

# **PLIP Inter-Agency Framework Document**

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## **1. Introduction**

Annex 7 of the Dayton Peace Agreement enshrines the right of all the citizens of Bosnia and Herzegovina, displaced during the war, to return to their homes. This most fundamental provision of the Peace Agreement can only be met if the property issue is fully solved. The Property Law Implementation Plan (PLIP) was conceived as a plan to ensure that those property rights are recognised and enforceable for every individual in the country, without regard to political considerations.

During the war in Bosnia and Herzegovina, more than 2.3 million people were displaced from their homes. Each of the wartime regimes allocated abandoned properties and established complex legal and administrative barriers to return, designed to make the separation of the population irreversible. Four years of international efforts have now achieved a legal framework that recognises property rights as they stood at the beginning of the conflict, and establishes a legal and administrative claims process for the repossession of property.

This reversal has been possible only because of a sustained, co-operative effort by the international community in Bosnia. History's lesson that unresolved property disputes remain as a source of tension for decades has made the return of property an essential part of the peace-building and reconciliation process in Bosnia. This has been a complex, laborious and expensive process, but one that after four and a half years of effort is finally yielding significant results throughout the country.

Returns and property repossession are taking place in every municipality and region, both rural and urban. At the end of July, of 231,000 claims for property (both socially-owned and private), some 15% have resulted in a family regaining possession of their home. Therefore, a process has been established, whereby the claimants have now a real prospect of success. The right to property repossession is now recognised in Entity laws, and the international organisations involved in Annex 7 issues have turned to the long task of implementation across 140 municipalities.

The Property Law Implementation Plan (PLIP) has developed from collaborative relationships between OHR, UNHCR, OSCE, UNMIBH and CRPC. It was conceived in October 1999 as a means of gathering the whole range of property-related activities of the different agencies into a coherent, goal-oriented strategy for securing implementation of the new laws. The PLIP is a specialist operation designed to ensure that all citizens of Bosnia and Herzegovina who were dispossessed of their property in the course of the conflict can repossess it. This is the most complex legal component of the implementation of Annex 7, and accordingly requires dedicated resources and thorough management.

This document outlines the PLIP approach, details the measures and mechanisms required to complete the task,

and describes the essential elements of the management structure. At the heart of this approach is the bedrock principle that the same pressures, demands and expectations must be applied to all of the officials and municipalities of BiH. This standardisation in itself will serve to undermine the narrow collectivism and nationalist exclusion that has prevailed in Bosnia and Herzegovina.

The PLIP methodology is working. The components, rationale and managerial structures that enable international organisations to act collaboratively and to speak with a single voice are in place. From this point onwards, the path to the final completion of the task is through constant reiteration and ruthless perseverance. Unless there are exceptional reasons for change, this methodology should continue to be pursued along the lines outlined in this paper.

The PLIP methodology is consciously designed to institutionalise the process of reclaiming property, through administrative reform and the promotion of non-discriminatory practices. This ensures that not only can the problem of property rights be resolved in a finite time period, but also that the very process itself serves as a catalyst for creating, in the local language, the *pravna drzava* – a law-governed state.

## II. Objective

The objective of the PLIP is to ensure that all outstanding claims by refugees and displaced persons to repossess their properties are resolved. It aims to do this by building domestic legal processes which apply the laws neutrally, processing property claims as efficiently as possible until all claimants are able to exercise their rights under Annex 7. By treating repossession of property as a question of rule of law, the PLIP promotes respect for civil rights over political interests and opens enormous possibilities for the overall return of DPs and refugees.

In 1996, the international community in BiH initiated a sustained campaign to repeal wartime laws on abandoned property, and create a legal framework for property repossession. The campaign met with intense resistance, and required all of the political leverage of the international community over an extended period of time to achieve results. In April 1998, the first legal framework for property repossession was adopted in Federation legislation, followed in December 1998 by like legislation in Republika Srpska. A further intensive campaign, involving the use of the High Representative's Bonn powers, was required in order to strengthen and harmonise the laws. In their current form, the laws have been in place since October 1999.

Implementation of the laws is the responsibility of administrative authorities in 140 municipalities across the country. At the outset, the new laws met with obstruction or inaction in most parts of the country, and international agencies working in the field became closely involved in implementation issues. From a difficult beginning, implementation is now making slow but steady progress throughout the country. As of 31 July 2000, 231,000 claims had been made for repossession of private and socially owned property. Of these, some 36% had received confirmation of their property rights, and 15% could repossess their property.

There is considerable regional variation. In some parts of the country, more than 50% of the claimants have recovered their property. In other places, the process has just recently begun. However, crucially, the process is now working in most Municipalities. The citizens of BiH are receiving the message that the rule of law in property rights has been established, and where necessary is being enforced. As a result, the rate of people voluntarily vacating property that does not belong to them is increasing. It is now possible to foresee the time when all refugees and displaced persons will have been given the opportunity to exercise their property rights; this however requires that the international community continues to devote close attention to the process.

There are three main obstacles to the full implementation of the property laws, which are addressed by the PLIP.

a) Political obstacles: The most important obstacle to the overall return and successful reintegration of refugees and displaced persons is still of a political nature. Nationalistic politicians throughout Bosnia and Herzegovina want to keep the three communities separate, in order to safeguard their power base and in certain municipalities also

to consolidate their economic interests. Political resistance manifests itself in hostility to reintegration, and in unwillingness to implement the property laws. Experience has shown that political problems are overwhelmingly generated by political elites, rather than emerging from genuine inter-group hostility. Much of the PLIP is therefore directed at separating the question of civil rights from the post-war political problems of the country.

b) Institutional problems: A second obstacle to the strict implementation of the property laws is the weak institutional capacity of the responsible authorities. The implementation of Annex 7 has required the creation or strengthening of local administrative authorities in 140 municipalities. The PLIP contains various elements designed to build their capacity to process claims in an efficient and legally sound manner.

c) Housing problems: There continue to be shortages of housing in much of Bosnia and Herzegovina, which need to be addressed in order to create the space for return. The PLIP contains a plan to deal with this problem by addressing double/multiple occupancy and other forms of mismanagement of existing housing space, and by promoting a normalised housing policy and property market.

The PLIP harnesses all of the resources available to the international community in Bosnia to achieve this objective. This includes the principal organisations involved in property law implementation (OHR, OSCE, UNHCR, UNMIBH and CRPC), the main sectors of peace implementation (political, economic, judicial and human rights), and the available tools of influence. The PLIP is the mechanism through which international agencies develop common policy frameworks, perform comprehensive monitoring of progress in the field, and develop consistent strategies for overcoming problems.

### III. Methodology

The PLIP approach is designed to be applicable throughout Bosnia and Herzegovina. This represents an evolution from earlier return strategies, which focussed on selected return locations mainly in rural areas (target areas; destroyed villages, empty space) or modalities of return (political declarations; reciprocal agreements; return quotas). This was necessary at the time in order to initiate the process of return.

The PLIP varies from these earlier policies by promoting the neutral application of the law across the board, rather than the notion of 'minority return' to rural areas. By insisting that no deviation is permitted from the strict requirements of the law, it ensures that equal standards, procedures and international pressure are applied throughout the country. This approach offers two concrete benefits:

a) De-politicisation of the property issue: The more that repossession is treated as a legal process of deciding and implementing individual return claims, the more it can be insulated from undesirable political influences.

b) Institutionalisation of the property return process: The PLIP aims to create legal-administrative structures that deal with property claims in a standardised and professional manner. While support and pressure from the international community is required now to make these systems fully operational, institutionalisation of the process ensures that it will continue to function in the future, even as international involvement is eventually phased out.

The PLIP approach also prevents local authorities from disguising ethno-political interests as humanitarian and social considerations. The law spells out in detail the rights and obligations of different parties. The PLIP aims to show to the people of BiH and its Government(s) that following the law strictly is the only way to ensure fair outcomes.

The PLIP is designed to overcome one of the most immediate obstacles to refugee return: access to contested property. It does not address return to destroyed properties in rural areas. Neither does it address the issues required for the creation of sustainable returnee communities, such as subsequent creation of effective and non-discriminatory social structures, especially in the areas of education, health care, employment and basic social

welfare.

The PLIP seeks solely to ensure that pre-war owners or occupancy rights holders can repossess their homes of origin. This in turn will enable them to make a free choice whether or not to return. The full and complete resolution of property claims will prove to be the cornerstone of a sustainable and lasting peace in Bosnia and Herzegovina.

## IV. Operational mechanisms

### A. Political intervention strategies

To date, local authorities have gone to considerable lengths to prevent, hinder, disrupt and delay return. The successful implementation of the PLIP will alter the political dynamics in many parts of the country. For this reason, a series of measures are necessary to ensure the smooth progress of implementation, and to discourage and remove resistance to the process.

The PLIP contains a range of different operational mechanisms that can be used to address political obstacles as they arise. All operational policy decisions concerning the return of property and related questions are made through the PLIP. It is vital that the international community sends out a strong and consistent political message. A number of operational elements of the PLIP are designed to ensure that the international community speaks with one voice.

#### 1. Monitoring of the implementation of the property laws

The PLIP uses OSCE, UNHCR and OHR field networks to conduct a monitoring and supervision operation, which aims to ensure that domestic mechanisms for resolving property claims operate consistently throughout the country. Monitoring serves a dual function. On the one hand, it is designed to detect whenever the process is not functioning satisfactorily, as a trigger for the use of an intervention strategy. At the same time, it provides a means whereby the message of the PLIP is constantly reiterated to the responsible authorities, promoting a process of cultural change. Through regular contacts between administrative authorities and international field officers, the PLIP promotes standardised and law-based approaches that gradually eliminate partisan politics. Over time, this begins to break down institutional discrimination, in favour of the neutral application of the law.

To keep the repossession process moving requires close monitoring at each of the key steps in the property repossession process, particularly:

1. the issuance of decisions on property claims, including determination of whether the current occupant of the claimed property is entitled to alternative accommodation;
2. the administrative appeals process;
3. ensuring (if needed through enforced eviction) that the current occupant vacates the property.

The Focal Point Scheme (FoPs – see section V, par. 3 below) is central to monitoring activities. The Focal Points maintain close contacts with local administrative authorities, and collect monthly statistics on implementation. Through their work in the field, including investigation of complaints by individual claimants, they are able to double-check official information and identify cases in which the process is not functioning, or is being abused.

The individual Focal Points are members of a range of different local co-ordination structures set up by OSCE, UNHCR, and OHR (such as Local RRTFs, Human Rights Working Groups, Double Occupancy Commissions and other *ad hoc* arrangements). Together, these local representatives of the international agencies are expected to develop consensus on joint objectives and effective deployment of their limited resources.

In this context, the Focal Points are well placed to enhance the monitoring capacity of the entire international field presence, distributing information and facilitating communication with the PLIP Cell.

## 2. Encouraging enforcement of the law by the police

Local police are an essential element in the property repossession process. If current occupants refuse to voluntarily vacate the premises, local police are required by law to support the eviction process, if necessary through forcible eviction. They are also obliged to bring criminal charges against those who use force to try to prevent an eviction, or who strip properties before vacating them.

To date, the police have not uniformly supported the property repossession process. Accordingly, it is essential that the actions of the police be also closely monitored. The IPTF Commissioner has issued clear instructions to the Ministries of Interior of both entities as to their duties in connection with evictions. They are required to be present at every forcible eviction, and to actively ensure that the eviction is implemented.

The IPTF monitors each forcible eviction in the country, and maintains pressure on the police to fulfil their legal obligations. The role of PLIP local structures is to ensure that IPTF officers are fully informed as to the rationale and mechanisms behind the PLIP and the property repossession process. Through a close working relationship between IPTF officers and PLIP personnel, a coherent monitoring and intervention regime is being achieved.

A policy of zero tolerance should be adopted towards the refusal of police to perform their functions at evictions. Experience has shown that where consistent and strict standards are set, local police are insulated from political pressures, and become more willing to perform their responsibilities. The IPTF Police Non-Compliance mechanism should continue to be used to ensure that the refusal of police to carry out their responsibilities results in automatic de-authorisation and dismissal. Since the IPTF Commissioner's instruction, the performance of local police has improved considerably, and there have been fewer occasions of evictions postponed because of police inaction.

However, a new and disturbing trend has emerged in the increasing levels of return-related violence, such as explosions, attacks on returnees and the burning of houses. To date, these recent incidents have demonstrated the local police's unwillingness to respond to crises in a timely manner. UNMIBH's monitoring of these scenes of unrest has revealed cases of the local police standing by and witnessing house burnings, the establishment of barricades and the intimidation of returnee communities. To deter such incidents, the police must be encouraged to take preventive action and bring criminal charges against those responsible.

Concurrently it is vitally important that the UNMIBH/IPTF led minority police recruitment and re-deployment processes must be holistically and effectively supported with financial means. Specifically integration measures must be taken to ensure that returning minority police have their housing requirements met and are adequately supported. This in turn would lead to more effective police coverage of return related issues.

## 3. Demanding respect for property by public officials

### i) Police housing

As a key part of the law enforcement process, police officers must be above criticism concerning their own housing situation. UNMIBH has issued a ruling that all police officers must vacate property belonging to others if they wish to remain employed as law enforcement officials. The housing situation of every police officer should be checked

as a precondition to provisional authorisation by IPTF. According to the IPTF *Policy on Registration, Provisional Authorisation and Certification*, police officers who are double or illegal occupants face removal from their post if they do not vacate the property within one month from the issuance of IPTF/UN identification cards.

Since this policy entered into force, around 275 police officers have voluntarily vacated property they had illegally occupied, and one has been removed from the police for failure to do so. Nevertheless, hundreds of police officers in both Entities remain in inappropriate housing situations and there have been incidents in which local policemen required to vacate such accommodations have done so in an inappropriate or illegal manner. Every effort must be made to ensure that local police throughout Bosnia bring their housing situation fully within the law.

## ii) Elected officials and housing

In a similar vein, the Provisional Election Commission (PEC) adopted a regulation for the municipal elections in April 2000 providing that persons who occupy housing belonging to others are not eligible to stand for election to public office. The rule has since been extended to cover the November general elections. This is designed to target public officials who personally obstruct implementation of the property laws through their own personal housing situations. Any public official must vacate claimed property in accordance with the deadlines specified in the law, or face removal by the PEC. Following an extensive investigation of political candidates, 63 candidates and officials have been removed (52 candidates and 11 councillors). The PEC regulations have further led to the parties screening their lists to ensure that none of their candidates are in violation of the ruling and, in numerous cases, to the vacation of contested property by candidates/officials in order to avoid removal. The development of this indigenous regulatory process is a significant step forward. Officials who are themselves in compliance with the law have no vested interest in allowing its continued violation by others.

## iii) Judges, prosecutors, and housing

Both Entities have recently established commissions to define and enforce standards of professional behaviour for judges and prosecutors. In this context, the PLIP agencies support serious attention to the issue of judges and prosecutors in inappropriate housing situations (who can all be considered multiple occupants by virtue of their salaries). Information on the housing situations of all judges and prosecutors throughout BiH should be collected from the field and forwarded to the commissions.

## 4. Setting a good example

The international community must insist that its employees bring their housing situations into full conformity with the property laws. Such measures are not merely symbolic—the IC employs thousands of Bosnians, usually at salaries high enough to make those of them in inappropriate housing situations multiple occupants solely based on their means. The member-agencies of PLIP take their responsibility very seriously and are committed to undertake measures to ensure staff compliance.

## 5. Monitoring responsible authorities and dismissals

The PLIP structure has developed a standardised system for reporting failure to implement the property law by local officials charged with this task. Field officers keep running files on implementation issues in every single municipality. Where there is a clear abuse of the process, or systematic refusal to implement the law, the field officers file non-compliance reports. These reports are passed through the regional structure to the PLIP Cell, which develops the appropriate intervention strategy in response. In the most egregious cases, a recommendation to the High Representative will be made to dismiss the responsible official.

## 6. Principals' visits

Over the past years, the Principals were closely involved in overcoming the obstacles to the return and property

repossession process. At various times, the PLIP has co-ordinated intervention policies, whereby a sudden increase in the political profile of the return issue is used to boost the implementation process.

The PLIP recommends that this technique be regularised through a series of high-profile visits by principals to different locations around the country. This would ensure that continuing, steady political pressure is provided throughout the country.

## 7. Joint letters

The PLIP is a mechanism for developing a common stance of the international community towards political problems in the return process. On a number of occasions, the PLIP has co-ordinated joint letters from the Principals in order to place combined pressure on state and entity authorities, and to express the international community's common expectations in the property law implementation process. This has proved to be an effective way of resolving problems, and should be continued.

The same policy can be followed down the command structure, at regional and even local level, in responding to problems that occur in the field.

## 8. UNMIBH Special Advisor programme

In June 2000, UNMIBH launched a special project in Srpsko Gorazde after repeated reports that the local office of the Ministry of Refugees and Displaced Persons (OMI) was refusing to implement the property legislation. An IPTF monitor from the Human Rights Office was appointed as Special Advisor to the OMI, supported by a Language Assistant from UNHCR Gorazde. Over a 60-day period, he monitored, advised and reported weekly on the activities of the housing office. The presence of the Special Advisor created a feeling of security both for those claiming their property, and for the housing officials who were subject to pressure from applicants and local citizens. During this period, he achieved breakthroughs on the issuance and implementation of decisions in priority cases, helped to create an electronic database of claims, and promoted a system whereby claims would be resolved in chronological order of receipt.

This special operation provides a good example of an operational model that can be used to achieve breakthroughs in particularly difficult areas. The particular form of intervention used in each case must be tailored to the nature of the problem being addressed, and the resources available.

## 9. Sarajevo Housing Committee

Pursuant to the February 1998 Sarajevo Declaration, a Sarajevo Housing Committee (SHC) was established to act as a supervisory and joint planning body for the implementation of the property laws in Sarajevo Canton. SHC also provides a forum where the international community and the responsible officials can identify and discuss policy issues and practical problems in the implementation process. The Committee is comprised of officials from the Cantonal government and representatives of international organisations, under the chair of a highly experienced international staff member managing the UNHCR funded SHC project office.

The SHC represents perhaps the most successful model of a co-operative initiative between the international community and local authorities, and has produced consistently good results in Sarajevo Canton. The model has recently been transferred to Banja Luka, with the creation of the Property Implementation Monitoring Team (PIMT), where many of the lessons from Sarajevo are being applied.

## B. Capacity building

In order to create local structures capable of taking ownership of the process, institutional capacity building should be considered a priority. The PLIP contains various elements directed towards strengthening local structures.

## 1. Training of personnel

The property laws require local housing authorities and Cantonal and Entity Ministries to undertake complex new tasks. Generally, these institutions are lacking both skilled, professional staff, and the resources or expertise to manage their own training needs. As a result, for some years international organisations, including OHR, CRPC, OSCE, UNHCR and the UNHCR-funded Legal Aid Centres, have been engaged in a co-operative programme to offer training seminars to the responsible authorities, familiarising them with the law and their responsibilities.

## 2. Budgetary support

In 2000, US budgetary support to the government of Republika Srpska was tightly conditioned on staffing and procurement commitments by the Ministry of Refugees and Displaced Persons (MRDP) and the Finance Ministry. This support provided a significant boost to the resources available for the administrative property claims process. It also ensured that those resources were targeted specifically at the areas of greatest need. Although it suffered a number of delays, this form of influence over the bureaucratic process has proved to be highly effective. As a result, the institutional capacity of the MRDP has improved considerably over the past year.

## 3. Legislative reform

The property laws will be kept under constant review, and further steps towards reform and harmonisation may be necessary. The PLIP Cell is ideally placed to provide ongoing co-ordination, oversight and expert recommendations regarding legislative efforts in order to ensure their maximum impact on the implementation of Annex 7. Legislation that impinges on repossession can be more firmly linked to the goals of Annex 7 through the involvement of PLIP.

## 4. State and Entity supervisory mechanisms

One new concept to which serious consideration must be given is the possibility of creating Entity- and/or State-level supervisory mechanisms over property law implementation, capable of intervening wherever the local systems are not functioning effectively. Within the Dayton constitutional structure, the State has authority to secure the implementation of Annex 7 (Article III, par. 5(a) of the BiH Constitution). The State is ultimately also answerable for the implementation of European standards on human rights. This gives it the authority to act to ensure that the entities and local government authorities are upholding their constitutional and international obligations.

## 5. Judicial reform, domestic remedies and prosecution for non-compliance

The Judicial Reform Programme, implemented jointly by a number of international organisations in BiH, is one of the most extensive and important state-building programmes. There are various linkages between judicial reform and property law implementation. In particular, the PLIP endeavours to encourage the development of domestic remedies, which must be used in preference to international intervention wherever the administrative claims process does not function effectively. Accordingly, there is scope for co-operation between the Judicial Reform Programme and the PLIP in developing and promoting judicial review of the administration.

It is the policy of the PLIP to utilise domestic remedies wherever possible, before using international instruments of intervention. Both Entity criminal codes contain various criminal penalties for administrative officials who blatantly refuse to perform their duties, or who deliberately obstruct the return of refugees and displaced persons to their homes. OSCE has been promoting the use of these judicial mechanisms to address obstacles to property law implementation through a policy of encouraging investigation and prosecution. Several such prosecutions of officials for obstruction are currently either at the investigative stage or in procedure. Strengthening domestic judicial review mechanisms is a useful institution-building initiative, and only where this fails to produce results should punitive action by the international community be considered.

## C. Housing space



In many places around the country, there continue to be genuine shortages of housing space. Under the property laws, administrative authorities are required to assess whether the current occupants of a claimed property have a genuine need for housing, and if so, to find accommodation for them. However, if the authorities fail to identify alternative housing for the temporary occupants of claimed properties, this does not give them a legal basis for refusing to allow the repossession process to go ahead.

The alleged lack of interim accommodation has proved one of the most difficult problems facing the implementation of the property laws. It is important for both humanitarian and political reasons to avoid as far as possible the eviction of vulnerable families without making alternative arrangements for them. However, this provides a pretext for non-implementation of the law. If local authorities are not committed to implementing the law, they make no genuine effort to identify available housing stocks, and then use humanitarian arguments as an excuse for inaction. It is important that alternative accommodation be temporary, and of a basic standard, in order to encourage individuals to find their own solutions to their housing problems.

The PLIP is strict on following the letter of the law in the issuance and enforcement of eviction orders. PLIP deals with humanitarian issues arising in the field by stressing the obligation of the local authorities to identify temporary shelter, and to come up with new solutions to housing problems. In order to prevent abuse of the humanitarian provisions of the law, the right to property and the right to return cannot be made conditional on finding alternative accommodation for the current occupants of claimed properties.

## 1. Multiple occupancy

In order to free housing space, the PLIP is developing systems to detect and eliminate multiple occupancy (also commonly referred to as “double occupancy”) and the misuse of housing. Multiple occupancy occurs whenever a single household occupies more than one housing space and a refugee or displaced person has claimed one of the properties. This phenomenon is still widespread throughout the country, and typically arises in one of three situations:

- i) where the household acquired more than one residential property during the conflict, either illegally or through misuse of the humanitarian provisions of the war-time abandoned property regimes;
- ii) where the family’s original home has been reconstructed, but the family does not vacate their temporary accommodation;
- iii) where it becomes possible for the family to return to their vacant pre-war home under the property claims process, but they decide not to vacate their temporary accommodation.

Much of the legislative reform campaign has focused on tightening the rules against multiple occupancy, and making sure that humanitarian provisions in the law are only available to those who genuinely need them.

The international agencies involved in the PLIP have established a variety of different local systems to detect the first category of multiple occupancy (“i.” above), including ‘property commissions’ and ‘double occupancy commissions’ run jointly with local authorities, and investigative mechanisms such as ‘hot-lines’.

The second category (“ii.” above, known as “reconstruction-related multiple occupancy”) has been addressed in different ways, including the use of ‘tri-partite contracts’ through which the beneficiaries agree to vacate their temporary housing as soon as their original home becomes habitable. One successful monitoring scheme is the Housing Verification Mission, established jointly by the US Government Bureau of Population, Refugees and Migration (BPRM) and the European Commission Humanitarian Office (ECHO). It uses field teams consisting of 55 national staff to investigate the occupancy rates of property reconstructed with international donor funds, as well as to check whether the beneficiaries of the reconstruction have vacated their temporary accommodation. This information is used to compile a central database on housing units and their occupancy rates, which is then made

available to the RRTF and to the responsible authorities to take action. Schemes following the model of the Housing Verification Mission should be developed within entity and cantonal structures, to make sure that each reconstructed property frees housing space for further returns.

The third category of multiple occupancy ("iii." above) will become more of an issue as the rate of return under the property law increases. There will be a growing need for systems to make sure that successful repossession of property does not increase the rate of multiple occupancy. This involves making sure that those who recover their property are immediately obliged to vacate any property they may have acquired illegally or through a temporary permit. The exchange of information and active co-operation between the municipality of origin and the municipality of displacement will be required to effectuate this process.

Institutionally, this represents a serious challenge for BiH, with its dispersed constitutional structure. For the time being, there are no centralised authorities capable of overseeing the process, and no operational horizontal links between municipalities. The PLIP organisations themselves are therefore taking on the responsibility of passing information and arranging co-operation between municipalities.

In addition, according to Entity legislation, displaced persons will lose their status and entitlement to temporary accommodation if they have the possibility of returning in safety and dignity to their former place of residence. The status of all displaced persons in BiH will be reviewed on the basis of a UNHCR sponsored a re-registration exercise that started on 25 July 2000. The PLIP will benefit from the information resulting from this re-registration by identifying inter-entity multiple occupancy.

Each of these systems is designed with a view to creating a cycle of returns. Each time a property claim is successful, or a destroyed house is reconstructed, it should also lead to secondary returns. The more space is created, the more the process will gather momentum. If the systems can be made to function efficiently, this will be the best way of implementing the law without creating humanitarian problems.

## 2. Housing reconstruction

In addition to the major international efforts for reconstruction, closer relations between donors and the responsible governmental bodies have been useful, helping them to develop transparent and responsible procedures. There is already evidence that some of the wealthier municipalities are beginning to channel funds from local budgets into small and precisely targeted repair works. This is a sign of ownership, and suggests that international donors may be able to maximise the return on their investments by helping to encourage these efforts and build local capacity.

## 3. Property market development

The CRPC and OHR have each conducted independent studies on the future of the real estate market in Bosnia and Herzegovina. At present, private property is being bought and sold throughout the country. However, the property market lacks safeguards to protect consumers, such as a clear legal framework, a system of licensing for professional real estate agents, and market information mechanisms. In the absence of such safeguards, there are risks that displaced persons will be exploited by unscrupulous middlemen, or pressured into taking decisions about their property without full knowledge of the situation.

As the demographics of the country settle over the coming years, influenced by economic as well as social factors, the volume of property transactions will remain high. One of the objectives of the PLIP is to ensure that those who choose not to return have an opportunity to sell or rent it under fair circumstances set out by law.

A number of initiatives will be necessary in the coming period. First, the system of property registration is an urgent need of repair and modernisation. CRPC has made a number of recommendations for how the property book and cadaster systems can be modernised to meet the needs of a private market. This will clarify and

strengthen legal property title, essential to economic development. Improving the registration system will require both legislative reform and considerable technical assistance and international investment. Because this is necessarily a long-term project, it is important that work begin as soon as possible. A priority should therefore be to identify the international agencies that will drive this process forward.

Second, the process of privatisation of socially owned apartments must be completed successfully in both entities, with close supervision from the PLIP agencies to ensure that it works in a non-discriminatory fashion. Privatisation will free up a large section of the market. However, privatisation must be accompanied by the development of housing policy. In neither entity has the government have so far looked beyond the population displacement dimension to consider the economics of the housing sector. It is unclear how housing stocks are to be maintained in the post-privatisation environment, and whether BiH is to retain some form of social housing sector for low-income families. Development of housing policy, and the accompanying legislative reform, should be a priority in the coming period. The role of PLIP in this process should be to ensure that these vital reforms are carried out in a manner consonant with the goals of Annex 7.

## V. PLIP managerial structures

### 1. The PLIP Cell

The PLIP Cell, comprised of experienced personnel from OHR, OSCE, UNHCR, UNMIBH and CRPC, meets once a week, and is responsible for the day to day management of the PLIP as well as the following duties:

1. Providing clear overall operational policy direction, including policy guidelines and standardised procedures;
2. Analysing and acting upon information collected from the field concerning the property claims process;
3. Reporting to the respective organisations to ensure that they are informed of progress and areas of concern;
4. Recommending courses of action for Principals to intervene to resolve problems;
5. Co-ordinating intervention strategies.
6. Providing co-ordination, oversight and expert recommendations regarding legislative efforts pertaining to Annex 7.

### 2. The Secretariat

The PLIP Cell is supported by a Secretariat, run by one long-term employee. This ensures continuity and the provision of a corporate memory for the PLIP operation. The Secretariat is responsible for preparing meetings through liaison with the field and the respective member organisations, and the production of an agenda for each meeting. The Secretariat produces minutes of decisions made in the PLIP cell meetings, which are communicated by the respective organisations to their field structures. This represents the Secretariat's essential function: ensuring an effective and fruitful operational relationship between the field and the PLIP Cell.

### 3. The Focal Point Scheme (FoPs)

The Focal Point Scheme (FoP) is the field-level infrastructure of the PLIP organisation, covering every municipality in the country. The FoPs consist of personnel from OSCE and UNHCR and, to a lesser extent, OHR. They are responsible for ensuring that the same practices are exacted from all municipalities throughout the country. In addition to this, the FoPs solicit, check, correct, and transmit statistical data on property law implementation from the housing authorities. The Focal Point Scheme is managed by the PLIP Cell. The key tasks of the FoPs are:

1. Providing complete, consolidated and accurate statistics on a monthly basis (see below);
  2. Keeping records of repossessions and reinstatements, in order to follow up on the consequential creation of double occupancy.
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1. Transmitting data and information to the housing offices;
  2. Acting as the information conduit for cases of multiple occupancy and other necessary information;
  3. Monitoring the conduct and practice of housing office staff;
  4. Recommending, in co-ordination with regional operational structures, courses of action for intervention according to PLIP criteria;
  5. Providing guidance to the housing offices on working practices, and advising where legitimate concerns arise.
  6. Co-operating with the rest of the international field presence to ensure the maximum net impact on the property law implementation process.

For resource planning purposes, it is important that the appropriate human and operational assets are allocated to the FoPs. FoPs must be staffed with responsible individuals. In turn, the PLIP Cell must ensure that FoPs are given full support, and have access to the decision-making process. As mentioned above, the PLIP operation is designed to remain lean and effective. Accordingly, it is essential that the FoPs are able to address issues readily to the Cell, and that the Cell is responsive to demands from the field.

## VI. PLIP managerial tools

### 1. Statistics

Statistics on implementation of the property laws are produced by the local authorities, and checked and delivered to OSCE and UNHCR through the Focal Point Scheme. The statistical team in Sarajevo, comprising members of OSCE, UNHCR and OHR, are responsible for the provision of consolidated statistics to the PLIP Cell. The PLIP Cell

then analyses and clears them for publication and intervention.

## 2. Public information and awareness

In order to ensure that the principles and rationale behind the PLIP are widely understood and absorbed, it is essential to articulate them over the heads of nationalist leaders and straight to the general public. Effective public relations offers a multiplier effect, supporting and consolidating all other aspects of the process.

The repossession of property must not be manipulated by self-interested politicians, or subject to self-defined notions of justice along the lines of: 'If I cannot repossess my apartment, they cannot repossess theirs'. The message of the PLIP is that property rights are individual, not reciprocal. They are neither negotiable, nor subject to ethnic or political considerations. The articulation of these principles provides the PLIP with its most powerful rhetoric, neutralising arguments that promote collective interests over individual rights.

Public service information needs to address the regional or local level, through local radio and TV, printed material or public meetings, and also a national audience. In order to change public attitudes and expectation towards property rights, consistent coverage of all levels is essential. The ongoing "Respect" (*Postovanje*) has exemplified how a successful public information campaign can support the PLIP process.

Because there is such a widespread need among the general public for information about property repossession, it is further recommended that a joint web site be established relating to all issues concerning the PLIP. The site should include statistics, monthly reports, media coverage and any other matters that serve to inform the public of the process. Given the deliberate lack of transparency among municipal authorities, it is important that administrative processes are de-mystified. The web page can also be used as a source of information by other interested parties.

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1. The Office of the High Representative (OHR), United Nations High Commissioner for Refugees (UNHCR), Organisation for Security and Cooperation in Europe (OSCE), United Nations Mission in Bosnia and Herzegovina (UNMIBH) and Commission for Real Property Claims (CRPC) have been the lead organisations in Bosnia and Herzegovina in property and return issues.
  2. Principals are the High Representative, SFOR Commander, OSCE Head of Mission, the UN Special Representative of the Secretary General and UNHCR Chief of Mission.
  3. Over the past year, there has been significant progress in the area of judicial reform. A new Independent Judicial Commission under the auspices of OHR is being established, and in due course will take over responsibility for the implementation of the judicial reform strategy. New legislation has been prepared in both entities establishing domestic selection commissions for judges and prosecutors.