

**GUIDANCE FOR
RETURNEES
TO CROATIA**

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INTRODUCTION

Dear readers,

The OSCE Mission to Croatia has recognized the need for additional legal return-related information (civil and administrative) to be provided through the distribution of guidance for returnees.

The distribution of appropriate and relevant information received a special meaning after the Regional ministerial conference in Sarajevo on the issue of refugees and displaced persons in the region of Bosnia and Herzegovina, Croatia and Serbia and Montenegro. In the *Declaration* signed on the 31 January 2005, the responsible Ministers committed themselves to undertake specific measures to ensure a just and permanent solution for the refugee and displaced person file by the end of 2006.

The *Declaration* confirms that every refugee should be able to choose between the right for a safe and dignified return or the right for local integration and that the State should undertake all necessary measures to allow the refugee to make a free and informed choice.

The intention of this brochure is to address the main issues faced by these categories of people, however the information provided within it is not exhaustive. Therefore we encourage you to approach any local State institutions or OSCE offices, UNHCR Field Teams or local Non-governmental Organizations providing legal assistance for further clarification (contact details are listed at the end of this brochure).



Figure 1. Croatian Prime Minister and former Head of OSCE Mission to Croatia visiting returnees

HOUSING CARE FOR FORMER HOLDERS OF OCCUPANCY/TENANCY RIGHTS OUTSIDE THE AREA OF SPECIAL STATE CONCERN¹

I was the holder of an occupancy/tenancy right for an apartment in the area outside the Areas of Special State Concern. Will the occupancy/tenancy right be returned to me so that I can purchase the apartment under favourable conditions from the 1990s?

No, an occupancy/tenancy right (OTR) can not be returned to you and you can not be compensated for its loss.

The occupancy/tenancy right as a legal institute does not exist in the legal system of the Republic of Croatia anymore. The 1996 Law on Lease of Apartments abolished the institute of occupancy/tenancy rights and granted the status of a protected lessee to those who have not privatized their apartment due to various reasons.

However, you can submit an application **for housing care** outside the Areas of Special State Concern (ASSC). (See next question.)

I was a holder of tenancy rights for an apartment outside the Areas of Special State Concern and would like to apply for housing care. Who is eligible, what is the procedure, what type of housing is available and will I be able to obtain housing in my pre-war place of residence?

Eligibility

A *Conclusion* adopted by the Government of the Republic of Croatia in June 2003² and a subsequent *Implementation Plan*³ have created a mechanism for

¹ Refer to the map of the areas of special state concern in annexes

² Official Gazette No. 100/2003

³ Implementation Plan of housing care for returnees who were not owners of an apartment or house and who lived in socially owned apartments in the area of RoC outside the Areas of Special State Concern, 24 October 2003

the provision of housing care to former holders of occupancy/tenancy rights outside the Areas of Special State Concern.

Although the documents do not have the status of a law, they currently provide the most tangible opportunity for former occupancy/tenancy right holders to secure housing in Croatia. They are relevant for individuals who fled from the Republic of Croatia and who would like to return and live in Croatia, as well as for those former occupancy/tenancy right holders whose OTRs were terminated, but who never left Croatia and would like to stay.

The second basic precondition for eligibility is that the applicant does not own or co-own another family house or apartment on the territory of the former Yugoslavia, nor did not sell, give away or alienate it after 8 October 1991 and has not obtained the legal status of a protected lessee. Only one request on behalf of all members of the former household can be submitted.

The application deadline is 30th June 2005

Note: The OSCE Mission and its international partners are advocating for the extension of the deadline with the Government of Croatia. Please, keep yourself informed by approaching any relevant office.

Procedure

Requests for housing care on the completed application form should be submitted:

a) in person to the RODPR, or to the Croatian Embassies/Consulates⁴ or to the UNHCR offices or to the NGOs that collect the applications for the UNHCR,

or

b) by registered mail to the Ministry for Maritime Affairs, Tourism, Transport and Development/Directorate for Displaced Persons, Returnees and Refugees (10000 Zagreb, Radnicka cesta 22/I), or via Embassies/Consulates.

⁴ At the time of writing, the Ministry for Foreign Affairs and European Integration, Directorate for Consular Affairs, voices the opinion that Croatian diplomatic and consular offices are supposed to receive applications from Croatian citizens only

The format of the request has to be on a standard form on an A3 paper format. However, the Ministry for Maritime Affairs, Tourism, Transport and Development (*hereinafter*: Ministry), Directorate for Displaced Persons, Returnees and Refugees (*hereinafter*: ODPR) will also accept and process requests submitted in A4 format if the content of such requests corresponds to the standard form as well as that all papers are bound, sealed and authorized by a public notary or if each individual paper is authorized by a public notary or by the appropriate court in Serbia and Montenegro and Bosnia and Herzegovina.

Supporting documentation to be submitted includes:

- Copy of Identification Documents for adults, or copy of birth certificate or citizenship certificate (*domovnica*) for minors.
- Information or evidence of former residence in an apartment for which occupancy/tenancy rights were terminated (contract/decision on use/allocation of OTR that can be, upon request, obtained from the archive office; court decision on cancellation of occupancy/tenancy rights; etc.) You need to provide information on the apartment you have been using (address of the apartment), while the other above mentioned evidence will be obtained by the ODPR *ex officio*. In case you possess some of the afore mentioned evidence, you can enclose them with the request, which should speed up its processing.
- Statement expressing the applicant's wish to return and live in Croatia.
- Statement that the applicant does not own property in the former SFRY.

Note: The last two statements are part of the standard form and need to be certified by a public notary, or if the applicant is outside RoC, by another body in charge - relevant Municipal Court in S&M or BiH.

Public notary fees

All applicants are exempt from paying the public notary fee in accordance with the LASSC. However they must pay the public notary award unless the applicant proves his/her unfavourable social status (with a tax office certificate, unemployment office certificate or pension certificate etc.)

Please note that if you own property, you will not be exempt from paying the award.

Type of housing available

Beneficiaries can have the following options:

- Obtain a state-owned apartment for lease. The lease agreement will be concluded between the Ministry/ODPR and the beneficiary of the housing care for an indefinite period of time, although the possibility of concluding a lease agreement of limited time also exists. The amount of rent corresponds to the so-called ‘protected rent’ (1.52 kunas per m²) which is the same as for the beneficiaries of housing care inside the Areas of Special State Concern.
- Purchase an apartment under favourable conditions according to the Law on Socially Subsidized Housing Construction (POS) - the price of such apartments is lower than the market value – around 60 per cent of the market value of an apartment.

Note: It is, however, much higher than the price paid by former occupancy/tenancy rights holders who purchased their apartments during the 1990s according to the Law on Sale of Apartments on which Occupancy/Tenancy Rights existed.

The purchase of an apartment under more favourable conditions means that all financially secured citizens of the RoC whose monthly income is three times higher than the monthly credit instalment have right to purchase an apartment from the so-called POS programme. The buyer immediately pays 15% of the estimated apartment value and 85% is credited by the bank, the State, and local self-government through a bank loan. The maximum length of the credit payment by instalments is 30+1 year with an average interest rate of 4%. It is also possible to delay payment of credit for one year.

The amount of square meters that will be granted to a housing care beneficiary, both for lease and purchase option will be determined in accordance with the provisions of the Law on Reconstruction, meaning $35 \text{ m}^2 + 10 \text{ m}^2$ for each additional family member.

Possibility of obtaining housing in pre-war place of residence.

Based on the adopted legislation by the Government of Croatia, most of the beneficiaries will be granted housing in their pre-war place of residence, but there could be a few exceptions. This means that there is *no guarantee* that housing will be provided in the pre-war place of residence. This refers mainly to municipalities in which, for different reasons, the construction of apartments in line with the POS Law is not intended/ foreseen or the pre-war apartments have already been allocated. The Implementation Plan stipulates that housing will be provided “primarily in those areas of the Republic of Croatia (cities and municipalities) where those persons had resided, i.e. used socially owned apartments.” If that is not feasible, housing will be provided in other areas of Croatia.

If an eligible beneficiary does not want to be accommodated outside the municipality or town of former residence, he can opt to wait for housing care to be provided in the area of former residence.



Figure 2. POS apartment buildings in Sisak



Do I have to have Croatian citizenship in order to be eligible?

Not possessing Croatian citizenship limits eligibility with regard to the type of housing which the beneficiary can obtain, i.e. lease or purchase of the apartment. For the purchase option, citizenship is required, but **not** for the **lease option** and all those who are either Croatian citizens or have the status of permanently residing foreigner in the Republic of Croatia can apply.

The right to purchase an apartment, however, according to the POS law is limited to Croatian citizens only. The Mission is advocating extension of this right also to those who have permanently residing foreigner status or who re-established this status in accordance with Art. 115 of the Law on Foreigners (for more information on Article 115 please see further)

HOUSING CARE FOR FORMER HOLDERS OF OCCUPANCY/TENANCY RIGHTS OUTSIDE THE AREA OF SPECIAL STATE CONCERN

SUMMARY

- Occupancy/tenancy rights can not be returned nor can you receive compensation for the loss of this right.
- As a former OTR holder, you can apply for housing care outside the ASSC.
- Conditions:
 - The applicant does not own or co-own any property on the territory of former Yugoslavia, that s/he did not sell, alienate, or give away the property after 8 October 1991 and the s/he does not have the legal status of protected lessee.
 - Only one application per household is allowed.
 - Deadline is 30th June 2005.
- Procedure: Application form for housing care together with required documentation (certified by a public notary-for SCG and BiH by the responsible court) should be submitted in person or sent by registered mail to ODP, UNHCR, RODPR or Croatian Consulate offices.
- There are two models of housing care outside ASSC: purchase or lease.
 - Croatian citizenship is a requirement for the purchase of a property but not for lease.
- The majority of beneficiaries will be granted housing in their pre war place of residence, however there may be exceptions.

HOUSING CARE FOR FORMER HOLDERS OF OCCUPANCY/TENANCY RIGHT AND OTHERS INSIDE THE AREA OF SPECIAL STATE CONCERN⁵

I am a returnee without any habitable property on the territory of former Yugoslavia or I am a former holder of occupancy/tenancy rights for an apartment inside the Areas of Special State Concern and would like to apply for housing care. Who is eligible and what is the procedure?

Eligibility

The Law on Areas of Special State Concern (LASSC) stipulates that persons or members of their household are eligible for housing care if:

- They do not own or co-own⁶ another habitable family house or apartment on the territory of the former Yugoslavia⁷,
- They have not sold, given away or alienated it after 8 October 1991,
- They have not obtained the legal position of a protected lessee.

Although former occupancy/tenancy right holders are not given priority in relation to different groups of eligible beneficiaries (temporary users of other persons' property, residents of collective centres, or other returnees/settlers to/in the ASSC), the Government stated that special funding would be made available to provide apartments to former occupancy/tenancy right holders inside the ASSC.

Procedure

Requests for housing care on completed application forms should be submitted:

⁵ Refer to the map of the Areas of Special State Concern in annexes

⁶ i.e. if the co-ownership part in a house is less than 35m²

⁷ Article 38 of the Law on Areas of Special State Concern

- a) in person to the RODPR or to the Croatian Embassies/Consulates or to the UNHCR offices or to the NGOs that collect the applications for the UNHCR

or

- b) by registered mail to the Ministry for Maritime Affairs, Tourism, Transport and Development / Directorate for Displaced Persons, Returnees and Refugees (10 000 Zagreb, Radnicka cesta 22/I), or via Embassies/Consulates.

There is no deadline for submitting applications for housing care inside the Areas of Special State Concern.

Supporting documentation to be submitted includes:

- Copy of Identification Documents for adults, or copy of birth certificate or citizenship certificate (*domovnica*) for minors.
- Information or evidence of former residence in an apartment for which occupancy/tenancy rights were terminated (contract/decision on use/allocation of OTR that can be, upon request, obtained from the archive office, court decision on cancellation of occupancy/tenancy rights, etc.) You need to provide information on the apartment you have been using (address of the apartment), while the other above mentioned evidence will be obtained by the ODPR *ex officio*. In case you possess some of the afore mentioned evidence, you can enclose them with the request which should speed up the processing of the request.
- Statement that applicant does not own property in the former SFRY.

Note: The last statement is part of the form and needs to be certified by a public notary, or, if the applicant is outside RoC, by another body in charge - relevant Municipal Court in S&M or BiH.

Type of housing available

Applicants can apply for either:

- Lease of a state-owned family house or apartment,
- Lease of a state-owned damaged family house and the allocation of building material,
- Allocation of state-owned construction plot and building material for the construction of a family house,
- Allocation of building material for repair/reconstruction or construction of a family house or apartment.



Figure 3. Newly built house in Golubic

Do I have to have Croatian citizenship in order to be eligible?

Croatian citizenship **is not** a precondition for eligibility for the provision of housing care **inside** the ASSC for returnees who used to reside in those areas prior to the war⁸.

⁸ Article 7 of the Law on Areas of Special State Concern



Figure 4. A new settlement in Gracac

HOUSING CARE FOR FORMER HOLDERS OF OCCUPANCY/TENANCY RIGHT AND OTHERS INSIDE THE AREA OF SPECIAL STATE CONCERN

SUMMARY

- To be eligible for housing care within ASSC you must not own or co-own property on the territory of former Yugoslavia, have not sold, given away or alienated it after 8.10.1991, and not have a legal status of protected lessee.
- Several requests per prewar household are permissible if it refers to newly established families.
- Procedure: application form for housing care inside ASSC should be submitted in person to R/ODPR, UNHCR or the Croatian Consulate or sent by registered mail to the Ministry/ODPR or Croatian Consulate.
- There is no deadline for submitting request.
- Applicants can apply for different models of housing care.
- Croatian citizenship **is not** a pre-condition for receiving housing care within ASSC for returnees that have lived in the ASSC prior to the war.

REPOSSESSION OF PROPERTY

◇ **My house is occupied and I applied for repossession a few years ago but nothing happened after that. What can I do to repossess it as soon as possible?**

1. If your house is occupied by a temporary user (TU) **who has a decision on use of your property**, the TU must first be provided with an alternative housing solution if s/he is entitled to housing care, according to the Law on Area of Special State Concern. Depending on which model of housing care the occupant is provided with, the delay to move out of your property varies. If the occupant received the right to:
 - Lease a state-owned family house or apartment: the occupant must move out of your property within 15 days from the day of conclusion of the lease agreement.
 - Lease a state-owned damaged family house and the allocation of building material: the occupant must move out of your property within 90 days from the day of the last shipment of the building material.
 - Get a state-owned construction plot and the building material for the construction of a family house: the occupant must move out of your property within 90 days from the day of the last shipment of the building material.
 - Get building material for repair, reconstruction or construction of a family house or apartment: the occupant must move out of your property within 90 days from the day of the last shipment of the building material.

Within 15 days from the day of expiration of the deadline for moving out, the State Attorney's office shall initiate a lawsuit for eviction against the temporary user who fails to move out.

2. If your house is occupied by a TU who **has a decision on the use of your property but is not entitled to housing care** in accordance with the law, the Ministry/ODPR is required to issue a notice of eviction to the TU that s/he must

move out of your property within 30 days. If the TU does not move out within this time period, the Ministry will (through the State Attorney's office) initiate a lawsuit for eviction against the TU.

We suggest that you approach RODPR to get information on the status of your case.

3. If your house is occupied by an illegal user who has **no decision on the use of your property**, the Ministry/ODPR is not required to participate in the repossession of your property. As a result, you should file a private lawsuit for repossession of your property to the municipal court responsible for the area in which your property is located.

Occupied agricultural land/ business premises

If you have occupied agricultural land or business premises which you may be able to regain only through a lawsuit, you should approach an NGO or a lawyer for legal assistance.

I am in the process of repossessing my property and heard that in some cases the RODPR has encouraged owners and temporary users to conclude lease agreements, so the occupant can stay in the property. What are the implications for my future rights regarding my property?

The OSCE Mission is aware that ODPR encourages private agreements between owners and occupants in cases of occupied properties. In the area of Benkovac, a number of owners agreed to let their properties to the current occupants and Caritas committed itself to pay the rent until housing care is made available to the occupants. In Knin, the Mission is aware that owners agreed in writing to the continued stay of the occupants in their property. The ODPR considers such cases as “resolved” and issues the minutes on handing-over of the property (PP11 form). Since ODPR considers itself no longer responsible for such cases, owners of the properties in question should be aware that they can

not rely on any assistance from ODPR if any dispute arises in the future regarding the arrangement with the occupant or the owner's *de-facto* repossession of the property (the Law on Lease of Apartment applies).

I started a court procedure for the repossession of my property. The court decided in my favour and ordered the TU to move out. In the meantime, the TU filed a lawsuit for compensation of the funds he invested in my property. Will this lawsuit affect the repossession of my property?

No, the lawsuit of the TU for compensation of the investments made in your property should not delay his/her moving out nor the repossession of your property. The Constitutional Court took on this stand in its decision from September 2004, after some local courts decided that the property can only be reposessed after the TU has been compensated for his/her investments in the property.

The OSCE Mission and its international partners are encouraging the Government to take measures in order to remedy the situation of owners facing claims for investments by temporary users.

For more information please refer to the Ministry/ODPR, OSCE offices, UNHCR or NGOs.



Figure5. OSCE mission member advising a returnee

I presented evidence to the ROPDR that the temporary user who occupies my house owns property in BiH. Why is the TU still occupying my house?

If a TU owns habitable property in BiH, which is accessible to him (not occupied, damaged or destroyed) he/she is not eligible for housing care in Croatia. However, s/he could still be eligible for temporary accommodation if the GoC has no evidence of his/her possession of a habitable property. If this is the case, he/she will not be requested to move out before the Ministry/ODPR provides temporary accommodation.

Since there is still no regular and systematic data exchange and data verification with the relevant Ministry in BiH, the Ministry has the possibility of verifying just a limited number of cases of which it has previous knowledge.

At present, the Ministry/ODPR still largely relies on the written statements of the applicants for housing care/temporary accommodation regarding property ownership on the territory of the former SFRY (such as BiH).

If you have or can get reliable evidence of the facts you claim, inform the ODPR accordingly. Keep OSCE informed of the outcome.

REPOSSESSION OF PROPERTY

SUMMARY

- If the TU has a decision on use of your property and is eligible for housing care, the TU must first be provided with an alternative housing solution before you can physically repossess your property.
- If the TU has a decision on use of your property but is not eligible for housing care, the MMTTD/ODPR is required to issue an eviction notice for the TU to move out within 30 days.
- If your house is occupied by an illegal user who has no decision on use of your property, you need to file a private law suit for repossession of your property.
- A lawsuit initiated by the TU for him to receive compensation of the funds invested in the property should not delay his/her moving out of your property nor the repossession of your property.
- If the TU has habitable property in BiH, s/he has no right for permanent housing care in Croatia but s/he has the right to temporary accommodation (until the GoC has evidence of his/her property in BiH).

HOUSING CARE FOR OWNERS OF DAMAGED PRIVATE PROPERTY

I repossessed my house, but it is damaged and not habitable. What can I do?

By taking over the administration of your property pursuant to the Law on Temporary Take-Over of Specified Property, the State is responsible for the protection of the property. We do not recommend that you claim compensation payments from the TU, even if you believe that s/he is responsible for the damage. No legal relationship exists between you and the TU and the fact that s/he stayed in your property is a result of a legal act between him/her and the State.

The Ministry is preparing a systematic solution for devastated property repossessed by owners. It would be done through out-of-court settlement with owners which would ensure compensations either in money or in repair of the property, including material and criminal responsibility of the perpetrators. It will be proposed to the Government in order for an appropriate decision to be reached.

In accordance with that:

- You should require, in writing, the reparation of your damaged property from the ODP. It is important to insist that the PP11 form, filled during repossession and signed by the owner, describes **all the damage** on the property.

In case you have signed the PP11 form earlier, you still have the right to apply for repair of damaged property, and the scope of devastation will be established during the drafting of instruction for repair.

- If the damage exceeds the value of the assistance possible under the above mentioned Decision of the Government and you would like to claim compensation for the damage, you can file a lawsuit for compensation against the State. Bear in mind that in case of a court procedure, at your suggestion, you can be exempt from paying court fees due to your property status but not from paying court expenses.

SUMMARY

HOUSING CARE FOR OWNERS OF DAMAGED PRIVATE PROPERTY

- If your house was damaged during the use of the TU, you should submit an application for a repair of devastated property i.e. to apply for housing care in the RODPR (building material).
- Ensure that the PP11 form is filled out, signed by the owner and describes all the damage.
- If the damage to your house exceeds the value of assistance possible under the laws, and you would like to claim compensation for the damage, you can file a lawsuit against the State.
- An appropriate scheme is being drafted by the Government to solve this issue.

LOOTING/DEVASTATION OF PROPERTY

How can I prevent the temporary user in my house from removing furniture and fixtures?

The RODPR should prior to the moving out of the temporary user (TU) warn him not to remove or damage fixtures and installations. In addition the RODPR is warning the TU that s/he can be held accountable under the LASSC for damage that s/he caused, and that the State Attorney can initiate a lawsuit against him for compensation for such damages.

If looting/devastation occurs, the police need to be called immediately and be requested to prevent damage and removal of fixtures. The RODPR should be notified as well. In case of “theft” or “malicious mischief” (see below), the police are obliged to start an investigation and submit charges to the State Attorney’s Office. Furthermore, the police can be requested to initiate a court procedure for securing evidence. This might deter the TU from further demolition of the house. The police can also be requested to initiate court proceedings for misdemeanour for Disturbance of Public Peace and Order. In case the police refuse to comply with your request, you may want to initiate disciplinary complaints against the police officer in charge, based on Art. 6, Law on Police.

Note: The TU has to leave all fixed items behind, even if he installed them himself, since they become legally an integral part of the house and the property of the owner of the house once they are installed. Such items include doors, windows, water pipes, toilets, sinks, water boilers, electric meter, etc. By removing them, the TU commits “malicious mischief”, which is a criminal offence. If moveable objects (for example furniture), that belong to the owner, are removed, this is considered “theft”.



I repossessed my house, but it was looted/devastated. What are my remedies?

See under “Housing care for owners of damaged property” page 16.

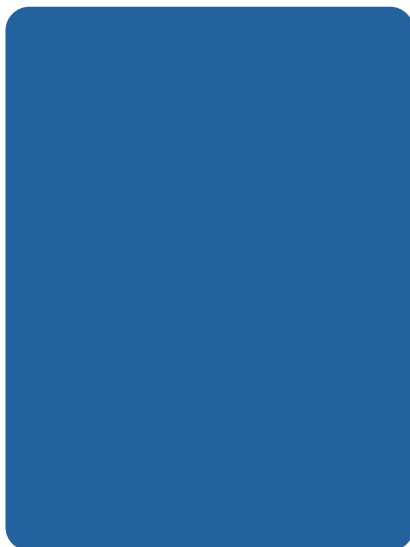


Figure 6. Looted/devastated property

SUMMARY

LOOTING / DEVASTATION OF PROPERTY

- The RODPR should before the TU moves out warn the TU not to damage or remove any fixtures or installations.
- If looting occurs, the police need to be called immediately and be requested to prevent the damage or removal of fixtures.
- The police are obliged to start an investigation and submit charges to the State Attorney and/or initiate court proceedings for misdemeanor for Disturbance of Public Peace and Order.

STATE OBLIGATION TO COMPENSATE USE OF PRIVATE PROPERTY

Are owners of occupied property entitled to compensation for the period during which their property was taken under administration by the State and assigned to third persons for temporary use?

Amendments to the Law on the Areas of Special State Concern from July 2002⁹ provide for compensation payments for a limited time period. These refer to the period **after 30 October or 31 December 2002** and to compensation that has to be paid by the State for failure to return occupied properties after these dates. The *Nagodba* form was created to facilitate compensation payments in line with the Law on Areas of Special State Concern and foresees a compensation of 7 HRK per square meter of living space. **An owner who signs the *Nagodba* does not renounce his constitutional right for compensation for the period not covered by the *Nagodba*.**

How can I receive compensation?

You can request compensation in accordance with the Law on the Areas of Special State Concern for the period from 1 November 2002 until the date of physical repossession of your property by requesting compensation through the relevant RODPR. After you receive *Nagodba* by mail, sign it and return it to the Ministry/ODPR

- If you claimed your property **prior to 1 August 2002** and the property was not returned to you **by 30 October 2002**, you are entitled for compensation for the period starting **from 1 November 2002** until you repossess your property.

⁹ Article 27, Paragraph 4

- If you claimed your property **after 1 August 2002** and the property was not returned to you **by 31 December 2002**, you are entitled for compensation for the period starting **from 1 January 2003** until the repossession of your property.

If you did not request compensation and your property is still occupied, you can still submit your request for compensation for the period from 1 January 2003 until the physical repossession of the property.



Figure 7. Providing assistance to a returnee

Can I receive compensation for the whole time period in which my property was used by someone else?

The Croatian Constitution and the Law on Ownership and other Material Rights stipulate that ownership rights can be restricted by law or taken over in the interest of the Republic of Croatia but in that case an owner is entitled to compensation¹⁰. Owners who want to claim compensation from the State because their property was taken over in 1995 or later and assigned to a temporary user, have to file individual lawsuits. The claim for compensation will refer to the period

¹⁰ Constitution of the Republic of Croatia, Law on Ownership and Other Material Things, Article 33

starting from the decision on allocation of use until the **30 October or 31 December 2002**.

Before you initiate legal proceedings against the Republic of Croatia, **you are required by the Amendments on the Law of Civil Procedure, to approach the competent State Attorney's Office and request an amicable settlement of the dispute**. If your request for peaceful resolution of the dispute is not accepted or not decided upon within three months, you can file a lawsuit before the competent court.

However, please be aware that the court can refuse your request because the statute of limitations has expired i.e. the deadlines within which you can request compensation have passed (5 years from the time the damage occurred i.e. 3 years from the time of discovering the damage.) In case you lose the court dispute, you will need to bear all the court costs.

I received a form for settlement (*Nagodba*) for compensation from the Ministry/ODPR. Should I sign it even if I do not agree with Art. 4, Para 2 (“The owner accepts this compensation and renounces his right to claim interest or any other damage on the basis of damage compensation as per Paragraph 1 of this Article, due to his inability to repossess his housing facility and is obliged to withdraw the claim if he had already submitted it”)?

By signing the *Nagodba* you, as the owner, waive your right to claim any additional compensation only for the time period covered by the *Nagodba* (starting from 1 November 2002 or 1 January 2003, ending on the day of physical repossession).

In other words, Article IV, Para 2 of the *Nagodba* in no way limits the owner's right to claim compensation payments through the court, according to the Croatian Constitution and Law on Ownership and other Material Rights, from the day his/her house was allocated for temporary use, in 1995 or later, until the date of the first compensation payment by the Croatian State i.e. 1 November 2002 or 1 January 2003 (for questions regarding statute of limitations and court expenses see above).

I participated in the *anketa* conducted by ODPR, but indicated that I do not want to receive compensation for the period between 1 November 2002 or 1 January 2003 and the date of repossession. Can I still request compensation?

Yes. Even if you stated that you did not want to receive compensation for the period between 1 November 2002/1 January 2003 and the physical repossession of your property, you do not lose your right to compensation and can still submit your request unless you have reposessed your house in the mean time. Approach the local ODPR office.

Is it necessary to obtain power of attorney from co-owner(s) before signing the *Nagodba*?

Yes, power of attorney should be submitted unless all co-owners sign the *Nagodba* in person. The MMATTD/ODPR might suggest that one co-owner receives payments on behalf of all co-owners. Please note that as of 1 December 2003, power of attorney can only be given to a lawyer, a co-worker or a blood-relative in straight line, brother, sister or spouse.¹¹

What is the difference between receiving compensation and renting out the house to the MMATTD?

The point of departure is fundamentally different for these two concepts and will be explained further below:

Compensation

The State is obliged to pay compensation because it took private property under temporary State Administration without the consent of the owner. The Croatian Constitution foresees such a possibility if it is in the interest of the State, but only “for indemnity equal to its market value”¹². However, the provision for compensation in the LASSC¹³ only refers to the period after 30 October or 31

¹¹ Law on Amendments of the Law on Civil Procedure, Article 45

¹² Article 50

¹³ Article 27, Paragraph 4

December 2002 and to the fact that the State failed to return such properties after these dates.

Rent/lease

A lease contract constitutes a contract between two parties, the terms of which (duration of use, amount of rent, etc.) are determined by mutual consent. The Ministry for Maritime Affairs, Transport, Tourism and Development has so far not concluded any lease contracts with owners of houses. . Owners should be aware that rent payments which they receive might be considered taxable income.

STATE OBLIGATION TO COMPENSATE USE OF PRIVATE PROPERTY

- You can be compensated for the use of private property for a limited time period from 30 October or 31 December 2002 until the physical repossession of your property:
 - The State is obliged to pay you compensation.
 - You have to sign the *Nagodba*. By signing this form **you do not renounce your constitutional right for compensation for the period not covered by the *Nagodba*.**
- If you did not request compensation before the date of repossession and your property is still occupied, you can still submit a request for the period from 1 January 2003 until the physical repossession of your property.
- If you want to receive compensation for the whole time period in which your property was used by someone else, you have to file individual lawsuits against the State.

SUMMARY

SALE OF PROPERTY TO APN WITHOUT THE OWNER'S CONSENT OR KNOWLEDGE

◇ **My house was sold to APN without my knowledge and consent on the basis of a falsified power of attorney. How can I get my house back?**

If your house was sold to APN through a legal representative on the basis of a falsified power of attorney you have the right to file a lawsuit against the Republic of Croatia i.e. APN and to request the annulment of the contract for which there is no statute of limitation. At the same time you can initiate criminal proceedings against the legal representative who sold the house on the basis of the falsified authorization.

Procedure for the lawsuit against the Republic of Croatia

Bare in mind that before starting the legal proceedings against the RoC, **you are required to approach the State Attorney's office with the request for an out of court settlement**¹⁴. If no amicable agreement is reached within three months from the submission of the request, you can file a lawsuit before the appropriate municipal court (municipality of the plaintiff's place of residence, if the plaintiff does not have a place of residence in the Republic of Croatia, the responsible court is in Zagreb).

The required documents (copy of the buying and selling contract, copy of power of attorney certified by a public notary) can be obtained in the land registry department at the municipal court in the municipality where your property is situated.

If you plan to initiate court proceedings through a legal representative, be aware that as of 1 December 2003, you can only give the power of attorney to a lawyer, co-worker or a first-degree blood relation such as a brother, sister or spouse.¹⁵

¹⁴ Law on Amendment to the Law on Civil Procedure

¹⁵ Law on Amendments of the Law on Civil Procedure, Article 45

In case you initiate court proceedings you can be, on your request, exempt from paying court fees due to your property status but you will not be exempt from paying court expenses.

◇ **My house was sold to APN without my knowledge and consent on the basis of a falsified power of attorney. Later the house was sold to third persons who are living in the house at the moment. How can I repossess my house?**

If your house was sold to APN without your knowledge and consent through a legal representative on the basis of a falsified power of attorney, you have the right to file a lawsuit against the Republic of Croatia i.e. APN for the annulment of the contract and at the same time you can initiate legal proceedings against the legal representative. See the previous question for more details.

If, in the meantime, your house was sold to third persons who are living in the house and if these persons did not know that APN bought it based on a falsified power of attorney, they acquired the ownership right on your property in good faith. This means that you will have the right to receive compensation from the State i.e. APN but you will not repossess your property. (If you manage to prove in Court that the third persons knew about the falsified power of attorney, then you might be able to repossess your house.)

◇ **I sold my house to APN through power of attorney but the legal representative did not pay out the whole amount which was stated in the contract on buying and selling. How can I get the rest of my money?**

If the legal representative did not give you the whole amount s/he received minus the actual amount of her/his provision for the sale of your property, you can file a lawsuit against the legal representative for compensation of damage.

You have no basis for filing a lawsuit against the State i.e. APN because the house was sold on the basis of a valid power of attorney and the contract on buying and selling is fulfilled. Only the legal representative did not fulfil his/her obligations and consequently violated the conditions of the power of attorney.

I heard that a lot of houses belonging to Croatian Serbs were sold to APN without the knowledge of the owners. How can I check if my house was sold in that way?

In order to receive information on whether your house was sold to APN without your knowledge you have to approach the land registry department in the municipal court in the municipality where your property is located. (APN is not authorised to give out any information or documents following an instruction of the State Attorney.)

If you are residing outside the Republic of Croatia and want to receive information through a legal representative, you need to know that APN currently only recognizes the power of attorney that are certified by Municipal Courts in Sid, Novi Sad, Municipal Courts of Belgrade and the Croatian consulate in Belgrade. For Bosnia and Herzegovina, APN recognizes power of attorney certified at the Municipal Court in Prijedor and the Croatian consulate (please consult APN for updated information).

SALE OF PROPERTY TO APN WITHOUT THE OWNER'S CONSENT OR KNOWLEDGE

SUMMARY

- If your house was sold to APN through a legal representative on the basis of a falsified power of attorney you have the right to file a lawsuit against the State i.e. APN and the legal representative and request annulment of the contract.
- **IMPORTANT:** before filing a lawsuit against the State you are required by law to approach the State Attorney's office and request an out of court settlement. If the request is declined or not dealt with within 3 months you may pursue your lawsuit.
 - If you initiate court proceedings you can be exempt from paying court fees but not from the court expenses.
- If your house was sold to APN without your knowledge and consent on the basis of a falsified power of attorney and was sold to a third party, which bought the house in good faith, you cannot repossess your house but you have the right to compensation.
- If you sold your house to APN on the basis of power of attorney which was certified by a public notary but the legal representative did not pay out the whole amount you can file a lawsuit against the legal representative.
- In order to know whether your house was sold to APN without your knowledge you should approach the land registry department in the municipal court in the area where your property is located.

RECONSTRUCTION OF DAMAGED AND DESTROYED PROPERTIES

My house was damaged/destroyed during the war and I still have not requested reconstruction assistance. Can I still apply?

No. The deadline to submit an application for reconstruction expired on 30 September 2004. You can apply for housing care though:

- Allocation of building material for repairs/reconstruction. If you do not own or co-own another family house or apartment on the territory of the Republic of Croatia, nor did not sell, give away or alienate it after 8 October 1991 and have not obtained the legal status of a protected lessee.¹⁶ You can attain your right for housing care in the form of allocation of building material for reconstruction if, on the address of the property, you will move in and remain living. Please be aware that according to the above mentioned conditions, you will receive construction material for reconstruction equal to 35 m² + 10m² per person.
- Renting out a family house or apartment by the RODPR if your property has been completely destroyed.

For all further information regarding submitting request and the procedure to get building material, please contact R/ODPR.

My house was damaged/destroyed during the war and has not been reconstructed. Does the State have the right to demolish the damaged property?

The State has the right to demolish a property without the owner's consent **only** if the damaged property constitutes a public security or health hazard. In that case, the owner could be billed for the costs of the demolition. If the damaged property poses no concrete hazard, the State cannot demolish it without the consent of the owner. The Ministry for Public Works, Reconstruction and Construction of

¹⁶ Law on Areas of Special State Concern *Narodne Novine* no. 26/03- cleared text

the previous government launched an initiative for the “reconstruction and sanitization of the areas along the main tourist roads” in the spring of 2003, which included plans to demolish destroyed properties.

Questionnaires to owners of damaged properties were prepared and distribution through SDF started. To the Mission’s knowledge, however, there was little response from the owners to this initiative, so no significant demolition activities have occurred.



Figure 8. Reconstructed house

SUMMARY

RECONSTRUCTION OF DAMAGED AND DESTROYED PROPERTIES

- The deadline for applying for reconstruction assistance has expired on 30 September 2004. If you did not submit an application on time, you can apply for housing care inside the ASSC and submit a corresponding application:
 - Housing care in the form of building materials for repairs/ reconstruction of a family house or apartment in RODPR’s offices or
 - Renting out of family house or apartment if your property is totally destroyed.

COMPENSATION FOR DAMAGE CAUSED BY ARMY AND POLICE FORCES AND FOR DAMAGE CAUSED BY TERRORIST ACTS

◇ **How do the laws on compensation for damages related to the war, which were passed in June 2003, affect current lawsuits related to damage caused by terrorist acts, armed forces or the police?**

Three Laws that came into effect on 1 August 2003 address the extent of the GoC's liability for damages incurred through armed conflict onto individuals and to damages that the Republic of Croatia is responsible for on the basis of legal succession from the former SFRY.

- Persons who have not already filed a lawsuit for compensation for terrorist acts (if the damage occurred prior to January 1996) or damage by military or police (if the damage occurred prior to November 1999) will not be able to do so under the new legislation because the statute of limitations has already expired.
- Persons, who filed a lawsuit and were dismissed by the Court in line with the above mentioned Laws, have the right to apply for reconstruction assistance. The deadline of 30th September 2004 for reconstruction assistance does not apply to this category of beneficiaries.
- The Law on Responsibility for Damage caused by Terrorist Acts and Public Demonstrations limits compensation to personal injury, death and health problems and thereby significantly reduces the State's liability for damages caused by terrorist acts that was envisaged by the law in force until 1996.

Property damage, which presumably constitutes the majority of cases, is no longer covered by new laws and such cases will be dismissed by the Courts. As the Law on Responsibility for Damage caused by Terrorist Acts and Public Demonstrations stipulates that material damages are to be compensated pursuant to the Law on Reconstruction, the damaged parties, therefore, should relay such

claims to the Ministry for Maritime Affairs, Tourism, Transport and Development/ Department for Reconstruction of Family Homes to be processed by the relevant Offices of the State Administration in the Municipalities, Office for Zoning, Housing Communal Affairs, Construction and Environmental Protection, Sub-department for Reconstruction.

Unfortunately, criteria in the Law of Reconstruction exclude all non-residential properties (business premises, week-end houses, stables, etc.), which means that certain number of injured parties whose property does not fall under criteria stipulated in the Law on Reconstruction will not have any legal remedy available.

My house was damaged in October 1991 by explosives which were planted by unknown persons, which were never identified. I never filed a lawsuit against the Republic of Croatia for compensation or requested reconstruction assistance from the State. What rights do I have today?

Due to the fact that the statute of limitations applies in your case, you cannot file a lawsuit against the State anymore. However, you have the right to request reconstruction of your property at the Department of State Administration in the county in which your property is located, so that your application can be solved in line with the Law on Reconstruction

In May 1996 I was injured in a mine explosion which was set-up in the courtyard of my house by unknown persons. The police investigated the incident but did not manage to identify the perpetrators. Can I file a lawsuit against the Republic of Croatia for compensation?

At the time of the incident no directives that regulated the liability of GoC for these types of injury were in force and the Law on Responsibility for Damage caused by Terrorist Acts and Public Demonstrations came into force in August 2003, thus the statute of limitations does not apply and you can file a lawsuit against the State seeking compensation. However, before you file a lawsuit (the court of jurisdiction is the court of your residence, as well as the court where the damaging act was committed and the court where the damage occurred), you are required to approach the State Attorney and request an amicable solution of the dispute. If your request for a peaceful resolution of the dispute is not accepted or not decided upon within three months, you can file a lawsuit against the State.



Figure 9. Mined house

I filed a lawsuit against the Republic of Croatia in 1994 seeking compensation of damages for the family shop, which was caused by terrorist acts. A few hearings took place in court, but no decision was reached. The procedure was suspended in 1996. In 1997 I applied for reconstruction but was denied as the property in question are business premises, which are not eligible for reconstruction under to the Law on Reconstruction. After the Law on Terrorist Acts came into force, the court proceedings were resumed and the municipal court dismissed the lawsuit, declaring itself as not competent and instructing to file a request in accordance with the Law on Reconstruction. What should I do?

In this case, the Mission advises you to apply again for reconstruction to the proper body and to file an appeal to the higher court against the decision by the municipal court. In order to be able to file a complaint to the Constitutional Court or the European Court of Human Rights, you need to exhaust all domestic legal remedies.

The Law on the Responsibility of the Republic of Croatia for Damages caused by Members of the Croatian Armed Forces and Police during the Homeland War limits the definition of damage as set out in the 1996 Law on Obligations. In this way it limits the State's liability for damages caused by the Croatian Army or Police Forces so that the State is not liable for compensating war damages (war damage is damage caused in the period from 17 August 1990 till 30 June 1996 if it was caused during and in the area of war activities, if it was of direct and

substantial military benefit, given that the time and place of actions were in direct function of the military operations or if it was, given its effects and actual time and place where the damage occurred, directly provoked by state of war and is directly connected to war operations). However, during the court procedure you are always allowed to prove that the opposite is the case.

◆ **My father was injured by the Croatian Army during Military Action *Oluja*. Does this mean that the injury is *a priori* regarded as war damage and that I have no right to compensation?**

This type of damage is regarded as war damage, so no rights to compensation exist unless you can prove the opposite. This means that you need to prove that the damage was not of direct military benefit or in direct function of military operations and that it was not directly caused by the state of war or somehow linked to military operations.

COMPENSATION FOR DAMAGE CAUSED BY ARMY AND POLICE FORCES AND FOR DAMAGE CAUSED BY TERRORIST ACTS

SUMMARY

- If you have not already filed a lawsuit for compensation for terrorist acts (if damage occurred before January 1996) or damage by the military or police (if damaged occurred before November 1999) you will not be able to do so (the statute of limitations has already expired). You can apply for reconstruction.
- If you have filed a lawsuit for compensation of material damage and were dismissed by the Court, you have the right to apply for reconstruction assistance.
- If you were physically injured you can file a lawsuit requesting compensation, however you first need to approach the State Attorney and request an out-of-court settlement.

CONVALIDATION/PENSION ISSUES

During the war I worked in an elementary school (or any other institutions) in the RSK area. Can my working years be recognized and written in my working booklet?

From the Government's Decree from April 1998, the deadline for the convalidation of pensions and recognition of working years has been fixed and **has run out on the 10 April 1999**. In case you have not submitted a request in the above given time period, there is no possibility of asking for recognition of your working years at the moment. However, the international community is negotiating with the Croatian government to re-open the convalidation deadline.

For more information please contact the OSCE offices.

I submitted the request for convalidation of my working years, but my request was denied because of lacking to fulfill the requirement of qualified witness/permanent residence? Is there a possibility that my working years would be acknowledged and what actions do I need to take?

Requirements of qualified witness

As an applicant for convalidation, you can prove your working experience through the statements of witnesses. However, it is important to emphasize that sole statements of the witnesses cannot be the only and exclusive proof of realised working experience. The statements of the witnesses can be used as means of proof in cases where there is other written evidence (insurance registration, working booklet)¹⁷. Since the Law on general administrative procedure foresees that the witness can be any person who can testify on certain facts, the Ministry of economy, labor and entrepreneurship/Department for pension and invalid insurance points out that the requirement of "qualified witness" has been abandoned and that every person who can testify on relevant facts can appear as a witness.

¹⁷ According to the provisions of Law on Convalidation and Decree for implementation of the Law on Convalidation for administrative area of work, employment, pension and invalid insurance, children allowance, social welfare and protection of military and civil invalids of war

Requirements of permanent residence

According to the Government's Decree from April 1998, convalidation is only allowed to persons with a permanent residence in Croatia. The Ministry of Interior has revoked residency to a certain number of habitants that have lived in the Republic of Croatia before the war and which might result in that the applicants do not meet the requirements for convalidation. For further proceedings please refer to 'Status Rights'.

Please inform the OSCE of any problems in this area.

If during your application you have been rejected on the basis of not meeting either the criteria for a qualified witness or residency requirements and in the meantime you can put forward new facts and evidence that would, if known in previous procedure, have lead to a different outcome, we advise you to submit a request for renewal of the procedure to the Croatian Pension Insurance Fund.

As a farmer I have paid contributions to the former Farmer's Pension Fund for 11.5 years, but the minimum period for contributions to qualify for a pension is 15 years. Could I either get my previous contributions back or a pension based on 11.5 years of contributions?

The contributions that you have paid for 11.5 years you will not be able to get back nor can you on the basis of these 11.5 years receive a pension. In order to qualify for a pension you need to have paid contributions for a minimum of 15 years and the earliest age at which you can receive your pension is 65 years for men and 60 years for women.

However, there is still a possibility to qualify for pension if:

- You have submitted a request for the convalidation for the period from 1991 to 1995 between 10. April 1998 and 10. April 1999 in which case your working years have been recognized. The Croatian Pension Insurance Fund has asked contributors to make one additional instalment payment in order to reach the minimum requirements.

- You have **not** submitted a request for convalidation in the above mentioned time period, you have a possibility to pay contributions until you fulfil the conditions for having the right to old age pension according to the Croatian regulations on pension insurance i.e. until you reach 15 years of pensionable service.



Figure 10. A returnee

◇ **I was a pensioner before the war. During the war I remained in Knin¹⁸ and did not receive pension payments. Am I entitled to retroactive payments for this period?**

You are entitled to some retroactive payments:

If you submitted a request **before 1 January 1999**, then you are entitled to **three years** of retroactive payments (counting back from the date of submission of the request). However, if your request was submitted **after 1 January 1999**, you are entitled only to retroactive payment for the previous **12 months**.

Regarding the retroactive payment of pensions from 1991 until the date of submission of request for continuation of payment from the Croatian Pension Insurance Fund, please note the following:

If as a pensioner you received any payments from the so-called “para funds” in the so-called *Republika Srpske Krajine* (RSK) you will be considered ineligible for retroactive payments from the Croatian Pension Insurance Fund for the

¹⁸ Or anywhere else in the so-called *Republika Srpske Krajine* (RSK)

previously mentioned period because, according to the Croatian regulations on pension insurance, you cannot obtain several pensions for the same period of time.

It is important to note that the European Court of Human Rights (ECHR) in Strasbourg refused to review a complaint by three Croatian Serb pensioners whose requests for retroactive payments for the conflict period had been rejected by the Croatian Pension Insurance Fund. The key to the ECHR's decision is that while the right to a pension is included within the European Convention on Human Rights, that right does not extend to a right to insist on a particular amount of pension. This means that the ECHR's decision could lead to negative rulings on many similar claims currently pending in the Croatian courts and Croatian Pension Insurance Fund.

SUMMARY

CONVALIDATION / PENSION ISSUES

- The deadline for convalidation of pensions and working years has run out on 10 April 1999. If you haven't submitted a request within the deadline there is no possibility of asking for recognition of your working years at the moment.
- You can prove your working years with the statements of witnesses if you have other written evidence.
- Convalidation is only allowed to persons having permanent residence in Croatia.
- If you have paid contributions to the former Farmer's Pension fund less than the minimum period of 15 years, you will not be able to get back your contributions nor can you receive a pension on the basis of the paid-in years. You may still qualify for pension, see above.
- If during the war you did not receive pension payments you are entitled to some retroactive payments (under certain conditions).
- If you received any payments from the *Republika Srpske Krajine*, you will be illegible for retroactive payments from the Croatian Pension Fund for the period from 1991 until the date you apply for continuation of your pension from the Croatian Pension Fund.

STATUS RIGHTS/CITIZENSHIP

Before 1991 I was living in Croatia where I had registered residence (permanent place of residence) although I was a citizen of Bosnia and Herzegovina/Serbia and Montenegro. What do I need to do in order to obtain a Croatian citizenship? How does the Law on Foreigners, which was passed in July 2003, affect me?

On 8th October 1991, the Republic of Croatia was proclaimed an independent and autonomous State and on the same day the Law on Movement and Stay of Foreigners came into force. All persons who on that date had a registered permanent residence in the Republic of Croatia and were until then based on existing legislation considered Yugoslavian citizens, have obtained on the basis of Article 79, paragraph 1 from the same Law the status of permanently residing foreigner in the Republic of Croatia and have been entered into the registry of foreigners.

Only foreigners who have acquired the **status of permanently residing foreigner** on the basis of Article 79, paragraph 1 of the Law on Movement and Stay of Foreigners are able to, under Article 115 Law on Foreigners **request renewal** of their status more under favourable conditions by **30 June 2005**.

The OSCE Mission and its international partners are advocating for the extension of the deadline with the Government of Croatia. It is likely that the deadline will be extended until the 30 June 2006. Please inform yourself on the latest developments by approaching any of the relevant offices.

Important

In case the foreigner misses the prescribed deadline, it does not mean that s/he can not acquire the status of permanently residing foreigner in the Republic of Croatia. It only means that the favourable conditions described above would no longer apply and this person would be treated like a first time immigrant submitting an application for the regulation of his/her status.

According to the Ministry of Interior (MUP), persons who had residence in Croatia but left Croatia prior to 8 October 1991 were NOT as a rule automatically

deregistered by the MUP. Therefore, they have acquired the status of permanently residing foreigner in the Republic of Croatia as well. However, it is possible that the status of these persons was cancelled, in accordance with Article 47 of the aforementioned Law i.e. by passing a decision on the cancellation of permanently residing foreigner status in case the persons have not fulfilled the requirement of reporting their absence from the country for a period more than one year.

Important

Therefore, we advise you to go to the nearest Police Administration/ Station in which you had registered your residence with a valid identification to check if you are still registered in the registry of foreigners or you have been deregistered and request a written confirmation because further procedures on your status renewal depends upon it. If you want to permanently reside in a place that is different to the one you were permanently residing in previously, you can request renewal of the procedure or the issuing of an ID for foreigners in any Police Administration/Station. Nevertheless, be aware that in that case the procedure for regulating your status can take longer due to technical issues (deregistration of former address of residency, delivery of a case, etc.)

1. Applicants who after 8 October 1991, acquired the status of permanently residing foreigner and whose status was not cancelled by the decision on cancellation of permanently residing foreigner status, only need to deliver proof of permanent residence and health insurance (please see next page for further information) and are exempt from proving availability of resource for sustainability and secured housing. The latter two are only required for first-time applicants. Other documents such as statements of reasons for leaving Croatia, proof of completed education, evidence of applicant's places of residence between 1991 and the time of application, etc. are not foreseen by the Law.

Please inform the OSCE of any problems in this area.

2. Applicants who on 8 October 1991 acquired the status but their status was later cancelled by the decision on cancellation of permanently residing foreigner status, need to fill out a form for the renewal of the procedure in accordance with April 2000 Ministry of Interior Instructions and submit supporting documentation.



Figure 11. Collective center Dumače

What are the documents required for renewal of status of permanently residing foreigner:

Based on the Instruction from the Ministry of Interior from 17. November 2004, applicants for the regulation of their status are required to submit the following documentation:

- Certified copy of valid travel document (in which a sticker is placed with which the status of permanent residence in Croatia is confirmed),
- Proof of health insurance (see explanation bellow),
- Confirmation of registered address of temporary residence (see explanation bellow).

However, other documents can also be required from the applicant if they are beneficial, such as:

- Extract from the birth register,
- Extract from wedding register (if the applicant is married with a Croatian citizen),
- Ownership certificate (if the applicant owns property in Croatia),
- Documents issued prior to 8 October 1991 (ID cards, certificates, working booklet, etc).

Health insurance requirements

In case that in the country of origin, the foreigner does not have secured health insurance based on work or pension as an active policy holder, the applicant is required, at the time of applying for the regulation of status of permanently residing

foreigner, to receive a written confirmation that s/he has applied for the regulation of the status from the Police Administration/Station in charge. On the basis of this confirmation, s/he will receive a written confirmation on being introduced into the registry of the Croatian Health Insurance Fund (HZZO). After regulating the status, the Police Administration/Station in charge will inform the HZZO and only after this will the foreigner be required to make payments for health insurance in the Republic of Croatia

If the applicant has health insurance in the country of origin, then the Agreement on social insurance between the Republic of Croatia and that country will be applied. As proof of health insurance you can submit bilingual written confirmations which are given out on the basis of the afore-mentioned Agreement on Social Insurance (e.g. Form BH/RH 5 or form SCG/RH 109).

Requirements of registering address of temporary residence

The law requires all applicants for the regulation of their status to have a registered address of temporary residency in the Republic of Croatia. This can create problems for those who have not returned because they do not have access to their pre-war homes (occupied/damaged/destroyed property, terminated OTR). In such cases, prior to submitting an application for the regulation of status, residency should be registered on the address of their property (even if occupied or damaged). It is also possible to register residency with relatives and/or friends. In such cases, the friends/relatives need to make a statement at the responsible police station that they agree with the registering of residency at their address, or through a leasing contract.

Please be aware that the address at which you register your residence in the Republic of Croatia has to be the address at which the police Administration/Station which is dealing with your case will be able to get in touch with you i.e. deliver a summons to you if any information or documents are missing.

Note: The applicants who are currently residing in the **collective centers** under the ODPB administration can register as the address of their temporary residence the address of the collective center as long as their housing problem is not resolved or until they are not provided with housing care.

I renewed the permanently residing foreigner status, what can I do now to acquire Croatian citizenship?

After the applicant receives the ID card for permanently residing foreigner, s/he can then submit a request for acquiring Croatian citizenship if s/he fulfils the rest of the conditions:

- S/he has 5 years of uninterrupted registered residence on the territory of the Republic of Croatia,
- S/he is 18 years or older,
- Her/his legal capacity has not been taken away,
- S/he is released from his/her former citizenship or to prove that s/he will be released from the citizenship if the Croatian citizenship is acquired,
- S/he knows the Croatian language and Latin script/alphabet and customs,
- From his/her behaviour one can conclude that s/he respects the laws and customs of the Republic of Croatia.

Note: For the applicant whose status of permanently residing foreigner was renewed, it is assumed that that s/he has the status and registered residence from 8 October 1991 and so fulfils the requirement of 5 year uninterrupted residence for receiving Croatian citizenship.

STATUS RIGHTS / CITIZENSHIP

- All persons who on 8 October 1991 had a registered permanent residence in Croatia have obtained the status of permanently residing foreigner in the Republic of Croatia and have the possibility of regulating this status under more favorable conditions until 30 June 2005 (after this deadline, you will be treated like a foreigner that applies for the status of permanently residing foreigner for the first time).
- Applicants who on the 8 October 1991, obtained the status of permanently residing foreigner only have to present evidence of registered residence and health insurance.
- Applicants who on the 8 October 1991 obtained the status of permanently residing foreigner but their status was later cancelled by the decision on cancellation of permanently residing foreigner status, in order to regulate the status they need to apply for renewal of the procedure.
- After the applicant for renewal of status of permanently residing foreigner has regulated his/her status and received an ID card, s/he can immediately apply for Croatian citizenship if s/he fulfils the rest of the legal requirements.

SUMMARY

ORGANISED VOLUNTARY REPATRIATION TO CROATIA



I am currently living in S&M and would like to return to Croatia. What is the procedure?

You can return to Croatia on your own (spontaneous voluntary repatriation) or with the assistance of the United Nations High Commissioner for Refugees – UNHCR (organized voluntary repatriation). **Organized voluntary repatriation** means **free door-to-door bus transportation of people and their personal belongings** from Serbia and Montenegro to Croatia.

In order to return to Croatia from S&M through UNHCR (and its implementing partner, the Danish Refugee Council – DRC), the refugee should first of all be **willing** to repatriate to his/her home in Croatia. For this, in addition to being the holder of a Refugee Identification Card or official Decision on the cancellation of refugee status issued by the Commissariat for refugees in S&M and not being registered as a returnee in Croatia, the following is required:

- To have obtained repatriation clearance from the Croatian authorities subsequent to submitting an application for voluntary return to UNHCR in S&M,
- or*
- To have obtained a one-way travel document (Putni List) from a Croatian Consulate in S&M,
- or*
- To have a valid Croatian passport (or a valid S&M passport) for those family members who are not registered as refugees.

Medical assistance

Prior to departure, all returnees are examined by the doctor who also escorts the convoy to the end destination in Croatia. Chronically ill returnees receive assistance in essential medication for the first three months after repatriation. This

is an interim assistance until returnees are integrated into the Health Protection System in their place of return, i.e. until they receive the so-called “Green Card”.

The Organized Return Procedure also provides transportation by ambulance for those who are not fit to travel by bus. Such refugees should notify UNHCR in advance so that a doctor verifies their medical status prior to repatriation.

Can I take all my household belongings and tractor if I return to Croatia through the organised repatriation procedure?

Your household belongings and/or tractor and other agricultural appliances can also be transported free of charge but as a **separate movement**. In this case, only one person can escort such a transport. Those who wish to take back their household belongings and agricultural machines have to fulfil the following conditions:

- To possess a valid Croatian passport and ID;
- To possess the Croatian residence Certificate;
- To possess the Decision on cancellation of Refugee Status in S&M;
- To submit a list of things to be transported;
- To present proof of ownership for those agricultural machines (tractors and trailers) that are subject to registration (e.g. old registration booklet, a certificate issued by Ministry of Interior or a corresponding Court Decision).

Can I receive any economic assistance?

The organised repatriation procedure also facilitates social and economic re-integration of returnees in their communities in Croatia. Several types of economic assistance may be obtained through the Danish Refugee Council (DRC):

- Return Commodities Parcels;
- Economic support to vulnerable families;
- Grants for business activities;
- Mediation in front of other agencies that provides economic assistance (micro-credits, grants, etc).

Where in S&M can I get additional information regarding repatriation or the transport of my tractor and household belongings?

UNHCR BEOGRAD

Krunska 58
11000 Beograd
Tel: 011 308 2100
Fax: 011 344 2947

UNHCR KRALJEVO

Cara Dušana 38/3
36000 Kraljevo
Tel: 036 312 543
Fax: 036 313 231

UNHCR PODGORICA

Nikca od Rovina 51
81000 Podgorica
Tel: 081 238 066
Fax: 081 238 068

DRC BEOGRAD

Balkanska 48 /12a
11000 Beograd
Tel: 011 361 00 97, 011 361 08 74
Fax: 011 361 43 64

DRC NOVI SAD

Ise Bajića 8
21000 Novi Sad
Tel: 021 4723 468

DRC KRALJEVO

Obilićeva 34
36000 Kraljevo
Tel: 036 339 500

SDF BEOGRAD

Kneza Miloša 19/I
11000 Beograd
Tel: 011 3231 969
Tel/Fax: 011 3236 821

PRAXIS BEOGRAD

Alekse Nenadovića 7/III
11000 Beograd
Tel: 011 2450 998
Fax: 011 3444 483



Figure 12. Organized return (photo by: Jeroen Swolfs)



Is there any organised repatriation programme from BiH to Croatia or from Croatia to BiH?

The UNHCR/IOM organized voluntary repatriation programme from (or to) BiH was suspended due to the termination of IOM services as of 31 March 2005.

At the time of writing, UNHCR Croatia and UNHCR BiH are exploring possibilities to restart such programme.

For further information you may contact either of the following UNHCR Offices in BiH:

UNHCR SARAJEVO

Fra Anđela Zvizdovića, 1
71000 Sarajevo
Tel: 033 666 160
Fax: 033 470 171

UNHCR BANJA LUKA

Miše Stupara, 32
78000 Banja Luka
Tel: 051 322 780
Fax: 051 322 750

Refugees who would like to receive more information about the possibility to return from Croatia to BiH in an organized manner should approach the UNHCR Office in Croatia:

UNHCR Branch Office ZAGREB

Republike Austrije, 25
10000 Zagreb
Tel: 01 3713 555
Fax: 01 3713 591

AREAS OF SPECIAL STATE CONCERN¹⁹

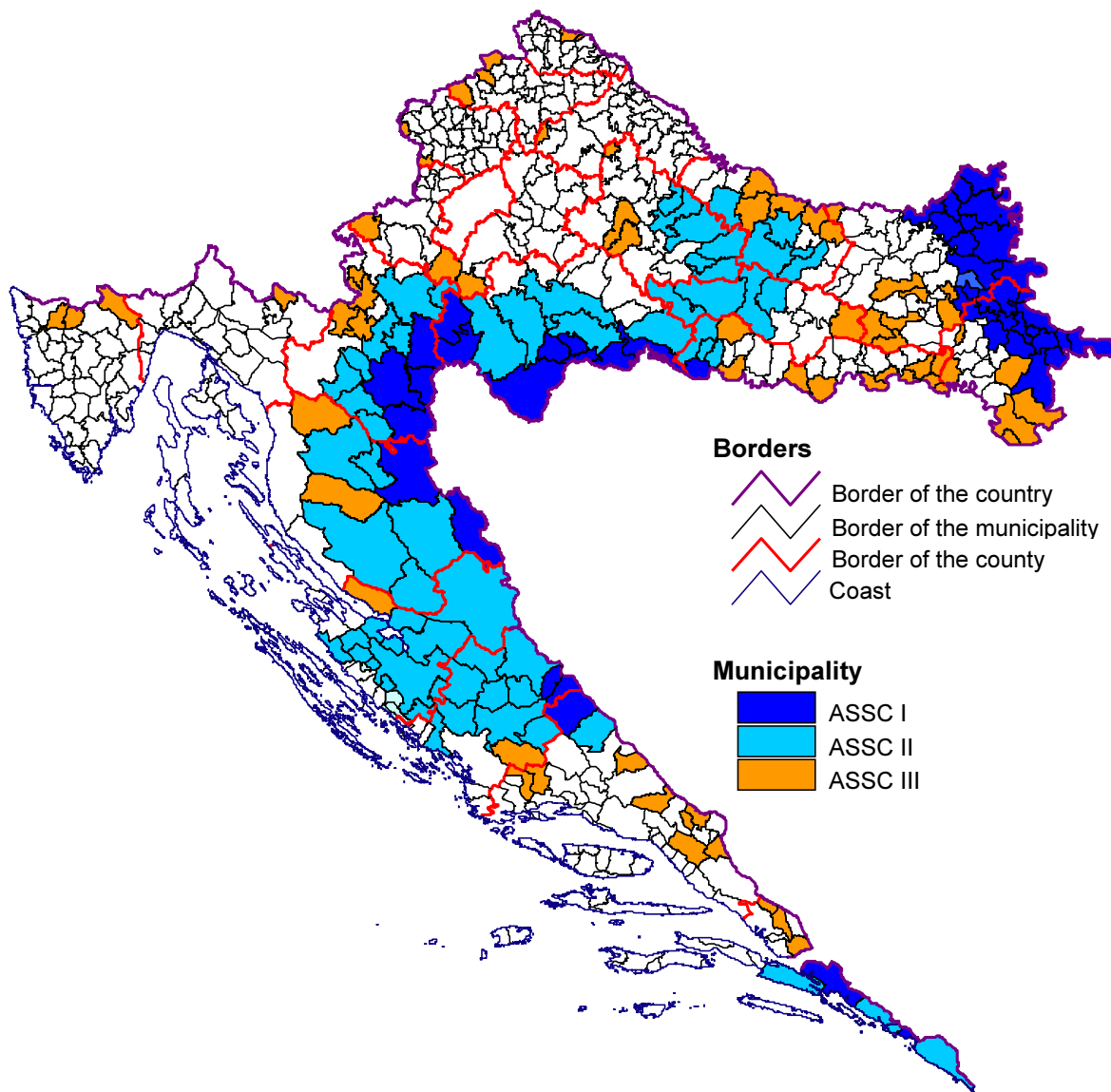


Figure 13. Map of Areas of Special State Concern

¹⁹ As stipulated in the Law on Areas of Special State Concern (Official Gazette, no. 26/03-consolidated text) - articles 4 and 5

Article 4 lists areas of special state concern of first and second group- towns and municipalities which were occupied during the Homeland War;

The first group shall comprise the entire territories of the following towns and municipalities:

Antunovac, Beli Manastir, Bilje, Bogdanovci, Borovo, Cetingrad, Cibljane, Ceminac, Darda, Donji Kukuruzari, Donji Lapac, Draz, Dubrovacko primorje, Dragalic, Dvor, Erdut, Ernestinovo, Gvozd, Hrvatska Dubica, Hrvatska Kostajnica, Ilok, Jagodnjak, Jasenovac, Kijevo, Knezevi Vinogradi, Lovas, Majur, Markusica, Negoslavci, Nijemci, Nustar, Petlovac, Plitvicka Jezera, Popovac, Rakovica, Slunj, Stara Gradiska, Stari Jankovci, Sodolovci, Tompojevci, Topusko, Tordinci, Tovarnik, Trpinja, Vojnic, Vrlika, Vukovar, Zupa dubrovacka.

The first group shall also comprise the following settlements in towns:

Osijek - settlements: Klisa, Nemetin, Sarvas, Tenja.

Vinkovci – settlement: Mirkovci.

Article 5 lists areas of special State concern of second group, municipalities, towns and settlements which were occupied during the Homeland War:

The second group shall comprise the entire territories of the following towns and municipalities:

Barilovic, Benkovac, Biskupija, Brestovac, Cacinci, Drnis, Dulovac, Ervenik, Glina, Gornji Bogicevci, Gospic, Gracac, Grubisno Polje, Hrvace, Jasenice, Josipdol, Kistanje, Knin, Konavle, Krnjak, Lasinja, Lipik, Lisane Ostrovice, Lovinac, Mikleus, Novigrad, Novska, Obrovac, Okucani, Otocac, Pakrac, Petrinja, Plaski, Polaca, Policnik, Posedarje, Promina, Ruzic, Saborsko, Sirac, Skradin, Stankovci, Ston, Sunja, Skabrnja, Tounj, Udbina, Velika, Velika Pisanica, Veliki Grdevac, Vocin, Vrhovine and Zemunik Donji.

The second group shall also comprise the following settlements in towns:

Daruvar – settlements: Markovac, Vrbovac,

Dubrovnik – settlements: Bosanka, Brsecine, Dubravica, Donje Obuljeno, Cajkovic, Cajkovici, Gornje Obuljeno, Gromaca, Klisevo, Knezica, Komolac,

Ljubac, Mokosica, Mravinjac, Mrcevo, Nova Mokosica, Orasac, Osojnik, Petrovo Selo, Prijevoj, Pobrezje, Rozat, Sumet, Trsteno, Zaton,

Karlovac – settlements: Banska Selnica, Banski Moravci, Blatnica Pokupska, Brezova Glava, Brezani, Brodani, Cerovac Vukmanicki, Donja Trebinja, Donji Sjenicak, Gornja Trebinja, Gornji Sjenicak, Ivankovic Sela, Ivosevic Selo, Kablar, Kamensko,

Karlovac – parts: Gornje Mekusje, Sajevac and Turanj, Klipino Brdo, Kljaic Brdo, Knez Gorica, Lipje, Manjerovici, Okic, Popovic Brdo, Ribari, Skakavac, Slunjska Selnica, Slunjski Moravci, Tusilovic, Udbinja, Utinja, Vukmanic.

Sisak – settlements: Blinjski Kut, Klobucak, Letovanci, Madzari, Staro Selo,

Slatina – settlements: Golenic, Ivanbrijeg, Lukavac,

Virovitica – settlement: Jasenas,

Vodice – settlements: Cista Mala, Cista Velika, Grabovci,

Zadar – settlements: Babindub, Crno.

Note: For implementation of the provisions of the Law on Areas of Special State, the group of areas of special State Concern to which a municipality, town or a settlement belongs is not of relevance.



Figure 14. Cetina village

LIST OF REGIONAL ODPR OFFICES

- 1. RODPR VUKOVAR**
Kardinala A. Stepinca 45
032/442-121
032/441-633

RODPR OSIJEK
Europska Avenija 10
031/211-665
031/211-977
- 2. RODPR PETRINJA**
Trg narodnih učitelja 4
044/813-606

RODPR SISAK
Trg bana J. Jelačića 6
044/523-463
044/524-633

RODPR GLINA
Trg bana J. Jelačića 2
044/882-203
- 3. RODPR ZAGREB**
Zaharova 7
01/6055-192
01/6055214

RODPR VARAŽDIN
V. Vodnika 6 (P.P 96)
042/233-402
042/233-402

RODPR RIJEKA
Finderleove stube 4
051/330-192
051/330-575

RODPR PULA
Gabrijele Emo 1
052/543-500
051/543-697
- 4. RODPR KNIN**
Prolaz bana P. Zrinskog 4
022/662-050
022/664-675

RODPR ZADAR
Obala kneza Branimira 4/e
023/315-770
023/315-270

RODPR OBROVAC
Dmitra Zvonimira bb
023/689-036
023/689-036

RODPR GRAČAC
Park sv. Jurja 1
023/773-333
023/773-333

RODPR SPLIT
Vukovarska 13
021/360-352
021/360-353

RODPR DUBROVNIK
Dr. Ante Starčevića 41
020/427-355
020/416-602

RODPR BENKOVAC

Ante Starčevića 4e
023/682-222
023/682-222

RODPR MAKARSKA

Dr. Jakova Dudana 3
021/611-860
021/611-860

5.

RODPR GOSPIĆ

Kralja P. Krešimira 32
053/574-190
053/574-191

RODPR SLUNJ

Školska 3
047/801-414
047/777-789

RODPR KARLOVAC

Senjska 29
047/612-753
047/612-752

RODPR PLAŠKI

Vladimira Nazora 2
047/573-262
047/573-262

RODPR VOJNIĆ

Trg S. Radića 1
047/883-443
047/811-880

RODPR KORENICA

Trg Sv. Jurja 5
053/776-488
053/776-488

RODPR KRNJAK

Krnjak 5
047/727-066
047/727-066

6.

RODPR PAKRAC

Trg J. Bana Jelačića 6
034/412-083
034/412-083

RODPR BJELOVAR

Frana Supila 8
043/241-941
043/220-942

RODPR POŽEGA

Josipa Runjanina 1 a
034/312-098
034/312-099

RODPR SLAV. BROD

Trg pobjede 4/3
035/443-360
035/400-841

Directorate for Displaced Persons, Returnees and Refugees (ODPR)

Radnička cesta 22/I, Zagreb

Tel: 00385 1 618 4820, Fax: 000385 1 618 4708, 618 4827

LIST OF OSCE OFFICES

OSCE ZAGREB

Florijana Andrašeca 14
10 000 ZAGREB
Tel: +385 (1) 309-6620
Fax: +385 (1) 309-6621

OSCE VUKOVAR

Ive Tijardovića 60
32 000 VUKOVAR
Tel: +385 (32) 428 452
Fax: +385 (32) 428 466

OSCE OSIJEK

Šetalište Kardinala F.Šepera 3
31 000 OSIJEK
Tel: +385 (31) 212 822
Fax: +385 (31) 212 766

OSCE SISAK

Galdovačka 4
44 000 SISAK
Tel: +385 (44) 741 567
Fax: +385 (44) 741 580

OSCE PAKRAC

Trg 76 Bataljuna 4
34 550 PAKRAC
Tel: +385 (34) 412 916-7
Fax: +385 (34) 411 656

OSCE KARLOVAC

Gajeva 2
47 000 KARLOVAC
Tel: +385 (47) 422-230, 612-980,-3
Fax: +385 (47) 422-246

OSCE GOSPIĆ

Kaniška 27
53 000 GOSPIĆ
Tel: +385 (53) 756 257
Fax: +385 (53) 756 260

OSCE ZADAR

Put Murvice 14-16
23 000 ZADAR
Tel: +385 (23) 250 556
Fax: +385 (23) 250 323

OSCE KNIN

13 Gojka Šuška
22 300 KNIN
Tel: +385 (22) 660 122
Fax: +385 (22) 662 922

OSCE SPLIT

Kralja Zvonimira 14/7
21 000 SPLIT
Tel: +385 (21) 483 200
Fax: +385 (21) 483 222

The OSCE Mission has offices working part-time also in other towns in Croatia. Please contact the closest OSCE office as listed in order to obtain more information on exact working hours.

OSCE Baranja

Kralja Tomislava 39
31 300 BELI MANASTIR
Open on Tuesday 9-12
Contact OSCE Osijek

OSCE Hrvatska Kostajnica

Školska 8
44 300 HRV. KOSTAJNICA
Open part-time
Contact OSCE Sisak

OSCE Glina

Žrtava domovinskoga rata 67

44 400 GLINA

Open on Wednesday 9-12

Contact OSCE Sisak

OSCE Benkovac

Ivana Meštrovića 17

23 420 BENKOVAC

Open part-time

Contact OSCE Zadar

OSCE Gračac

Mile Budaka 37

23 440 GRAČAC

Open part-time

Contact OSCE Zadar

LIST OF UNHCR OFFICES

UNHCR Zagreb

Republike Austrije 25,
10 000 Zagreb
hrvza@unhcr.ch
Tel: +385-1 3713 555
Fax: +385-1 3713 442

UNHCR Knin

Ulica dr. Franje Tuđmana 2
22 300 Knin
hrvkn@unhcr.ch
Tel: +385-22 664 747
Fax: +385-22 663 942

UNHCR Sisak

S. i. A. Radica 50
44 000 Sisak
hrvsi@unhcr.ch
Tel: +385-44 521 398
Fax: +385-44 524 825

UNHCR BEOGRAD

Krunska 58
11000 Beograd
Tel: 011 308 2100
Fax: 011 344 2947

UNHCR PODGORICA

Nikca od Rovina 51
81000 Podgorica
Tel: 081 238 066
Fax: 081 238 068

UNHCR KRALJEVO

Cara Dušana 38/3
36000 Kraljevo
Tel: 036 312 543
Fax: 036 313 231

LIST OF NON GOVERNMENTAL ORGANISATIONS PROVIDING LEGAL ASSISTANCE

Altruist

Velebitska 28, 21000 Split
021/344-099, 344-105, 344-109

Centar za ljudska prava

Kralja Držislava 6, 10000 Zagreb
01/46 36 548, 01/4653 010

Centar za mir, nenasilje i ljudska prava

Županijska 7, 31000 Osijek
031 206-886, 031/206 889, 031/214 581

Centar za mir, pravne savjete i psiho-socijalnu pomoć

A. Tomaševića 32, 32000 Vukovar
032/413 319

DOS Benkovac

Kralja Dmitra Zvonimira 45,
23420 Benkovac
023/682 070

DOS Split

Šetalište Bačvice 10, 21000 Split
021/488 951, 021/488 944

DOS Gračac

Kralja Tomislava 3, 23 440 Gračac
023/773 580

DOS Knin

4. Gardijske brigade 11, 22300 Knin
022/660 962

DOS Zadar

Bedemi zadarskih pobuna 2
23000 Zadar
023/250 296

DOS Obrovac

Mažuranićeva bb, 23450 Obrovac
023/689 786

DOS Donji Lapac

Suzana Matića 10, 53250 D. Lapac
053/765 112

DOS Donji Srb

Splitska 1, 23445 Donji Srb
023/789 113

HHO Hrvatski Helsinški Odbor za ljudska prava

Bauerova 4, 10000 Zagreb
01/4812-322, 01/4812-324

HHO Dubrovnik

Fakultet za turizam, Lopatska obala 7
20000 Dubrovnik
091/4812 323

HHO Karlovac

Senjska 54, 47000 Karlovac
047/600 922, 047/600 923

HHO Knin

Gojka šuška 12, 22300 Knin
022/660 622, 022/4812 322

HHO Osijek

Trg A. Starčevića 1, 31000 Osijek
031/212 265, 091/4812 326

HHO Split

Put Dermunta 24, 21000 Split
021/885 248, 091/4812 325

HHO Slavoniju

Trg A. Starčevića 1, 31000 Osijek
031/212 265, 091/4812 326

Hoću kući

Poljička 11, 22300 Knin
022/661 859

**HOMO- Udruga za zaštitu ljudskih
prava****I građanskih sloboda**

Martinuzzijska 23, 52 000 Pula
052/505 976

Hrvatski pravni centar

Svačićev trg 12, 10 000 Zagreb
01/4873 965

IPC - Informativno Pravni Centar

Starčevićeva 63, 35 000 Slavonski Brod
035/449 715, 035/448 533

Povratak kući

Republike Austrije 19, Zagreb
01/3758-425

**Koalicija za promociju i zaštitu
ljudskih prava**

Gornjodravaska obala 81, 31000 Osijek
031/284 320, 031/284 321

Odbor za ljudska prava Karlovac

Banjavičićeva 7, 47000 Karlovac
047/600-634, 047/616 365

Projekt građanskih prava

Fra Antuna Tomaševića 32, 32000
Vukovar
032/413 163

SDF Zagreb

Gundulićeva 55, 10 000 Zagreb
01/4921 862

SDF Dvor

Trg Josipa bana Jelačića 8, 44 440 Dvor
044/871 145

SDF Okučani

120 Brigade HV 19, 35 430 Okučani
035/371 591

SDF Pakrac

Osječka 8, 34 500 Pakrac
034/412 825

SDF Vojnić

Andrije Hegranga 9, 44420 Vojnić
047/883 059

SDF Gvozd

Trg Franje Tuđmana 1, 44 410 Gvozd
044/881 250

SDF Plaški

143 Domobranske pukovnije, 47304 Plaški
047/573 138

SDF Benkovac

A. Stepinca 9, 23 420 Benkovac
023/681 509

SDF Knin

Franje Tuđmana 4, 22 300 Knin
022/664 870

SDF Kistanje

Franje Tuđman 112, 22 405 Kistanje
022/763 160

SDF Petrinja

Gajeva 40A, 44 250 Petrinja
044/815 563

SDF Glina

Hrvatska ulica 18, 44 400 Glina
044/882 942

SDF Korenica

Pere Snjarica 27, 53 230 Korenica
053/776 810

Udruga Mi

Sinjska 7, 21 000 Split
021/329 130

Ured pučkog pravobranitelja

Opatička 4, 10 000 Zagreb
01/4851 855

ZUNH

Gojka šuška 5, 23 100 Knin
022/661 950, 022/661 934

Zvonimir

Tuđmanova 11, 22 300 Knin
022/662 559, 022/664 908

GLOSSARY

| | |
|---------------|--|
| APN | Agency for Legal Transaction and Mediation of Real Estate founded by the Government of Croatia |
| ASSC | Areas of Special State Concern |
| GoC | Government of Croatia |
| MMATTD | Ministry for Maritime Affairs, Tourism, Transport and Development |
| PP11 | form of the handing-over of the property allocated on use |
| R/ODPR | Regional/ Office for Displaced Persons and Refugees |
| TU | Temporary User |

The brochure was prepared in cooperation with the Government of Croatia, in the framework of the Public Awareness Campaign, to promote sustainable return and re-integration.