

OHR Supports Commission's Recommendations on Land Allocation

On 15 May, 2002, at a regular session, the BiH Commission for Refugees and Displaced Persons adopted the recommendations of the special working group assembled by the State to propose reforms that will address growing concerns about the process of land allocation in Bosnia and Herzegovina. The working group, co-chaired by the BiH Ministry for Human Rights and Refugees and the OHR, comprises representatives from the UNHCR, the RS and Federation Ministries for Refugees and Displaced Persons, the Federation and RS Ministries for Urbanism, and the RS and Federation Administrations for Geodetic and Property Affairs. The State Commission adopted the working group's recommendations, which will now serve as the guiding principles of the land-allocation reform effort. The recommendations of the State Commission include:

- A call for the responsible ministries to begin modernizing the laws that regulate land allocation, to provide greater transparency in all transfers of State Property – including formerly socially owned land. The goal is to develop a modern process that ensures that disposals of this invaluable public asset are in the best public interest, non-discriminatory and conducive to sensible land development.
- The recommendations also call for legislation that limits the conditions under which State Property can be disposed of without compensation or without public tender, and recommends restricting material support from governments only to those allocations that comply fully with the relevant laws and the High Representative's Land Decision of 27 April 2000.
- Recognizing the urgency with which the State Framework Law on Restitution must be adopted, the State Commission also recommends the exclusion of nationalized land that will be subject to restitution, from all future allocations until restitution laws are in place. In this respect, it is important that the two Entities apply the same principles when allocating nationalized property, recognizing the additional complication such allocations add to the restitution process.
- The adopted recommendations also acknowledge the need to develop realistic guidelines on how to deal with all past illegal allocations and the objects constructed on illegally allocated land. Further examination of past allocations is required, in addition to guidelines for domestic sanctions for illegal allocations and criteria under which some illegal allocations can be legalized. This will be a major challenge as the eventual reforms must balance the interests of those individuals whose rights were violated in the allocation process and the interests of those individuals who, in good faith, personally invested their time, money and effort in an attempt to build a new life.

OHR views these recommendations as a significant initial step towards reforming the land-allocation process, but many challenges remain. For example, the BiH Presidency, the Council of Ministers and the Entity and Cantonal governments will now be asked to consider whether the recommended reforms should be harmonized under amendments to the existing Entity Law or whether it would be better to regulate this issue under a single State Law.

The State Refugee Commission, through its working group, must urgently complete its examination of past illegal allocations for the purpose of developing realistic mechanisms for domestic sanctions and conditions under which legalization will be possible. The reforms that result from this process must provide appropriate mechanisms with which to process individual claims of violations, and a clear framework for providing adequate remedies when alleged violations are verified. The reforms must protect all individuals involved and the public interest in conserving public resources.

OHR fully supports the recommendations of the State Commission and calls upon the State and Entity authorities to begin, as a matter of urgency, the next phase of this reform effort.

Finally, OHR urges the relevant authorities to take all necessary steps to ensure that proposed allocations are in full compliance with relevant laws and the HR's Land Decision.