PERIODIC REPORT [1]

April- June 2002

1. Executive Summary

The HPD Contingency Plan introduced in November 2001 as a result of dwindling resources continued to be implemented with the focus on claims intake and implementation of existing Commission decisions in accordance with that plan.

Approximately 5000 claims were taken with the opening of satellite offices throughout Serbia proper, offices in Montenegro and preparations for offices in Macedonia. In addition, a system whereby claimants from outside the Former Yugoslavia can now file claims was established.

Implementation of resolved claims also saw an increase with the recruitment of an Enforcement Officer devoted solely to evictions and increased cooperation with KFOR and UNMIK Police.

Pursuant to its administration mandate, HPD facilitated returns in the Vushtrri /Vucitrn area by allocating temporary humanitarian permits to returning Askali families and made available flats in Pristina for minority Assembly Members who require secure housing while the Assembly is in session.

The implementation of the contingency plan resulted as planned, in a reduction in claims processing. As reported earlier, three of six international legal staff were terminated, and due to job insecurity related to continued lack of funding, a fourth has recently resigned forcing the HPD to recruit a replacement. In spite of this, during the June Commission session, valuable new precedents were set.

A donors conference was jointly held by UNMIK and UNHABITAT in Brussels on 21 June with the majority of donors recognizing the importance of the mandate of the HPD and the need to provide the HPD with long term core funding.

UNMIK and UNHABITAT signed an MOU, which foresees the administrative independence of the HPD with UNMIK, UN-HABITAT and the donor community constituting an Advisory Board.

2. Activities during the Reporting Period [2]

Claim Intake Operations
There was a significant increase in claim intake with 5,000 claims collected mostly outside Kosovo, in Serbia proper and Montenegro. Claims collected in Kosovo for the reporting period remained largely unchanged (150 claims). The total number of claims collected by the end of the quarter reached 17,785, Category A 3.9%, Category B 1.7%, Category C 94.4%.

Three offices were operational in Serbia proper during this period; Belgrade, Nis, and Kraljevo, with satellite offices in Smederavo, Novi Sad, and Kragujevac. The HPD opened an office in Podgorica, Montenegro with satellite offices in Sutomore and Berane. The Vranje satellite office was closed on the 31st of May after 370 claims were collected.

Belgrade

The Belgrade office, which has been operating since December 2001, became fully operational during the reporting period, focusing on claims intake and verification of documents for the claims process. With the arrival of office equipment and four vehicles, recruitment and training of local staff completed, this office was able to collect over 1,500 claims for this period. The Belgrade office is the main liaison and coordination office between the HPD and other international, local, and governmental institutions in FRY. The office is currently developing the capacity for verification of documents provided by claimants which are available in Belgrade.

During the reporting period, claims collection has mainly taken place in the general office although all collective centres in Belgrade were visited. A list of collective centers outside Belgrade has been prepared for mobile operations in the next reporting period.

A satellite office in Novi Sad was opened with a mobile team from Belgrade being deployed there on a daily basis. Six hundred and forty eight claimants came to the office to file claims following a media campaign, meetings with the local Red Cross, and surrounding municipalities.

Towards the end of the period the number of claims made at the Novi Sad satellite office began to diminish and the mobile team was relocated to Subotica. Another satellite office was opened in Smederevo, where the UNHCR has estimated the number of IDP's to be approximately 13,000 persons. After a media campaign was conducted, the number of claimants reporting to the office became steady. There are plans to expand activities to Smederavska Palanka, and Velika Plana where the total number of IDP’s is reported to be 4,000 persons.

Kraljevo

The Kraljevo office was opened on the 10th of December 2001, and collected over 1,600 claims during the reporting period, bringing the total number of claims collected to 4,045.

The satellite office which opened February 25, 2002, in Kragujevac is continuing with claims collection and mobile operations are ongoing. During the reporting period, the mobile team went to Trstenik, Vrnjacka Banja, Aleksandrovac, Topola, Raca, Batocina, Gornji Milanovac, Pozega, Uzice, Ivanica, and almost all collective centers in the area.

Nis

The Nis office opened in December 2001 and has collected a total of 2,047 claims since opening, of which over 1,200 were collected this quarter. This increase can be attributed to the allocation of two vehicles which enabled mobile operations in the area to collective centers and neighboring municipalities.
Montenegro

The HPD office in Montenegro opened in late May and has produced over 400 claims since opening. Satellite offices in Sutomore and Berane opened in the end of June and mobile teams targeting collective centers and camps have started. The operation is expected to be completed by the end of November. A media campaign was started and will continue through the operation. The UNHCR reports that there are over 29,000 IDP’s from Kosovo in Montenegro, which leads to an estimate of 7,500 potential claimants.

Macedonia

Preparations are under way to open the office in Skopje, office space has been located and staff has been identified. The office is awaiting an agreement with UNMIK to begin operations.

Outside the former Yugoslavia

Pursuant to Regulation 2001/60, claims cannot be mailed and for those persons not able to file a claim in person, they must appoint a personal representative to do so on their behalf. This was decided largely due to the experience in Bosnia where mailing was permitted but resulted in largely incomplete claim forms and a lack of documentation. To ensure persons outside the former Yugoslavia are able to file claims, the Norwegian Refugee Council has established an office whereby claimants can ask the NRC legal officers to act as their personal representative and file claims on their behalf with the HPD. The caseload of the NRC is expected to increase once the information campaign outside of Europe begins.

Case processing

Implementation of the contingency plan has curtailed the claims processing function of HPD hardest. As mentioned in the previous report 50% of the legal team was terminated in February and resources allocated to claims intake. Threatened job security has provoked the early resignation of one more of the legal team, and morale is low. Consequently the number of claims prepared for the Commission session remained at the same low level with only 140 claims decided by the Commission at its Twelfth Session during the first week of June, 2002. However, precedents were set on contested Category C claims, including one dealing with “caretaker agreements” – i.e. current occupants who claim they were given the apartment or house while the claimant alleges they merely asked the current occupant to “take care of it” in their absence.

Notification and verification

With the arrival of additional vehicles, the HPD began decentralized verification of claims conducted from the regional offices within Kosovo and Belgrade this quarter. This in combination with a directive from the HQ for each of the four regional offices to complete a minimum of 100 claims verified per week has led to a dramatic increase in verifications of claims. The HPD expects to decentralise the “reply interview” function in the next quarter. These initiatives will leave the legal officers at HQ to focus on claims processing.

The HPD has received recommendations on the processing of claims from a mass claims processing expert. The recommendations are being reviewed and are expected to be implemented in the near future.
Administration of abandoned properties

Under UNMIK Regulations 1999/23 and 2000/60 the HPD is authorized to administer vacant and abandoned properties and allocate these properties for humanitarian purposes. Despite the Contingency Plan, whereby the HPD shifted its focus to claim intake operations, the Directorate continued the administration of vacant and abandoned properties, although at a much reduced rate.

However, significant operations that bear noting include Velika Reka and the University of Pristina residential flats. In Velika Reka 23 properties that were illegally occupied by persons who benefited in reconstruction programmes by the international community were evicted. This involved a joint operation with KFOR, CIVPOL, and the HPD. All properties were allocated the same day for persons in humanitarian housing needs by the HPD.

In April HPD facilitated the returns process in Vushtrri/Vucitrn municipality, when it executed 14 evictions of illegal occupants in the area. The occupants of these properties were beneficiaries of reconstruction programmes and their “pre-conflict” homes had already been reconstructed by the international community. The vacated properties were allocated to returning Askali families from the area. HPD Mitrovica is preparing 42 evictions of the same nature to facilitate the returns process in the area in the next reporting period.

In Pristina, 16 flats were made available for Assembly Members and others in need of secured housing by placing under the HPD administration the apartments located at the University to which KFOR provides some security. The HPD has invited the Assembly Members to apply for temporary permits so that those apartments may be allocated to them. Also in Pristina, the Regional Office has enlisted the aid of the Municipality which is providing human resources to investigate possible abandoned houses for future administration by the HPD. This initiative will be duplicated in other municipalities where appropriate, and represents long awaited progress in HPD’s efforts to delegate certain responsibilities to municipalities in Kosovo.

The number of inventory cases[3] initiated exceeded 700 during the reporting period with a total number of cases reaching 3,409 out of which 1,604 housing units have been put under the administration of the HPD. A total of 518 families have been allocated and temporary humanitarian residence permits have been issued to these persons for humanitarian purposes.

Implementation

An enforcement officer was recruited for Pristina region thereby increasing the number of evictions implemented; a total of 143 evictions were executed. This brings the total number of evictions to 226, out of which 55 are as a result of HPCC decisions and 148 of HPD decisions. The level of cooperation with Police and KFOR improved significantly this quarter and has reduced the amount of time necessary to enforce evictions.

A training session for all local staff involved in evictions was conducted by UN security trainers and the HPD Security Officer. It included case studies, stress management, and conflict intervention of the participants as well as threat handling.

Public relations

An information campaign has been conducted in Serbia proper and Montenegro inviting IDP’s to file their claims with the HPD. Press conferences were held in Belgrade, Smederevo, Novi Sad, and Podgorica. Radio jingles and TV spots were broadcasted, and newspaper announcements were disseminated in both Serbia and Montenegro. A number of interviews and talk shows were
conducted in Kosovo and Serbia proper to explain to potential claimants the service offered by the HPD and to encourage IDP’s to file claims before the deadline.

A TV spot is prepared to be broadcasted by RTK to reach the Diasporas outside of former Yugoslavia who will also receive information on the HPD through a direct mailing in the next quarter.

A deadline awareness campaign is planned to start two months prior to December 1st, 2002.

Institutional Issues

UN-Habitat and UNMIK signed an MOU at the end of the reporting period, giving the HPD the administrative capacity to carry out its basic operations and administrative functions independently. UNMIK and UN-HABITAT and a donor representative will provide advice and general oversight through an Advisory Board to be established. Implementation of the provisions of the agreement is scheduled for September 2002.

Challenges and constraints

The HPD continues to experience a serious lack of funding and consequently, a lack of staff.[4] The organization has the technical knowledge, and procedures needed to complete the mandate within a reasonable time. However, severe personnel and equipment shortages have forced the office to run with a skeletal staff core that is struggling to keep the institution functioning. Many international officers have been tasked with the duties of two, sometimes three persons[5], which has resulted in reduced production, job insecurity and staff turnovers.

A donor’s conference was held in Brussels on 21 June 2002 where most of the main donors in Kosovo met with UNMIK and UNHABITAT to discuss the way forward. The importance of the mandate of the HPD was agreed at that meeting as was the need for core, sustainable funding for the HPD to efficiently carry out that mandate.

Funding will enable the HPD to develop the existing claims processing system into one that allows the expedited resolution of claims. Furthermore, UNMIK regulations 1999/23, and 2000/60, allow the HPD to collect rent, and a rental scheme has been drafted but now requires the personnel to implement the program. This would provide an alternative to IDPs who are considering selling their properties and another tool in the mediation of disputes.

3. Conclusion

The HPD has now fully implemented its Contingency Plan with a focus on claims intake and implementation of decisions, both of which saw considerable increase in the reporting period. These successes came at a cost to the rate of Claims Processing and the Administration of Properties, both of which suffered a reduction in activity. The HPD urgently requires 2.4 million for the remainder of 2002, to become fully operational, and commitments, which provide sustained core funding for 2003 and beyond.

However, with new institutional arrangements being put in place, donor acknowledgement of the importance of the HPD mandate, and a new level of cooperation amongst the donors, international agencies and the HPD additional funding is foreseen, ensuring this element of the returns process is successful.
Mandate of the HPD

The ongoing conflict in Kosovo caused a profound crisis within the housing sector. In addition to the physical destruction of homes and the unlawful occupation of abandoned houses and apartments, housing rights violations that took place throughout the nineties continue to create uncertainty about ownership rights.

In 1990, the Serbian authorities restricted self-management rights in Kosovo and adopted so-called ‘provisional measures’. This led to a general strike, which in turn led to the dismissal of many Kosovo Albanians. Some of them lost their apartments that had been allocated to them by their employers. Many of these apartments were reallocated to Serbian employees and were subsequently privatized.

In 1991, the Serbian Parliament legislated to restrict the sale of property between ethnic groups in order to stem the migration of Serbian population away from Kosovo. However, sales continued to take place through informal or unregistered contracts. Such contracts were not notarised by a court official, as required by the Yugoslav law, and therefore could not be registered in the cadastre records. Those transactions still have not been registered.

The recent conflict caused a set of different problems, often involving forced evictions and illegal occupations. One hundred thousand housing units are estimated to have been destroyed during the conflict, representing almost half of the housing stock. UNHCR has registered 199,543 IDPs in Serbia proper and an additional 32,241 in Montenegro. As the elections registration campaign revealed, many of 45,000 Serbs remaining in Kosovo have been internally displaced into Serb-controlled areas. Among the other minority communities in Kosovo (Bosniaks, Roma, Turks, Goranis), which totaled approximately 120,000 individuals before the conflict, the estimates are that as many as 40,000 may have left Kosovo as refugees and IDPs. Of the Kosovar Albanian community, up to 100,000 individuals who have left Kosovo over the past ten years may have attempted to return.

The number of individuals housed in internationally managed community shelters or live with their relatives and friends is limited, with most of the displaced population illegally occupying abandoned property. A proportion of these persons have already benefited from the reconstruction program, but due to various reasons are not willing to move out of the houses and apartments they have occupied since 1999.
Mandate and responsibilities

The Housing and Property Directorate (HPD) and Housing and Property Claims Commission (HPCC), were established by UNMIK Regulation 1999/23 on 15 November 1999. The Directorate and Commission were accepted as an interim measure and charged with responsibility to restore property rights, resolve long-standing claims and endorse the rule of law in Kosovo. Both institutions have broadly defined functions, which will progressively be handed over to local authorities, as their capacity develops.

Managed by the UN-HABITAT under the auspices of the United Nations Interim Administration Mission in Kosovo, the HPD/HPCC became a part of a larger strategy designed to restore housing and property rights in Kosovo.

Three categories of claims

The HPD/HPCC is an internationally supervised body, with exclusive jurisdiction to receive and settle three specific categories of claims involving residential property disputes in Kosovo. These are:

(a) claims by individuals who lost property as a result of discriminatory laws after 23 March 1989 (“Category A”);

(b) claims by individuals who entered into informal transactions on the basis of free will of the parties between 23 March, 1989 and 10 October, 1999 (“Category B”);

(c) claims by refugees and displaced persons who have lost possession of their property after 24 March, 1999 as a result of the recent conflict (“Category C”).

The HPD has four permanent offices inside Kosovo in Gnjilane, Pec, Mitrovica and Pristina and a Headquarters. It is staffed with 20 internationals and 150 local staff.