

Resolving a protracted refugee situation through a regional process

Olga Mitrovic

Protracted refugee situations are usually a result of political deadlock, and their resolution demands the involvement of a range of actors and a multifaceted approach focused on leveraging political will. Despite its shortcomings, the Regional Process in the Western Balkans offers a number of lessons for resolving such situations.

In 2011, Bosnia and Herzegovina (BiH), Croatia, Montenegro and Serbia signed the Joint Declaration on Ending Displacement and Ensuring Durable Solutions for Vulnerable Refugees and Internally Displaced Persons.¹ A year later a donor fund was established to implement a multi-year Regional Housing Programme (RHP)

to provide durable solutions to the 74,000 most vulnerable displaced persons.

This was the end result of a Regional Process to find durable solutions that was developed with strong support from the UN High Commissioner for Refugees (UNHCR), the Organization for Security and Co-operation in Europe (OSCE), the

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European Union (EU) and the United States. Despite the slow and imperfect progress of the Regional Process, and despite the specifics of the EU that cannot be replicated elsewhere, the fact that countries have addressed a political deadlock that existed for sixteen years can provide valuable insights for future policy responses to protracted refugee situations in general.

Return policies in post-war BiH and Croatia

In BiH, refugee return was incorporated into the peace agreement. The resolute commitment of the international community to enforce Annex 7 of the Dayton Peace Agreement, with the idea of reversing the effects of ethnic cleansing, facilitated the return of more than one million people, of whom almost half were 'minority returns' (returnees who would ethnically now be in a minority in their place of origin/return). Implementation of the Property Law Implementation Plan led to property restitution in BiH on the unprecedented scale of 99% (although it is significant that this did not in fact result in sustained mass return).

Conversely, in Croatia, where there was significantly less pressure from the international community, the government hindered minority return in a variety of ways, blocking the possibility of unlocking the protracted refugee situation for years. Impediments to return included discrimination, ethnically motivated violence and inadequate access to housing and employment. The largest issue affecting return was the government's decision to deprive *in absentia* 40,000 former residents of state-owned apartments (referred to as 'OTR' – occupancy and tenancy right – holders) of their property rights.

In 1996, Serbia hosted the largest refugee population in Europe: 617,700 people from BiH and Croatia. By 2008, despite mass local integration and granting of citizenship, Serbia still hosted 97,000 refugees. For years bilateral relations between Serbia and Croatia were plagued with refugee-related problems whereas BiH developed positive bilateral cooperation with both Croatia and Serbia. Yet there was a constant

awareness that the problem could only be resolved fully at a regional level.

Regional process

An important breakthrough came with the 2005 Sarajevo Declaration when Croatia, BiH, Serbia and Montenegro agreed to cooperate in identifying and removing obstacles to durable solutions by developing national road maps that would later be merged into a joint programme, with the OSCE, UNHCR and the EU assisting them in this endeavour. Though some moderate progress was achieved, the process soon reached a standstill due to Croatia's refusal to further discuss issues of social security, pensions and OTR. The Sarajevo Declaration lacked the necessary political backing, and the international stakeholders at the time had no consolidated approach or clear vision as to how to overcome this impasse.

The opportunity to reinvigorate efforts came in December 2008 at the Second High Commissioner for Refugees' Dialogue on Protection Challenges when Serbia was listed under the High Commissioner's Special Initiative on Protracted Situations as one of the five countries in the world with a protracted refugee situation that demanded urgent attention. The Executive Committee of the High Commissioner's Programme promoted a two-pronged approach: provide incentives for the countries in question to ensure their commitment to finding comprehensive solutions, and bring on board members of the international community with strong leverage capacity. Delegations from Serbia and Croatia confirmed their commitment to resolve the refugee problem and the Serbian government moved to re-launch the Sarajevo Process.

International efforts resulted in the 2010 Belgrade Conference at which the four countries' Ministers of Foreign Affairs adopted a communiqué reaffirming their commitment to resolving the region's protracted displacement situation; in this they highlighted the priority for assistance to be given to vulnerable persons, primarily those in collective centres, and stated that opting for return or for local integration would

remain the individual choice of each refugee. UNHCR, the EU and the OSCE issued a Joint Statement, extending their full support to the Regional Process, while frequent meetings between Croatia's newly elected President Josipović and his Serbian counterpart Tadić allowed the refugee problem to become prominent on the political agenda. These presidents, both considered moderate pro-European leaders, expressed their readiness to tackle sensitive issues – such as border demarcation, missing persons and mutual lawsuits for genocide – which had created an impasse with their predecessors.

The 2010 Belgrade Conference marked the start of a two-year period of intensive negotiations and work. Small working groups were established for each area of concern, their size and frequent meetings being considered the best mechanism for building trust among participants. The joint approach of the international community was an invaluable feature of the Regional Process. UNHCR and the OSCE provided continuous assistance and technical expertise to the groups while the EU instilled commitment to regional cooperation. The HC's appointment of a Personal Envoy to lead the process, and the transparency introduced in negotiations and video conferences, ensured that the international community spoke 'with one voice' to the countries.

Finally, an agreement on the Regional Housing Programme was followed by a Ministerial Declaration and later a donor conference where €261 million were pledged to finance the first phase.

Preconditions for success

What was possible in Belgrade in 2010 that was not possible in Sarajevo in 2005? The answer lies in three factors:

- a pragmatic approach by all stakeholders to addressing the needs of the most vulnerable and not repeating the failure from 2005
- the political will of Serbia and Croatia
- the strong leverage of the EU.

In other words, the approach to refugee issues was transformed because, within the EU



Bosnian refugees return from Kuplensko camp in Croatia to Velika Kladuša in B

enlargement context, the political leadership of Serbia and Croatia could not afford to waste this chance. The EU and UNHCR repeatedly conveyed that this was the last push to collectively address the remaining concerns, and the High Commissioner's Special Initiative in 2008 brought the international spotlight back on the Balkans. In 2010, Croatia still did not want to offer compensation to OTR holders but because of its EU accession hopes it had to improve its housing provision programmes and commit to the Regional Process. Serbia accepted the needs-based approach that was offered, while still insisting that the question of refugees' tenancy rights should continue to be pursued. When the compromise on OTR was reached, other problems could be addressed: pensions, validation of documents, and restoration of destroyed and damaged property.

The final key factor was the EU accession policy. Once displacement was incorporated into the wider EU enlargement package and the Regional Process came to be evaluated as part of the countries' overall accession progress, the EU became a game-changer and no country could afford to jeopardise the regional cooperation:

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BiH, December 1995.

*“We recognise that the successful resolution of these issues is vital to the further enhancement of positive and productive relations among our countries and citizens and **underpinning of our respective bids to join the EU.**” 2011 Joint Declaration [emphasis added]*

Conclusion

Progress on numerous issues has slowed down since the donor conference. The delay in implementing the RHP – with construction works only starting in July 2014, two years after the donor conference – has met with much criticism. Once Croatia joined the EU, state funding for reconstruction and housing programmes was cut drastically, and there is a stalemate also in the areas of pensions and return of agricultural property. Furthermore, declaring that the circumstances that led to displacement in Croatia no longer exist, in 2014 UNHCR recommended the cessation of refugee status for 49,506 refugees; although the decision on the cessation of status remains with host countries, the recommendation potentially jeopardises momentum.

Despite all its shortcomings, however, the achievements of the Regional Process cannot be ignored. The Regional Process proved to be an effective mechanism for pursuing

durable solutions in many respects. It was the first time that the Special Initiative was launched to prioritise resolving a particular PRS. It was the first partnership of UNHCR and the EU in this field. And it was the first, and probably the only time, that resolution of a protracted refugee situation coincided with the eve of accession to the EU of one of its parties. This conjunction of favourable factors may be impossible to replicate elsewhere but many instruments of the Regional Process can be replicated in other settings.

The first lesson is for UNHCR to act as a catalyst for mobilising international support and getting the right actors on board. In the former Yugoslavia the OSCE was the obvious choice due to their mandate and expertise. In a crisis where self-reliance of refugees is the primary challenge, UNDP or IOM would be more suitable partners. However, more than choosing agencies with appropriate mandates, a strong push from a political actor is needed.

While the EU’s elaborate conditionality mechanism cannot be replicated, other regional actors – such as the African Union, ECOWAS or ASEAN – could find economic or political incentives to offer to countries affected by protracted refugee crises.

The second lesson is for return to be addressed early on and embedded in the rule of law and recognition of rights; if this does not happen, injustice and grievances will remain.

Notwithstanding the deficiencies of the Regional Process, the fact remains that BiH, Croatia, Montenegro and Serbia have secured joint, comprehensive durable solutions to the worst refugee crisis in Europe since the Second World War. To that end, the Regional Process should be recognised for the real tangible solutions it has brought about.

Olga Mitrovic mitrovic.o@gmail.com
Expert for Migration and Development,
IOM Belgrade. www.iom.int

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1. www.osce.org/pc/85049