

**Address of Srđan Dizdarević, President of the Helsinki Committee
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"Conflict and Migration:
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**Return of refugees and displaced persons:
the experience of Bosnia and Herzegovina**

I

The break-up of former Yugoslavia at the beginning of the nineties was accompanied with bloody armed conflicts which caused deaths of over one hundred people and resulted in several million having been displaced from their homes. In Bosnia and Herzegovina only, which had the population of 4.4 million before the war, 2.25 million people had had to leave their homes, and around 53 per cent of the pre-war population gained the status of refugees and displaced persons.

The population of pre-war Bosnia and Herzegovina had been ethnically mixed, and it had been made up of 17.4 per cent of Croats, 31.2 per cent Serbs, 43.5 per cent Bosniaks, and 7.9 per cent those who belonged to national minorities or had other identities. All towns in Bosnia and Herzegovina were multi-ethnic, while a number of villages were populated by members of one ethnic group exclusively. In pre-war Bosnia and Herzegovina, only 20 per cent of municipalities had absolute majorities formed by a single ethnic group, while in the remaining 80 per cent, none of the ethnic groups had had the absolute quantitative majority.

During the armed conflict, in which regular military and para-military troops of the neighbouring countries had participated, the movements of people were the consequence of the so-called ethnic cleansing, which led to a mass exodus of over a half of population of the country. It is estimated that around a half of the people exiled sought refuge in the third countries, while the remaining half left for the regions that were under control of their ethnic group.

The war conflicts had started in April 1992 and had lasted until the signing of the Peace Agreement in December 1995. The Peace Agreement stipulated creation of two entities within Bosnia and Herzegovina: the Republika Srpska, which covers 49 per cent of the territory, and the Federation covering the remaining 51 per cent. This division has led to new movements of the population. Namely, the regions conquered or preserved by arms did not necessarily remain under the same authorities after reaching of the Peace Agreement. This meant that parts of the population once again moved to the regions where their ethnoses had quantitative and political dominance.

It is important to note that during the war and immediately after the war, the multi-ethnic features were preserved in some parts of the country, particularly in bigger towns such as Tuzla and Sarajevo, as members of all three ethnic groups continued to live in these communities. These regions were not immune to movements of population, but not all members of any of the three ethnic groups left their places of residence.

II

The Peace Agreement, which put a stop to the armed hostilities, also comprises a part dedicated to refugees and displaced persons. Namely, the Annex 7 of the Peace Agreement is called: the Agreement on Refugees and Displaced Persons. This annex guarantees the right of all refugees and displaced persons to return to their homes. The signatories of the agreement obliged themselves to ensure conditions for safe return, free of risk of harassments, as well as the risks of intimidation, expulsion or discrimination. The right to return of property confiscated during the hostilities was guaranteed too, and it was also foreseen that all measures to ensure respect for human rights of refugees be taken. Within this framework, it was decided that legislation, regulation and administrative practices with discriminatory intentions or effects be abolished. Prevention of any written or verbal incitement of ethnic or religious hostilities and hate, either by means of media or other means of communication, was stipulated. Every type of revenge was prohibited and protection for minority groups, including international protection, guaranteed.

The Agreement also stipulates the freedom of choice in terms of place of residence and underlines the principle of preservation of families as a principle that should be respected. It was foreseen that favourable conditions for return be created, including political, economic and social conditions. The leading humanitarian role of the UNHCR in coordination of assistance to return and care for refugees and displaced persons was endorsed.

It is important to note that the Agreement stipulated amnesty of all persons who should decide to return, except the persons who had committed crimes against humanity, war crimes or the crime of genocide.

The Annex 7 of the Peace Agreement for Bosnia and Herzegovina stipulated establishing of a Commission for Refugees and Displaced Persons with the primary task to resolve issues of property return. The Annex made decisions of this Commission final and binding.

III

Since 1996, when the implementation of Annex 7 officially started, the process of return faced many difficulties and obstacles. According to information of the Ministry for Human Rights and Refugees, the total of 451,901 housing units had been destroyed fully or partially in the period of 1992 – 1995. Of this number, around 80 per cent of buildings or apartments had been fully destroyed.

It is estimated that the total direct and indirect war damage amounts to 115 billion US dollars. Bosnia and Herzegovina has reached the end the armed conflict with a destroyed economy, which meant that the level of its economic development in 1996 was 100 per cent lower than the pre-war level.

The war destruction affected the infrastructure too, which meant that many residential areas lost electric energy, water supply, phone lines. The road and railway communications were also seriously damaged during the war.

However, on top of the objective problems which had disabled or delayed return, even the authorities had created obstacles for return. Namely, in a larger part of the country, the power was held by supporters of those political options that wanted to preserve the results of ethnic cleansing, which meant that they tried to prevent the return of refugees and displaced persons that did not belong to their ethnic group. The obstructions of return were manifested in a number of different ways. In the first post-war years, especially in 1996, 1997 and even 1998, returnees were victims of physical assaults, and their property was also targeted. Explosive

devices were thrown at newly reconstructed houses, returnee property was set on fire, etc. In the biggest number of cases, the perpetrators of attacks against returnees would remain unpunished. The police failed to detect perpetrators, which was most often the case, while in other cases the perpetrators would be acquitted by local courts “due to lack of evidence”. Surely, the authorities did not publicly support the criminal acts, but they de facto encouraged them. Apart from direct consequences of these attacks, this was also a way to send a message to potential returnees not to come back.

In the second phase, after 1998, more sophisticated methods were used with the goal to discourage returnees and make their lives in pre-war places of residence impossible.

The returnees, first of all, had trouble getting back their business premises, which would otherwise secure their normal living. After they had returned and reconstructed their houses, they could not repossess their land, cow sheds, production plants, restaurants, which made their return totally unsustainable.

One type of obstruction was demonstrated in the practical impossibility of returnees to return to their pre-war jobs or find any sort of employment. In a country which officially has 40 per cent unemployment rate, only members of the majority ethnic groups and followers of leading political groups could get jobs.

It should also be stressed that the privatization, which is still in progress as part of the transition to market economy, has had considerable ethnic character, which means that those who belong to the majority on a certain territory practically hold a monopoly over participation in privatization.

The returnees who had the chance to start private businesses were denied necessary documents and permits for businesses.

Problems with education of children should particularly be stressed. The established education system is based on programmes that correspond with relevant linguistic, cultural and historical criteria of one ethnic group, without taking into account interests of others. This way, the children of returnees have experienced their people being treated as genocidal, as the one responsible for crimes, in textbooks and lectures, while others were depicted in the light of a defensive and a just war. The education system has, therefore, not encouraged return of families with school-age children, no matter the region of Bosnia and Herzegovina.

It is worth adding that the access to health care is such that the returnees have had to go to health care institutions several hundred kilometres away, as they did not have the right to free health care in hospitals and medical centres in places of return.

The past period has been marked with the right to return proclaimed by the Annex 7 of the Dayton Peace Agreement, on one side, and problems created by the war destruction and lack of political will for true return, on the other.

IV

It has been almost thirteen years since the end of the war, but some of the consequences are still very visible. Of the total number of destroyed housing objects, 261,000 have been reconstructed, which means that 200,000 apartments and houses are still to be reconstructed. According to estimates of the Ministry for Human Rights and Refugees, a half of a billion euros more is required for implementation of the process of return, over half of which would be needed for reconstruction of housing objects, while the rest would be required for creation of other conditions necessary for return, including reconstruction of infrastructure.

Return of property has undoubtedly been successful. It is estimated that 99.2 per cent of apartments and houses have been returned to pre-war owners, including the right to ownership of destroyed property. The remaining 0.8 per cent are complicated cases awaiting court decisions.

Bosnia and Herzegovina has not had a population census since 1991, so most of the current data is based on estimates. The UNHCR suggests that the total of 1,023,965 persons returned until the beginning of October of 2007, comprising 446,215 refugees and 577,750 displaced persons. This information is based on the fact that these persons had obtained identification documents on the pre-war addresses. Those people who de facto live elsewhere and those who sold their property, which frequently happens, are not accounted for in this number. According to the data of the Helsinki Committee for Human Rights in Bosnia and Herzegovina, and based on the insight into the situation in the field, every third refugee and displaced persons has in fact returned, which means that the realistic number of true returnees is around 650,000. It can easily be concluded that people returned mostly to places where their ethnic group has the majority, while the so-called “minority” returns are generally lacking. The fact that pre-war Bosnia and Herzegovina had had only 20 per cent municipalities where one ethnic group had the absolute quantitative majority, and that there are only seven municipalities, of the existing 164, where one ethnic group is represented with less than 90 per cent of the overall population says enough about the ethnic cleansing in fact succeeding and the governing nationalist elites not being ready to change this situation despite international standards and treaties.

It should also be noted that the so-called “minority” returns occurred in places where there is strong will of returnees, and where the leaders of returnee population managed to escape pressures and overcome many obstacles.

It should be noted that only 0.8 per cent of minority returnees have jobs, and that all findings suggest discrimination of minority groups in employment, education, access to health care, as well as rights to social protection and right to pension. This means that, despite the successful property return, the real return of refugees and displaced persons in the case of Bosnia and Herzegovina is not satisfactory from the aspect of respect for rights of refugees and displaced persons and from the aspect of respect for human rights in general.

V

Based on the experience of Bosnia and Herzegovina, the success of the process of return should be based on the following assumptions:

1. Political will of governments to endorse return;
2. Guarantees for security of returnees and their property;
3. Affirmation of international standards of human rights as the legal grounds for return and respect for the right to property, freedom of movement, freedom of choice of residence, right not to be discriminated, the right to adequate education, social assistance, employment, and health care;
4. Provision of funds for reconstruction of housing as a pre-condition for return;
5. Securing of resources and legal conditions for sustainable return through opening of jobs for returnees, ensuring of loans for self-employment, repair of infrastructure, including opening of schools and medical centres in settlements of refugees and displaced persons who decided to return;
6. Existence of a single strategy for return with united resources and qualified teams of members of different profiles for its implementation.