

UNHCR Croatia Briefing Paper

The United Nations High Commissioner for Refugees (UNHCR) has been present in Croatia since 1991, providing protection and humanitarian assistance to several hundred thousand refugees and returnees, displaced as a result of conflicts in Croatia and Bosnia and Herzegovina. Due to its phase-down strategy, UNHCR in Croatia had to reduce its activities related to the post-war displacement. However, thanks to the support received from the European Commission, the Office continues to maintain its field presence with its two Field Teams located in Knin and Sisak until July 2009. The relevance of these Field Teams has significantly increased after the closure of the OSCE Field Offices in early 2008.

The UN Refugee Agency in Croatia pursues two essential objectives: to promote and facilitate the return and reintegration of Croatian refugees from Serbia, Montenegro and Bosnia and Herzegovina (BiH) and to assist the Croatian authorities and NGOs in developing the asylum system in line with international/European standards and practices.

Return and reintegration: Signing of the Sarajevo Declaration in January 2005 by representatives of the governments of Croatia, Bosnia and Herzegovina and the then Serbia and Montenegro created a unique opportunity to jointly identify and resolve remaining problems and obstacles to return and reintegration in the region. Despite significant progress made so far in the so-called 'Sarajevo Process', much remains to be done. In order to politically close this process, facilitated by OSCE, EC and UNHCR, full implementation of the commitments made by the respective governments should be ensured. UNHCR continues to support the Croatian authorities to resolve remaining problems in the return and reintegration area, relevant in the context of the country's EU accession.

Asylum: UNHCR continues to support the Croatian authorities and NGOs to develop an asylum system in line with European standards and practices. In that regard, the Office has helped the Government in drafting two asylum laws – 2003 Law on Asylum and the current 2007 Law on Asylum. The establishment of a temporary Reception Centre for asylum seekers in Kutina was also supported by the Office. UNHCR as well helps NGOs through various legal and community assistance projects.

Return and reintegration:

Refugee/IDP return: By the end of March 2009, a total of 388,073 returnees/IDPs were registered in Croatia. Out of this number 131,899 are Croatian Serb minority returns. According to 2007 UNHCR study on the sustainability of return, only 54% remain in Croatia, while 46% are not living permanently in the country, most likely because the majority of return areas still lag behind in socio-economic development.

Access to rights and employment remain main challenges for Serb returnees in their reintegration into Croatia's social and legal system.

Repatriation: The process has continued, having 202 persons returned by March 2008. Some 80,000 persons are still registered as refugees from Croatia in the region. UNHCR and its NGO partners facilitate organized repatriation to Croatia by providing counselling and, where necessary, transport of household items and agricultural machinery.

UNHCR assistance: Legal and community services to returnees, including remaining refugees and IDPs, still account for the largest UNHCR expenditures. Most returnees need assistance in resolving housing, social welfare and other related issues. Moreover, community services provided by the Government remain inadequate, especially for the vulnerable. UNHCR supports NGO partners to assist individuals through intervention with the authorities and, where required, with representation in court.

Housing care: One of the Office's main activities is assisting in the implementation of the Government's Housing Care Program (HCP). It includes provision of nationwide housing solutions for former occupancy/tenancy rights (OTR) holders who wish to return to Croatia. UNHCR also focuses on enhancing the implementation of the HCP, ensuring that basic minimum living standards as well as fair and transparent procedural safeguards for the applicants are met. UNHCR advocates further improvements of the existing HCP, including the buy-off option and considering applicants that missed the 2005 deadline in urban areas. Currently, some 6,400 families still wait for allocation of housing care or a first instance decision under the HCP. In addition, more than 9,000 family appeals were still pending under the Reconstruction Programme. Apart from the socio-economic situation in the former war affected areas, the lack of access to adequate housing for some 15,000 returnees/refugees' families represents the main problem in the return process. Most of the returnee families need counselling and assistance to realize their rights in the often overly bureaucratic and long procedures in Croatia. In spring 2008, the Directorate for Areas of Special State Concern and UNHCR agreed to make a joint revision of all 1st instance negative decisions on Housing Care outside the ASSC. Such a decision was made to accelerate procedure and to improve quality of 1st instance decisions. Until today, about 50 % of those decisions have been reviewed.

EU Action Plans: In the context of meeting the benchmarks for opening EU negotiations on Chapter 23 (Fundamental Rights and Judiciary) the Government submitted two Action Plans end of June. One addresses speedier realization of Housing Care programs, while the other one aims at improving implementation of the Constitutional Law on National Minorities (CLNM). Both plans address concerns raised by UNHCR and if implemented will improve access to housing and employment for Serb returnees. However, despite previous announcements that all pending applications would be resolved by October 2008, the procedure is still facing delays.

Return platform: Under the chairmanship of the Deputy Prime Minister Slobodan Uzelac, UNHCR, EC, OSCE and US Embassy, including relevant ministries, meet on a regular basis to discuss progress made and problems encountered in the return process. Similar platform has been initiated with UN agencies in Croatia in order to support development of the ASSC and to ensure the sustainability of the return process.

Convalidation: After intense lobbying by UNHCR, OSCE and EC, the Government has addressed the issue of convalidation and the recognition of working years for the pension between 1991-1995 in areas not under Croatian control. In the mid 2008, the Government issued a new Rulebook, and relevant decrees to close the issue of convalidation, which is also an opening benchmark for Chapter 23 in the EU Accession process. Its implementation is monitored by UNHCR and its partners, and although some improvements had been made, the number of negative decisions still raises concerns.

Sarajevo Process: In four years since the signing of the Declaration, and eight identified issues, the governments with the support of the OSCE, EC and UNHCR have left with only one unresolved topic: establishment of a mechanism for a fair and just solution for former occupancy/tenancy right holders who do not intend to return to Croatia and benefit from the existing Housing Care programmes.

Former habitual residents: After UNHCR and EC Delegation intervention, a provision in the Law on Foreigners was incorporated referring to regularization of status of all pre-war inhabitants of Croatia, who are not Croatian citizens. The provision provides a basis to legalize the status of refugees - former habitual residents of Croatia - who missed the end of 2005 deadline to obtain Croatian citizenship. Based on their earlier link with Croatia, these groups of refugees/returnees have now access to a temporary status upon their return. Access to citizenship remains a concern for this group of returnees.

UNHCR study: According to 2007 UNHCR study - "Sustainability of Minority Return in Croatia" - out of the 120,000 officially registered returnees at the time, only some 54 % reside permanently in Croatia, while other half live only sporadically or just visiting occasionally. The study confirmed that the returnee population is older and poorer than the general Croatian population. Namely, returnees' average age is 51, while the average age of the general population is 39. In addition, more than one third of returnees are older than 65. About 40% of returnees in the 'working age' are unemployed, compared to the national average of 12%. About 11% of returnees depend entirely on humanitarian assistance. Such an age structure creates a need for specific programs to take care of the elderly population and also to assist young people in such a specific environment. The study has quantified many negative factors, known from before. Those are: low incomes, lack of capital, old age, isolation and unemployment.

Projects: A 60-million Euro "Social and Economic Recovery Project", jointly funded by the World Bank and the Croatian State, is currently being implemented by the Government. UNHCR has assumed advisory role in that project. The EU, as well, recognized the importance of the socio-economic revitalization of the Areas of

Special State Concern, giving special attention to it in the EU Accession Process. Also, the establishment of the Ministry of Regional Development, Forestry and Water Management including agreements on the return and reintegration of refugees, gave a new impetus to address existing concerns and to foster sustainability of minority return in Croatia.

Partnership with UNDP and other UN agencies will be further strengthened through the implementation of MDG-F programme in Croatia “Closing Chapter: Social Inclusion and Conflict Transformation in War Affected Areas of Croatia”. The programme amounting to 3 million USD (out of the UNHCR budget amounts to ca. 850, 000 million USD) will be implemented over 2009 and 2010. It will tackle endemic social, economic and political exclusion of returnees, minorities, veterans and economically-disempowered women, whose marginalization most jeopardize peaceful coexistence and sustainable return, and risks cementing the emergence of “two Croatias”: one relatively well-off, vibrant and Euro-centric; the other a home to the poor, disempowered and excluded. UNHCR will participate with implementation of projects that will support implementation of the Law of Free Legal Aid, grass-root peace-building and development initiatives and provision of social services to the vulnerable in the returning communities.

Refugees from Bosnia: UNHCR estimates that approx. 120,000 Bosnian refugees of Croat ethnicity, who obtained Croatian citizenship have integrated within the Areas of Special State Concern. Till today, UNHCR recorded 9,871 refugees of both ethnicities who returned to Bosnia and Herzegovina. In line with the Law on Citizenship, refugees of Croat ethnicity could be integrated in Croatia relatively easily. However, approximately 1,300 non-Croat refugees, majority of whom are Bosnians, remain under temporary protection and face uncertain prospects for the future. In order to find durable solutions for them, a Task Force has been established in 2007, comprised of UNHCR, Directorate for Areas of Special State Concern (former Government’s Office for Displaced Persons, Refugees and Returnees - ODPR) and its partners. The Joint Task Force reviewed successfully a first “pilot group” of 152 refugees, residents of the collective centre in Cepin/Osijek, in September 2007. Implementation of the agreed solution for this group, as well as the review of the remaining persons, remains a concern.

According to the March 2009 amendments to the Law on Foreigners, refugees with a minimum of a 10-year refugee status in Croatia can now opt for a temporary stay on humanitarian grounds. Notwithstanding the fact that such a step offers a possibility for local integration, as well as for working without a work permit, a requirement of a 3-year long humanitarian temporary stay before having access to a permanent stay, might further complicate and delay local integration of the people, who are in Croatia for more than 15 years.

Asylum

General: Croatia is party to the 1951 Refugee Convention, 1967 Protocol and 1954 Convention relating to the Status of Stateless Persons. In 1997, Croatia ratified the

European Convention for Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols.

Law on Asylum: (LoA) and the Law on Foreigners (LoF), which align the Croatian asylum/migration system with the relevant EU *acquis communautaire* entered into force in January 2008. The Law on Foreigners was amended in March 2009. The by-laws necessary for implementation of the LoA and the LoF were adopted and published in the Official Gazette. UNHCR provided comprehensive comments and expert opinion to the Law on Asylum in relation to the Refugee Convention and the transposition of the relevant EC Directives into the LoA. The overall assessment of the LoA is positive, as it constitutes a good basis to establish a fair and efficient asylum system. Most definitions and concepts are in line with the Refugee Convention and EU asylum *acquis*. The Law introduced, among other issues, subsidiary form of protection; definition of refugees *sur place*; single procedure; accelerated procedure; procedure at border and in transit zones. The most problematic aspects of the LoA are related to the exclusion of interviews in accelerated procedure, the lack of free legal aid in the first instance and the fact that the definitions of “exclusion” and “cessation” clauses are not fully in compliance with the Refugee Convention. Judicial review by the Administrative Court is possible, but with no automatic suspensive effect.

The Asylum Commission: The Commission for Asylum, which has become a more independent second instance under the new LoA, since May 2008 when it started to function, overturned for the first time, first instance decisions passed by the Asylum Unit of the MoI. While this is a positive development, UNHCR at the same time noted that the Asylum Commission reflected in their decisions only on subsidiary forms of protection, but did not elaborate on the asylum request. Neither the legislation nor the internal rules of the Asylum Commission obligate the Asylum Commission to interview all appellants; however, the Commission is currently interviewing all asylum seekers and UNHCR considers such practice as indeed an encouraging development.

The Commission, which is composed of members including an NGO representative and academic, is still lacking necessary technical and administrative support and has to share premises with the Government’s Office for Human Rights. The current working conditions might have a negative impact on the confidentiality of the interviews/hearings and the efficiency of the work of the Commission in general.

Asylum and subsidiary protection: In 2008 and by end May 2009, 4 persons (from Turkey, Somalia and 2 from Afghanistan) were recognized as refugees. Another 4 persons (3 from Pakistan and 1 from Kosovo) were granted subsidiary protection, **bringing the overall number of persons granted protection in Croatia since 2004 to 9 persons** (one person was recognized as a refugee in 2006). The majority of applications continue to be rejected as manifestly unfounded, despite the fact that among them are applicants with a similar profile as those recognized in other asylum countries (e.g. applicants from Iraq, Turkey, Kosovo, Iran and Russian Federation).

Asylum seekers: In 2008, 155 persons applied for asylum in Croatia. Compared to 2007, when 195 applied, the overall number went down in 2008 by 20%. In the first quarter of 2009 this trend continued, only 48 applied, which is 26 % less than in the same period of 2008.

Croatia is still perceived as both, a country in transition and a country of transit. Almost 50% of those who apply for asylum leave Croatia before a final decision on their claim is made. **The majority of asylum applicants in 2008 came from Serbia and Kosovo (62), followed by Pakistan (16) and Turkey (10).**

Rejected asylum seekers remain of concern to UNHCR Croatia. Some of them could invoke valid reasons not to be returned to their country of origin. Persons protected against *refoulement*, or are unable to return for humanitarian reasons might receive a *toleration permit* – under the condition that they possess financial means - but no Government assistance is granted.

UNHCR continues to assist and closely monitor the implementation of the asylum legislation and procedures to address the shortcomings and to ensure uncompromised right to seek asylum.

Reception Centre: In the Asylum Reception Centre in Kutina, run by the Ministry of Interior, UNHCR continues to fund legal aid and psycho-social services through Croatian Law Centre (CLC) and the Croatian Red Cross (CRC). The CLC is in charge of legal counselling for asylum seekers. The CRC, funded by the Government and UNHCR, provides community services to asylum seekers, with an emphasis on assistance to vulnerable groups such as women, single women with children, separated/unaccompanied children and the elderly. A systematic identification and psycho-social counselling of victims of torture and inhuman or degrading treatment is still lacking.

An increase of asylum seekers can be expected and therefore, there is a need for the establishment of a Permanent Reception Centre for Asylum Seekers to strengthen current limited capacities of less than 100 persons.

Integration: UNHCR remains concerned about the coordination of authorities in charge of integration of recognised refugees. The LoA provides for the integration of refugees, but in practice there is no system in place, which hinders refugee's integration in the host community. To achieve successful integration and inclusion, a reinforced cooperation between competent authorities and NGOs is required.

Free legal aid: The Law on Free Legal Aid was adopted in May 2008 and is implemented as of February 2009. All persons entitled to free legal aid among whom are the persons of UNHCR concern (refugees, asylum seekers, persons under temporary and subsidiary protection, including victims of trafficking and domestic violence) will be receiving free legal aid.

Trafficking: The national programme for suppression of trafficking in persons for 2005 – 2008 and the LoF provides basis for the support of the victims of trafficking. They are granted a one year's residence permit (extendable). However, only 7 victims of trafficking were identified in 2008 although it is believed that more

persons were victims of traffickers. No asylum seeker has been identified as the victim of trafficking.

Unaccompanied children: The special needs and vulnerability of separated/ unaccompanied children who are not always asylum seekers has to be addressed by the authorities. UNHCR advocates for finding solutions to the problem of disappearance of unaccompanied children taking under consideration and advocating the Best Interests Determination (BID) guidelines of the child. In this regard, UNHCR is cooperating with the Ombudsperson for Children and other relevant institutions. This co-operation, however, is solely on a case to case basis as the authorities have failed to put in place a tracing mechanism. In 2008, 97 separated/ unaccompanied children were registered in Croatia. Majority of them came from Albania and Bosnia and Herzegovina. None of them applied for the asylum.

Programmes and trainings: UNHCR supports public information and education programmes to generate tolerance and a better understanding of the protection needs of refugees and asylum seekers. Cooperation is established with the Zagreb Law Faculty, the School for Social Welfare and the Police Academy. Programmes aim at including educational activities on asylum/refugee topics into regular educational curricula. UNHCR will continue to support the establishment and the work of the Refugee Law Clinics at the law faculties.

UNHCR also cooperates with the Ministry of Defence and Ministry of Interior and regularly provides trainings on its mandate to the Croatian participants in UN peace-keeping operations.

Operational Activities, Budget and Staffing in 2008

Budget: UNHCR's operational budget for 2009 is USD 2 million for activities supporting the refugee return and reintegration as well as the development of the Croatian asylum system. Main activities are: provision of legal and social aid related to refugees, returnees, asylum seekers; housing care; access to acquired rights of returnees; mobile teams' visitation to vulnerable returnees; and support for community building activities in main return areas. UNHCR supports a network of NGOs - partners working in the field of refugee return and asylum. The partners coordinate all activities with respective national and local authorities, as well as international and local organizations, in order to ensure compliance with relevant national norms and international standards.

Fundraising: The Office continues with intensive local fundraising activities. The European Commission supported UNHCR activities in the area of refugee return with EUR 1 million, for the period from 1 July 2008 to 30 June 2009. The project includes activities in Serbia, Bosnia and Herzegovina, Montenegro, Kosovo and Croatia, where UNHCR received funding for continuation of Field Teams in Knin and Sisak.

In October 2007, the Agency received funds from the Belgian Government's Fund for Preventive Diplomacy for the project "Building Sustainable Communities in the Area of Return". The goal of the project is to identify 10 return communities in

need of socio-economic interventions in order to prepare and link them to various development projects, especially in the context of the EU pre-accession funds.

Since 2005, Croatia has been contributing to UNHCR's annual budget for global activities (10,000 USD in 2005; 10,000 USD in 2006 and 30,000 USD in 2007) including to supplementary budget for specific operations (5,000 USD for Western Sahara in 2007).

In addition, as of December 2007, the Croatian Government has been supporting the work of UNHCR by providing its Representation in Croatia, and other UN agencies in the country, with the free-of-charge office premises.

General: Apart from the main office in Zagreb, UNHCR maintains two teams in Knin and Sisak, monitoring the conditions of return and reintegration of refugees in the field. UNHCR activities in Croatia are conducted by 17 staff members including UN Volunteers.

