches pursued to promote minority returns during the year since the International Crisis Group (ICG) published its first in-depth report on the question, *Going Nowhere Fast*. It considers the returns record to date; the arguments for minority return and against relocation; and plans of many of the German states to deport large numbers of Bosnians by mid-1998. The report examines in particular the “Open Cities Initiative”, the return plan model, return conferences, the process of internationally-supervised returns to Brcko; and returns driven by displaced persons organisations. It draws conclusions and suggests recommendations.

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<sup>1</sup> The term “refugees” refers to displaced persons who fled to other countries; “internally displaced persons” (IDPs) refers to those who remained inside the country; and “displaced persons” refers to both categories. “Displaced person” and “internally displaced person” are often used interchangeably in the literature.

<sup>2</sup> The General Framework for Peace in Bosnia and Herzegovina was initialled in Dayton, Ohio, on 21 November 1995, and signed in Paris on 14 December 1995. DPA, Annex 7, Art. I, para. 1, reads: “All refugees and displaced persons have the right freely to return to their homes of origin.” Art. II, para. 1, reads: “The Parties undertake to create in their territories the political, economic and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group.”

<sup>3</sup> Except when otherwise indicated, the source for demographic and displaced persons-related data is the Office of the United Nations High Commissioner for Refugees (UNHCR), *Statistics Package*, 15 January 1998. UNHCR advises that many of the figures are rough estimates.

## A. Returns During 1996-97: Ethnic Consolidation

The ethnic cleansing which characterised the Bosnian war did not end when the guns fell silent. Hard-line Croat and Serb leaders continued their campaigns of ethnic separation following the signing of the DPA. They did so by terrorising “their” people into leaving areas no longer controlled by “their” armies, and by offering incentives to settle in strategic areas under their control, usually in homes vacated by people of different ethnic groups who had been forced to flee.

From the outset, inter-agency co-ordination in Sarajevo dealing with return and return-related reconstruction was handled by institutions with non-political mandates, in particular UNHCR and the World Bank. They focused on the easiest tasks: returning displaced persons to areas controlled by their own ethnic group and rebuilding the least damaged housing units.<sup>4</sup> They, along with their implementing partners, worked with local authorities, giving them the power to choose the homes to be reconstructed and identify the pre-war occupants who were entitled to the reconstructed flats. Thus, local authorities throughout the country chose for reconstruction homes belonging to political supporters and members of their own nationality, or granted occupancy rights to such people regardless of actual entitlement. The international agencies and their implementing partners provided little oversight, since insisting on compliance with strict criteria for housing reconstruction and occupancy would result in delays. Reliance on the main nationalist parties -- *Srpska demokratska stranka* (SDS), the Bosnian Serb party founded by indicted war-criminal Radovan Karadzic; the Bosnian Croat *Hrvatska demokratska zajednica* (HDZ); and the Bosniac *Stranka demokratske akcije* (SDA) -- to promote returns without discrimination was a doomed undertaking.<sup>5</sup>

International organisations found little support among member-states of the Contact Group -- France, Germany, Italy, the Russian Federation, the United Kingdom and the United States -- to devote the resources and high-level political interventions necessary to promote minority returns.<sup>6</sup> The NATO-led Implementation Force (IFOR) did not want to get entangled in “civilian implementation”, and often refused to provide area security even for minority assessment visits to former homes.

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<sup>4</sup> United Nations High Commissioner for Refugees Sadako Ogata stressed at the outset of 1997, “the priority for 1997 will have to be returns to majority areas. This is what is most do-able and safest, given the conditions on the ground.” Statement of Mrs. Ogata at the Humanitarian Issues Working Group of the Peace Implementation Council, Geneva, 16 December 1996.

<sup>5</sup> In April 1997 ICG wrote: “It is naïve to expect a large number of returns unless there is a fundamental shift in the political climate from one of separation to one of reconciliation. Any strategy to help minorities back to their homes must therefore also be one which seeks to break the vice-like grip of the nationalist parties on Bosnian society.” *Going Nowhere Fast: Refugees and Internationally Displaced Persons in Bosnia and Herzegovina*, 30 April 1997, p. iii.

<sup>6</sup> As then-Senior Deputy High Representative Michael Steiner explained in the autumn of 1996, “The problem, however, is that there was no political support in the “big capitals” to push for minority returns. The capitals had other priorities and this was not one of them. For them Annex 7 was rhetoric.”



B. Policy Shift in 1997: Assuming Responsibility for Minority Returns

Beginning in the spring of 1997, there was a growing awareness among leaders of the Contact Group, especially in Washington, that unless they radically changed their policies, there would be no progress in creating conditions for the withdrawal of NATO-led forces, which had been reduced in number and renamed the Stabilisation Force (SFOR) in mid-December.

In April 1997, then High Representative Carl Bildt singled out the SDS's hold on power and the continuing influence of Radovan Karadzic and other indicted war criminals within the SDS as the root cause for the failure to implement the DPA in Republika Srpska.<sup>7</sup> Through a variety of methods, such as SFOR's seizure of transmission towers that broadcast inflammatory statements against the international community and the removal of police chiefs who violated DPA requirements, SDS hard-liners' grip on power was weakened. They lost control over the Republika Srpska Parliament in the November 1997 elections, and a moderate, Milorad Dodik, became Prime Minister shortly thereafter. At the Bonn Peace Implementation Conference (PIC) in December 1997, the Contact Group called on the High Representative to "use his authority fully to facilitate the resolution of difficulties," and gave him the power of binding arbitration and the right to remove obstructionist officials.

In addition, the authorities of Bosniac municipalities in Central Bosnia (such as Bugojno and Vares), governed by hard-liners, and even the symbol of multi-ethnicity, Sarajevo, came under increasing pressure to improve conditions for return. And in early 1998, the Office of the High Representative (OHR) cited the Bosnian Croat nationalist party, the HDZ, as the major obstacle to DPA implementation. Principal Deputy High Representative Jacques Klein asserted that pressure by the HDZ and the HVO (Bosnian Croat Defence Council) on Croats to relocate is "very counterproductive, and aims to destroy the presence of Croat-Catholics in Central Bosnia."<sup>8</sup>

By the autumn of 1997, the international community showed new resolve in countering violent opposition to "minority returns".<sup>9</sup> The turning point came when several hundred returning Bosniacs were expelled from their homes in the Central Bosnian town of Jajce at the end of July 1997 by a violent crowd instigated by local Bosnian Croat police. Following the violence, the late Deputy High Representative Gerd Wagner pushed through an agreement which allowed for the immediate return of all 450 expelled Bosniacs within weeks. Ambassador Wagner then used the momentum to press for similar openings in other parts of ethnically mixed Central Bosnia.<sup>10</sup> It was the first

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<sup>7</sup> Report of the High Representative to the Secretary-General of the United Nations, April 1997, paras. 225-26. In particular, Bildt stated: "Mr. Karadzic ... remains a force of evil and intrigue which can only taint those personalities and institutions of the Republika Srpska which continue to tolerate his activities. This applies ... to the member of the Presidency of Bosnia and Herzegovina, Mr. Krajisnik."

<sup>8</sup> *Dnevni Avaz*, 27 February 1998.

<sup>9</sup> The term "minority returns" refers to the return of displaced persons to areas in which their ethnic group is now in the minority. Similarly, the term "majority returns" is used to refer to returns by persons who belong to the majority ethnic group in the area.

<sup>10</sup> In 1996, returns to hard-line Bosniac-controlled Bugojno under the UNHCR pilot

time that the OHR became directly involved in politically “brokering” minority returns.

The OHR established the Reconstruction and Return Task Force (RRTF) in January 1997 as a forum for co-ordination. The RRTF is chaired by the OHR and is made up of the UNHCR, the European Commission including the European Community Humanitarian Office (ECHO), the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), the World Bank, the International Management Group (IMG), the United Nations International Police Task Force (IPTF), SFOR, the United Nations Development Programme (UNDP), the International Organisation for Migration (IOM), the United States Government and Germany’s Federal Commissioner for Refugee Return and Related Reconstruction. Regional branches were subsequently established in Brcko, the North-West (Banja Luka) and Sarajevo. The North-West RRTF set a new standard for inter-agency co-operation which enabled it to respond flexibly to important breakthroughs in late 1997 in Drvar and Grahovo, and in early 1998 in Prijedor and Sanski Most. In 1998 a regional RRTF was also established in Central Bosnia and in the South-West (Mostar).

The Bonn PIC document strengthened the RRTF by granting it additional resources and appointing a Deputy High Representative to lead it. In addition, the RRTF was to pursue a political, as distinct from a humanitarian or technocratic, approach to minority returns, and was to “support brokered breakthroughs in minority return movements at the local level.” The PIC document referred to Central Bosnia and its return process as a model to be applied in other parts of the country.<sup>11</sup>

### C. The Return Scorecard

Bosnia had a pre-war population of 4.3 million. According to UNHCR, 43 months of war resulted in over 1 million people being internally displaced within Bosnia, and more than 1.2 million seeking refuge abroad in 25 host countries.<sup>12</sup> More than two years after the war’s end, return figures, and especially those to minority areas, are not encouraging. According to UNHCR, the following number of returns have taken place:

#### RETURNS IN 1996<sup>13</sup>

	REFUGEES	INTERNALLY DISPLACED	TOTAL
TO FEDERATION	80,114	102,913	183,027
TO RS	7,925	61,854	69,779
TOTAL	88,039	164,767	252,806

project met with continuous obstruction. Only in the wake of Ambassador Wagner’s initiative in August 1997 did Bugojno Mayor Dzevad Mlaco publicly accept and even invite Croat displaced persons to return to their homes, initially in four empty villages.

<sup>11</sup> Bonn Peace Implementation Conference Conclusions, December 1997, p.14.

<sup>12</sup> Although the UNHCR, in 1996, estimated that there were approximately 1.2 million refugees at the end of hostilities, it now appears that there were closer to 1.32 million.

<sup>13</sup> The return figures for 1996 and 1997 include refugees who returned to Bosnia, regardless of whether or not they were able to return to their pre-war homes or municipalities.

**RETURNS IN 1997**

	REFUGEES	INTERNALLY DISPLACED	TOTAL
TO FEDERATION	111,650	53,160	164,810
TO RS	8,700	5,200	13,900
TOTAL	120,350	58,360	178,710

**TOTAL RETURNS IN 1996 AND 1997**

	REFUGEES	INTERNALLY DISPLACED	TOTAL
TO FEDERATION	191,764	156,073	347,837
TO RS	16,625	67,054	83,679
TOTAL	208,389	223,127	431,516

**MINORITY RETURNS IN 1996<sup>14</sup>**

	REFUGEES	INTERNALLY DISPLACED	TOTAL
TO FEDERATION	figures not available	8,354	
TO RS	figures not available	1,096	
TOTAL	2,216	9,450	11,666

**MINORITY RETURNS IN 1997**

	BOSNIACS		CROATS		SERBS		TOTAL		TOTAL
	REF	IDP	REF	IDP	REF	IDP	REF	IDP	
TO FEDERATION	4,822	4,018	12,260	4,923	2,777	3,914	19,859	12,855	32,714
TO RS	234	734	113	42			347	776	1,123
TOTAL	5,056	4,752	12,373	4,965	2,777	3,914	20,206	13,631	33,837

By the end of 1997, 208,000 refugees had returned to the country and another 504,000 had found durable solutions abroad,<sup>15</sup> leaving 612,000 refugees still in need of a solution.<sup>16</sup> In 1996, 165,000 internally displaced persons returned home, but at least another 70,000 were freshly displaced. In 1997, 58,000 internally displaced persons returned to their homes, for a net total of 153,000, almost all to areas under the control of their own ethnic group. UNHCR estimates that, at the end of 1997, there were 816,000 Bosnians displaced internally (366,000 in the Federation and 450,000 in Republika Srpska), plus 40,000 Serb refugees from Croatia in Republika Srpska.

There was an almost complete failure to promote minority returns: 11,666 minorities returned in 1996 and 33,837 in 1997, most of whom were elderly. Only some 2,200 minorities returned to Republika Srpska in two years, and an additional 614 non-Serb families (roughly 2,400 people) "returned" to

<sup>14</sup> UNHCR, *Bosnia and Herzegovina: Repatriation and Return Operation 1998*, 10 December 1997 (hereinafter *Return Operation 1998*), p.11.

<sup>15</sup> Of the Bosnians who attained durable solutions, 178,748 are in Croatia, 125,000 in Germany, 74,740 in Austria, 64,000 in the United States, 58,400 in Sweden, 47,578 in Canada, 27,500 in Slovenia, 26,300 in Australia, 21,421 in Denmark, 18,440 in the Netherlands, 12,885 in Norway and 12,449 in Switzerland. UNHCR, *Return Operation 1998*, p. 9.

<sup>16</sup> UNHCR, *Information Notes*, January-February 1998, p.12.

Brcko's Zone of Separation (ZoS),<sup>17</sup> although many of these families do not live in their ZoS homes for security reasons.

The trickle of minority returns did not increase in the first months of 1998, except to the Brcko ZoS, where 315 more families had returned by 24 April.<sup>18</sup> Elsewhere, according to UNHCR, there were a total of 673 minority returns in January and February: 12 to Republika Srpska outside of the ZoS and 661 to the Federation. 345 Serbs returned to the Federation, including 217 to Sarajevo and 100 to Drvar, 98 Bosniacs returned to Croat majority areas and 218 Croats returned to Bosniac majority areas.<sup>19</sup>

As a consequence, overwhelming ethnic majorities exist in most of Bosnia, with only a handful of areas containing minority populations greater than 10 percent (about 13 percent in the Tuzla and Sarajevo cantons).

By the start of 1998, most of the estimated 612,000 remaining refugees and 816,000 internally displaced persons would be in the minority if they returned to their pre-war homes. As UNHCR pointed out in the summer of 1997: "Those persons who could easily identify solutions for themselves on return have already done so."<sup>20</sup> Thus, whatever returns take place in 1998 will be either "minority returns" or relocations.

## II. THE SPECTRE OF MASS RELOCATION

UNHCR predicts that in 1998 up to 200,000 refugees might return from abroad, mostly Bosniacs presently in Germany but originally from territory now within Republika Srpska. UNHCR notes that unless there is a "major breakthrough in minority return movements," this repatriation will in fact entail relocation to majority areas, mainly of Bosniacs to Sarajevo, the Una-Sana Canton and the Tuzla-Podrinje Canton.<sup>21</sup>

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<sup>17</sup> The ZoS is a four km wide strip of land dividing the two entities in Bosnia.

<sup>18</sup> OHR, Returns Update for Brcko, 24 April 1998.

<sup>19</sup> UNHCR, *Statistics Package*, 15 April 1998.

<sup>20</sup> UNHCR, *Information Notes*, May/June 1997, p. 1.

<sup>21</sup> UNHCR, *Return Operation 1998*.

Relocation has already emerged as a dominant reality in the past two years. An estimated 70 percent of the repatriations from abroad that took place in the second half of 1997 led to relocation.<sup>22</sup> A survey conducted by the Swiss Government concluded that 67.5 percent of the Bosnian refugees who returned from Switzerland in 1997 did not return to their pre-war homes.<sup>23</sup>

#### A. Arguments Against Relocation

Because relocation will consolidate ethnic separation and make it more difficult for minorities to return if their homes are occupied by “relocatees”, in January 1998 the Council of Europe called on member states to “refrain from forced repatriation of refugees originating from minority areas in order to avoid further destabilisation of the ethnic composition of the country.”<sup>24</sup> As the RRTF explained in December 1997:

The trend in international assistance is moving away from housing reconstruction. Unless the international community decides to change this trend, the “race” between minority returnees and members of the majority community relocating will become a reality in 1998. The choice is simple: either major breakthroughs in minority return take place in early 1998, allowing refugees and displaced persons to return to their pre-war dwellings, or the space will be filled by relocating persons, property legislation notwithstanding.... It is also of paramount importance that host countries must act responsibly by pressuring openings for return instead of accepting and inducing relocation.<sup>25</sup>

The overall international reconstruction programme for Bosnia was “front-loaded”, with most of the money for housing reconstruction spent in the first two post-war years.<sup>26</sup> In 1996 and 1997, 400 million US\$ were pledged for housing reconstruction, 300 million US\$ of which have already been disbursed. According to the International Management Group (IMG), the largest donors for housing reconstruction, were the European Commission, including the European Community Humanitarian Office (ECHO), the governments of the Netherlands, Norway, Saudi Arabia, the USA, UNHCR and the World Bank. IMG also estimates that, in 1996, 40,000 housing units were repaired, and in 1997 around 23,000.<sup>27</sup>

A shift away from investment in housing and infrastructure will become a reality in 1998, with an increased emphasis on policy-oriented lending. For example, the World Bank has withdrawn from housing reconstruction in the Federation, where it spent 15 million US\$ since the end of the war, and will only spend about 5.5 million in Republika Srpska in 1998. UNHCR repaired 16,000 homes in 1996, 8,000 in 1997, and plans to repair 5,000 in 1998. In

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<sup>22</sup> UNHCR, *Return Operation 1998*, p. 13.

<sup>23</sup> CRPC and UNHCR, *Return, Relocation and Property Rights: a Discussion Paper*, p.6.  
<sup>24</sup> Recommendation 1357 of the Council of Europe, adopted 29 January 1998.

<sup>25</sup> RRTF, *Resources, Repatriation and Minority Return: Outlook for 1998*, December 1997, (hereinafter *RRTF 1998 Outlook*), Annex 6.

<sup>26</sup> According to the World Bank, about 2 billion US\$ were pledged in 1996, 1.4 billion US\$ in 1997, and 1.2 billion US\$ in 1998.

<sup>27</sup> UNHCR, *Return Operation 1997*, p. 22.

1998, the RRTF estimates that an additional 125 million US\$ will be needed for housing to accommodate the anticipated return of 200,000 refugees.<sup>28</sup>

A study jointly commissioned by UNHCR and the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) concluded that “the return of refugees in 1997 has contributed significantly to the displaced persons problem within Bosnia, and this is likely to worsen with future returns.”<sup>29</sup> Refugees who relocate often occupy houses of minorities who are at present internally displaced. The RRTF noted that “even where [relocation] takes place as a result of individual, informed decision-making it remains problematic. Relocation puts pressure on the existing housing stock, notably in popular return destinations such as cities with economic growth potential.”<sup>30</sup>

Whereas the RRTF maintains that “relocation is not a solution to the refugee problem,”<sup>31</sup> UNHCR considers that “relocation is an important component in the search for durable solutions for displaced persons and refugees.”<sup>32</sup> A document published by UNHCR in December 1997 distinguishes between different forms of relocation: “voluntary relocation” after the sale or exchange of property by consent; “passive relocation” refers to internal displacement which is not based on free will; and “hostile relocation” refers to the deliberate placement of groups of people in housing belonging to other ethnic groups, to secure control over territory and prevent minority return. UNHCR supports only voluntary relocation.<sup>33</sup>

However, in the present environment, it is debatable whether most relocations deemed voluntary are indeed so, given the persistent obstruction of minority returns throughout Republika Srpska and Croat-controlled parts of the Federation in 1996 and 1997. Relocation only becomes “voluntary” if there is a genuine option to return to pre-war homes in dignity and security.

Relocation is clearly unacceptable when it takes place as a result of official manipulation and would likely leave behind frustrated, hate-filled or despairing refugees. It would also play into the hands of those forces who most want to destroy all potential for restoring a multi-ethnic Bosnia.<sup>34</sup>

Moreover, the RRTF has concluded that, “relocation is costly.... It is therefore justified also from the point of view of resource allocation, to actively pursue

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<sup>28</sup> The figures given by the World Bank differ from those given by the International Management Group's PIMS Database, which indicate that 406 million DM were spent on housing by April 1998. The RRTF data are from *An Action Plan in Support of the Return of Refugees and Displaced Persons in Bosnia and Herzegovina*, March 1998, p. 34.

<sup>29</sup> CRPC and UNHCR, *Return, Relocation and Property Rights*, p. 6.

<sup>30</sup> RRTF *1998 Outlook*, p. 18.

<sup>31</sup> RRTF, *Resources, Repatriation and Minority Return*, December 1997, p. 18.

<sup>32</sup> UNHCR, *Return Operation 1998*, December 1997, p. 5.

<sup>33</sup> UNHCR, *Return Operation 1998*, p. 5.

<sup>34</sup> In *Going Nowhere Fast: Refugees and Internally Displaced Persons in Bosnia and Herzegovina*, ICG Report, 30 April 1997, p. 33, ICG wrote: “If one of the central goals of the DPA is to maintain Bosnia and Herzegovina as a single state, then minority return is the only way this promise can be kept. Otherwise the centrifugal dynamics of three “ethnically-cleansed” territories, already endowed with many of the attributes of a state, will prove impossible to resist. Eventually three separate statelets will be created, economically unviable and with territorial claims on the others. If the country is partitioned, enduring peace and stability will be an unlikely outcome.”

return to homes of origin as a priority.”<sup>35</sup> Where relocation is supported by nationalist politicians, such as in Western Croat-controlled parts of the Federation, new villages are constructed requiring new infrastructure. Returnees are often motivated to contribute themselves to the reconstruction of their houses. For all of the above reasons, the RRTF recommends “that international grant aid should not be used to support relocation at this stage of the peace process.”<sup>36</sup> Both the RRTF and UNHCR advise that new construction to house relocatees should be limited to municipalities that also accept minority returns.<sup>37</sup> The RRTF adds that new construction should be limited to “accommodating secondary movements of displaced persons, when necessary because of the return of original inhabitants to occupied housing space.” In certain circumstances, “buffer” accommodation, to house returnees while they wait to get their own houses back, or for other emergency or short-term needs, may also warrant international support.

#### B. Relocation as a Political Programme of the Nationalist Parties

The main proponents of relocation are Croat and Serb hard-liners: the HDZ, the SDS, the Serb Radical Party (SRS, *Srpska radikalna stranka*), the SNS (*Srpski narodni savez*) party of President Biljana Plavsic, and the Serb Party for Krajina and Posavina (SSKIP).<sup>38</sup>

The hard-line Bosnian Croat and Serb leaders argue that the international community should support relocation to majority areas and property exchanges in order to implement Article I, paragraph 4 of Annex 7 of the DPA, which states that: “Choice of destination shall be up to the individual or family.... The parties shall not interfere with the returnees choice of destination, nor shall they compel them to remain in or move to situations of serious danger or insecurity, or to areas lacking in the basic infrastructure necessary to resume a normal life.”

While using the rhetoric of “choice” and “voluntary relocation”, the HDZ and SDS have forced relocation through incentives, intimidation, and neglect of those who choose to remain in or return to areas not within their control. Bosnian Croats, including priests and Franciscans, have been intimidated when they openly advocated the return of Croats to areas outside of HDZ control. During the period before the municipal elections in September 1997, the HDZ and SDS put pressure on their “own” people currently displaced, to register to vote in their new home areas rather than in their original municipalities. While the HDZ registered to participate in the 1997 Republika Srpska Assembly Elections, it did not campaign and failed to win a single seat. The SDS did not even register in the Federation in the 1997 municipal elections. It had accomplished the relocation of Serbs, including more than 60,000 from the Sarajevo suburbs, to Republika Srpska quickly and by force. By March 1996, few Serbs remained in the Federation.

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<sup>35</sup> RRTF *1998 Outlook*, p. 18.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> The SSKIP is the party of Banja Luka mayor Djordje Umicevic and draws most of its support from Western Republika Srpska. A proposal to Prime Minister Dodik in March 1998 urged first the exchange of property, then financial compensation, and third, “return with the respect of the personal will of refugees”, and only if the international community rebuilds the required housing. *Oslobodjenje*, 10 March 1998.

There are many examples of the HDZ's policy of ethnic engineering. Leaflets have been distributed among Croats in Central Bosnia and Croat refugees in Germany calling on them to relocate to Herzegovina, some even providing a contact number in Zagreb of the Croatian Government's Office for Displaced Persons and Refugees (ODPR). Croat displaced persons have been resettled by the HDZ to occupy Serb houses in Drvar or Bosniac houses in Stolac. On numerous occasions Croat displaced persons meeting with potential Serb or Bosniac returnees warned representatives of the international community that their authorities would not approve of such contacts.

The Croatian Minister for Reconstruction, Jure Radic, admitted in 1997 that the Republic of Croatia was the main donor for housing reconstruction in Southern Herzegovina, even in Capljina where in 1996 the OHR imposed an international embargo against all aid and investment because of non-co-operation by local authorities in setting up a multi-ethnic municipal administration. Zeljko Matic, chairman of the Association of Croats from Republika Srpska, explains that the only durable solution for the 230,000 Croats displaced from Republika Srpska is to build new villages in Croat-controlled Federation in the Neretva valley and the Stolac plateau.<sup>39</sup> Houses are constructed close to abandoned, destroyed Bosniac and Serb villages in the areas of Stolac, Capljina, Mostar and Zitomislica as witnessed by anyone travelling on the road from Mostar towards the Adriatic coast. As of June 1997, some 2,000 houses were under construction in Capljina and Stolac alone. Newspapers close to the HDZ write that Croats from Central Bosnia are fulfilling their "natural calling" as guardians of Dubrovnik's hinterland by settling in these areas.<sup>40</sup>

Some Bosniac politicians have supported the relocation of Bosniacs who previously lived in areas that are now Serb or Croat-controlled. The SDA views such resettlement as temporary and advocates return to original homes. However, given the eagerness of European countries to repatriate refugees, the SDA has taken advantage of the influx of Bosniacs to the Federation to relocate them to areas of strategic importance, in particular, the Una-Sana and Sarajevo Cantons. Some relocation to the Una-Sana Canton made sense, especially for Bosniacs displaced from the Banja Luka region, because their presence there may facilitate reciprocal returns of Serbs from the Canton now displaced in Banja Luka. However, the degree of relocation that has taken place in the Una-Sana Canton, especially in Sanski Most, supported in large part by funds from West European countries that host refugees, has now rendered the return of Serbs exceedingly difficult.

### C. The Trap of Reciprocity

Hard-line nationalists often block minority returns by insisting on "reciprocity". For instance, in the view of the HDZ, Bosnian Serbs should only be allowed to return to their homes in Drvar if Croats are able to return to Kakanj in the Federation or to Bosanski Brod in Republika Srpska. For Serb nationalists, returns to Republika Srpska are not possible without prior return of Serbs to Croatia. The Sarajevo authorities maintain that Croats and Serbs cannot reclaim their homes until Bosniacs who were forced to flee Croat- and Serb-

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<sup>39</sup> *Slobodna Bosna*, 27 Feb. 1998.

<sup>40</sup> *Horizont*, 27 June 1997.



controlled areas are able to return to their homes, or at least have adequate alternative housing built for them. These objections are raised even when returns are planned to vacant houses or villages.

Insistence on reciprocity serves to block all returns, especially when accompanied by one or another party's strong-arm tactics to block its own people from returning. The HDZ's obstruction is well illustrated by the UNHCR's efforts to broker reciprocal returns in Prozor-Rama, a split municipality in the north of the Herzegovina-Neretva Canton mostly controlled by the HVO. Between March and September 1997, some 35 Bosniac families returned to the Croat-controlled village of Duge. However, no returns of Croats took place to Hudutsko, a Bosniac-controlled village, despite international appeals to the Croat authorities to provide names of interested displaced persons. In May 1997 the local HDZ leader warned of "unpleasant consequences" because the agreement "had been broken": "no family will return to Duge until the same is allowed for the villagers of Hudutsko."<sup>41</sup> No Croats have yet returned.

To counter the concept of reciprocity, the North-West RRTF instead calls for the international community to place "equal emphasis" on all communities. This it regards as a responsibility of the international community. However, the concept cannot serve as an excuse for obstructing returns.

#### D. Refugee Repatriation from Germany and Relocation

As of 1 December 1997, 612,000 Bosnian refugees are still without durable solutions, 89 percent of whom are in only three countries: the Federal Republic of Yugoslavia (FRY) (249,000), Germany (220,000) and Croatia (77,000). Other countries still hosting refugees with unresolved status include Switzerland (11,658), Italy (9,285), Austria (8,300) and France (7,400).<sup>42</sup>

The 249,000 Bosnian refugees in FRY (most of whom are Serb) and the 77,000 Bosnian refugees in Croatia, most of whom are Croats, without a permanent solution are not likely to repatriate in the foreseeable future as they are not under pressure from authorities to do so. However, refugees in Germany do face pressure.

Among the West European countries, Germany has been host to the largest number of refugees from Bosnia: some 345,000 by the end of the war. Approximately 100,000 had returned to Bosnia by the end of 1997, and an additional 6,000 returned during the first two months of 1998. UNHCR estimates that about 220,000 Bosnian refugees remain in Germany, of whom between 140,000 and 170,000 are Bosniacs and Croats from Republika Srpska. UNHCR anticipates that between 120,000 and 200,000 refugees from Germany may "voluntarily" return between March and September of this year.

German refugee policy is made by several bodies. The most important are the Conference of Interior Ministers of the 16 German Federal Länder

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<sup>41</sup> SFOR Civil Military Task Force (CIMIC), "*Prozor – izvjestaj o povratku izbjeglica*," January 1998.

<sup>42</sup> UNHCR, *Return Operation 1998*, *supra*, p. 9. Switzerland had accepted 26,700 Bosnians as refugees by the end of the war; Italy, 11,000; Austria, 83,000; and France, 15,000.

(states), and its subcommittee, the *Arbeitsgruppe Rückführung* (working group on returns). The *Arbeitsgruppe* includes representatives from the German Federal Ministries of Interior, Foreign Affairs, Development Co-operation and Defence and, most importantly, from the Interior Ministries of the 16 Länder. Though they generally try to co-ordinate policy, the Länder are autonomous in deciding whether to commence deportation proceedings against individual refugees. The Federal Government in Bonn is not in a position to dictate to the Länder a refugee and repatriation policy, although it can exert political pressure. Another important actor is the German Government's Special Representative for Repatriation, Dietmar Schlee, who maintains a permanent staff and office in Sarajevo.<sup>43</sup> The "Schlee team" relies on a 60-person contingent of German SFOR soldiers who gather technical and political information, largely from the local authorities. Schlee regularly sends representatives to the national RRTF meetings held in Sarajevo.

The Länder and their municipalities cover the costs of refugees while in Germany. According to Schlee, the cost of keeping Bosnian refugees in Germany runs to more than 200 million DM per month, money which he believes "should rather be spent in Bosnia".<sup>44</sup>

Interior Ministers agreed on a framework for refugee repatriation including that by 30 June 1997 all refugees without children had to leave Germany. The repatriation of Bosnian families, traumatised Bosnians undergoing treatment and pupils or vocational trainees who expect to receive a diploma in the near future was to begin in May 1997 and be completed in the course of 1998.

From the start, while most of the German Länder agreed not to repatriate non-Serbs to Republika Srpska, they pursued a policy of repatriating Bosniacs originating from Croat-held Western Herzegovina, despite information and pleas from international organisations, including UNHCR, that the situation there was difficult.

In June 1997, the Interior Ministers reached a consensus that the "deportation of Moslems [Bosniacs] and Croats from Republika Srpska should in principle be regarded as being of low (secondary) priority". However, that consensus started to fray towards the end of 1997 as pressure built for the repatriation of all remaining refugees. At the beginning of 1997, refugees in Germany received notifications from the Interior Ministries of a number of Länder to prepare for impending repatriation; this time the notifications were also sent to Bosniacs and Croats originating from Republika Srpska. The Interior Ministers repeatedly expressed the view that, with some Bosnian refugees having lived in Germany already for more than six years, the process of repatriation had to be accelerated. This cross-party consensus on a "get tough" policy is in anticipation of the general elections scheduled in Germany for the autumn of 1998.

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<sup>43</sup> Dietmar Schlee is a former Interior Minister of the state of Baden-Württemberg, and a member of the German Bundestag (parliament).

<sup>44</sup> *Frankfurter Allgemeine Zeitung*, 28 January 1998. The Länder with the largest refugee populations are Nordrhein-Westfalen (54,800), Bavaria (40,000), Baden-Württemberg (38,000), Hessen (28,600), Berlin (22,000), Niedersachsen (12,000), Rheinland-Pfalz (9,800) and Hamburg (8,200). *Frankfurter Rundschau*, 13 January 1998.

Since late 1997, a stream of German delegations has been visiting Sarajevo with the intention of "reconfirming that conditions for repatriation are right". German officials and news media increasingly reported that conditions throughout Republika Srpska had changed sufficiently to allow non-Serbs to return in safety. For instance, a delegation from Stuttgart, the capital of Baden-Württemberg, claimed that the Bishop of Banja Luka had urged the return of refugees to Republika Srpska so as not to cement the results of ethnic cleansing. However, while the Bishop welcomed minority returns, he stated that minorities would face discrimination and security threats if they returned.<sup>45</sup>

While Germany encourages voluntary repatriation with incentive packages and repatriation assistance,<sup>46</sup> deportations are on the increase as well. During 1997, some 1,000 refugees were deported and in the first two months of 1998 alone that number stood at 400. Bosniacs were taken by police from their homes to the airport, to be sent straight to Sarajevo. An open protest letter, signed by prominent German politicians, among them Hans Koschnik, former EU administrator in Mostar, Christian Schwarz-Schilling, International Mediator for the Federation of Bosnia and Herzegovina and Republika Srpska and Hans-Dietrich Genscher, former Foreign Minister sharply criticised these practices in early 1997. The letter stated, "Even refugees coming from Srebrenica, whose title to fame sadly derives from the mass murder of thousands, are receiving deportation orders.... A clear policy correction is needed." In the first months of 1998, tens of thousands of refugees received warnings that they would be deported if they remained beyond July.

German decision-makers justify the present policy with three main arguments. The first, that Germany had long been extremely generous to Bosnian refugees, cannot be disputed. However, the two additional claims -- that appointment of Milorad Dodik as Prime Minister of Republika Srpska has transformed conditions for return there, and that increased Western aid to Republika Srpska would make minority returns immediately possible -- are based on mistaken assumptions.

Despite encouraging first steps by the Dodik government, obstructionist political forces remain in control at the local level, with a particularly tight grip on police forces in eastern Republika Srpska. Moreover, many of the areas where refugees lived before the war now in Republika Srpska are hosting thousands of Serb refugees from Croatia, for whom no solution is likely to be found within the next several months. In addition, many basic laws essential for minority returns have not yet been passed in Republika Srpska, including an amnesty for deserters and draft evaders and an equitable property law.

While some of these concerns could be addressed by a coherent international policy, this is unlikely to come in time for the refugees facing

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<sup>45</sup> *Frankfurter Allgemeine Zeitung*, 23 January 1998.

<sup>46</sup> The German programmes are REAG (Reintegration and Emigration of Asylum Seekers from Germany), which assists refugees with their return travel, and GARP (Government Assisted Repatriation Programme), which provides a one-time financial assistance package of 450 DM per adult and 225 DM per child. These programmes are administered by the International Organisation for Migration (IOM). Since September 1996, 62,600 GARP payments were distributed by IOM to returnees from Germany. *IOM in the Countries of Former Yugoslavia, Update*, February 1998.

deportation from Germany during this year. The political "brokering" required to open up areas such as Prijedor, Banja Luka, the Dobož Hub and the Posavina, is only now beginning in earnest. The regional RRTF for the Dobož area and the Posavina, where significant minority returns are expected, is yet to be formed.

Informed observers in Republika Srpska believe that the Dodik government will fall if in the next three months 20,000 Bosniacs arrive in Banja Luka. This is not an argument against pushing for minority return; it is, however, a consideration that militates against indiscriminate and ill-prepared returns.

Nor is the economic situation as favourable as many in Germany seem to believe. The Republika Srpska economy remains desperate, with official unemployment rates greater than 27.3 percent and average income half that in the Federation.<sup>47</sup> Most internationally-financed reconstruction projects only begin in the early summer, and will have had minimal impact before returnees begin to arrive.

The combination of political resistance in many parts of Republika Srpska and a weak economic foundation leaves one likely solution for the vast majority of returnees: relocation. For a select few, relocation will be financed by German or other international donors. For instance, Berlin has a programme that requires the estimated 22,000 refugees, more than 70 percent of whom originate from Republika Srpska, to leave voluntarily within the next months if they are to receive additional repatriation assistance. It also offers the receiving municipalities reconstruction support of 1,500 DM per returnee. This is likely to encourage municipalities in the Federation to follow the "Sanski Most model" of attracting relocatees,<sup>48</sup> in order to benefit from international support. There is no component in the Berlin package addressing the issue of whether return to original homes is actually possible.

In Breza in Bosniac-controlled Central Bosnia, a housing project financed by the Land of Berlin, with assistance from German SFOR engineers, will result in the reconstruction of 90 apartments for about 500 refugees from Berlin and 90 others for local residents in Breza. During a visit at the end of March, the Mayor of Berlin praised this as a model for the future, and announced that the refugees in Berlin would indeed be forced to return this year.<sup>49</sup> However, the total amount to be spent by the European Commission on return-related housing and infrastructure projects in 1998 is about 87 million ECU (174 million DM), which even if devoted only to housing could finance the reconstruction of only some 5,000 housing units. If Breza is a model, the entire EC housing fund would be needed to accommodate returnees from Berlin alone.

Thus, if there is massive repatriation from Germany in 1998, Bosnian refugees will not be returning to their pre-war homes but will be relocated,

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<sup>47</sup> Sometimes reference is made to a 70 percent unemployment rate, which comprises the entire working-age population including students, the disabled and housewives. The 27.3 percent figure consists only of those actively looking for a job. RRTF 1998 *Outlook*, p. 25.

<sup>48</sup> In Sanski Most the SDA mayor has been issuing invitations to returning refugees to resettle in vacant housing and over 25,000 people have relocated. *Sanski Most Repatriation Information Center Municipality Report*, November 1997, and *Return, Relocation and Property Rights*, p. 11.

<sup>49</sup> *Die Welt*, 23 March 1998.

thus inflating the ranks of the internally displaced and worsening the situation of those already displaced.

### III. MINORITY RETURNS: WHAT HAS BEEN TRIED SO FAR?

#### A. Open Cities Initiative: the Konjic Model

##### 1. **Open Cities in 1997: a Disappointing Record**

UNHCR launched the "Open Cities Initiative" in March 1997 to overcome obstruction to minority returns. Municipalities were invited to declare their openness to minority returns, in return for which UNHCR would reward them with additional funding and would encourage other donors to do the same. Due to the perceived success of the initiative, at the end of 1997 UNHCR declared Open Cities its "principle vehicle" for 50,000 minority returns during the first half of 1998, promising to concentrate about 80 percent of its funding in Open Cities and potential Open Cities. UNHCR's 1998 budget appeal for Bosnia is 87 million US\$. From its inception until the end of March 1998, 47 million US\$ was spent on Open Cities, 12.6 million US\$ of which was through UNHCR projects.<sup>50</sup>

However, an analysis of actual results may indicate substantial flaws in the initiative's implementation. The Open Cities Initiative has not made significant progress in achieving its main objectives. It has not resulted in increased minority returns; and those Open Cities that have received

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<sup>50</sup> The United States is also implementing an Open Cities Support Programme which includes many municipalities in the Open Cities Initiative and disbursed about \$5 million in 1997.

significantly increased reconstruction assistance have not experienced a proportionate increase in minority returns. Indeed, in some cases the number of minority returnees has declined after recognition.

Gorazde, for example, received a total of 29,591,000 DM in aid in 1996 through November 1997, and from November 1997 when it was declared an Open City until the end of March 1998, it received 9,039,900 DM in funding. However, according to the UNHCR Gorazde Field Office, 23 minorities returned before recognition and only 4 returned between recognition and March 1998.

In 1997, UNHCR designated six municipalities in the Federation as Open Cities: Bihac, Busovaca, Gorazde, Kakanj, Konjic and Vogosca. Two municipalities were selected in Republika Srpska in December 1997: Mrkonjic Grad and Sipovo. In March 1998, Zenica in the Federation and Laktasi and Srbac in Republika Srpska were also selected. The table below shows the number of minority returns before and after recognition in the Open Cities in the Federation. Zenica and the municipalities in Republika Srpska are not examined since they have not been Open Cities for a sufficient period to produce measurable results.

These figures were compiled by ICG in early 1998 and refer to individual returns, not families. UNHCR in Sarajevo was not able to provide this information in February when requested, so ICG obtained the figures from the UNHCR field offices responsible for the various Open Cities. Not a single field office had tracked the numbers closely enough to have them readily available. UNHCR has since begun to record these figures and has published them in its most recent Open Cities Status report, which was distributed in late April. These figures, however, do not distinguish between returns that occurred before and after recognition and they also differ from the figures below which ICG obtained from the field offices.<sup>51</sup>

**MINORITY RETURNS TO OPEN CITIES REGISTERED WITH UNHCR**

**Pre-Recognition (DPA Until Date of Recognition)**

OPEN CITY: date of recognition in 1997	BOSNIACS	CROATS	SERBS	OTHERS	TOTAL
BIHAC: <sup>52</sup> (Bosniac-controlled): 21 August	n/a <sup>53</sup>	500	50	0	550
BUSOVACA (Croat): 2 July	100	n/a	0	71	171
BUSOVACA (Bosniac): 2 July	n/a	0	0	0	0
GORAZDE (Bosniac): 19 November	n/a	2	10	11	23
KAKANJ (Bosniac): 28 November	n/a	174	5	74	253
KONJIC (Bosniac): 1 July <sup>54</sup>	n/a	188	23	0	211
VOGOSCA (Bosniac): 3 July <sup>55</sup>					

<sup>51</sup> When ICG called various field offices to inquire about the discrepancies, UNHCR staff could not justify their published numbers.

<sup>52</sup> These figures relate to the period from January 1996 through July 1997. UNHCR Bihac stressed that these figures, for the pre- as well as post-recognition periods, primarily provided by Cantonal sources, are rough estimates.

<sup>53</sup> "n/a" stands for "not applicable," in the case of the majority ethnicity.

<sup>54</sup> These figures are for returns through 1 June 1997.

<sup>55</sup> UNHCR was not able to provide these figures. The Vogosca municipality, however, claims that 142 Croats, 46 Serbs and 46 others have returned prior to recognition.

TOTAL	100	864	88	156	1,208
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### Post-Recognition

OPEN CITY	BOSNIACS	CROATS	SERBS	OTHERS	TOTAL
BIHAC: July -January 1997	n/a	80	50	0	150
BUSOVACA (Croat):July-March 98	185	n/a	0	0	185
BUSOVACA (Bosniac):July-March 98	n/a	0	0	50	50
GORAZDE: November-March 98	n/a	1	3	0	4
KAKANJ: December-February 98	n/a	40	2	65	107 <sup>56</sup>
KONJIC: July-March 98	n/a	42	29	0	71
VOGOSCA: July-March 98	n/a	24	11	0	35
TOTAL	185	187	95	115	582

The total number of minority returns to these Open Cities before recognition was 1,208, and after recognition 582. In total, there were 1,790 returns. The involvement of the above municipalities in the Open Cities Initiative did not result in any breakthroughs. It is difficult to understand why certain municipalities -- in particular, Vogosca and Gorazde -- were chosen in the first place and how they managed to maintain their status. By contrast, many thousands of minority returns took place during 1997 to Sarajevo (2,300),<sup>57</sup> Travnik (2,500),<sup>58</sup> Jajce (1,800) and Drvar (800).<sup>59</sup>

In addition, Open Cities did not reap significant material benefits from recognition as compared to some non-Open Cities. The following calculations were based on IMG's Project Information Monitoring System (PIMS).<sup>60</sup>

### AID TO MUNICIPALITIES IN 1996 AND 1997

OPEN CITY	CURRENT POPULATION	TOTAL AID AMOUNT	PER CAPITA
GORAZDE	34,539	29,591,000 DM	857 DM
KONJIC	32,000	22,469,000 DM	702 DM
VOGOSCA	17,016	8,489,000 DM	499 DM
BIHAC	48,465	24,018,000 DM	496 DM

According to the Democratic Initiative for Sarajevo Serbs (DISS), however, only one Serb returned home in Vogosca during the entire post-war period. DISS also claims that a dozen families remained in Vogosca after reintegration but were evicted from their homes and are now displaced within the municipality. HDZ also claims that no Croats have returned to the municipality before or after it was recognised as an Open City.

<sup>56</sup> Although these figures from UNHCR field staff show that there have been 360 minority returns since DPA, the March Open Cities Status Report states that "Kakanj has to date reported on 466 Croat returns and 14 Serb returns since DPA. UNHCR believes that these figures are underestimated and is currently working on consolidating more realistic figures." UNHCR, *Open Cities Status Report*, 31 March 1998, p. 3.

<sup>57</sup> ICG, *Rebuilding a Multi-Ethnic Sarajevo: The Need for Minority Returns*, 3 Feb. 1998, p. 4, chart. In 1996, 16,500 Serbs and Croats returned to Sarajevo. *Id.*, p. 3.

<sup>58</sup> This figure was provided by the local HDZ. Given that the HDZ has an interest in minimising the number of minority returns to Bosniac-controlled areas, the figure is likely to be a low estimate. The UNHCR figure is 416.

<sup>59</sup> This figure is the estimate given by UNHCR field staff. The published UNHCR estimate is 538.

<sup>60</sup> These figures, and others which ICG used for the above calculations, were included in the European Commission Information Map for NGOs prepared for a meeting held in Brussels at the end of January 1998. These statistics are dated 20 January 1998.

BUSOVACA	18,510	2,628,000 DM	142 DM
NON-OPEN CITY	CURRENT POPULATION	TOTAL AID AMOUNT	PER CAPITA
SANSKI MOST	36,115	24,983,000 DM	629 DM
KLJUC	15,800	8,237,000 DM	521 DM
JAJCE	16,140	7,974,000 DM	494 DM

The data illustrate that in the course of the last two years, Open Cities have not been more successful in attracting donors than other areas; indeed, there is no relation between a municipality's status as an Open City, success with minority returns and amount of aid per capita. In Central Bosnia, for example, the Open City Busovaca received less per capita than Jajce, which is not an Open City. Kljuc, Bihac and Jajce all suffered comparable levels of destruction and received comparable amounts of aid per capita, despite the fact that only Bihac was an Open City, and only Jajce accepted substantial numbers of minorities.

## 2. Konjic – a “Model Open City”?

UNHCR regards Konjic as its most successful Open City.<sup>61</sup> Even before its selection in July 1997, Konjic was recognised as an area receptive to minority returns. The OHR regarded the municipality as tolerant<sup>62</sup> and OSCE noted that “cases of intimidation of national minorities within the municipality were rare.”<sup>63</sup>

After UNHCR selected Konjic, an inter-agency committee, the Konjic Open City Working Group (comprised of UNHCR, UNHCR's implementing partner, the American Refugee Committee, and the OSCE democratisation branch), was formed to monitor the fulfilment of the municipality's obligations. The Working Group organised a series of assessment visits. From the start, however, the Initiative suffered from a lack of political involvement by the OHR. OHR Mostar, responsible for Konjic, told ICG in February that “Konjic has not been on our radar screens up until now.”

A detailed analysis of Konjic shows that obstructions of minority returns in the municipality were and continue to be commonplace despite the support the municipality received.<sup>64</sup>

The municipality's failure to facilitate the speedy return of eight vulnerable Serb families living in Republika Srpska is one striking example. The families have been trying to return to Konjic since the summer of 1997. Moreover, according to one international observer, “Owing to the intense pressure that these potential returnees are subjected to by the Republika Srpska authorities, who oppose any Bosnian Serb returns to the Federation, it is even more important that all return movements made by the courageous few result in durable solutions.” As of mid-April, only two of the Serb families and one individual from a third family had returned.

International agencies also failed to address other issues. First, UNHCR did not adequately deal with the problem of double occupancy. When homes in

<sup>61</sup> ICG plans to publish a detailed analysis on the Konjic municipality shortly.

<sup>62</sup> OHR, *Municipality Handbook*, May 1997.

<sup>63</sup> OSCE, *Assessment of Current Human Rights Situation in Konjic*, 12 August 1997.

<sup>64</sup> The November 1997 UNHCR status report cites the planned reconstruction of 513 homes, a school and a community centre. UNHCR, *Open Cities Status Report*, 30 November 1997.



the Konjic village of Glaveticevo were reconstructed in early 1997, their owners, now living in Konjic town, did not move back. UNHCR did not inform the pre-war occupants of the Konjic town homes that they could apply to return, but left this task to the municipal Housing authorities, notorious for obstructing returns. Second, effective pressure was not applied to the poorly functioning Housing Department.<sup>65</sup> Third, UNHCR invested 1.2 million DM to finish construction work on an apartment building to be used as “buffer” accommodation, only later to discover that the municipality had already sold the rights to 14 of the 85 apartments before the war. Fourth, the United Nations International Police Task Force (IPTF) should have urged donors to ensure that Konjic’s ethnically-mixed police force, with only five vehicles, had adequate resources to at least patrol areas to which minorities were returning.

### 3. Other Open Cities

Other Open Cities have experienced similar failures. Municipal authorities greeted the selection of Busovaca, a municipality in Central Bosnia divided into Croat and Bosniac-controlled areas, as an Open City in July 1997 with ambitious promises and a plan that envisaged the return of 4,000 displaced minorities.<sup>66</sup> In its 31 July 1997 *Status Report*, UNHCR stated that “41 Bosniac families had returned and about the same number of Croats, with the help of Caritas, [were] about to do so.” By May 1998, these Croats had still not returned to their houses, even though Caritas Austria had provided them with building materials sufficient to repair them. Many of the unused materials were stolen while most of the Croats continued to live in Bosniac houses in the Croat-controlled part of Busovaca, owing to “security concerns” about returning to their pre-war homes.

Vogosca is perhaps the most disappointing Open City. When chosen as an Open City, every municipality is supposed to make possible the return of the ten families that have been registered with UNHCR to return for the longest period of time. Not a single one of these families has yet returned to Vogosca.

One reason that there have been so few minority returns to Vogosca is that the municipality currently hosts over 7,000 displaced Bosnians, mostly women, from Srebrenica and the surrounding areas. They bitterly oppose minority returns because currently they live in the homes of displaced persons and fear that they will be forced out. While their fear is understandable, their presence made Vogosca unsuitable as an Open City.

### 4. Weaknesses of the Open Cities Initiative

A major weakness of the Initiative is the lack of a proper selection process. Before a municipality is selected as an Open City it “volunteers” for consideration; most municipalities in the Federation have so volunteered. UNHCR and other international agencies then meet with local authorities to

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<sup>65</sup> In Konjic, 440 houses and apartments have been reconstructed, but less than a third of their pre-war occupants have returned, and many pre-war occupants continue to occupy someone else’s home. Moreover, there have been very few evictions and the head of the Housing Department complains that enforced evictions will make it seem as if he does not defend the interests of Bosniacs.

<sup>66</sup> UNHCR, *Open Cities Status Report*, 31 July 1997.

determine whether the municipality meets certain criteria.<sup>67</sup>

Minorities must be able to return to the municipality without being subject to harassment. Local authorities must demonstrate their commitment to welcome minorities by reintegrating them “into the normal life of the community”. They must provide “equal rights and opportunities for employment, education and appointment to public office”, allow for freedom of movement and encourage minority assessment visits and respect for human rights. They are called on to use the media “to prepare the resident community for the return of minorities, to invite minorities to return and to promote reconciliation.” The local police must act in an impartial manner, ensure “that security, law and order prevail for all”, and encourage “the integration of returnees into the local police force”.

The UNHCR field offices research and recommend municipalities on the basis of how “open” they believe them to be. Field offices are not responsible for justifying their recommendations. The municipalities selected are not bound by a set of specific undertakings. The UNHCR Head of Mission sends the Mayor of each “Open City” a standard letter of recognition. It states in part, “With you and our international partners, my staff will monitor and report to me on the progress of this exemplary initiative that you have undertaken,” but makes no mention of specific obligations. The criteria are not self-explanatory and clearly some interpretation is necessary.

A second major weakness is the lack of adequate monitoring. When the Konjic Mayor was asked if the monitoring of his municipality was done in any written form, he nodded and produced an Open Cities Status Report. This is also the primary written form of “evaluation” made available to the public. These reports are comprised of brief summaries of events, with little or no analysis.

The monitoring weakness is also apparent in the case of Vogosca, as evidenced in the UNHCR Open Cities Status Reports from July 1997 to February 1998. In July 1997, UNHCR noted that the return project “will be implemented in stages so that UNHCR can monitor its success and decide whether or not to continue.” In subsequent reports, municipal authorities are praised for “on-going dialogue” and “their positive attitude”. However, reports do not refer to even a single successful minority return to justify this praise. After displaced persons living in Vogosca attacked 14 Bosnian Serbs displaced from the municipality who had returned for an assessment visit on 1 August, the Open Cities Status Report asserted that “The incident did not dampen the Bosnian Serbs enthusiasm for return.” However, no strategy is suggested for supporting Serb returns, no further Serb assessment visits took place and, indeed, no Serbs returned.

Third, the Open Cities Initiative has not made an impact on such lingering problems as double occupancies and other property rights violations. Fourth, the Initiative has rewarded municipal authorities based on their promises and stated intentions, rather than on results.

For all of the above reasons, the Open Cities Initiative is unlikely to contribute substantially to minority returns in 1998 without fundamental reform. While

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<sup>67</sup>

The criteria are listed in each *Open Cities Status Report*.

the 1998 UNHCR strategy paper places emphasis on “energetically pursuing potential openings” and the need for “flexibility and speed of response,” it lacks concrete recommendations for how this is to be achieved.<sup>68</sup>

## B. Drafting Return Plans – the Central Bosnia Model

### 1. A Multiplicity of Structures and Plans

Following the December 1997 Bonn Peace Implementation Council (PIC) meeting, a number of new planning mechanisms and bodies to promote the return of displaced persons have been initiated. The PIC “urge[d] the Entity governments to instruct cantonal and municipal authorities to elaborate appropriate phased return plans, starting with the identification of areas where returns or preparations for returns to empty housing could happen immediately.” This was to be done by the end of February 1998.<sup>69</sup> By mid-April, all Cantons had submitted plans.

On 10 February, the Federation Ministry of Social Policy, Displaced Persons and Refugees issued a further instruction, after consultation with UNHCR, calling on all municipalities and Cantons to establish structures to organise the return of displaced persons.<sup>70</sup> Municipal Return Offices (MROs) are to be set up in each municipality, to receive and integrate into a database voluntary applications for returns and information on return opportunities. Joint Housing Assessment Teams in each municipality are to assess private and socially-owned property and determine levels of damage.

The information gathered by the MROs will be provided to newly-established Cantonal Co-ordinating Bodies, comprised of representatives of cantonal ministries, who would monitor implementation of cantonal return plans and follow-up on return applications. A Joint Housing Task Force is to be set up, including international organisations, to “determine cases for which it is necessary to reconstruct facilities”, and identify the type and extent of reconstruction needed.

A Federation Return Co-ordinating Unit is to be established within the Ministry of Social Policy, Displaced Persons and Refugees, to ensure an “appropriate information system and flow of reports between the Cantons” and “observe compliance of all the Cantonal databases with the Federation Return and Repatriation Plan.” A similar body is being set up in Republika Srpska as well. UNHCR and its implementing partners have pledged to support these new institutions with training and equipment, and about 80 computers were delivered to MROs at the end of April.

In many promising minority return areas, constant political pressure will be required simply to ensure that MROs actually co-operate with each other. In some divided municipalities of Central Bosnia, there are already two MROs established, one in Croat-held and one in Bosniac-held territory. The Federation Ministry of Social Policy, Displaced Persons and Refugees has

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<sup>68</sup> UNHCR *Return Operation 1998*, p. 1.

<sup>69</sup> Bonn Peace Implementation Conference Conclusions, December 1997, p. 14.

<sup>70</sup> *The Instruction on the Method of Organising the Return of Displaced Persons and Repatriates to the Territory of the Federation of Bosnia and Herzegovina*, Rasim Kadic, 10 February 1998.

problems getting basic information from some of its cantonal counterparts, particularly in Croat-majority cantons. The Ministry for Displaced Persons and Refugees in Banja Luka faces a similar problem dealing with recalcitrant municipal authorities in Eastern Republika Srpska.

The liaison between the Republika Srpska and Federation Co-ordination Units is to be handled by a State Return Co-ordination Unit within the State Ministry of Civil Affairs and Communications. The Minister at present works from Pale with a small staff, while the rest of the Ministry is located in Sarajevo. International officials who work with the Ministry note that the Minister and his deputies only meet when prompted by international organisations. They warn that the Ministry is "hardly capable of doing anything at the moment." It has failed for many months to appoint senior officials, due to disagreements on the definition of "equitable representation" of ethnic groups in the civil service. Within the Bosnian state budget, the Ministry is to have a staff of 93, including the Minister and his two deputies. The Ministry is to deal with a wide range of issues, from inter-entity criminal law-enforcement to passport issues, road traffic, communication and refugee issues.

Although some Ministry officials state that the Ministry has about 260 staff, they have not been paid out of the state budget. They continue to work, but are paid from illegal sources, successors of the by now illegal parallel institutions of the former Republic of Bosnia and Herzegovina.

The experience with information centres for returnees over the past two years suggests a wide variety of ways in which authorities opposed to minority return can sabotage their work: by failing to allocate space, pay salaries of employees, install telephone lines, process applications, act upon information received, or inform cantonal and federal officials or international organisations. There are also numerous examples from 1997 where lists of returnees were actually used to identify houses for arson or hostile relocation.

It is unlikely that these systems will be ready in time for either the impending mass repatriation from Western Europe or internal minority return movements this year. Previous experience with similar schemes is sobering. In 1996 and 1997, UNHCR and the International Organisation for Migration (IOM) distributed questionnaires to "facilitate planning for voluntary return" of 100,000 refugee households in Germany. The intention was the same as that of the new application mechanism: to match potential returnees' intentions to repatriate with assessments of the status of their housing. Some 15,000 replies were received. Of these, 5,000 expressed an intention to return to majority areas, which were the only ones forwarded to UNHCR field offices for matching purposes. As UNHCR concluded, "this effort... proved to be labour-intensive and yielded rather limited results," only 238 households were identified and selected for return.<sup>71</sup>

Current municipal and cantonal offices are, in most cases, capable of managing returns without the creation of new data-bases. New equipment does not make up for the lack of political will. In addition, there is a real danger that the Byzantine new structures, plans and networks will distract officials, both international and local, from the task of enabling return. The human resources needed to establish this system and to ensure that it

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<sup>71</sup>

UNHCR, Repatriation and Return Operation 1998, p. 31.

functions properly could be put to better use by assisting and training displaced persons organisations to manage returns themselves, as has been done in Drvar, Jajce, Stolac and elsewhere. Simpler mechanisms can be used to ensure a flow of communication between authorities in municipalities receiving returnees and displaced persons organisations. UNHCR field officers are ideally placed for this.

Essential information about potential returnees is already at the disposal of displaced persons organisations. In the North-West, members of the RRTF have a good understanding of returnees' intentions based on direct contact with them. Indeed, members of the Coalition for Return started to gather information about intentions to return in early 1997. They were not, however, consulted by the Federation Ministry before the present system was considered.

## **2. The Central Bosnia Experience**

The renewed interest in returns and elaborate administrative structures are in large part results of the Central Bosnia Cantonal return plan, endorsed by authorities at the municipal, cantonal and Federation levels on 14 November 1997. Ironically, it was the violent eviction of "spontaneous" returnees to Jajce in July 1997 that sparked the cantonal return process. In response to the violence, the late Deputy High Representative Gerd Wagner demanded the immediate return of all those evicted from Jajce and a general commitment by all municipalities of the Canton to support minority returns immediately.

A resolution drafted by the OHR was the basis for an agreement on 5 August, signed by then Federation President Vladimir Soljic and then Vice-President Ejup Ganic, to open all of Central Bosnia for minority returns. Eventually, all 11 municipalities of the Canton designated certain villages for immediate return. Developments in the municipality of Bugojno demonstrated the usefulness of such sustained diplomacy: SDA mayor Dzevad Mlaco, a hard-line Bosniac leader initially opposed to all Croat returns, pledged support in the wake of a series of high-level interventions. In late 1997, repairs of Croat houses in a number of empty villages in the municipality began.

The notion of a formal cantonal plan was then promoted by cantonal officials, supported in technical matters by the International Management Group (IMG) and UNHCR. The plan called for returns in three phases: first to unoccupied homes in need of reconstruction, second to occupied private homes, and finally to occupied socially-owned housing. Developments since the promulgation of the plan have been cautiously encouraging. Returns have continued to take place in Central Bosnia, though often outside of the plan's prescriptions. Donors have also allocated increased funding for return-related reconstruction to Central Bosnia, though again often outside of the prescriptions of the plan. It appears that the most useful impact of Ambassador Wagner's initiative was the renewed political commitment and the designation of certain areas where returns could take place immediately. The principal utility of a cantonal return plan may be to send a political message to municipalities, thereby fostering an atmosphere conducive to returns.

UNHCR drafted guidelines for the plans, recommending that they include input from displaced persons; estimates of the expected pace and timing of

return movements; assessments of areas from which return movements were likely to originate; descriptions of where displaced persons currently live; and how displaced persons would have access to detailed information regarding return possibilities. All of the Federation's ten Cantons drafted return plans, although few complied with the UNHCR guidelines.

The Central Bosnia Canton, with its high level of intra-cantonal displacement, was particularly well-suited to a cantonal plan. It also was fortunate to have dedicated and competent Croat and Bosniac politicians heading the Cantonal Ministry of Refugees and Displaced persons. Several other Cantons are not in this position. Indeed, when the pressing need is for returns across the Inter-Entity Boundary Line (IEBL), as for example between the Una-Sana Canton and the Banja Luka region, the drafting of a Cantonal plan is often a diversion, requiring a heavy time investment by field officers and cantonal officials for limited results. As UNHCR has recognised, the "ultimate goal of any planning is to attain an objective. A beautifully designed plan is of little value if it cannot be implemented for lack of interest by the displaced persons and refugees themselves or for lack of security or other conditions needed to make return viable."<sup>72</sup>

An excessive focus on planning at the cantonal level can also be counter-productive when Cantons seek to marginalise municipalities that do not follow the cantonal line. The newly-elected municipal authorities in Drvar, Grahovo and Glamoc (Canton 10) and Bosanski Petrovac (Canton 1) have seen their powers curtailed by a cantonal government opposed to further Serb returns. Moreover, municipalities may seek to hide behind a cantonal plan to avoid spontaneous returns. This excuse has often been used by some municipal authorities in the Central Bosnia Canton, such as those in Jajce.

The quality of Cantonal plans produced thus far is uneven. Many international officials contend that some cantonal officials have simply submitted "shopping lists" of infrastructure and houses to be reconstructed rather than serious return plans.

One aspect of municipal return plans that can be useful is the obtaining of explicit consent from municipal authorities for returns to certain areas. Stolac, for instance, is a striking example of the time and energy wasted trying to plan returns according to lists of return applicants while the authorities remained recalcitrant. Yet negotiations on a municipal return plan precipitated a breakthrough in March 1998.<sup>73</sup> Following the adoption of a municipal return plan by Stolac authorities, which names "open villages", Bosniac displaced persons started to return in groups of some 50 persons to different villages to repair their houses without waiting for further specific consent by the authorities. These returns were the outcome of international pressure which included SFOR manoeuvres in the area and the long-overdue dismissal by the OHR of the hard-line Mayor of Stolac Pero Raguz.

#### C. Returns Driven by Displaced Persons – the Drvar Model

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<sup>72</sup> UNHCR, Draft Template for Return Plans.

<sup>73</sup> In Stolac a pilot project to return 100 families by December 1995 took more than two years to be completed. Houses under construction in Stolac for the pilot project were set ablaze during 1996 and 1997, building materials were stolen, houses "occupied" and others covered with hostile graffiti.

## 1. Why Returns Driven by Displaced Persons Are Crucial

The return movements to Drvar, Jajce and Stolac show that throughout Bosnia people of all ethnicities want to return to their pre-war homes and are willing to assume the risks involved. They also show that for returns to be sustainable they must be in substantial numbers, and include enough working age families (not simply elderly people), to be able to provide a measure of security and a minimum base for rebuilding the community. As a survey conducted by the CRPC indicates, guarantees of safety from the local authorities and the return of pre-war neighbours represent for many potential returnees the minimum conditions for return.<sup>74</sup>

Due to the veto that local politicians hold over negotiated agreements, substantial returns to hard-line municipalities have, to date, been possible only when driven by displaced persons rather than organised by international organisations according to lists negotiated with municipalities. The term “spontaneous returns”<sup>75</sup> used by UNHCR is misleading because it fails to reflect the considerable amount of organised effort undertaken by displaced persons associations before such movements begin. There is nothing “spontaneous” in the activities of displaced persons organisations which lobby, register as political parties, take part in municipal elections, participate in assessment visits and finally repair houses. The returns to Jajce in the summer of 1997 and to Stolac in March 1998 took place after preparation, contacts with other displaced persons organisations and international organisations. These preparations are essential, once return movements begin, to limit security risks.

## 2. Returns to Drvar

Drvar provides a model of return that began largely without support from the international community. The groundwork for return was laid by an effective displaced persons organisation. In early 1996, despite opposition from their own authorities in Republika Srpska, Serbs displaced from Drvar, under the leadership of Mile Marceta, formed the Drvar Association. It participated in Coalition for Return conferences and initiated contacts with organisations throughout Bosnia. In the September 1997 municipal elections, the *Koalicija za Drvar* (Coalition for Drvar), led by Marceta, won a majority of seats on the Drvar municipal council, and the council elected Marceta mayor. Following these successes, the Association began co-ordinating returns. In the early stages, financial support from the international community was small; only one non-governmental organisation, Impact Team International (ITI), was working in Drvar when returns began in late 1997. Indeed, in November 1997 ITI distributed leaflets urging returnees to “postpone [returns] until spring.”<sup>76</sup> By the end of the year, however, some 800 heads of households had returned, and the international organisations began providing material as well as political support. By April 1998, the number of returnees had increased to 1,600.

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<sup>74</sup> CRPC, *Return, Relocation and Property Rights, December 1997*, p. 16.

<sup>75</sup> UNHCR 1997 Operation, p. 10. “Spontaneous is a term used by UNHCR to denote returns not under deportation or part of organised efforts of international humanitarian agencies.”

<sup>76</sup> Leaflets distributed to Bosnian Serbs in Drvar, first half of November 1997.

On the political level, there had always been co-operation between the North-West RRTF and the leaders of the Drvar Association. In April 1997, a paper by the RRTF recognised the “strategic importance” of Drvar. This recognition focused both regional and high-level political attention on the issue and alerted Croat authorities that their actions were under scrutiny. After the municipal elections, when returns picked up, the North-West RRTF responded effectively to dangerous situations, such as an outbreak of violence in Martin Brod in October 1997. In this incident Serb returnees were greeted by a mob, led by the former Croat mayor. The Canadian SFOR contingent in the area successfully forced Croat settlers out of Serb homes they had pre-emptively occupied. In the wake of this decisive SFOR action, returns accelerated.

Beginning in December 1997, OHR and UNHCR opened offices in Drvar, providing an international presence that encouraged returnees. In line with the co-ordinating efforts of the RRTF, donor assistance for the area increased, with considerable EU funding targeted for Drvar in 1998. International mediation helped to establish a multi-ethnic administration. By March 1998, some 60 persons were returning each week to vacant houses. Not a single Croat displaced person has been forced to leave a home as a result of Serb returns.

An important breakthrough was the withdrawal of some soldiers of the HVO from Serb apartments in the centre of Drvar, which freed space for the return of 160 Serbs to their homes in April 1998. By then Mayor Marceta and some of the Serb councillors had returned to Drvar and began to assume some of the functions of their offices. However, constant obstruction by the Croat authorities in Drvar continued, including confiscation of Serb identity cards, and refusal to allow the Serb councillors access to housing records or archives or even to enter the municipal building and their offices. Relocation of Croats returning from Germany into Serb homes also continued, while the HDZ maintained that there was “no available housing in Drvar”.

### **3. Organised Violence and the International Community's Inadequate Response**

On 15 April, an elderly Serb couple who had returned was found murdered in a burning house. This led to the OHR's immediately suspending from office the HDZ strongman Deputy Mayor Drago Tokmakcija, and the UN's dismissal of the Drvar police chief and the cantonal Interior Minister. The murder of the Serb couple highlighted the absence of a reliable multi-ethnic police force capable of protecting all citizens without distinction. According to the International Police Task Force (IPTF), the reintegration of Serbs into the police force was ready to proceed in early December, but was blocked by HDZ cantonal and municipal authorities. After the murders, the UN accused Federation Vice-President Vladimir Soljic and Federation Deputy Interior Minister Joze Leutar of “indicating no willingness to bring about the urgent changes” required for police restructuring. Arson also continued in the first months of 1998, with more than 60 houses or barns going up in flames.

The most serious challenge to date, both to the model of minority returns driven by displaced persons and to the international community's support for such returns, came on 24 April. Following the murder, SFOR had sent reinforcements to Drvar. These were withdrawn on the morning of the 24th,



despite the fact that SFOR had noted an unusual number of cars without licence plates or with plates indicating that they came from other parts of Herzegovina. Within hours of the troop withdrawal, a crowd of several hundred Croats gathered, stormed the municipal building and attacked Mayor Marceta in his office. He was savagely beaten and left for dead by his attackers. The crowd also attacked buildings which symbolised international support for the return process, including houses of elected Serb councillors, the UNHCR office and the apartments recently vacated by the HVO. The 160 Serbs who had returned to these apartments had to be evacuated. IPTF, which in the wake of the murder of the Serb couple had also sent reinforcements to undertake an investigation, was humiliated by the crowd, as their office and cars went up in flames. Files indicating which Croats were interested in returning to Central Bosnia were stolen from the office of an international NGO, thus putting those Croats at risk of intimidation. Following the riot in the centre of Drvar, groups of thugs went around villages warning Serb returnees to leave or face further violence.

According to international observers, off-duty Bosnian Croat police were seen in the crowd, which was clearly organised. Representatives of international organisations who had been working in Drvar reported that men, some wearing side-arms, whom they had not seen before, gave instructions to the crowd about where to go and what and whom to attack. While they also recognised Drvar current residents among the crowd, some withdrew as soon as the demonstration turned violent. There had been numerous warnings of violence planned against both Serb returnees and members of international organisations.

Members of the North-West RRTF urged that the event should be tackled "not as a civil disturbance, but as a politically motivated attack". The OHR in Banja Luka warned that, unless strong action were taken, "SFOR and IPTF and the whole international community [would] be mocked time and time again", with Drvar providing a blueprint for similar actions elsewhere. Proposed measures included the SFOR-supervised removal of HVO troops to barracks within a one to two week period, and the placing in Drvar by OHR of a senior international official for an interim period to re-establish confidence. More than two weeks after the event no decision had been made by the international community to fill the power vacuum left by the departure of the Serb councillors and the dismissal of the HDZ deputy mayor and chief of police. Serb councillors had been forced out of their homes in Drvar and their attackers had gone unpunished. UNHCR stopped all humanitarian aid to returnees, and returns came to a halt. Field officers were demoralised and wondered what they were expected to do.

The international community has continued to send mixed signals. On the one hand, several high-level delegations have visited Drvar, including a NATO mission headed by NATO Commander General Wesley Clark and High Representative Carlos Westendorp. On the other hand, many international organisation representatives accepted the HDZ's argument that the violence was a spontaneous outburst of "outraged displaced Croats" in response to violence in Derventa against visits by pre-war Croat residents. The implication was that, while unjustified, the violence was perhaps understandable and, in any event, inevitable and outside the HDZ's control. A UN weekly report interpreted events in the following way: "Croats are forced to abandon strategically crucial Drvar to Serbs at the same time that

they are prevented from returning to Serb-dominated areas from which they had been ethnically cleansed at the war's outset.... The constant, limited violence associated with returns ... is fed by the insistence of 'desperate' displaced persons to return to their homes, by the support they are given by international officials and by the lack of adequate security." SFOR in Drvar called for a slow-down of returns in the face of the violence.

The international community, led by OHR Mostar, negotiated an agreement during the night following the riot with "cantonal and municipal authorities" during which they promised to help the cantonal and municipal authorities investigate the causes of the riot. In exchange, local authorities agreed to help IPTF re-establish its station in Drvar and engage in "continued discussions regarding the restructuring of the Police Force of the Canton." Bosniac and Serb representatives were not consulted, let alone included, in these negotiations. Moreover, the UN's efforts to include Serbs and Bosniacs in the cantonal police forces were so poorly handled in the weeks following the riots that the UN had to withdraw its support for the scheduled inauguration ceremony at the last moment.

Violence against minority returnees is a grave breach by authorities of their obligation, set forth in Annex 1A of the DPA, to "provide a safe and secure environment for all persons in their respective jurisdiction." SFOR, with its "primary mission ... to contribute to a secure environment necessary for the consolidation of peace", must assume significant responsibility for the prevention of further violence.

#### D. Return Conferences – the Sarajevo Model

##### 1. Achievements of the Sarajevo Return Conference

The December 1997 Bonn Peace Implementation Conference called for a highly visible return conference in Sarajevo to promote minority returns. On 3 February 1998, the OHR, the US Government and the European Commission hosted a high-level conference which conditioned future economic aid to the Sarajevo Canton on the return of at least 20,000 minorities in 1998.<sup>77</sup> Although there have been more minority returns to the Sarajevo Canton than anywhere else in Bosnia and Herzegovina,<sup>78</sup> it was agreed that the Canton had nevertheless failed to do enough to facilitate more significant minority returns. The Sarajevo Conference was a highly-publicised attempt to exert pressure on the Sarajevo authorities to take the lead in welcoming minorities.

A Sarajevo Declaration, drafted under the leadership of the OHR, outlined the most grievous problems and set deadlines for solutions. Months after the conference, progress on the implementation of the Sarajevo Declaration remains slow.

The conference finally pushed through an important amendment to the Federation property legislation. The OHR had been pressuring the Federation to amend its discriminatory property laws since November 1996 when it concluded that the laws violated Annex 7 of the DPA. The Sarajevo

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<sup>77</sup> According to IMG, the Sarajevo Canton received 95.5 million DM aid in 1997.

<sup>78</sup> UNHCR estimates that 18,800 non-Bosniacs had returned by the end of 1997. ICG, *Rebuilding a Multi-Ethnic Sarajevo*, 3 Feb. 1998, p. 3.

Declaration stated that OHR-approved property legislation had to be adopted by 1 March at the latest or else some reconstruction projects would be suspended. The legislation was adopted on 12 March.

The conference also established the Sarajevo Housing Commission, intended to curb the misallocation of housing by local authorities by involving the international community in the process. The Commission includes the Governor of the Canton, Cantonal Ministries and international organisations as observers. The Sarajevo Housing Commission is tasked with making recommendations for and supervising the return of pre-war tenancy rights holders to their pre-war homes. A Memorandum of Understanding detailing guidelines for the Commission was signed on 9 March.

The conference also helped to inform NGOs involved in reconstruction of the need for minority returns. There is now more emphasis on minority returns among reconstruction agencies. For example, World Vision, UNHCR's main implementing partner in the Sarajevo Canton, repaired 644 homes in 1997, of which only 93 benefited minority returnees. This year, all 520 homes in the Sarajevo Canton and 130 in Eastern Republika Srpska slated for repair will benefit minorities.

The Sarajevo education authorities met the 1 March deadline set by the conference for the establishment of a multi-ethnic Education Working Group. Three sub-groups were set up under this working group. One will examine multi-ethnicity in education, another will advise on textbook preparation and the third will launch pilot projects in various schools. It remains to be seen whether the 30 June deadline for developing a non-discriminatory school programme and for reviewing a list that is to be compiled of all textbooks in use or intended for use in schools will be met. Moreover, by 1 September all textbooks promoting intolerance should be removed from school programmes. In addition, the Cantonal Minister for Displaced Persons met the 1 March deadline for establishing the Cantonal Employment and Return Commission.

Finally, Sarajevo municipalities met the 1 March deadline for the adoption of standardised and simplified registration procedures for minority return. However, returnees still encounter significant resistance from municipal authorities in accessing documentation.

## **2. Unresolved Issues**

By 1 April 1998, the Ministry for Spatial Planning should have identified 500 cases of multiple occupancy. This deadline was not met. In late 1997, the Canton called upon Sarajevo residents to report cases of double occupancy to the Ministry, the body which has been largely responsible for the misallocation of homes. About 800 cases were reported, but the Ministry claims that only a fraction of these actually involve the misuse of property rights. SDA leaders, some of whom are themselves beneficiaries of multiple occupancy, are yet to take any convincing steps -- such as examining public records -- to identify double occupancy cases in the Canton. At this rate, the 30 June deadline set by the Sarajevo Declaration for presenting to the Sarajevo Housing Commission 1,500 addresses of multiple-occupancy homes will also be missed.

The Cantonal Ministry for Spatial Planning and the Ministry for Displaced Persons were also to have resolved a number of pending return cases compiled by UNHCR. Four of these cases involved minority persons whose homes had been repaired under a UNHCR-financed project last year, but were not able to return. Two of these cases have been resolved since the Sarajevo Conference.<sup>79</sup> UNHCR had also compiled a list of "priority cases" where requests to return were blocked by authorities. At the time of the Conference, only four of the 96 cases had been solved, and all involved private property. According to UNHCR, only four additional cases have been solved since.

From the beginning of 1998 through April, 15,000 return requests have been lodged in the Sarajevo Canton. However, the Canton envisages minority returns to damaged homes slated for repair differently than UNHCR, and would prefer that returning minorities be indirect rather than direct beneficiaries. The Canton argues that instead of directly repairing minority homes, the homes of Bosniacs now living in homes belonging to minority displaced persons should be repaired, thus freeing homes belonging to minorities.

The Canton has also recently required NGOs to apply for approval of project implementation directly to the Cantonal Ministry for Spatial Planning. World Vision, whose reconstruction programme this year in Sarajevo will deal exclusively with minority homes, must now submit a separate request for every home it intends to repair. This new procedure will significantly stall the implementation process and may be an indication that the Canton only grudgingly accepts minority returns.

Another concern for returnees is security. The Sarajevo Declaration called upon the Cantonal Police to produce a detailed strategy plan by 1 March outlining how the Cantonal Police intend to incorporate more minorities into the force and foster a secure environment for returnees. The plan presented by the Canton is too vague and brief to be of any use, and does not comply with earlier agreements signed by the Canton on a more integrated police force, especially regarding the hiring of Serb police. In the 3 February 1997 Federation Forum Agreed Measures, the Federation had agreed that the police force was to be comprised of 70 percent Bosniacs, 15 percent Croats and 15 percent others. These goals have not been reached.

The Sarajevo conference successfully focused attention on the need for minority returns to the country's capital by using as leverage the threat to withdraw all aid to the Canton. It remains to be seen whether the Sarajevo authorities will take the threat of losing economic assistance seriously. So far, the results have been meagre. Moreover, the OHR and other international agencies have failed to use the local media either to promote the goals of the conference or to demonstrate how the authorities can, but are choosing not to, live up to them. Sarajevo residents have not grasped the

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These cases involved a 6 million US\$ UNHCR-financed shelter project in co-operation with the Sarajevo City Development Institute with which 1,156 homes were rebuilt, but upon their completion in March 1997, the Ministry for Spatial Planning blocked the return of 25 pre-war occupants, all but one of whom were Serbs or Croats. Before the Sarajevo Conference, 21 of these cases had been resolved.

importance of the aims of the conference and Cantonal authorities claimed that the international community was unfairly criticising them.

### 3. Banja Luka Returns Conference

On 28 April a similar conference was held in Banja Luka, organised jointly by OHR and UNHCR. Banja Luka is in a special position: despite the fact that 60,000 former inhabitants of the municipality are now in the Una-Sana Canton, in Croatia and in other countries, the population of the town has grown by more than 25,000 since the war. Of the current population of 220,000, around 85,000 are displaced Serbs, principally from Croatia, Canton 10 and the Una-Sana Canton.<sup>80</sup> As such, return movements of Serbs to Canton 10 and the Una-Sana Canton are of great importance.

In the interest of "equal emphasis" on return flows in all directions, return of Croatian Serb refugees must also become a priority for the international community. In this respect, the Banja Luka conference marked an important step forward. At the conference, the presence of a high-level delegation from Croatia led by Foreign Minister Mate Granic provided an opportunity to pressure the Croatian authorities to accelerate the return of displaced Serbs. (See: Section V, C, Opening of Croatia)

In the wake of the conference, the following priorities must be pressed by the international community:

- The Republika Srpska National Assembly must adopt amendments to property legislation, demanded by the OHR.
- The Republika Srpska amnesty law must be amended. The current law provides a general amnesty for war-related crimes, but exempts draft evasion and desertion. Thus, all draft-age men who fled the country could be subject to arrest upon return. Although Prime Minister Dodik's government has proposed the necessary amendments, the National Assembly has refused to adopt them.
- A mechanism for the restitution of apartments to their pre-war occupants must be established. Also, the authorities must be pressed to rationalise practices concerning the allocation of abandoned property, and the identification of property occupied by people whose houses were repaired elsewhere. At the Sarajevo conference, the necessity of addressing seemingly technical issues at the political level was apparent.
- The Banja Luka authorities must be pressed to reinstate 'floaters'-- non-Serbs who have been illegally evicted from their homes but who remain in Banja Luka -- as a *sine qua non* for substantial financial assistance to the city. This is an important signal to measure the credibility of the reformed Banja Luka police and the new municipal authorities. Interventions by the Republika Srpska Ministry of Refugees and Displaced Persons to order courts and the police not to proceed with lawful evictions must be vigorously opposed.

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*Property Situation in Banja Luka*, Human Rights Working Group in Banja Luka, October 1997.

- The reconstruction of religious buildings -- notably the Ferhadija mosque - is crucial to creating an atmosphere conducive to return. The international community should reaffirm its commitment, expressed in the High Representative's letter to Prime Minister Dodik and Banja Luka Mayor Djordje Umicevic, to ensure that permission is granted for such reconstruction.

#### E. Internationally Regulated Returns – the Brcko Model

Brcko represents a model for minority returns strictly regulated and monitored by the international community. The Brcko area has been a leading recipient of aid from organisations including the US Agency for International Development and the European Commission. For 1998, the OHR hopes to raise a total of 70 million US\$. The European Commission has allocated 6.7 million US\$ for the Brcko area, a full ten percent of the funds it plans to spend on return projects this year throughout Bosnia.<sup>81</sup> The World Bank allocated \$6.8 million to repair main roads.<sup>82</sup> Several other donors have made commitments as well.

Over the past two years, the international community has devoted considerable human and material resources to promoting “peaceful, orderly and phased” returns to the Brcko area. Owing to the strategic importance of Brcko, Serb settlers and Bosniac returnees, often with construction materials supplied by their authorities, rushed to repopulate its destroyed suburbs in 1996. An International Housing Commission was established to register and approve applications for returns. Pursuant to the Award of the Arbitration Tribunal issued in February 1997,<sup>83</sup> US Ambassador William Farrand was named Supervisor, and quickly assembled a staff of 20 internationals and several Bosnians to assist the process of return, reconstruction and economic development. Beginning in April 1997, an OHR Returns Commission took over the process of approving applications for returns.<sup>84</sup>

By 23 December 1997, 596 Bosniac and 18 Croat families had returned to their homes on the Republika Srpska side of the Zone of Separation (ZoS), but no Serb families had returned to the Federation side.<sup>85</sup> Although those numbers are somewhat greater than the number of minority returns to all other areas of Republika Srpska combined,<sup>86</sup> that achievement is modest in light of the political leverage conferred by the arbitration process, and the large number of personnel and material resources devoted to promoting minority returns compared to the resources available for other parts of the country. Moreover, many of these families have not moved into their Brcko homes on a full-time basis; they are considered resettled when a family member has spent at least one night in their reconstructed home.

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<sup>81</sup> OHR North Press Release, 4 April 1998.

<sup>82</sup> Reuters, 4 Nov. 1997.

<sup>83</sup> Brcko Arbitral Tribunal for Dispute Over the Inter-Entity Boundary in Brcko Area, Rome, 14 February 1997.

<sup>84</sup> The Returns Commission is chaired by the Supervisor and includes international organisations and representatives of all three ethnic groups.

<sup>85</sup> OHR, Returns Update for Brcko, December 1997, and OHR Brcko Information Sheet, Jan 1998.

<sup>86</sup> Assuming (as does the OHR and other agencies), that families average four people, about 2,400 persons returned to the Brcko ZoS, compared to some 2,200 to the rest of Republika Srpska.

Furthermore, all minority returns have been to villages in the ZoS, an area outside of Brcko Town strewn with mines where destruction was extensive and where few homes have running water or electricity. The families who have been able to return represent only about 10 percent of those who are displaced across the IEBL, within 20-30 km of their original homes, waiting to return. Given that 1998 may be the last year of the supervisory regime, much greater progress is needed.

The most difficult challenge -- initiating minority returns to Brcko Town -- lies ahead. The only non-Serb returnee to Brcko Town has been a Croat member of the new multi-ethnic judiciary. Supervisor Farrand's office and UNHCR are developing plans for initiating returns to the Town that include the building of temporary accommodation for Serbs currently occupying homes of displaced minorities.

Plans for minority returns to Brcko Town should be given a high priority, but building of temporary accommodation should be a recourse of last resort, and should not be pursued until other, less costly measures, have clearly failed. Several options could be explored. First, the number of double-occupancies in Brcko Town -- Serb families occupying more than one home -- should be established. The Brcko authorities should require families to consolidate into single homes, and the European Community Monitoring Mission (ECMM) should monitor the situation. Second, there are approximately 1,000 destroyed housing units in the Town that, if repaired, could provide space for returnees. Third, the Supervisor, together with UNHCR, should establish a mechanism by which Serbs from Sarajevo now living in Brcko who want to return to their homes can declare their interest to do so. This information could be kept confidential from the Brcko authorities, if so desired by the applicants. The Sarajevo authorities should be pressed to free up their homes, as a matter of high priority, in compliance with the Sarajevo Declaration issued 3 February 1998.<sup>87</sup> If new homes are to be built, they should be built in Sarajevo for Serbs from Sarajevo currently residing in Brcko. Building homes for Serbs in Brcko will only cement the ethnic engineering there, which could well become significant once the Supervisor's mandate terminates.

The association of Serb displaced persons in Brcko remains a significant obstacle to untangling the return knot in the Town. It has publicly opposed returns by Serbs to the Federation until there are cast-iron guarantees for their safety. This is a clear prescription for indefinite delay. The association tries to minimise any momentum created by successful assessment visits to the Federation, such as a recent visit by nearly 50 Serbs to Jajce. International officials in Brcko recognise that the association represents a serious obstacle, and there is debate within the Supervisor's office as to whether the association's leader and former SDS delegate Milorad Zivlak is a "public official", and thus eligible for removal by the Supervisor.<sup>88</sup>

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See Sec. III. D., supra.

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The Supplemental Award issued by the Arbitral Tribunal on 15 March 1998 stated, in para. 24, that the Supervisor "shall enjoy in the Brcko area powers equivalent to those conferred upon the High Representative by the Bonn Conference of December 1997, including the power to remove from office any public official considered by the Supervisor to be inadequately co-operative with his efforts to achieve compliance with the Dayton Accords".

In addition, the possibility should be explored of promoting a moderate displaced persons association that might join the Coalition for Return. The intense focus on Brcko at the highest political levels has tended to thwart the development of independent citizens associations. The Supervisor's office should confront negative propaganda about conditions in Sarajevo and other places in the Federation aimed at Serb displaced persons.

During 1998, the Supervisor should set requirements for the return of income-producing properties to their lawful owners or should establish a mechanism for enabling the owners to claim the income. Many productive assets in Brcko are privately owned by minorities who are unable to return to manage them; the hard-line Serb authorities have assigned such properties to Serbs.

The unique position of Brcko and the commitment of considerable resources to the area render it unsuitable as a model for other areas in Bosnia. To date, nearly one third of all returns to the Brcko ZoS, some 300 families out of 926 families as of 7 April, took place in the first three months of 1998. These returns occurred after the installation of a multi-ethnic administration, the re-integration of the Brcko police force, the removal from office of SDS hard-line "Housing Tsar" Mladen Savic and the election of Prime Minister Dodik. Thus, if Brcko offers any lesson for the rest of the country, it is that minority returns are likely to occur in significant numbers only where the hard-line obstructionists have been removed from office, the local police have been restructured, and SFOR and IPTF are present in substantial force.<sup>89</sup>

#### IV. CREATING OPPORTUNITIES FOR MINORITY RETURNS

There are strong indications that displaced persons are interested in returning to their homes even in areas where they would now be in the minority. For instance, in the 1997 municipal elections, the displaced won more than 50 percent of the council seats in six municipalities (five in the Federation and one in Republika Srpska) and between 20 and 49 percent of the seats in 42 municipalities (14 in the Federation and 28 in Republika Srpska).<sup>90</sup> While it may be an overstatement to suggest that the decision to vote in one's pre-

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<sup>89</sup> Pursuant to Supervisor Farrand's order, the number of Brcko police were reduced to 230, including 120 Serbs, 90 Bosniacs and 20 Croats, reflecting the composition of the population as indicated by the voters' registry and results of the municipal elections of September 1997. By the end of 1997, there were 258 IPTF monitors in Brcko, and SFOR provided robust area security.

<sup>90</sup> ICG, *Analysis of 1997 Municipal Election Results*, 14 October 1997, p. 2.



war municipality reflects a clear intent to return, it is fair to assume that at the very least it indicates a desire to do so.

International organisations working in Bosnia often are discouraged by the complications of minority returns. Keeping the *status quo* in terms of ethnic separation is the path of least resistance.

An articulation of this point of view is found in a discussion paper commissioned by the Commission for Real Property Claims of Displaced Persons and Refugees (CPRC) and UNHCR. It states that “such stability as Bosnia and Herzegovina now enjoys has been achieved through the division of its territory and almost every aspect of civil life along ethnic lines.” The paper concludes that voluntary relocation “may present the best possibility for relieving pressure on the housing situation”, and that, without relocations, the “normalisation of Bosnia and Herzegovina may be held hostage indefinitely to an unattainable agenda.”<sup>91</sup>

A similar sense of futility has gripped a considerable number of field officers working in difficult minority return areas across Bosnia. Some international officials have come to accept arguments by HDZ mayors in Herzegovina or SDS mayors in Republika Srpska, that visits to graveyards or, worse, assessment visits to houses, are “provocations” driven by “political calculations”. Others have opposed return movements initiated by displaced persons as inherently destabilising. In many areas, international organisations are unsure as to what extent they can rely on SFOR to support minority return efforts.

Four elements have been less than adequate in the strategy of the international community: an appreciation of the dynamics of minority returns; political will; co-ordination among international organisations; and operational guidelines suggesting ways in which international organisations might help create and exploit opportunities for minority returns.

With a total aid package of 5.1 billion US\$ against an estimated more than 50 billion US\$ war-damage in Bosnia, external financial assistance can only address a small part of the material challenges facing returnees. Therefore, it is all the more important that this aid is targeted at clearly identified strategic opportunities. And such opportunities are most likely to arise where the following circumstances exist: (1) an active displaced persons organisation, well-organised and informed of the circumstances in which its members are prepared to move; (2) available housing, due to vacant villages or the elimination of double occupancy; and (3) authorities of the receiving community who are willing to discuss returns, usually where they can be persuaded that minority returns are in their best interests due to incentives or pressure from the international community.

#### A. Displaced Persons: the Indispensable Actors

The activity of local displaced persons organisations has been, by far, the most accurate indicator of minority return movements. The Coalition for Return has been instrumental in activating and supporting local organisations. With only two offices, in Sarajevo and Banja Luka, the

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<sup>91</sup> *Return, Relocation and Property Rights*, pp. 22-23.

Coalition has been a low-budget, high-impact initiative. The most active members of the Coalition are the local organisations of displaced persons from Posavina (Modrica, Derventa, Bosanski Brod), Drvar, Bugojno, Capljina, Glamoc, Grahovo, Jajce, Mostar, Prijedor, Sanski Most, Doboј and Stolac.

The Coalition and its member groups have worked together with the OHR and other international organisations to organise assessment visits and other contacts between displaced persons and their pre-war communities.

The collection and dissemination of information has been a principal role of these organisations. Displaced persons trust them more than slanted local news and often inaccessible data-bases created by international organisations. Moreover, Coalition members are by far the most convincing advocates for minority returns in the local media. Outspoken leaders of displaced persons have also been crucial in exposing the hypocrisy of nationalist parties.

Displaced persons organisations can also assume an important role in reducing the potential for violence. As noted by the RRTF: "Frustrated and frightened by the uncertainty of their future, groups of displaced persons are sometimes manipulated into aggressive action against the return of original inhabitants".<sup>92</sup> Displaced persons organisations are the best channels for discrediting the nationalist parties' propaganda and persuading displaced persons that their interests would be better protected if they too returned rather than violently opposed the returns.

Unfortunately, some international organisations have failed to grasp the potential of the Coalition. UNHCR still has not designated an officer to serve as a liaison with the Coalition. UNHCR field offices have no funds to support, even modestly, independent displaced persons organisations as they emerge. The lack of contact was evident recently when the Federation Ministry of Displaced Persons and Refugees and UNHCR failed to consult with the Coalition before developing the Federation return plan. Similarly, when the OSCE launched its "Tolerance Campaign" in 1997, it largely neglected the Coalition. However, a series of radio discussions on return issues initiated by the OSCE Democratisation branch in Banja Luka can serve as a good model: representatives of displaced persons organisations were invited, together with members of the RRTF and municipal authorities from both sides of the IEBL.

The international community can be more active in promoting, collaborating with and advising displaced persons organisations, especially in Croat-controlled territories and Republika Srpska, where the authorities discourage such groups. The existence of local displaced persons organisations in inhospitable places like Trebinje and Doboј is evidence of the stubbornness of the will to return. In Trebinje, a displaced persons association recently opposed a proposal from SDS authorities to construct new housing for their relocation.<sup>93</sup> And in Eastern Herzegovina ongoing initiatives since 1996 by displaced Serbs to return to the Neretva valley have been discouraged by authorities and largely ignored by the international community.

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<sup>92</sup> RRTF, *Resources, Repatriation and Minority Return*, December 1997, p. 26.

<sup>93</sup> *Oslobodjenje*, 21 April 1998.

In some places authorities have set up their own displaced persons organisations that are more active in discouraging than facilitating returns. The Brcko displaced persons association, led by an SDS member, is a case in point. Side-lining these deceptive organisations requires effort by the international community to find and support individuals who are truly interested in returns and have leadership skills. Supported by relatively small funds, such individuals would be able to set up alternative organisations.

Another ploy of nationalist leaders is to invoke survey results, sometimes out of context, to support their contention that the vast majority of displaced persons want to relocate to areas where they will be with their "own" ethnic group. Survey takers are the first to point out the limitations of surveys, especially when complex variables that affect people's answers are involved. The claim, based upon such surveys, that most Croats and Bosniacs want to return, but most Serbs do not, is false. It fails to consider that only recently improvements in freedom of movement and the increased openness of state media in Republika Srpska have allowed the wider public to access more reliable information and make an informed choice. Much will also depend on how Serbs returning to Canton 10 in the Federation will fare. A survey of the intentions of all displaced persons, as recently advocated by Republika Srpska Minister for Refugees and Displaced Persons, Dragicevic, is therefore a potentially wasteful diversion. A far more reliable way to assess the level of interest of displaced persons is to encourage them to set up independent organisations, and to discuss various return scenarios and possibilities directly with their representatives.

B. Focused Political Interventions: The North-West RRTF  
Example

The RRTF is a model to promote interagency co-ordination in the area of returns. In particular, the regional RRTF set up in the North-West in the spring of 1997 has become a tool to effectively promote minority returns to strategically important areas and to ensure that limited resources support breakthroughs.

With the support of the North-West RRTF, displaced persons organisations in the area were strengthened in the course of the last year, and involved in all political negotiations on returns. Based on the interest of displaced persons, strategic axes of likely return movements were identified. The autumn and winter months were used to establish dialogue with newly elected municipal council members, and to negotiate returns. Collaboration with major donors, especially from the European Union, allowed significant funding to be allocated to support targeted returns in 1998.

The North-West RRTF also undertook other important initiatives, including organising assessment visits of displaced Serbs to Central Bosnia and Croatia and involving displaced persons in discussions about cantonal return strategies. The North-West RRTF used the media effectively to explain its plans to a sceptical public and to contain the fall-out of inevitable set-backs. In no other part of the country are displaced persons organisations as well integrated in the planning of returns as in the North-West.

At the heart of the North-West RRTF's efforts was a joint operational strategy, developed in the spring of 1997, to seek greater focus and increase

mutual support among international organisations. It defined concrete benchmarks and objectives which could be achieved by August 1998. The objectives were general: enhanced freedom of movement and conditions for informed, voluntary and peaceful returns. The concrete benchmarks included increased cross-IEBL contacts, significant reduction in harassment against minorities, an increased number of official statements promoting reconciliation, engagement of authorities with the local displaced population, and preparation for rapid deployment of resources when displaced persons would decide to return voluntarily.<sup>94</sup>

In a series of meetings, the North-West RRTF formulated more detailed performance goals and action plans. By October 1997, continued contacts with displaced persons yielded an understanding of the most important return initiatives in the North-West -- in Drvar, Petrovac, Derventa, Sanski Most -- each represented potential for more than ten thousand returnees. The winter months were used to engage in dialogue the displaced persons and new municipal authorities in an attempt to prepare returns for the spring. At the same time, donors were lobbied.

OHR, using its political clout, and UNHCR, using its network of field officers, worked together effectively to press for returns. SFOR played a constructive role by remaining closely involved in the work of the RRTF. In addition, the European Commission and other donors and implementing agencies took an active part in ensuring that eventual funding for envisaged breakthroughs would be available in the spring of 1998.

Lack of flexibility in some organisations was soon identified as a major obstacle to effectiveness. Also problematic was the poor exchange of information and the fact that mandates overlapped in some areas and left gaps in others. For example, while the importance of Serb returns to Drvar was apparent to organisations based in Banja Luka, it was less so to those based in Mostar but with responsibility for Drvar. The North-West RRTF members agreed that organisational activities should follow the flow of displaced persons, and that this should, when required, take priority over strictly geographical areas of responsibility.

An ethos of freely sharing information among agencies on the regional level developed, and as the North-West RRTF consolidated, field officers found that sharing their knowledge with local RRTF partners became even more significant than reporting to their own distant headquarters.

The North-West RRTF also addressed the gap that often exists between occasional high-level visits to areas in times of crises and the necessary follow-up on the ground. While high-level visits can be crucial to overcome political opposition, experience has shown that, unless local field offices provide support, help set the agenda, and ensure immediate follow-up, their impact tend to evaporate. At the same time, field officers were encouraged to provide information and propose solutions to the concerned principals.

The North-West RRTF also adopted a clear approach towards obstructionist authorities. While they were repeatedly informed of planned return initiatives,

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*Operation Strategy Outline and Priorities for the RRTF in the Northwest area of BiH, 16 June 1997.*

and every effort was made to include them in the preparations, authorities were told unmistakably that they did not hold veto power on returns. The 1997 experience in Drvar and Martin Brod, where HDZ-authorities used lists of potential returnees to target houses for hostile relocation and destruction, made clear that certain information should not be shared with them. Municipal RRTFs were set up in key areas to co-ordinate on a weekly basis the strategies of various organisations.

The strengthening of the central RRTF in the wake of the Bonn PIC meeting is promising, as are the appointment of a Deputy High Representative to lead the RRTF and the commitment of additional resources, enabling the opening of RRTF field offices in key return areas. These developments, however, cannot make up for the lack of a proactive strategy at the regional level. Regional RRTFs have started operating in Central Bosnia and the South-West. They must now draw on the experience of the North-West RRTF and receive the necessary support and autonomy. The foreseen RRTF in the Posavina region of Republika Srpska must be set up immediately.

### C. Creating a Secure Environment for Returns

Significant minority returns have generated what has now become a predictable pattern of orchestrated obstruction and violence that subsides if met with resolute action. The international community must take preventive measures to reduce the risk of violence and respond firmly when violence does occur. As High Representative Carlos Westendorp warned in May 1998, "a minority of extremists, a few wrongly manipulated or guided individuals will not steal a peaceful future to the large majority of Bosnian and Herzegovinians."

#### 1. Preventive Measures

##### a. Removing War Criminals

Through mid-1997, Prijedor was considered one of the municipalities least receptive to minority returns. Local officials and police obstructed, through violence and intimidation, even the least intrusive assessment visits.<sup>95</sup> The political scene was transformed on 10 July 1997, when SFOR troops arrested Milan Kovacevic and killed Simo Drljaca in a shoot out. Both had been indicted for complicity in genocide by the International Criminal Tribunal for the Former Yugoslavia (ICTY); Drljaca had been the war-time Chief of Public Security and thereafter *de facto* police chief. The feared backlash to the arrests did not materialise. Instead, shortly after the arrests, the Prijedor police and authorities switched allegiance from the Pale-based leadership to Biljana Plavsic. The lesson is clear: the removal of suspects indicted for war crimes, who are symbols of impunity and are among the most obstructionist, has a ripple effect that can fundamentally alter the disposition of an area towards DPA implementation. Several areas of Republika Srpska remain closed to returns in large part because of the continued influence of persons indicted by ICTY. Foca and Teslic are notable examples. Until the indictees in these locations are removed, returns will remain all but impossible.

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For a description of these obstructions, see the Human Rights Watch report, *The Unindicted: Reaping the Rewards of Ethnic Cleansing*, January 1997.

Although ICTY has indicted 18 Bosnian Croats, none are from the hard-line Croat areas of Herzegovina bordering Croatia. The military, para-military and political leaders of the illegal para-state of "Herzeg-Bosna" remain very much in power, controlling the economy and criminal networks, as well as the police, media and political structures. Many of these leaders are suspected of having committed crimes against humanity and war crimes. If they are not already the subject of sealed indictments, ICTY must complete its investigation and, where sufficient evidence is uncovered, issue additional indictments.

#### **b. Removing Obstructionist Officials**

While the arrest of war criminals who continue to wield influence is a prerequisite to progress, obstruction comes from other quarters as well. The mandate of the High Representative, strengthened in December 1997 at the Bonn Peace Implementation Conference, now clearly allows him to remove obstructive officials. In Stolac, the removal of Mayor Pero Raguz on 3 March 1998 gave a long-stalled return process a new momentum, although violence has continued. In the last week of March and the first week of April, a dozen violent incidents, including damage to 25 Bosniac houses, took place in Stolac and surrounding villages. The dismissal of Jajce's police chief in the wake of the August 1997 expulsions enabled returns to resume. The recent dismissals of municipal and cantonal officials after the murders in Drvar on 15 April revealed, however, that if such dismissals are not accompanied by other measures, they are unlikely to have the desired effect.

An assertive policy by the OSCE and OHR in overseeing the implementation of the results of the September 1997 municipal elections, including the dismissal of some elected councillors, has also played a role in changing the local power structures in some areas.

However, it was the crackdown on special police units in Republika Srpska, in the context of the power struggle between President Plavsic and the Pale hard-liners, that helped install a very different political leadership that promised greater commitment to the peace process. Since the SDS power has been reduced and special police forces dismantled, there have been far fewer incidents of orchestrated violence in connection with return in Western Republika Srpska. And as a consequence freedom of movement has substantially improved.

#### **c. Restructuring the Police Forces**

The main responsibility for ensuring security for returnees lies with the local police. The situation has somewhat improved in recent months, due to police restructuring and retraining, and the extension of vetting the police officers from the Federation to Republika Srpska. Illegal police checkpoints have also been significantly reduced. Inspections of police stations -- conducted by IPTF, backed by SFOR and frequently resulting in confiscation of illegal weapons -- contributed to increased security for minorities. The lack of response to IPTF non-compliance reports, however, remains a significant problem.

IPTF has conducted investigations -- notably in Drvar and Jajce in 1997 -- establishing not only what happened during various criminal incidents but,

more crucially, which police officers were responsible, directly or through command authority for the incidents. To ensure that these investigations have maximum impact, political pressure must be brought to bear to secure the removal of those responsible from power. Such pressure was applied effectively after the Jajce investigation, but not following the February 1997 Mostar shootings.<sup>96</sup> A similar investigation is now required in the case of the double murder and the riot in Drvar. At the same time, the lack of an investigation into the murders of Croat returnees to Central Bosnia in 1997 allows extremists of all sides to continue to manipulate the available evidence. IPTF should complete such an investigation in Central Bosnia as a matter of priority, as uncertainty about these events is a barrier to Croat minority returns.

Even before a full investigation of a violent incident is completed, a political response is often necessary to impress local authorities immediately of their responsibility to prevent any further criminal acts.

Minority participation in the police force is one essential means to prevent the violence and intimidation that have often greeted returnees. IPTF insists that all police departments in the Federation take concrete steps towards hiring officers in numbers that fully reflect the pre-war population's ethnic composition. This process is well underway in eight of the ten cantons where Croats and Bosniacs patrol together, although they report through and are paid by different chains of command. A few Serbs have been recruited as well. Substantial resistance to reintegration continues in Western Herzegovina Canton, a region to the West of Mostar, heavily Croat before the war, and to which there have been few returns, and in Canton 10, from Drvar, Grahovo and Glamoc to Tomislavgrad. The process has not started in Republika Srpska.

The most egregious incidents of violence against returnees, in Jajce in August 1997 and in Drvar over the past month, have occurred when joint-policing had not yet been established.<sup>97</sup> In contrast, the development of multi-ethnic police in Brcko has eased a tense returns process.<sup>98</sup> According to IPTF in Brcko, the new multi-ethnic police fairly and thoroughly investigated the recent destruction of a Bosniac returnee's home. While a multi-ethnic force does not remove the possibility of police complicity in violence against returnees, it does make it more difficult.

## 2. Responses to Crises

Minority returns are a direct threat to the nationalist power structures that are entrenched throughout Bosnia. Local authorities will orchestrate incidents

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<sup>96</sup> In Jajce, the police chief was dismissed. In Mostar, "no charges [were] made against any of the officers for the shooting or evictions. A retrial [was] demanded by the international community, but has not taken place." *UN IPTF Status Report: 1997*.

<sup>97</sup> In January, in the wake of a series of house burnings in Drvar, ICG argued that "a reliable and multi-ethnic police force is essential for sustainable minority returns. The international community should support all efforts by IPTF to reach an agreement on the restructuring of the police in Canton 10 with the cantonal authorities and should press them to recruit Bosnian Serb police officers." *Hollow Promise? Return of Bosnian Serb Displaced Persons to Drvar, Bosansko Grahovo and Glamoc*, 18 January 1998.

<sup>98</sup> See Sec. III.E, *supra*, on Brcko.

where minority returns accelerate. The international community must anticipate and prepare for these eventualities, and should realise that such violence is evidence of the unwillingness of local officials to share power rather than of the reluctance of Bosnians to live together.

SFOR is the key to an effective response to violent incidents. The last eight months have provided valuable examples of how an engaged military force can move the return process forward even in areas with hostile authorities. The SFOR response to the Jajce evictions last August, which included around-the-clock patrols in key villages, was a textbook demonstration of how an active response can restore confidence. Since the August incident, returns to the area have continued. In an equally challenging situation, SFOR troops in Drvar have played a decisive role with night-time helicopter flights, ground patrols in minority return areas, and searches for illegal weapons. When HDZ authorities attempted to instigate violence against Serb returnees in the village of Martin Brod, these troops prevented the then-mayor of Drvar from re-entering the village, and protected food supplies from seizure by Croat "demonstrators". In April 1998, however, SFOR failed to anticipate violence planned in Drvar and to respond effectively. Similarly, SFOR failed in providing area security in Derвента during a visit of Sarajevo's Catholic Cardinal.

Largely as a result of US reluctance for the military to become involved in operations involving crowd control, NATO plans to create a *gendarmerie* force. According to a senior US official, this force will be available for urgent crowd control functions and will likely be composed of Italian troops.<sup>99</sup> Until the *gendarmerie* is formed and has proved its capacity to prevent and respond to violence, regular SFOR contingents must continue to play an active role. SFOR units also must be kept informed of assessment visits and returns planned by civilian organisations.

#### D. Funding Considerations

##### 1. Flexible Funding

The international community must have at its disposal flexible funding which can be disbursed quickly to support breakthroughs in minority returns. Using resources to promote return movements has proven inefficient, because the anticipated returns have often not occurred. As the RRTF stresses, donor support should follow the "flow" of refugees, supporting movements which have already begun or where a well-organised displaced persons organisation convincingly has established that returns are likely to occur if supported.<sup>100</sup>

Flexible funding is particularly useful to support returns to vacant villages and houses that are only slightly damaged. Generally, where the wish to return exists, all that is required at the outset is building materials, perhaps some professional building assistance, and food and blankets to enable family members working on repairs to stay in the homes while they rebuild them. Once the return process has begun, money for infrastructure repair can safely be allocated. Quick and flexible mobilising of resources can result in

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<sup>99</sup> Background briefing, US Embassy, Sarajevo April 1998.

<sup>100</sup> RRTF, *An Action Plan in support of the return of refugees and displaced persons in Bosnia and Herzegovina*, March 1998.



substantial savings over planned reconstruction, and can be far better targeted to the projects needed to sustain returns. Both UNHCR and RRTF anticipate that most minority returns in 1998 will be to vacant villages or vacant homes within villages. Thus, this strategy, while calling for a fraction of funds spent on returns overall, could well result in sustaining a great number of minority returns.

Both UNHCR and RRTF have promised to create "rapid-response funding mechanisms" and have called on donors to support these funds or to establish their own. UNHCR plans to allocate 20 percent of its funding for 1998 in a rapid-response fund, the remaining 80 percent to be devoted to Open Cities and potential Open Cities.<sup>101</sup> The RRTF warns that "the availability of a significant amount of international resources to support such breakthroughs is crucial."<sup>102</sup>

However, as long as UNHCR continues to place as much emphasis as it currently does on the Open Cities Initiative and devotes 80 percent of its funding to the project, it may not have the institutional flexibility to be in the best position to assess where minority return efforts are most likely to be successful. The North-West RRTF has demonstrated such flexibility, but is quick to acknowledge that it does not have the institutional capacity to administer funds.

One solution would be for the European Commission to create a rapid response fund, to be administered by its Sarajevo office and guided by recommendations agreed by the RRTF. However, due to the large number of project proposals received by the Commission by February 1998, all of the funds presently available have been allocated.

## 2. The Special Case of the European Commission

At the end of 1997, one of the major donors for housing reconstruction, the European Commission, was stung by criticisms from a number of European governments as well as internal evaluations concluding that its procedures hindered the speedy disbursement of reconstruction aid.<sup>103</sup> The European Parliament noted in the autumn of 1997 that "of 105 million ECU contributed to the rebuilding effort, including 1996 European Union money carried over, only 3.4 million ECU (3.2 percent) had been spent".<sup>104</sup> The European Parliament then blocked 30 million ECU allocated for reconstruction programmes in 1998 in the republics of former Yugoslavia until it was "satisfied that conditions for using them ha[d] improved."<sup>105</sup> During a February 1998 visit to Bosnia by European Parliamentarians, the head of the delegation called the European Union "a financial giant and a political pygmy". A Dutch Management Consulting Company, Berenschot Euro Management, went so far as to recommend that the Commission close its

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<sup>101</sup> UNHCR Repatriation and Return Operation 1998, "Overview," p. 2.

<sup>102</sup> RRTF *Outlook for 1998*, p. 3, Sec. 2.2.

<sup>103</sup> The European Commission spends funds both via the European Community Humanitarian Office (ECHO) and via DG1A, the general directorate responsible for foreign relations. This section refers only to DG1A funds.

<sup>104</sup> European Parliament News Report, 1 October 1997.

<sup>105</sup> Budgetary resolution, 18 December 1997. The Parliament justified its decision to block the funds by pointing to the poor administration of the funds allocated in 1997 and the slow return of refugees. European Parliament News Report, 5 February 1998.

Sarajevo office and turn over the responsibility to other experts. This report was widely quoted in the German press, and German politicians began to blame the slow rate of refugee repatriation on the Commission.<sup>106</sup>

The Commission's difficulties in Sarajevo began in 1996. Its small staff in Sarajevo, never more than 10 internationals, and Brussels, never more than seven, was ill-equipped to allocate and disburse funds totalling about 750 million ECU. Rather than increase the capacity of the Sarajevo office, however, the Commission concentrated more and more decision-making power in its Brussels headquarters. This further delayed the disbursement of funds. For example, 42 million ECU from the 1996 "essential aid programme" was not spent, and was rolled over for 1997 projects. To date, less than half of that money has been spent.

Furthermore, the Memorandum of Understanding for 1997 projects in Bosnia, anticipating the disbursement of 130.6 million ECU, was signed by the Bosnian government only in July, and EU member states did not approve the funds until November of that year. Most of the funds for infrastructure have not yet been used and the projects that were to be implemented in 1997 are only now going out for tender. Many of those infrastructure projects are in target areas for return.

In response to the criticism, the European Commission changed its procedures. In 1998, the European Commission plans to spend around 130 million ECU on refugee related matters: 87 million through NGOs, 18 million through UN agencies (UNHCR and the United Nations Development Programme), 20 million for agriculture projects, and the rest to support DPA institutions linked to refugee return, micro-grants and small projects. On 23 January 1998, it held a Return Workshop in Brussels, where Commission staff explained the procedures for NGOs to bid on projects by 19 February. They further explained that the Commission would focus on funding reconstruction and income generation activities in the RRTF cluster areas.<sup>107</sup> The advantage of NGOs is that they supervise the projects themselves, and can therefore put together bids without going through laborious tender procedures. The goal of the Brussels conference was to have "the spade in the ground" by the end of May or early June. Indeed, to the surprise of many Commission critics, contracts for over 68 million ECU were signed in the first week of April. Some 30 million ECU remain blocked by the European Parliament.

The European Commission at present has only about 10 international staff in Bosnia. This is very little compared to other funding organisations and to the amount of money it is handling. In the face of criticism, it promised to increase the size of its delegation in Bosnia, devolve responsibilities to it, and

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<sup>106</sup> *Frankfurter Allgemeine Zeitung*, 14 January 1998.

<sup>107</sup> The following are the Cluster Areas for 1998: (1) Una Sana Canton is extended to include, in Republika Srpska, Banja Luka, Prijedor, Bosanski Novi, Bosanska Dubica, Laktasi and Bosanska Gradiska and, in the Federation, Drvar and Bosansko Grahovo; (2) the Sarajevo/Gorazde Region is unchanged; (3) the Anvil Area will be a lower priority, as it has low return and economic potential (those Serbs from Banja Luka who were likely to return have already done so); (4) Doboj Hub (including Modrica, Odzak and Bosanski Brod) continues to be a high priority; (5) Posavina Corridor is reduced to Brcko (Orasje is dropped); and (6) Central Bosnia is added as a new cluster. RRTF *Outlook for 1998*, p. 11.

increase direct negotiations with municipal and entity administrations. This is finally starting to happen. The Commission must now move forward as rapidly as possible in building its staff and devolving responsibility, to become a fully effective member of the RRTF.

Moreover, it is especially important that the Commission retains sufficient flexibility to terminate reconstruction projects if it becomes apparent that municipal authorities fail to live up to their promises. Presently, there are only four staff members available to monitor the implementation of projects related to refugee return. Though the Commission can use the services of IMG and its field offices, IMG staff are best trained for technical assessments. Therefore the regional RRTFs should be closely integrated in the monitoring of political progress, on which the success of minority return projects is premised.

#### V. RECOMMENDATIONS FOR STRATEGIC BREAKTHROUGHS IN 1998

Following political changes in Republika Srpska during the second half of 1997, the prospects for minority returns improved. However, Republika Srpska has yet to pass the litmus test: ensuring the human rights of minorities who may return to their homes. In Eastern Republika Srpska, prospects remain gloomy. The SDS continues to wield influence in the area and obstruct reform. In Croat-held areas of the Federation, the HDZ remains as hostile to key elements of the peace process as the SDS in Republika Srpska. Indeed, since 1996, HDZ politicians in many municipalities in Bosnia have been responsible for arson and violence against minorities.

The return of Croatian Serbs from Republika Srpska to Croatia is a cornerstone of any enduring stability in the region and an essential part of minority returns in Bosnia. However, to date Croatia has effectively obstructed all international efforts to promote returns. And international organisations have failed to develop a strategy to link their initiatives in Croatia with those in Bosnia.

#### A. Opening Republika Srpska

An open Republika Srpska as part of a multiethnic Bosnia is still distant. In the last two years, only 4,600 non-Serbs returned to Republika Srpska, the majority of them (2,400) to the Zone of Separation near Brcko. The most important reasons for such low numbers of returnees are lack of security and continued violations of basic human rights, aggravated by the dismal economic situation of the entity.

Recent promises by Prime Minister Dodik that Republika Srpska would welcome up to 70,000 non-Serb returnees in 1998 appear unrealistic. Co-operative rhetoric is yet to be translated into, for example, the passing of critical property legislation amendments, which would enable returnees to reclaim their property. Amendments to the amnesty law in accordance with international requirements must also be passed. In most municipalities, police refuse to issue identification cards to returnees. The cases of "floaters" in Banja Luka remain unresolved, with courts delaying decisions to evict illegal occupants of floater's apartments.

Minority returns would be least controversial in some municipalities in Western Republika Srpska, which after the municipal elections in 1997

declared their wish to be recognised as “open”, including the three municipalities close to Banja Luka - Laktasi, Srbac and Celinac - where the moderate party of Prime Minister Dodik has significant support. International financial support, largely coming from the European Commission, has been pledged for this area. However, before the war these municipalities in any case had large Serb majorities, so minority returns there would be limited.

Prospects for large scale minority returns to the Anvil region (Mrkonjic Grad and Sipovo), one of the most destroyed areas in Western Republika Srpska are equally limited. Municipal authorities there claim to support minority returns, but say that without reconstruction aid they cannot provide housing. Some Serbs, whose houses in the Anvil have been repaired with international aid funds, continue to occupy non-Serb housing in Banja Luka.

Mrkonjic Grad and Sipovo have already been declared open cities by UNHCR. They may, however, soon be eclipsed in terms of number of minority returns by previously hardline Prijedor. Prijedor's pre-war population was 49,400 Bosniacs, 47,700 Serbs and 6,300 Croats. Due to ethnic cleansing at the beginning of the war, less than 5,000 non-Serbs remain. In the wake of the Croat offensive in the Krajina, approximately 25,000 displaced fleeing from the Croat advance boosted the Serb population of Prijedor to 84,000.

Prijedor municipal politics remain complicated: a strong representation of the Bosniac SDA, elected to the municipal assembly by displaced persons, faces a block of Serb parties opposed to minority returns.

However, there are numerous positive developments. Both the displaced persons and the international community have linked non-Serb returns to Prijedor with returns of Serb displaced persons to Sanski Most. Sanski Most today hosts tens of thousands of Bosniacs displaced from Western Republika Srpska. Most of the 25,000 Serbs from Sanski Most have moved to Republika Srpska, to Prijedor and Banja Luka. Displaced persons associations on both sides of the IEBL have established close working relations. Moreover, the leaders of these associations, the Serb Bozidar Starijas and the Bosniac Sead Curkin, are elected municipal councillors in the municipalities to which they wish to return. They have organised assessment visits in both directions: on 29 March, 510 Bosnian Serbs currently displaced in Prijedor visited Sanski Most, while 350 Bosniacs went from Sanski Most to Kozarac near Prijedor for the first time since 1992.<sup>108</sup>

After consulting with these associations, in February the RRTF named specific villages in which reconstruction would start this spring. It made clear that the local authorities do not hold a veto on the return process. Although improved freedom of movement has helped to restore confidence, multiethnic police forces have not been formed in either of these two municipalities. Violence and arson can be expected once the return process starts, making the functioning of truly professional and multi-ethnic police forces all the more important.

The international community should regard successful minority returns to vacant villages in Prijedor as a crucial test of the credibility of the new leadership in Banja Luka. President Plavsic said that she would accept

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Kozarac witnessed some of the greatest excesses of the Serb “ethnic cleansing” campaign in 1992.

returns to vacant houses in the area. Now, she and other authorities must push forward the restructuring of police forces in Prijedor.

The situation in the Posavina and the Doboj Hub is similar in many ways to that in Prijedor: there are moderate displaced persons associations of Bosniacs and Croats lobbying for return; minority representatives in municipal assemblies (for example in Doboj, Modrica and Bosanski Brod); and considerable vacant, though often damaged, housing. Although the RRTF designated the Doboj Hub to be a cluster area for return, a regional RRTF office has not yet been established. There are far fewer cross-IEBL assessment visits than in the Prijedor area. Police reform still has to be finalised and many prominent "ethnic cleansers" remain in power. Violent protests during the recent visit by Sarajevo's Catholic Cardinal to Derвента demonstrate the on-going influence of extremists. In addition, SFOR troops have been unwilling to provide effective area security, considering minority returns "premature".

Cross-IEBL contacts between moderate Serb groups and counterparts in the Federation should be further encouraged, and increased support given to independent associations of displaced Serbs in the area interested in returns. International organisations based in Doboj should also address the authorities in Canton 4 (Zenica-Doboj Canton) in the Federation. They are responsible for security in the border area with Republika Srpska. Many Serbs now in Doboj lived in that area until 1995. Persistent rumours about "Mujahedin-villages" have not been addressed by Federation authorities in a way adequate to reassure potential returnees.

Despite an obstructionist policy by HDZ in Bosanski Brod, many Bosnian Croats displaced in Slavonski Brod (Croatia) have consistently lobbied to return to their homes in the Posavina. The multiethnic Bosnian Posavina Refugee Community has been among the most active members of the Coalition for Return. It has hosted a number of high-level visits in Slavonski Brod, but because the RRTF structure on the ground is not developed there was no consistent follow-up to those visits. Bosniac councillors in the assembly of Modrica are confident that returns are possible this year, and that the local Serb population will accept them. Of the Serbs who have already returned to Drvar, one hundred came from Modrica, making developments in Drvar crucial for returns in the Posavina.<sup>109</sup> Derвента is another strategic place for minority returns. According to the Croat Union of the Exiled Posavina Population, which was recently renamed Union of Returnees, in March 1998 around 500 families registered their interest to return there. Before the organised violence on 23 April, international observers considered Derвента one of the most promising municipalities for minority returns in Republika Srpska.

Prospects for minority returns to Eastern Republika Srpska, where SDS hard-liners maintain key positions, remain gloomy. Without the arrests of indicted war criminals living in the area, and without the full control by the Ministry of the Interior over local police forces, basic political and security preconditions for minority returns will remain lacking. Following the violence in Derвента and Drvar in April 1998, leading SDS politicians warned international representatives that more incidents of that kind were likely to occur.

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*Slobodna Bosna*, 27 March 1998.

Representatives of Serb displaced persons in Trebinje emphasised in April 1998 that many want to return to their homes in the Neretva valley in the Federation. As early as the spring of 1996, hundreds of Serbs from Nevesinje in Eastern Herzegovina expressed to IFOR their wish to visit Mostar. In the last week of April 1998, Serbs from Eastern Herzegovina visited for the first time their houses in Croat-controlled parts of Herzegovina.

#### B. Opening "Herzeg-Bosna"

Opening the Croat-controlled territory of the Federation for minority returns is one of the most difficult challenges for the international community. Recent violence against Serb returnees in Drvar could yet deal a fatal blow to the one model of minority returns which has been successful so far, discrediting the international commitment to Annex 7 and undermining the Coalition for Return.

The international response to Croat obstruction has until now been inadequate. Despite repeated threats by the OHR and Western ambassadors against the HDZ leadership in Bosnia, the HDZ minority returns policy has remained a vicious cycle of hollow promises, obstruction and violence. The backing which the HDZ in Bosnia receives from Zagreb makes it more resistant to international pressure than even the SDS. Many Bosnian Croats read newspapers published in Croatia or follow Croatian television, beyond the reach of the OHR and SFOR. The economic integration of the former "Herzeg-Bosna" with Croatia has frustrated international attempts to apply "economic conditionality".

The pattern of obstruction is by now well established. In areas where minorities choose to return, the media warn of "massive invasions" and spread fears. HDZ politicians complain of the unfair treatment of Croat displaced persons by the international community, while house burnings increase in areas targeted for returns. Young men of military age then appear in civilian clothes and before long "spontaneous crowds" intimidate returnees. The police fail to protect minorities in any effective way. Violence ensues, which HDZ politicians then deplore. At the same time, they apportion equal guilt to all sides, and blame the international community for disregarding vital Croat interests.

Proposals regularly put forward by the HDZ for fundamental revisions of the DPA convey the message to the Bosnian Croat public that the present arrangement is temporary. Recently, these have included calls for a demilitarised Bosnia, demands for special links between Croatia and the Federation (but not Republika Srpska) and demands for a third, purely Croat, entity. Croatian President Franjo Tudjman repeatedly makes statements to the same effect. The illegal, parallel institutions of "Herzeg-Bosna" continue to exist, though they are declared dissolved at regular intervals.<sup>110</sup>

The pattern of violence is similar in Stolac, Jajce and Drvar. The international community has occasionally responded by dismissing police-officers or – more recently – municipal officials. However, dismissed police officers

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Most recently, the Federation Forum on 16 April 1998 adopted the Conclusions on Measures for the Revoking of Parallel Institutions in the Federation of Bosnia and Herzegovina.

invariably find alternative employment; courts fail to punish perpetrators of crimes; and even if obstructionist politicians are replaced, the basic policy remains.

Despite recent threats to the HDZ, the international community has hesitated to take aim at the core problem, the HDZ leadership in Zagreb. This reluctance threatens the international community's credibility. In some Croat press the international community is described as an occupation force in the Croat-controlled parts of the Federation. The Zagreb daily *Vjesnik* sees the SFOR reaction to the Drvar murders aimed at "intimidating an already anxious Croat population". The same day *Slobodna Dalmacija* described the DPA as "an agreement between the two largest and strongest people in Bosnia and Herzegovina at the expense of the third [Croats], their gradual reduction to the status of a national minority and spiritual and practically physical elimination."

There are at least five measures the international community must urgently undertake to open "Herzeg-Bosna", if the year of minority returns is not to degenerate into a year of violence in this area. This will likely require additional international staff to be seconded to the new regional RRTF in Mostar and to local RRTFs in both Stolac and in the North of the Canton (Konjic/Jablanica/Prozor-Rama):

- The international community must continue to support return of Serbs to Canton 10 (Drvar, Bosansko Grahovo and Glamoc). For this it must respond resolutely to the violence against returnees in Drvar. Significant return movements have also started to other parts of Canton 10 (especially to Grahovo) and these are now endangered. The violence in Drvar will be exploited by extremists in Republika Srpska to mobilise resistance to minority returns of Croats and Bosniacs.
- The return movement to Stolac that has continued since March 1998 deserves the highest attention by the international community. Stolac is an obvious location for Croat extremists to strike against returnees. For more than two years, it was the strategy of the local HDZ to prevent any returns to this area which it considers to be of strategic interest. SFOR should deploy more troops to this area, and other international organisations, such as ECMM, should increase their monitors. OHR should warn HDZ officials in the Federation and in the Canton that they will be held responsible for any violence. If house burnings continue at the present rate, SFOR should impose curfews and install checkpoints in return areas. Similarly, the high rate of returns of Bosniacs to Jajce – about 700 in March and April alone - is both encouraging and a cause for preventive action to be taken now.
- There is a need for a pro-active international policy towards displaced Croats presently in Herzegovina. The new Mostar RRTF must identify Croats interested in returns as a matter of priority and support their efforts to return to Central Bosnia. Mixed delegations from Central Bosnia, including Croats who remained and Bosniac authorities, should be encouraged to visit Croat displaced to invite them to return. Special attention should be given to those Croats who still live in collective centres, where they are often intimidated by their own authorities. The persistent campaign of fear by the HDZ must be countered by information

about successful minority returns of Croats, particularly to Travnik and other parts of Central Bosnia. This requires an investigation to shed light on the murders of Croat returnees in Central Bosnia which occurred in 1997.

- The OHR should establish a field office in the north of the Canton, with the special task of exploiting opportunities for return in the Jablanica-Bugojno-Konjic triangle (including Prozor-Rama). There are many such opportunities in this area, where Croat and Bosniac displaced often live not far from their former homes. However, the return axes in this area have not received sustained political attention by the headquarters of international organisations based in Mostar or Sarajevo. In particular, Bosniac authorities in Konjic, which has received significant international aid already, must be pressured to make progress on welcoming Croat returnees to this Open City.
- The Council of Ministers of the European Union should invite the OHR to recommend sanctions against Croatia, should Croatian foreign policy towards Bosnia continue to be destabilising. For this, the flow of information between the field offices of the OSCE and UNHCR in Croatia and the OHR must be improved. Member states should make a special effort to encourage political forces in Croatia proper and among Bosnian Croats who represent a constructive approach to minority returns.

### C. Opening Croatia

The return of Croatian Serb refugees to Croatia is an essential component of any strategy for minority returns to Republika Srpska. Great swaths of territory in the Krajina formerly inhabited by Serbs are now largely depopulated. There are more vacant, habitable homes there than anywhere else in the former Yugoslavia. At the end of 1997, Croatia was host to some 80,000 Bosnian Croat refugees, 67,000 of whom are from areas now within Republika Srpska. Against this, there are some 300,000 Croatian Serb refugees in the Federal Republic of Yugoslavia and 40,000-50,000 in Bosnia. According to the government of Croatia, about 30,000 Croatian Serbs have returned to their places of origin, often to find their homes occupied by Bosnian Croats who, in turn, cannot return to their homes in Republika Srpska.<sup>111</sup>

Croatia came under international pressure to allow Serbs to return to their homes soon after they were expelled from the Krajina in 1995. In February 1996, the UN Security Council condemned the Croatian government for its failure to take effective measures to this end. Among the conditions for Croatia's admission to the Council of Europe were protecting the rights of Serbs in Croatia and facilitating the return of Serb refugees to the Krajina - conditions which Croatia has failed to honour.<sup>112</sup>

<sup>111</sup> UNHCR Croatia Briefing Notes, April 1998.

<sup>112</sup> Council of Europe, Parliamentary Assembly, *Resolution (96) 31: Invitation to Croatia to become a member of the Council of Europe*, 5 July 1996; and *Opinion No. 195 (1996) on Croatia's request for membership of the Council of Europe*, 24 April 1996. In its *Report on the implementation by Croatia of its commitments in the framework of the procedure of accession to the Council of Europe*, ADOC7569, 27 May 1996, the Political Committee of the Parliamentary Assembly concluded that "The Croatian authorities have recently acted in blatant disregard of their commitments, which were



In early April 1998 Croatia presented to the international community a return plan, which violated the country's international obligations. Croatia later amended this plan to the satisfaction of international observers and the plan was submitted to Parliament, which rejected it.

Also in April 1998, the Croatian government published a "Programme of two-way returns" which states that requests for rapid returns of all displaced Serbs are "totally unfounded", and that the international community had failed to acknowledge that the Croatian Serb refugee crisis was caused by Serb aggression. Croatian media close to the HDZ warned that the international community is bent on undermining the government while government ministers say that pressure for Serb returns are part of an "international plan for the destabilisation of the HDZ and President Tudjman."

A paper submitted by the government at the end of April, "Procedures for individual return of persons who have abandoned Croatia," again fell short of international expectations. It did not affirm the right of all Croatian citizens to return, but instead called Serbs who had fled "voluntary migrants". It failed to state that citizenship for those who left Croatia since 1991 has simply to be verified by the government, not acquired by the returnee. The procedures for verifying citizenship are overly complex and bureaucratic and lack clear time-frames within which authorities must make decisions. The Article 11 Commission, which includes Western ambassadors and principals of international organisations working in Croatia, concluded that the procedures "are neither simple nor transparent".<sup>113</sup>

Recently, international pressure on Croatia has increased. The European Union stated that Croatia's poor record on minority rights is an obstacle to its inclusion in the PHARE programme and access to other economic benefits. The Article 11 Commission recommended suspension of Croatia's participation in a proposed Conference on Reconstruction and Development slated for May 1998, which was eventually cancelled. The European Union warned Croatia that sanctions would be considered by the European Union foreign ministers on 25 May.<sup>114</sup>

The European Union must make clear that it will not commence negotiations on cooperation with Croatia, and that Croatia will not be admitted into the PHARE Programme, until it complies with all of its DPA obligations. Further sanctions, including revocation of Croatia's trade privileges with the European Union by the end of May 1998, should be considered unless credible progress is made soon.

A key concern is the settling of Croat refugees in Serb homes on the basis of the *Law on Temporary Take-Over and Administration of Certain Properties*. In the second half of 1997, a great number of Bosnian Croats, newly arrived from Germany, were settled in Serb houses. The international community must pressure Croatia to begin the process of moving those settlers out so as to enable the return of Serbs to their pre-war homes. Croatia could accomplish this by helping the Croat settlers return to their homes in Bosnia,

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the basis of Opinion No. 195... In order to enable Croatia to accede to the Council of Europe, these commitments must be strictly respected."

<sup>113</sup> Press communiqué, Article 11 Commission, 29 April 1998.

<sup>114</sup> Reuters, 12 May 1998.

or else by building new homes for them. (The government has already financed the building of new homes for displaced Croats in parts of Bosnia of strategic interest to the HDZ.) The Croatian government must also help Croatian Serbs to visit their homes and obtain the documents necessary to start the process of regaining their property. It must repeal the *Law on Temporary Take-Over and Administration of Certain Properties* and must stop campaigns in the media which characterise potential Serb returnees as aggressors. Only if the government takes these steps and fulfils the obligations renewed at the Banja Luka return conference on 28 April, should European institutions extend to it benefits or admit it to new programmes.

International organisations have long failed to press seriously for the right of Croatian Serbs to return to their homes. In its appeal to donors for 1998, UNHCR in Croatia did not even mention repatriation of Croatian Serbs as a project activity.<sup>115</sup> The OSCE, with 250 international staff in Croatia and about the same number in Bosnia, has so far failed to develop a cross-border strategy to support Croatian Serb returns to Croatia. The OSCE mission in Croatia has discouraged its field officers from going on assessment visits to Bosnia, and OSCE and UNHCR field officers in Croatia and Bosnia are not encouraged to work together to identify cross-border "return axes".

This might now be changing, in the wake of the Banja Luka returns conference. At the conference, UNHCR made clear that it considers returns to Croatia to be a key part of its regional strategy. The recent participation of UNHCR and OSCE Croatia-based staff in meetings of the North-West RRTF is an important first step.

A window of opportunity for political change in Croatia appears to be opening. The Defence Ministry, which has played a leading role in supporting and financing the institutions of "Herzeg-Bosna", is believed to have been weakened by the recent death of Minister Gojko Susak. Divisions are growing within the Croatian government between those favouring hard-line positions in Bosnia and those eager to avoid further isolation of Croatia in Europe.

## VI. CONCLUSIONS AND ADDITIONAL RECOMMENDATIONS

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<sup>115</sup> *United Nations Consolidated Inter-Agency Appeal for Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia and Former Yugoslav Republic of Macedonia*, November 1997.

## A. Opportunities for Sustainable Minority Returns

With a total aid package of 5.1 billion US\$ against an estimated more than 50 billion US\$ war-damage in Bosnia, external financial assistance can only address a small part of the material challenges facing returnees.

- Aid must be well-targeted to support opportunities presenting the best likelihood for sustainable returns. Such opportunities are most likely to arise where the following circumstances exist: (1) an active displaced persons organisation, well-organised and with good information that its members will return if certain circumstances, within the international community's capacity to create, are put in place; (2) available housing, (i.e., vacant dwellings that have sustained relatively minor damage, or housing currently occupied by persons who have another home to which they could move); and (3) authorities of the receiving community who are willing to discuss returns, usually where they can be persuaded that minority returns are in their best interests due to incentives or pressures from the international community.
- Donor support should follow the flow of displaced persons, supporting movements which have already begun or where a well-organised displaced persons organisation has established that returns are likely to occur if supported. Selection of Open Cities should also take these factors into account.
- The European Commission should increase its monitoring capacity for the refugee-related projects it finances in 1998, to be able to respond flexibly to political obstruction. The European Parliament should unblock the foreseen 30 million ECU for refugee-related reconstruction. The European Commission should also create a rapid response fund, of at least 10 million ECU, to be administered by its Sarajevo office and guided by recommendations agreed by the RRTF. EU governments should contribute to this fund as a matter of urgency.
- UNHCR plans to devote 80 percent of its 1998 funding to its Open Cities Initiative. Ten months into that programme, it has shown few results, with only some 580 minorities returning to six "Open Cities" during that period. UNHCR should devote less of its funding to the Initiative, and should place more funding in a flexible programme that could target funds to where returns are most likely to take place.
- UNHCR should reform its Open Cities Initiative by, among other measures, tightening criteria for selection, reviewing present Open Cities, improving monitoring, and dropping municipalities that fail to meet their commitments. An "Open Cities Selection and Review Committee" should be established, which should work closely with regional RRTFs and seek input from all RRTF members. ECMM and OSCE field offices should assist in tracking unresolved double occupancy cases, particularly in Open Cities.

## B. Displaced Persons Organisations

Large-scale returns which are likely to be sustainable are returns initiated by displaced persons organisations. Genuinely representative displaced

persons organisations, such as the members of the Coalition for Return, are the best sources of information for assessing the likelihood and sustainability of returns to particular areas; the best channels for communicating information to displaced persons; and the best means for calming the anxieties of displaced persons relocated in majority areas, who are susceptible to manipulation by nationalists into committing violence against minorities seeking to return to their homes. Discussions with representatives of displaced persons are far more useful in assessing what displaced persons will or wish to do than taking surveys. Direct contact with these groups is also certain to yield more information about return axes than any planning mechanism, which is unlikely to work without enormous investments of human resources.

International agencies should:

- Consult displaced persons organisations on all aspects of promoting returns; and involve them in developing and implementing return strategies.
- Provide displaced persons organisations with material and political support in areas where authorities actively discourage minorities from returning, such as in Eastern Republika Srpska and Croat-controlled parts of the Federation.
- Help displaced persons organisations stay in contact with refugees, and travel and communicate across the IEBL. They should facilitate meetings between minorities who have returned to their home area with other persons displaced from the area.
- Help publicise the work of displaced persons organisations, including helping them get air-time on radio and TV stations.
- UNHCR should ensure that at least one senior staff member is assigned as a full-time liaison with the Coalition for Return and other displaced persons organisations.
- OSCE democratisation branch should work with displaced persons associations as a matter of priority.

### C. Security for Minority Returnees

- Violence against returnees must have immediate consequences for the perpetrators and their political backers. Officials and police chiefs who encourage or fail to punish violence must be removed.
- In areas where minority returns have begun, SFOR must provide area security; IPTF, and, where necessary, OHR, must insist that minorities are integrated into the local police force; and additional IPTF and ECMM monitors should be deployed if necessary to ensure a regular presence in those areas.
- SFOR, with its "primary mission ... to contribute to a secure environment necessary for the consolidation of peace", must assume significant responsibility for the prevention of violence. SFOR should, as a matter of

urgency, create a *gendarmerie* that is equipped and trained to stop violence by crowds of civilians. Until this is done, those troops already in Bosnia that have training and equipment to control hostile crowds should be put on stand-by readiness to be moved into any area where serious violence erupts.

The arrest of persons indicted by ICTY, especially those who continue to exert influence, and the removal of obstructive officials are necessary steps towards creating a secure environment for returning minorities. ICTY has not indicted any Croats from the hard-line Croat areas of Herzegovina, many of whom remain in power. Forty Bosnian Serb indictees -- including five of the top eight indicted for genocide -- remain at large, almost all in eastern Republika Srpska. Therefore:

- Efforts to get evidence against the most culpable Herzegovinian Croats must be redoubled. Croatian authorities, including the security services, must be pressed to transfer to ICTY the evidence that they undoubtedly have in their possession.
- The top Bosnian Serb indictees still in Bosnia must be arrested.

#### D. Political Interventions

Minority returns are a political issue, requiring constant political pressure on the part of the international community. The Contact Group should lend the OHR full support in bringing such pressure to bear on obstructionist authorities. The Return and Reconstruction Task Force (RRTF) and, in particular, the regional RRTF for the North-West, provide strong examples of effective inter-agency co-ordination and pro-active planning.

- When a regional RRTF encounters violent obstruction, top international and Bosnian officials must be prepared to intervene vigorously and immediately.
- Principals of international organisations should instruct their regional and field offices to co-operate closely within the RRTF mechanism and to share all relevant information on the local level.
- Additional personnel must be seconded to the newly established RRTFs, especially in the Mostar region.
- A regional RRTF must be established, as a matter of urgency, in the Posavina region.
- International organisations, in particular UNHCR, should flexibly deploy experienced staff to areas where minority returns are, or are likely to start, taking place.
- ECMM should deploy its monitors to such places in order to help gather necessary information (availability of housing including specifics about double occupancies, and security concerns), and also to discourage violence.

#### E. Relocation and Return of Refugees

Relocation promotes further ethnic separation because most persons who relocate occupy homes previously belonging to minorities, thus blocking their return. Most minorities are not in a position to make a voluntary decision to relocate, since they cannot yet return to their homes in safety and with respect for their rights.

- International grant aid should not be used to support relocation at this stage of the peace process, as also urged by the RRTF. New housing should be built only in municipalities that accept minority returns. It should not be built for relocatees, except when they have no opportunity of returning to their original homes, and original inhabitants are waiting to return.

Germany deported some 1,000 refugees in 1997. In the first months of 1998 it sent letters to tens of thousands of refugees warning that they will be deported if they do not leave voluntarily by July. Most of these are Bosniacs from areas now within Republika Srpska. Although there have been substantial political improvements in western Republika Srpska, there has not been the political preparation and minimum reconstruction necessary to enable minority returns for at least several months, and then only in stages. Returns to eastern Republika Srpska will only be possible once the hard-liners have been voted out of power, removed from office by the High Representative and/or arrested.

- Germany and other refugee host countries should not deport non-Serb refugees originally from areas now within Republika Srpska. They should not deport refugees from areas in the Federation where they would now be in the minority unless the municipality has demonstrated a receptivity to minority returns.
- Other European countries that did not accept as many refugees, proportional to their populations, as did Germany should help Germany shoulder the costs, either by accepting refugees now in Germany who cannot return to their homes in safety or else by increasing their contributions for reconstruction in Bosnia, thus enabling Germany's Federal Government to cover some of the *Länder's* costs in hosting refugees.
- The OHR should explain to the German public why it is crucial for the future stability of Bosnia - and in the German interest - that repatriation does not lead to mass relocation

**Sarajevo, 14 May 1998**