

Regional Efforts Regarding Refugee Return

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Introduction

This presentation aims at giving an insight into regional efforts concerning the return of refugees and persons displaced during the conflicts in former Yugoslavia, from the perspective of the OSCE Mission to BiH. It is necessary to stress this, as the international organizations which are monitoring the regional processes of return sometimes do not have unified views over the concerns that are raised.

This presentation mainly refers to refugees in Croatia, BiH, Serbia, and Montenegro. These former Yugoslav republics endured considerable displacement of the population between 1991 and 1995. The migration of people from Kosovo, at a later stage though also very significant, will not be the subject of this presentation, nor the regional processes related to that issue. This is mainly because of the specific causes of their displacement as well as the still unresolved status of Kosovo.

Background

Allow first some overall figures, important for the issue of displacement, with one remark: the OSCE Mission to BiH is mainly using statistics provided by the UNHCR and, to some extent, the official state statistics.

The Situation in BiH

As the consequence of the most recent war, BiH registered over two million refugees and internally displaced persons (IDPs). Today, the official statistics show that over one million persons returned to their

pre-war places of residence in BiH. In addition to its own citizens suffering from displacement, BiH hosted some 25,000-30,000 refugees from Croatia and a few thousands from Kosovo. Currently, there are approximately 9,000 refugees from Croatia and about 500 from Kosovo still residing in BiH.

How did Bosnia and Herzegovina create conditions for the return?

The IDPs needed to have a place to return to in Bosnia and Herzegovina. BiH was the first state to introduce the principle of ‘unconditional right to return’, through the Property Law Implementation Plant (PLIP), a scheme including the repossession of property, access to personal documents, citizenship, etc. These principles are also grounded in the Annex VII of the General Framework Agreement for Peace – the Dayton Agreement and reads as follows:

All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them ... The Parties¹ confirm that they will accept the return of such persons who have left their territory, including those who have been accorded temporary protection by third countries.

Approximately 212,000 claims for repossession of occupied property, including socially-owned apartments, were submitted and processed. The decisions have now been implemented in about 98% of cases, where 94% are positive decisions. Unfortunately, the war in BiH has radically changed the situation in the housing sector, where about 452,000 housing units (a bit less than half of the BiH housing stock) were completely or partly destroyed. The process of reconstruction is still far from complete, with about 35-40% of all properties still in need of reconstruction. This is mainly due to lack of funds rather than access to rights or discrimination.

¹ The Parties, as noted in the Dayton Agreement preamble, are the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia.

The Situation in Croatia

During the 1991-1995 conflict, between 300,000 and 350,000 ethnic Serbs left Croatia, whilst approximately 220,000 ethnic Croats were internally displaced from, at that time, Serb-controlled areas. The latest official statistics say that almost all displaced Croats have returned to their pre-war domiciles, whereas some 123,000 Serb refugees have been registered as returnees. The OSCE Mission to Croatia estimates that out of these, 35-40 % are unsustainable returns, mainly due to “persistent difficulties in access to housing, acquired rights and employment”.²

Currently Croatia is bringing to a close the process of repossession of about 19,000 private properties – belonging mainly to ethnic Serbs – that were occupied with or without state approval. The reconstruction of destroyed properties is ongoing. The situation in that regard has improved significantly for minority beneficiaries over the recent years. However, unlike BiH, Croatia unfortunately did not create an adequate solution for the repossession of occupancy/tenancy rights (OTR), a form of ownership that was very common in the former socialist state. The current estimate is that more than 30,000 families have lost the occupancy rights to their pre-war homes.

The Situation in Serbia

Serbia is the biggest refugee receiving state of all former Yugoslav republics, with more than 300,000 refugees residing in its territory after 1995. The number of refugees there is still over 100,000 at the moment, which presents a big burden to the country, financial as well as humanitarian.

What has been the key problem with regard to the regional co-operation in the area of refugee returns? Generally, it boils down to a different approach to the IDPs and refugees in each of the neighbouring states.

² The OSCE Mission to Croatia: 2006 Review: Report on Croatia’s progress in meeting international commitments since 2001, 09 June 2006.

Whilst BiH focused mainly on promoting unconditional return of pre-war residents to their places of origin, the Croatian authorities silently gave priority to the local integration of the IDPs and Croat refugees from BiH throughout the Croatian territory.

The Start of the Regional Co-operation

The regional co-operation first started among international organisations involved in refugee assistance programmes and human rights monitoring in 2001. The UNCHR, the OSCE and the EC representatives in BiH, Croatia and (then) Serbia and Montenegro realised that if common standards were not applied and if there were no regional co-ordination, the problems of the remaining refugees and DPs will grow. Numerous meetings and consultations in an attempt to analyse the situation in BiH, Croatia and Serbia and Montenegro took place. A proposal emerged outlining a unified solution for all countries concerned. However, it soon became apparent that not much could be achieved without the consent and active support of the leaderships of these countries. The first trilateral³ efforts to promote regional dialogue on returns took place in 2003. The three OSCE Missions, the UNHCR and the EC, which considered the resolution of the displacement problem as a precondition for sustainable stability in the region, continued the consultations, though increasingly aiming at transferring the ownership of the process of refugee return to the domestic authorities.

The final result of this negotiation process was the signing of the Sarajevo Declaration on 31 January 2005, which marked the political agreement of the governments of BiH, Croatia and Serbia and Montenegro to remove all remaining obstacles to the return of refugees and to ensure a just and durable solution to the refugee and DPs with the assistance of the international community and within a set deadline – December 2006.

³ At that time Serbia and Montenegro was one state.

The Implementation of the Sarajevo Declaration

The three governments committed themselves to draft – within three months after signing the Sarajevo Declaration – individual, country-specific plans of action (‘road maps’), which were to be merged into a Joint Implementation Matrix by April 2005. Unfortunately, there has been hardly any progress in complying with these deadlines. Although a task force with representatives of the three governments and the international community (the OSCE, the UNHCR and the EC) has been established to ensure a more effective implementation of the Sarajevo Declaration, the only progress made at its inaugural meeting on 7 April 2005 in Belgrade referred to the agreement on the structure of the Joint Operational Matrix⁴ and the appointment of the BiH delegation as the co-ordinator.

To balance the need for local ownership and a more active role of the international community in support to the process, the OSCE, the UNCHR and the EC agreed at the meeting held on 26 April 2005 in Zagreb that each country’s delegation should compile a list of tasks to be presented to the respective host governments and included in each Road Map. These lists of tasks as well as comments to the preliminary drafts of Road Maps were subsequently presented to the three governments. However, whereas the BiH government incorporated almost all tasks and comments as suggested by the international community, the government of Croatia failed to address the major issues.

The different approach in the realisation of the right to repossession for OTR holders has resulted in substantial discrepancies in the situation of refugees and IDPs. While the repossession was possible in BiH and temporary occupants were evicted from occupied apartments, it was not possible to repossess homes in Croatia. It is still not. Obtaining personal documents or citizenship for pre-war BiH citizens is relatively easy, while in Croatia it is complicated bureaucratic process. At the same time, the problem of funding the very basic subsistence of refugees in

⁴ The Joint Operational Matrix consists of two parts: (1) statistics and exchange of data and (2) Country Road Maps.

Serbia is growing. These are just examples of numerous problems refugees in this geographic area are facing.

Conclusion

Although all three or rather – with the separation of Serbia and Montenegro –four governments still declare to be committed to the regional resolution of the problem, the process is currently stalled due to a number of obstacles. There is, on the one hand, the lack of readiness of Croatia to resolve two major issues, i.e. the recognition of documents obtained in Serb-controlled areas, which causes difficulties in the realisation of pension rights, and the repossession for former OTR holders.

The Government of Croatia is also bounded by the short-term obligations presented in the SAA Agreement, and one of these obligations concerns the issue of validation of documents. Although the Government of Croatia stated in November 2006 that the issue is on the way to be resolved, there is no visible result so far.

On the other hand, the other governments insist that these key problems should be resolved in order to realise fully the principles contained in the Sarajevo Declaration. In addition, concerns have been raised regarding the lack of designated financial means for the implementation of BiH, Serbia and Montenegro Road Maps. The BiH and Serbian delegations have included budgetary means allocated for the return process into the documents.

To date we can say that the process is close to its end, but it has not ended yet. At the moment, the four governments have to show political good will and begin to implement in practice what they agreed upon in the Sarajevo Declaration. The international organisations that are involved in the process will continue to monitor and support it, but its future is clearly in the hands of the interested four states.

Finally, it is necessary to mention that this process is not the only regional initiative among the Western Balkans States. There are other important initiatives with the emphasis on regional ownership. One of them is the 'Igman Initiative', whose mission is to promote and facilitate local and regional dialogue in the fields of politics, economy and culture; to promote confidence-building and the advocacy of democratic values; to monitor and apply positive pressure on the governments to normalise their relations as a matter of urgency. It gathers more than 140 NGOs from BiH, Croatia, Serbia and Montenegro. The OSCE Mission to Bosnia and Herzegovina is monitoring the work of this initiative and regularly participating in the events organised within this framework. There are other examples, too.

We believe that it is only through strengthening regional co-operation among these countries, driven by true political will to arrive at a consensus on many unresolved problems that will bring lasting stability and allow progress in each of the concerned states in Southeast Europe.