

HUMAN RIGHTS PROTECTION OF RETURNEES: STANDARDS AND POLICIES

by Ms Gina Kalach, November, 2024

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EUROPEAN AND INTERNATIONAL STANDARDS ON THE HUMAN RIGHTS PROTECTION OF RETURNEES

The right to return has been codified in international instruments and regional treaties as the right of everyone to enter or return to their own country. This right is in line with the right to freedom of movement and nationality, and it must be upheld in a manner that aligns with international norms, prohibiting any form of coercion. Restrictions to this right, permissible under specific circumstances such as protecting national security, public order, or health, must adhere strictly to the principles of necessity and proportionality as outlined in international law. The process of return often commences after the cessation of hostilities or the conclusion of peace agreements,¹ which provide an enabling framework for voluntary, safe, and dignified return. However, effective implementation requires legal safeguards and practical measures to address the needs of returnees. **Returning refugees require assistance and protection during the period between their return and their reintegration into their home territory².**

The term *Returnee* is widely used by the international community to denote individual who have left their country as refugees and have recently returned to their country of origin or to their places of permanent residence. Refugees may decide to go back to their countries or communities if the threat or danger has diminished, or if the danger or instability in the place of refuge has become greater than the risk of returning home. Often, return may be prompted by the end of a civil war, internal or international conflicts, or a repressive regime, and for individuals who have received international protection, the protection ends when the circumstances that led to their forced displacement no longer exist, and they are able to return to their former habitual residence³.

In this respect, the right to return has traditionally referred to the right of refugees to return to their countries at any time, however, the concept is increasingly being applied to internally displaced persons (IDPs) returning to their homes and communities⁴. Thus, for the purpose of this paper, the term *returnee* is applied to both refugees and internally displaced persons.

¹ Relevant international humanitarian and human rights frameworks: [Convention \(IV\) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, The Hague, 18 October 1907](#); [Fourth Geneva Convention relative to the protection of civilian persons in time of war, 12 August 1949](#); [Universal Declaration of Human Rights, 10 December 1948](#); [International Covenant on Civil and Political Rights, General Assembly resolution 2200A \(XXI\), 16 December 1966](#); [African Charter on Human and Peoples' Rights, June 1 1981](#); [The Convention for the Protection of Human Rights and Fundamental Freedoms \(European Convention on Human Rights\), Rome, 4 November 1950](#); [American Convention on Human Rights, San José, 22 November 1969](#)

²OHCHR, [Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Person, Chapter XI, paras. 6,7](#)

³ [Convention Relating to the Status of Refugees, 28 July 1951, Article 1 \(C\)](#)

⁴ [United States Institute for Peace, Return and Resettlement of Refugees and Internally Displaced Populations](#); [UNHCR, Returnees](#)

Voluntary, safe, and dignified return

The Committee of Ministers of the Council of Europe has established that returnees have the right to return voluntarily and with dignity to their homes or places of habitual residence, or to resettle in another part of the country, in accordance with the European Convention on Human Rights⁵.

Additionally, *the Guiding Principles on Internal Displacement* state that competent authorities bear the primary duty and responsibility to create conditions that enable internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. They must be protected against forcible return or resettlement to any location where their life, safety, liberty, or health would be at risk⁶.

Similarly, **the Parliamentary Assembly of the Council of Europe – PACE**, has invited the governments to continue to support the process of voluntary return, local integration and integration elsewhere in the home countries of displaced persons⁷.

The Pinheiro Principles set out the right of all IDPs and refugees to return voluntarily to their former homes and residences in safety and dignity and urge states not to impede or force the return. Hence, all refugees and displaced persons have the right to the restoration of the housing, land or property of which they were arbitrarily or unlawfully deprived, or to be compensated when restitution is factually impossible⁸.

In this regard, **the European Court of Human Rights - ECtHR** has protected the rights of returnees, especially regarding the right to access and to repossess property, to recover full control and to enjoy the property⁹, and has reiterated its position regarding the responsibility of states to take measures to remedy violations¹⁰.

Unlawful evictions¹¹ or expropriations, the lack of access to property, and lack of providing temporary housing¹² loss of houses, land or income¹³ have been types of violations of the right to property and redressed by the ECtHR. Several times, the ECtHR have urged the States to obtain guidance from international and European standards¹⁴ in order to provide national solutions.

UNHCR emphasizes that returns must take place under conditions of safety, including public assurances of personal safety and integrity, non-discrimination, and freedom from the fear of persecution or punishment upon return. Physical security must be ensured, including protection from armed attacks and humanitarian demining, as well as material security, which includes access to social rights, land, or housing. Furthermore, return with dignity means that refugees are not forced to return; they can do so voluntarily or spontaneously, without arbitrary separation from family members, and with full respect for their rights¹⁵.

It is indispensable to facilitate the voluntary return of refugees, even when it occurs spontaneously, despite conditions not being fully conducive to return. It means that returns may occur even if the local situation is not fully resolved. Sometimes, in cases with large numbers of refugees, the only realistic option may be the eventual return of displaced people to their own country and community. However,

⁵ [Council of Europe, CM Rec \(2006\)6 on internally displaced persons, para.12](#); [International Committee of the Red Cross, Rule 132, Volume II, Chapter 38, Section D](#)

⁶ [Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, 11 February 1998, Principles 15 \(d\) and 28\(1\)](#)

⁷ [PACE, Recommendation N 1877 \(2009\) “Europe’s forgotten people: protecting the human rights of long-term displaced persons”, 24 June 2016.](#)

⁸ [Principles on Housing and Property Restitution for Refugees and Displaced Persons \(“Pinheiro Principles”\), United Nations Doc. E/CN.4/Sub.2/2005/17, Section II, IV](#)

⁹ [Loizidou v. Turkey, No. 15318/89 \(merits\), 18/12/1996](#)

¹⁰ [Mentes and others v. Turkey \(Article 50\) \(58/1996/677/867\) Judgment, 24 July 1998](#); [Brumarescu v. Romania, no.28342/95, 23 January 2001](#); [Xenides-Arestis v. Turkey, no. 46347/99 \(merits\), 22 December 2005](#); [Akdivar and Others v. Turkey, no. 21893/93 \(just satisfaction\), 1 April 1998](#)

¹¹ [Saghinadze and Others v. Georgia, no. 18768/05, 27 May 2010](#)

¹² [Soltanov and Others v. Azerbaijan, Applications nos. 41177/08, 41224/08, 41226/08, 41245/08, 41393/08, 41408/08, 41424/08, 41688/08, 41690/08 and 43635/08\), 13 January 2011](#)

¹³ [Akdivar and Others v. Turkey, no. 21893/93 \(just satisfaction\), 1 April 1998](#)

¹⁴ The ECtHR has referred to the relevant UN and Council of Europe standards: [Pinheiro Principles](#) and [PACE Resolution 1708\(2010\) on solving property issues of refugees and internally displaced persons](#). See also [Sargsyan v. Azerbaijan, no. 40167/06 \[gc\], 16 June 2015, para. 96](#); [Chiragov and Others v. Armenia, no. 13216/05 \[gc\], 16 June 2015, para. 198](#); [Demades v. Turkey, no. 16219/90, 31 July 2003, paras. 29-37, 44-46](#)

¹⁵ [United Nations High Commissioner for Refugees, Handbook voluntary repatriation: International protection, Geneva, 1996, para. 2.4](#)

returnees must receive complete and accurate information about the real situation in their countries, communities, or places of resettlement in order to make an informed decision¹⁶.

In this respect, relevant information must reach all segments of the displaced population, including persons with special needs, and marginalized or minority groups. When IDPs are dispersed, special efforts are required to ensure they receive notice of consultations and information. The information provided should cover the procedures for returning, local integration, or resettlement elsewhere in the country. This includes details about reintegration packages, administrative regulations, documentation requirements, access to housing and land, livelihoods, landmine risks, employment, and other economic opportunities. Additionally, it should address the availability of public services, transport, healthcare, education, communication means, and the condition of infrastructure such as schools, roads, bridges, and sanitation systems¹⁷.

Returnees can face a series of difficulties during and after their return. Problems related to travel through war zones, the recovery of occupied or stolen property, compensation, and rehabilitation, and readaptation tracing of lost family members, can be fundamental to returnees for reestablishing their lives¹⁸. Moreover, authorities must respond to the protection and needs of vulnerable groups, for instance, women-headed households; unaccompanied, pregnant or lactating women; minors, especially when unaccompanied; older persons; persons with disabilities, chronic illnesses, traumatized persons; and members of ethnic or religious minorities¹⁹.

A national response for return, reintegration, and durable solutions needs to be undertaken and guaranteed by national authorities to reestablish the rights of refugees and displaced persons and consider special vulnerabilities.

¹⁶ Ibid. para. 173.

¹⁷ [The Brookings Institution – University of Bern, Durable Solutions for Internally Displaced Persons, Project on Internal Displacement, April 2010, p.16.](#)

¹⁸ [OHCHR, Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons, Chapter XI, para.18](#)

¹⁹ [Guiding Principles on Internal Displacement, Principle 4; Brookings Institution—University of Bern, Protecting Internally Displaced Persons: A Manual for Law and Policymakers, October 2008, para D.](#)

State responsibility and national response for the protection, integration, and reintegration of returnees

National authorities need to ensure that the necessary legal and policy frameworks are in place to secure the rights of IDPs, and establish effective government structures to coordinate the national and local response²⁰. Policies or mechanisms for protecting the rights of returnees are crucial, and authorities shall make efforts to facilitate the reintegration of returned or resettled internally displaced persons²¹. Thereby, **the Committee of Ministers of the Council of Europe** stressed that conditions for proper and sustainable integration of internally displaced persons following their displacement should be ensured²². Both integration of returnees in their home communities and reintegration in host communities need to be developed in line with durable solutions. Sometimes the term *reintegration* is used by international organizations and standards indistinctly to indicate durable solutions for returnees in their countries. In the process of return and reintegration, the protection of social and economic rights in the areas of healthcare, education, housing, land, employment, or livelihoods,²³ is of paramount importance. If returnees are not provided with these opportunities, they can suffer instability,²⁴ and vulnerability or be forced to flee again.

Thus, sustainable reintegration requires holistic and multidimensional approaches that address a range of economic, social, and environmental factors, while also fostering synergies between various interventions for humanitarian assistance, community stabilization, and sustainable development. It is crucial to consider the broader political, institutional, economic, and social conditions for sustainable reintegration, particularly in countries with high numbers of returnees²⁵. Sustainability is a concept that encompasses the needs and vulnerabilities of the individual, the economic, social, and psychosocial reintegration in the community, and the contribution to local development²⁶. In this regard, returnees will require reintegration and rehabilitation support to improve their situation and move toward stability by promoting economic and social development. This requires that states view displaced populations as contributors to local development and ensure they have access to socioeconomic opportunities.

According to *the EU Strategy on Voluntary Return and Reintegration*, the key challenges for a coherent implementation of return and reintegration policy are the fragmentation of approaches; lack of structured monitoring framework; lack of a coherent framework for return counseling and a mechanism to refer returnees to return and reintegration programmes; insufficient stakeholder coordination; lack of sustainability, including due to a lack of capacity in countries of origin; and insufficient funding²⁷. This Strategy focuses on the return of irregular migrants, but some of the complex policy problems identified, can be considered for analyzing returnees' policies and strategies.

Furthermore, as stated **by the European Migration Network founded by the European Union**, developing and implementing a coherent return and reintegration approach is central to an effective and sustainable return and reintegration policy. This Network has recently reported that the main challenge in European States is the possibility of establishing a clear relationship between different stakeholders and between different stages of return and reintegration projects or activities at the national level along with a strategic framework for effective return policies. A lack of information-sharing between stakeholders may result in duplication of activities, unnecessary planning, and ineffective use of resources²⁸.

²⁰ [Guiding Principles on Internal Displacement, Principles 28\(1\) and 30](#)

²¹ [Ibid. Principles 28\(1\)](#)

²² [Council of Europe, Committee of Ministers, Recommendation 2006\(6\) on internally displaced persons, 5 April 2006, para. 12](#)

²³ [European Committee on Migration \(CDMG\), Integration of formerly deported peoples from the Crimea \(report of a mission from 20 to 29 September 2000\), 15 November 2000, para. 2](#)

²⁴ [United States Institute for Peace, Return and Resettlement of Refugees and Internally Displaced Populations, para. 10.7.18](#)

²⁵ [IOM, Reintegration Handbook - Practical Guidance on the design, implementation and monitoring of reintegration assistance, 2019, p. 135](#)

²⁶ [European Commission, The EU strategy on voluntary return and reintegration, COM \(2021\) 120 final, Brussels, 27, April 2021, para; 3.6.](#)

²⁷ [Ibid. para. 2](#)

²⁸ [European Migration Network, Coherent return and reintegration assistance, September 2024, para. 3](#)

States must ensure a coherent, appropriate, and effective national response. For this purpose, it is relevant to analyze existing national legislation with a view to identifying the rules suitable for the situation of returnees, in line with international human rights law.

In the same way, national authorities can opt for promulgating new legislation, policies, or measures, specifically regulating the response²⁹; since the lack of preparation, resources, and expertise to deal with the returns of refugees or IDPs, can be problematic³⁰.

As a consequence, it is relevant to monitor actions and implementations to keep track of developments and to make adjustments, when necessary and regular evaluation is needed to learn from experiences³¹. In this regard, capacity-building is also important, in consideration of the fact that it contributes to strengthening coordination mechanisms, skills, structures, processes, or resources of key stakeholders and policymakers so they can facilitate the sustainable reintegration of returnees³².

²⁹ *Ibid.* p. 146

³⁰ [Guiding Principles 28\(1\) and 30](#)

³¹ [European Committee on Migration \(CDMG\), Integration of formerly deported peoples from the Crimea \(report of a mission from 20 to 29 September 2000\), 15 November 2000, p. 10](#)

³² [IOM, Reintegration Handbook - Practical Guidance on the design, implementation and monitoring of reintegration assistance, 2019, p. 135, 146](#)

Examples of returnee-focused policies at national level

National policies for the safe and voluntary return of IDPs and refugees have established institutional and legal frameworks to protect their human rights and facilitate reintegration. Some of these policies are embedded in multilateral and bilateral agreements, laws, strategies, plans, programmes, or other frameworks. The experiences of the countries analyzed in the following chapters can serve as examples for the policy process to protect the rights of returnees in Ukraine. These countries have faced significant returns, wars, conflicts, reforms, and have developed a certain degree of institutional capacity, funding, or awareness of international commitments, standards, and laws to take steps toward durable solutions.

Bosnia and Herzegovina

In 1995, Bosnia and Herzegovina concluded the Dayton Peace Agreement, which highlighted the early return of refugees and displaced persons as a key objective in resolving the conflict, as stated in Annex VII. This annex established that all refugees and displaced persons, including those under temporary protection in third countries, have the right to return safely to their homes of origin without fear of harassment, intimidation, persecution, or discrimination based on ethnicity, religion, or political beliefs. To facilitate voluntary return and successful reintegration, Annex VII mandated the creation of supportive political, economic, and social conditions. Additionally, a Commission for Refugees and Displaced Persons of Bosnia and Herzegovina was established to ensure property restitution or compensation, with a commitment to cooperate with international organizations, including UNHCR, ICRC, and UNDP³³.

Additionally, laws aimed at protecting internally displaced persons, refugees, and returnees were enacted in 1995 and 2005. In 1999, **the Law on Displaced Persons and Returnees in the Federation of Bosnia and Herzegovina**, along with provisions for refugees from BiH, defined “returnees” as those who are either refugees from Bosnia and Herzegovina (BiH) or displaced persons who have expressed a desire to return to their previous habitual residence and are in the process of returning, as well as those who have already returned. The returnee status ceases six months after re-establishment in their former habitual residence or another location within BiH. The law established the right for individuals to freely return to their former habitual residence or to choose another permanent residence in a safe, informed, and organized manner, ensuring respect for their freedom of movement³⁴.

While holding *returnee* status, individuals are entitled to assistance for essential reconstruction of their homes, access to loans to start businesses and generate income for themselves and their families, adequate financial aid, basic food supplies, necessary clothing, primary healthcare, education, and social welfare support. The law likewise outlined a list of resources for exercising the rights of returnees³⁵.

Furthermore, this country established an institutional framework to advance the objectives of return for refugees and displaced persons, **designating the Ministry of Human Rights and Refugees** as the primary national body responsible for developing and implementing return policies and ensuring conditions for sustainable return. This role encompasses analyzing, planning, coordinating, and preparing for return and repatriation, as well as facilitating bilateral and multilateral cooperation between BiH and other countries or international organizations. The Ministry is also tasked with presenting and promoting projects that support return, including reconstruction initiatives, and with evaluating and monitoring return policies. These efforts are conducted in collaboration with the Commission for Refugees and Displaced Persons of Bosnia and Herzegovina, specifically for implementing Annex VII of the Dayton Peace Agreement³⁶.

³³[Text of Dayton Peace Agreement documents initialed in Dayton, Ohio on November 21, 1995 and signed in Paris on December 14, 1995](#)

³⁴ [Law on Displaced Persons and Returnees in the Federation of Bosnia and Herzegovina and Refugees from Bosnia and Herzegovina, 31 December 1999; Law on Displaced Persons and Returnees in the Federation of Bosnia and Herzegovina and Refugees from Bosnia and Herzegovina, FBiH Official Gazette, no. 15/05 of 16 March 2005](#)

³⁵ [Law on Displaced Persons and Returnees in the Federation of Bosnia and Herzegovina and Refugees from Bosnia and Herzegovina, 31 December 1999, Articles 9 – 15, 18](#)

³⁶ [Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina, Official Gazette 5/03, Article 12; and see also Ministry of Human Rights and Refugees of BiH](#)

At the federal level, the *Federal Ministry of Displaced Persons and Refugees* is responsible for collecting and processing data on refugees and displaced persons, coordinating reconstruction activities, and creating conditions for the return of displaced persons. This includes overseeing construction and reconstruction efforts, restoring and repairing homes and other housing units, and managing regional centers that provide assistance to returnees³⁷.

Later in 2005, a **new law on displaced persons and returnees was enacted in the Federation of Bosnia and Herzegovina** to enhance and expand actions and methods for supporting IDPs and returnees. This law addressed the acquisition and cessation of their status, the process of returning to permanent residences, registration, the establishment of reception-transit centers, temporary accommodation in collective centers, and outlined specific obligations for Cantonal and municipal bodies to facilitate returns and secure funding. The law emphasized that the responsible bodies at the Federation, Canton, and municipal levels must take all necessary measures to ensure freedom of movement, improve security, return property to its rightful owners, facilitate the construction and reconstruction of homes and apartments, and create conditions for the sustainable return of displaced persons³⁸.

The law instituted that temporary accommodation shall be provided in reception-transit centers³⁹, in collective centers or settlements that have been constructed, reconstructed or renovated, as well as in the apartments and houses of host families. The reception-transit center was created to be used until another accommodation was provided, and at most for 90 days⁴⁰. The duty of formulation and implementation of plans for returns and repatriation were assigned to the Federation, the Ministry, and the Cantons⁴¹.

It is essential that returnees have the right **to access effective mechanisms for the restoration** of their housing, land, and property, or to receive compensation, without facing discrimination. These mechanisms should ensure that returnees can reclaim their property or be compensated fairly when restitution is not possible, safeguarding their rights in a non-discriminatory manner⁴². In Bosnia and Herzegovina, **several property laws** have been enacted to protect the property and possession rights of returnees. These laws stipulate that private property can be claimed not only by registered owners but also by lawful possessors, ensuring that in some cases individuals who have lawful possession of property, even if not officially registered as the owner, are entitled to claim and restore their rights⁴³.

In 2003, a **Strategy of BiH for the implementation of Annex VII of the Dayton Agreement** was defined to reach the following strategic goals: 1) Completion of the return process, 2) Completion of reconstruction process of housing units for the return needs; 3) Implementation of repossession of property and reinstatement of occupancy rights; 4) Ensuring conditions for sustainable return and reintegration process. To achieve the goals in a transparent, efficient and practical manner, the Strategy determined the following directions and actions: 1) Legal reforms and harmonization of legislation; 2) Structural and organizational reforms; 3) Developing and putting into operation a unified database; 4) Creating preconditions for sustainable return; 5) Property law implementation; and 6) Promotion of reintegration of returnees conditions⁴⁴.

³⁷ [Federal Ministry of Displaced Persons and Refugees, BiH](#)

³⁸ [Law on displaced persons and returnees in the federation of Bosnia and Herzegovina and refugees from Bosnia and Herzegovina \(FBiH Official Gazette No. 15/06, 16 March 2005\)](#)

³⁹ A reception-transit center refers to a covered space consisting of one or more function-wise rooms with a kitchen with a dining room, a laundry room, a bathroom and a WC, a space for a living room and bedrooms. The minimum accommodation capacity of a reception-transit center is 40 persons, securing at least 5 m² per person

⁴⁰ [Law on displaced persons and returnees in the federation of Bosnia and Herzegovina and refugees from Bosnia and Herzegovina \(FBiH Official Gazette No. 15/06, 16 March 2005, Articles 13-15\)](#)

⁴¹ [Law on displaced persons and returnees in the federation of Bosnia and Herzegovina and refugees from Bosnia and Herzegovina \(FBiH Official Gazette No. 15/06, 16 March 2005\), Article 37](#)

⁴² [Principles on Housing and Property Restitution for Refugees and Displaced Persons \("Pinheiro Principles"\), United Nations Doc. E/CN.4/Sub.2/2005/17](#) and [Council of Europe, Committee of Ministers, Recommendation 2006\(6\), 5 April 2006, §8](#)

⁴³ [Law on the Cessation of the Application of the Law on Temporary Abandoned Real Property, Official Gazette of the Federation of Bosnia and Herzegovina, No. 56/01, Article 4](#), See also [Law on Sale of Apartments with Occupancy Rights, 1997, https://www.ohr.int/archive/1995-2000/docs/property/uk-d20000712.htm](#); [Law on the Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens, 1998, https://www.ohr.int/ohr_archive/law-on-the-cessation-of-the-application-of-the-law-on-temporary-abandoned-real-property-owned-by-citizens/?print=pdf](#); [Law on the Cessation of the Application of the Law on Abandoned Apartments, 1998, https://www.ecoi.net/en/file/local/1164279/1504_1216815004_law-on-the-cessation-of-the-application-of-the-law-on-abandoned-apartments.pdf](#).

⁴⁴ [Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement, 2003](#)

The Council of Europe assessed the situation in BiH in 2002 and urged the authorities to: a) increase budgetary resources and actively seek complementary financing for the implementation of laws on repossession of property; b) to promote economic revitalization of underdeveloped areas of return; c) to ensure the enforcement of the laws guaranteeing non-discriminatory employment and treatment; d) to promote inter-ethnic dialogue programmes; e) to promote reconciliation and tolerance in the field of education; f) to encourage and promote the activities of non-governmental organizations active in the field in the elaboration and implementation of return policies; and e) increase co-operation with other countries in the region⁴⁵.

In 2010, **the 2003 Strategy was revised** and identified some issues in the implementation of the return policy, in the following fields: Reconstruction of housing units of refugees, displaced persons and returnees; closure of collective centres and resolving the issue of alternative accommodation of displaced persons and returnees and of social housing with particular reference to problems of displaced persons and refugees and of housing care of vulnerable categories of returnees; Completion of repossession of property and reinstatement of occupancy rights of refugees, displaced persons and returnees; Reconstruction of infrastructure in places where refugees, displaced persons and returnees are interested in return; Health care of displaced persons and returnees; Social protection of displaced persons and returnees; Exercise of the right to schooling of displaced persons and returnees; Right to work and employment of displaced persons and returnees; Security of displaced persons and returnees and de-mining of the return sites; Right to damage compensation for displaced persons, refugees and returnees⁴⁶.

The revised Strategy recommended several key measures to improve the return process, including, *inter alia*: a) Monitoring and coordinating the return process to ensure effective implementation and support for returnees, b) Provision of reliable indicators to assess the needs of returnees and identify durable solutions for their reintegration, c) Upgrading the database on potential beneficiaries in need of durable solutions to enhance planning and resource allocation, c) Final closure of collective accommodation, ensuring that returnees are transitioned to permanent housing and that temporary shelters are phased out⁴⁷.

The UNHCR noted that property rights, repossession, and reconstruction programmes have not always been accompanied by measures to ensure access to social and economic rights for returnees in areas of return. Furthermore, reconstruction assistance is often provided without sustainability measures to help returnees generate income or livelihoods. Limited access to healthcare and other social services, particularly in rural areas, also hinders returnees from fully enjoying the right to adequate housing. A persistent obstacle remains the discrimination faced by minority returnees, especially in areas such as employment and access to utilities. **The Revised Strategy in 2010** outlined measures to strengthen the economic, social, and cultural rights of IDPs and returnees. However, Assessing the progress in four years it was concluded that its implementation has not yet been effectively operationalized and coordinated⁴⁸. The greatest developments have been made in the reconstruction of housing units for returnees, along with the renewal of communal and social infrastructure and the electrification of returnee settlements. Some strides have also been made in closing collective accommodation centers. However, returnees continue facing significant challenges in the areas of property rights, education, employment, healthcare, and social protection. Additionally, they contend with hate speech and inefficient administrative processes. A particularly large problem remained in employment, where members of minority returnee communities faced discrimination. These factors negatively impacted the sustainability of their return, hindering long-term reintegration and stability⁴⁹.

⁴⁵ [Parliamentary Assembly of the Council of Europe, Recommendation 1588 \(2003\) "Population displacement in South-Eastern Europe: trends, problems, solutions", 27 January 2003](#)

⁴⁶ [Revised strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement, June 2010](#)

⁴⁷ *Ibid.* p 28

⁴⁸ [UNHCR, Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: Bosnia and Herzegovina, March 2014](#)

⁴⁹ [European Commission against Racism and Intolerance \(ECRI\), Report on Bosnia and Herzegovina \(sixth monitoring cycle\), 9 April 2024](#)

Croatia

In Croatia, policies and actions relevant to guaranteeing the right to return were focused on the areas of 1) Reconstruction, 2) Restitution of property, 3) Tenancy rights, and 4) Areas of State Special Concern.

1) Reconstruction of property

The government prioritized the reconstruction of housing for minorities, particularly Serbs, whose access to reconstruction aid had been limited in the past. Returnees who suffered damage to their property can submit a request, and reconstruction materials or a compensatory amount are allocated to the claimant based on a scale that considers the extent of the damage to the housing unit⁵⁰.

2) Restitution of property

The aftermath of the conflicts in the former Yugoslavia, particularly the Bosnian war, led to significant displacement and a complex housing situation, especially concerning the return of displaced persons and refugees. Following the displacement of populations, a large number of properties that once belonged to members of the Serb community were occupied by Croat displaced persons or refugees. The Law on Temporary Taking-Over and Administration over Specified Properties⁵¹, allowed municipal Housing Commissions to declare homes that had been abandoned or left unoccupied as available for temporary use. Under this law, Croat citizens who had submitted claims were granted the opportunity to occupy these homes, even though they may not have been the rightful owners. Thousands of housing units were granted to displaced Croat persons or refugees through this process.

The law was later abolished but the decisions made by the municipal Commissions were not declared void. As a result, the temporary occupants, primarily Croat displaced persons, were allowed to stay in these properties until an alternative solution could be found for them. This system gave priority to the right of occupancy over the right of ownership, which created a significant imbalance. It slowed down the return of Serb and temporary occupants occupied an accommodation not necessarily needed while the returnees who had the ownership were forced to live in unstable conditions⁵². This situation led to tensions and feelings of injustice among the displaced Serb population.

3) Tenancy rights

Before the conflict, several thousand Serbs lived in socially owned or public company-owned apartments. The right to use these apartments was akin to full property rights, but excluded the ability to sell the right, and allowed the State to terminate the lease under limited circumstances. This category of housing accounted for more than 70% of the housing units in former Yugoslavian cities. During and immediately after the conflict, the competent authorities annulled several thousand leases granted to Serbs through judicial decisions, citing a provision that allowed for the termination of rental contracts in cases where the tenant was absent without justification for more than 90 days⁵³. As a result, the apartments were reallocated to Croat refugees and displaced persons, and these procedures hindered the return of Serbs⁵⁴.

4) Areas of Special State Concern

To facilitate the process of return of refugees and resettlement, in 1996, the Act on Areas of Special State Concern⁵⁵ was adopted to reconstruct the areas most affected by the conflict and to create conditions for sustainable returns. The Law established measures and incentives for the settlement and development of areas of special state concern, such as allocation of houses, flats, construction land and

⁵⁰ [Council of Europe, Report by Commissioner for Human Rights, on his visit to the Republic of Croatia, 14 – 16 June 2004, for the attention of the Committee of Ministers and the Parliamentary Assembly, 4 May 2005](#)

⁵¹ [Law on temporary taking over and administration of specified property, 370-01/95-01/11, 20 September 1995](#)

⁵² [Council of Europe, Report by Commissioner for Human Rights, on his visit to the Republic of Croatia, 14 – 16 June 2004, for the attention of the Committee of Ministers and the Parliamentary Assembly, 4 May 2005](#)

⁵³ Act on the Lease of Flats in the Liberated Territory, Official Gazette No. 73/95.

⁵⁴ [European Committee of Social Rights, Centre on Housing Rights and Evictions \(COHRE\) v. Croatia Complaint No. 52/2008, Decision of merits, 22 June 2010, paras 85-89; and Council of Europe, Report by Commissioner for Human Rights, on his visit to the Republic of Croatia, 14 – 16 June 2004, for the attention of the Committee of Ministers and the Parliamentary Assembly, 4 May 2005](#)

⁵⁵ The Act on Areas of Special State Concern, Official Gazette, no. 26/03 – consolidated text, 42/05, 90/05, <https://regionalni-en.weebly.com/legislation-on-specific-areas.htm>; Areas of Special State Concern (ASSC) represent 15,3% of the total population in Croatia. Demographic and educational characteristics of these areas vary but are overall of unsatisfactory standard. See, ŽELJKO LOVRINČEVIĆ, DAVOR MIKULIĆ, JELENA BUDAK, areas of special state concern in Croatia- regional development differences and the demographic and educational characteristics, <https://hrcak.srce.hr/16296>.

construction materials⁵⁶. The aim was to promote the return of IDPs and refugees who had lived in those territories and, at the same time, contribute to the economic and social development of those areas of the country. Persons who were former holders of occupancy rights received priority in the provision of accommodation through the lease of state-owned flats⁵⁷.

Unfortunately, returnees who expressed their wish to return and applied for housing programmes have remained without a solution for an excessively long period of time due to the slow processing of applications which constituted a serious obstacle to their return⁵⁸. The cancellation of occupancy rights affected ethnic Serb communities and there were no durable solutions for many thousands of ethnic Serbs displaced during the conflict⁵⁹.

⁵⁶ [Parliamentary Assembly of the Council of Europe, Return of refugees and displaced persons to their homes in Croatia, Report Doc. 8368 -9 April 1999, paras. 73, 74](#)

⁵⁷ The Act on Areas of Special State Concern, Official Gazette, no. 26/03 – consolidated text, 42/05, 90/05, Article 7, <https://regionalni-en.weebly.com/legislation-on-specific-areas.htm>.

⁵⁸ [European Committee of Social Rights, Centre on Housing Rights and Evictions \(COHRE\) v. Croatia, Complaint No. 52/2008, Decision of merits, 22 June 2010, para 84](#)

⁵⁹ [Ibid, paras 85-89](#)

Serbia

Roma constitute a particularly vulnerable group within the displaced population. In Serbia, returnee policies have primarily focused on this segment of the forcibly displaced population who fled due to the conflict in the Balkans. In the early 2000s, thousands of Roma from Serbia and Montenegro, were living in various European countries without permanent status.

That time there was a practice of forced returns carried out based on bilateral return agreements concluded between Serbia and Montenegro and several European countries⁶⁰. Later in September 2007, the Agreement between the European Community and the Republic of Serbia on the readmission of persons residing without authorization, came into force⁶¹, but this readmission agreements did not clearly define the conditions for the reception of returnees and did not put any responsibility on the receiving state with regarding the reintegration of returnees⁶² who find themselves most often in the situation of secondary displacement.

A **Strategy for the Reintegration of Returnees based on the Readmission Agreement** was adopted in 2009⁶³ aiming for the sustainable integration of returnees into the community with full respect for social and cultural diversity. The specific objectives of the Strategy were: 1) Establishing the institutional framework and coordination of activities; 2) Development and implementation of a programme for the admission of returnees and emergency support; 3) Development of a functional mechanism for the reintegration of returnees and raising the capacities of the community and returnees for successful reintegration. The Strategy defined the institutional framework, measures, activities, and principal parties for the sustainable integration of returnees in the fields of housing, education, employment, social welfare, and healthcare. This Strategy recognized needs and attention that have to be paid to vulnerable groups (national minorities, Roma, persons with disabilities, chronic illness sufferers, children without parental care, the elderly, and victims of human trafficking. The implementation of the Strategy was operationalized through two action plans for its implementation for the period 2009-2012.

In 2012, **the Law on Migration Management** was promulgated to regulate migration and establish the principles, the competent authority, and a unified system for data collection and exchange in the field of migration management. The Commissariat for Refugees and Migration was created as the main government body responsible for managing the readmission process of returnees. It adopted annual programmes for reintegration of returnees, aimed at improving housing conditions and promoting the economic empowerment of returnees⁶⁴.

The policy on the reintegration of returnees is regulated by several strategies and action plans. The institutional framework, with objectives and specific measures, is included in the Reintegration Strategy for Returnees under the Readmission Agreement. The strategy and action plans contain measures and programmes to improve returnees' access to education, healthcare, personal ID documents, social welfare, housing conditions, and employment. The Migration Management Strategy, the National Employment Strategy 2011-2020, the Strategy for Prevention and Protection against Discrimination, and the Strategy for the Social Inclusion of Roma Men and Women (2016-2025) provide targeted actions for addressing the reintegration challenges faced by returnees⁶⁵.

Serbia has established a governance structure for managing returnees' reintegration, which, in addition to **the Commissariat for Refugees and Migration**,⁶⁶ includes all key national ministries. Local networks of relevant institutions provide services to returnees and their family members at the community level.

⁶⁰ [Parliamentary Assembly of the Council of Europe, Recommendation 1633 \(2003\)1 "Forced returns of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member states", 25.11.2003](#)

⁶¹ [Agreement between the European Community and the Republic of Serbia on the readmission of persons residing without authorization, Official Journal L 334, 19 December 2007](#)

⁶² [Parliamentary Assembly of the Council of Europe, Recommendation 1633 \(2003\)1 "Forced returns of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member states", 25.11.2003](#)

⁶³ [The strategy of returnees' reintegration based on the readmission agreement, based on the Article 45, Act 1 of the Government law \(Official Journal of the Republic of Serbia No. 55/05,71/05-correction, 101/07 and 65/08\), February 2009](#)

⁶⁴ [Law on migration management \(Official Gazette of RS, No 107/2012\), November 2012](#)

⁶⁵ [Council of Europe, Situation Analysis Capacity assessment for providing support to returnees focused on Roma men and women in 14 local self-governments in Serbia, 2022](#)

⁶⁶ [Commissariat for Refugees and Migration, Republic of Serbia](#)

Considering that special efforts should be made to ensure the full participation of internally displaced people in the planning and management of their return or resettlement and reintegration, the Commissioner for Refugees has encouraged municipalities with larger numbers of IDPs and refugees to develop local and municipal action plans in consultation with both the displaced and resident populations. These plans are designed to support the integration of displaced people. Each municipality that adopts an action plan receives a grant from the Commissioner for Refugees, which matches the funds the municipality provides from its own budget for the action plan⁶⁷.

Serbia has made notable strides in providing access to essential services for returnees, such as personal documentation, education, healthcare, and social protection. These advancements are crucial for the reintegration process, as they help returnees regain legal status and access fundamental rights. However, despite these positive developments, returnees continue to face significant challenges, resulting in a precarious living situation that includes poor living conditions, Irregular income, and lack of access to social protection and housing. In response to these challenges, this country works on developing up to date strategies for reintegration of returnees under the Readmission Agreement and relevant action plans⁶⁸.

⁶⁷ [Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, UN Doc. A/HRC/13/21/Add.1, para. 9](#)

⁶⁸ United Nations Development Programme, Project: Strengthen national and local systems to support the effective socio-economic integration of returnees in the Western Balkans, Ref. Ares(2020)7473212, 2020, <https://www.undp.org/albania/projects/strengthening-national-and-local-systems-support-effective-socio-economic-integration-returnees-western-balkans#:~:text=%E2%80%9CStrengthening%20national%20and%20local%20systems,other%20vulnerable%20returnees%2C%20in%20three>

RECOMMENDATIONS

Based on the previous analysis of returnee policies and the challenges faced by States, the following recommendations are proposed for considering by the national authorities of Ukraine to advance the human rights protection of returnees.

The Council of Europe may provide expertise and technical assistance while promoting these recommendations and supporting Ukrainian authorities to uphold their obligations in line with European and international standards.

Legal and institutional framework for the right to return

1. Ensure that the right to return and the definition of returnees in national legislation align with international standards. This includes establishing conditions that allow individuals to return voluntarily, in safety and dignity, to their homes or habitual residences, or to resettle in another part of the country.
2. Ensure that returnees receive complete and accurate information about the actual situation in Ukraine, communities, or resettlement areas to support informed decision-making. This information should include details on their rights, relevant laws, support programmes, and return procedures. Relevant information must reach all returnees including women heads of household, children, persons with special needs, marginalized individuals, and minority groups.
3. The national framework should be revised to promote non-discriminative and rights-based return policies that would support reintegration efforts.
4. The return policy should provide protections for all phases of return, covering rights that must be safeguarded both during and after return.
5. Establish a coherent legal framework and develop a unified policy on the right to return for refugees and IDPs – whether a law or a rights-based national strategy – to avoid the incoherence, duplicity, unnecessary planning, and resource inefficiencies that can arise from multiple laws or provisions.
6. Develop a detailed and realistic action plan that outlines resources, functions, responsibilities, activity schedules, and procedures for measuring effectiveness in alignment with national policy objectives and formulate national indicators to monitor reintegration outcomes.
7. Set up a coordination and communication mechanism among national and local institutions to ensure harmonized actions. The mechanism should likewise involve affected persons in the planning and management of their return. This ensures that their needs are considered in decision-making, fostering a more inclusive and participatory approach to the return and reintegration process. The coordination mechanism should also apply a structured and coherent approach to monitor and assess the effectiveness of return and reintegration programmes.
8. Organize a coherent institutional structure by designating or creating a lead body responsible for executing returnee policies. This entity should coordinate, implement, and monitor activities in co-operation with other national and local stakeholders. *For example, return obligations could be assigned to the Ministry of Temporarily Occupied Territories and Internally Displaced Persons, with appropriate financial and human resources allocated. This Ministry may need structural reforms to accommodate right-to-return obligations.*
9. Identify and engage other national and local stakeholders responsible for return and reintegration-related issues, to assign clear responsibilities, or competences, and allocate resources effectively.
10. Develop and operate an integrated and efficient database of returnees.
11. Promote bi-lateral or multi-lateral agreements for the return of refugees in alignment with international law, global and Council of Europe standards. Foster partnerships with international organizations to facilitate reintegration management and to enhance the capacities of national and local stakeholders.

Guarantee of durable solutions

1. The returnee status should cease after a defined period, followed by guarantees of durable solutions.
2. Guarantee security conditions in return areas to ensure that returns are permanent and sustainable. Support sustainable returns and develop tailored programmes for vulnerable groups, ensuring conditions of safety and equality.
3. Instruct clear actions and mechanisms to achieve durable solutions for returnees. This should include ensuring access to social and economic rights, such as employment, healthcare, education, and housing programmes. Promote a transition from temporary return conditions to sustainable integration in order to avoid long-term dependence of returnees on social support and aid.
4. Provide the allocation of sufficient resources to support the return and reintegration process. Additionally, the State can seek external financial resources, such as international aid or partnerships, as needed to supplement national efforts and ensure the success of reintegration programmes.
5. Guarantee the housing, land, and property rights of returnees, ensuring that they are legally recognized and protected. Diversify and implement various housing programmes for returnees from temporary arrangement toward durable solutions. Facilitate the purchase of housing or support reconstruction efforts by providing loans or subsidies. Housing should be offered in areas where returnees feel safe, integrated, and connected to their communities, especially for national minorities, to prevent isolation and promote social cohesion.
6. Implement compensation measures for cases where property restitution is not feasible, such as creating a national fund to compensate for lost property, ensuring that returnees are provided with fair compensation for their losses. Allow claims on private property from both registered owners and lawful possessors. Tenancy, occupancy, and repossession rights must be upheld without discrimination.
7. Advance returns as part of development policies, including economic revitalization by providing incentives for returns in low-developed regions. Encourage entrepreneurship, small businesses, and rural employment for those with agricultural skills, while providing, for example, access to start-up capital.

The opinions expressed in this work are the responsibility of the author and do not necessarily reflect the official policy of the Council of Europe.