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Unfair treatment of the Serb refugees by the Croatian government

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Mr Chairman,
Ladies and Gentlemen,

4 million people sought refugee or were displaced during 90s after the conflicts in former Socialist Federative Republic of Yugoslavia. This was the biggest refugee crises in Europe after the II World War. Unfortunately even 10 or 15 years after the end of the conflict this crises has not been fully addressed. I am not going to talk about limbo situation in which IDPs from Kosovo are both in Kosovo and Serbia nor about returnees from the readmission agreements who are just been sent from Western Europe without any reintegration opportunities. My presentation will focus on the way Croatian government treats their citizens who are refugees, mainly of Serb origin still residing in Serbia.

Since 1996, when half a million refugees were registered in Serbia, the number of refugees has decreased as a result of their return to the country of origin, integration in Serbia or resettlement to third countries. According to the UNHCR statistics[2] as of July 2008 there are 97,000 refugees (70,000 from Croatia and

[1] Group 484 is NGO from Serbia working with forced migration issues
[2] http://www.unhcr.org.yu/utils/File.aspx?id=321

27,000 from Bosnia and Herzegovina). Unfortunately the decrease in number of refugees is not a consequence of a fact that durable solutions have been found. Without comprehensive and durable solution both returnees to the country of origin and formally integrated refugees in Serbia are becoming a part of the poor population despite continuous support provided by international community.

According to the Croatian Government quarterly report from June 2007, the total number of registered returnees was 344,206, of whom 219,734 (64%) are Croat IDPs and 124.472 (36%) Serbs. Among Serb returnees, 91,651 have come from Serbia (at the registration in 1996 there were 300,000 refugees from Croatia), 9,256 from BiH, and 23,565 were IDPs in Eastern Slavonia. However, results of the UNHCR research conducted in 2007 by Faculty of Philosophy in Zagreb are showing that just 34,8% of returnees reside at their registered address, while 54% of returnees live somewhere else. The remainder of 11,2% of registered returnees have deceased. Out of those who are not living at their registered address, 65% are living outside Croatia, mainly in Serbia (82,3%), BiH (5,9%), Montenegro (2%) and other countries (9,8%). Important findings of the research are that the average age of all returnees is 51, compared to the Croatian average of 39 years, also that places of return are mostly rural areas in Croatia. Only 3% of returnees are to be found in settlements with more of 100,000 inhabitants. This is due to difficulties with accessing tenancy rights in urban centres.[3]

This data with no ambiguity show that almost 15 years after the beginning of the refugee crises the favourable conditions for return have not created in the country of origin – Croatia. That is why UNHCR included this year Serbia among five countries in the world with protracted refugee situations within the initiative to reinvigorate possibilities for durable solutions for refugees in those countries and to improve the quality of life for populations that live in exile for such a long period of time.

[3] Current Challanges for Returns in the Western Balkans, ECRE, October 2007

The tenancy/occupancy rights holders from Croatia (OTR holders) are group of refugees whose problems have not been addressed yet in the national legislation or by signing the bilateral agreements by the Republic of Croatia.

Let me remind you, that even and fair solutions for the consequences of the past conflicts in the region are needed. Owing to the international community, the repossession of property and tenancy rights in Bosnia and Herzegovina was carried out undisturbed. This is not the case in Croatia.

Between 1991 and 1992, over 80,000 people of Serb nationality fled the cities of Zagreb, Split, Rijeka and Osijek in Croatia. In most of these cases, lawsuits were instigated for the termination of the occupancy/tenancy rights of the legal tenants, under justification that the properties have not been useed for more than 6 months. According to court statistics, there were more than 23,000 OTR termination cases all over Croatia, mainly during the period between 1991 and 1995. Around the same time (1991-1996), through a process of privatization, other OTR holders were able to buy their apartments at discounted rates and with additional benefits. Almost all OTR termination cases were adjudicated in the absence of tenancy rights holders who were represented in the proceedings by an attorney appointed by the court. There was no examination of the reasons why OTR holders had left their apartments and whether their reasons were legitimate. This was done despite the fact that an enquiry of this type was a main component of the legal procedure for OTR termination. In contrast with the average length of court cases of more than 5-7 years, termination procedures were swiftly concluded. The outcome was always the same involving the termination of occupancy/tenancy rights of people who had left their apartments because of the war. In many cases, the court-appointed special representatives of absentee OTR holders did not appeal against termination decisions despite their obligation to act to protect their clients' best interests. Due to this selective, discriminatory application of the Act on Housing Relations, tens of thousands of Serbs have lost their tenancy rights to about 30 to 35,000 flats.

In 2003, the Government of Croatia initiated the Housing Care Programme with the aim of providing the former tenancy right holders alternative accommodation. The practice of securing accommodation does not include the possibility of returning to the same apartment over which the person had tenancy rights, nor does it guarantee that the person will be accommodated in the area of his/her former residence. Additionally if ex tenancy right holders receive an apartment through the housing accommodation plan they can not buy out the apartment which was the option previously available to tenancy right holders. Additionally, housing possibilities are available only to refugees who have returned to Croatia, and who do not have other property on the territory of former Yugoslavia. All others are permanently deprived of the possibility to fulfill their right to housing accommodation based on previous tenancy rights.

However, Croatian government continues to work in favor of its citizens only if they are of Croatian nationality. The Parliament of the Republic of Croatia adopted the new Law on Areas of Special State Concern which replaces the previous, and entered into force on July 2008. Among other issues, the Law relates to the apartments that were previously the homes of Croatian citizens, mainly ethnic Serbs, who lived in the part of Croatia which is today within the area of special state concern, and who fled Croatia in 1995, after the operation “Storm”. According critical provisions, all housing care beneficiaries who were given the use of state owned apartments under the Law on Lease of Apartments in Liberated Areas (i.e. the apartments that belonged to Serbs-OTR holders until 1995) will now have possibility to become the owners of the apartments that they currently use, free of charge provided that they have been living in apartment for ten years and do not own other housing in Croatia. This essentially means that former refugees from BiH (mainly ethnic Croats), who were naturalized in Croatia, had the effective possibility to repossess their property in BiH and now are given "Serbs' apartments" for free.

This unresolved issue of occupancy/tenancy rights in Croatia and discriminatory practices against Serbian minority in Croatia make the return of refugees difficult and unsustainable.

There are of course other pending issues regarding acquired rights of refugees such as: c**onvalidation of working age, the restitution of (private) property, compensation for damage property, annulment of contracts concluded under duress and/or in contravention of the provisions of civil law, secret indictments, employment discrimination etc.**

The ***Sarajevo Declaration*** signed at the beginning of 2005 with the aim to make country road maps and regional matrix for proposing solutions to all pending refugee issues in Western Balkan by the end of 2006 seems now at the end of 2008 as a yet another failed initiative of the international community.

In conclusion I would strongly recommend that Sarajevo Road Map process should be reinitiated. The regional governments especially Croatian must be pushed by OSCE, UNHCR and EC because they initiated this process and international community must not allow this initiative to fail. This is the only mechanism that secures closure of refugee caseload in Western Balkan countries.

Croatian government is vigorously progressing towards EU, thus the time has come for Croatian government to grant to all its citizens equal rights, including the Serb returnees and refugees.

We also call on all the governments concerned to start with the implementation of the Annex G of the Treaty on Succession, ratified between all successor states of the former SFRY providing for the protection of rights in all successor countries on the basis of a consistent application of national legislation and regional and international human rights norms and principles.