



## United States Mission to the OSCE

### **Statement on Towards Durable Solutions: Property Restitution and Repossession**

As delivered by Marc Meznar,  
to the Supplemental Human Dimension Meeting on Internally  
Displaced Persons, Session 3  
Vienna, November 5, 2004

Thank you, Mr. Moderator. Property restitution and repossession is a serious and complex issue, and the United States welcomes this opportunity for discussion. For individuals displaced from their property, a durable solution is critical if firm resettlement and reintegration are to successfully and sustainably occur. While there has been progress, much work remains, and areas with IDP populations on their territory must continue efforts to find a just remedy to these multifaceted problems.

The variety of property-related hurdles to resettlement in the OSCE region that individuals must overcome range from outright destruction of property or illegal inhabitation, to loss of ownership documents or title and bureaucratic delays to reestablish possession. This can be complicated by the state-owned property being given to the current occupants and not the actual tenants. Even when returns occur, there are ripple effects, as often other IDPs must vacate properties temporarily occupied without having a solution for their own housing needs. Lack of reconstruction assistance to devastated areas can also impede returns, as much as a lack of information to displaced persons about return initiatives. Considering attempts to retribute or repossess property can reignite lingering ethnic or political tensions, these challenges must be overcome through sustained involvement by governments and the international community.

The OSCE has played an important role in these issues, particularly in the Balkans. Recognizing the linkage between settling property claims and the return of displaced persons, the USG has contributed millions of dollars to the establishment and on-going operation of property claims adjudication bodies in the Balkans, Afghanistan and Iraq. Considering this wealth of experience, the United States would welcome the creation by ODIHR of a compilation of best practices and lessons learned on property return and repossession issues of IDPs and refugees. This would be an invaluable tool in other portions of the OSCE region grappling with these issues or in the aftermath of future conflicts.

Fundamentally, the United States believes that no one, internally displaced or otherwise, should be arbitrarily deprived of their property and possessions. We therefore urge governments to assist internally displaced persons on their territory with the return of their property or occupancy/tenancy rights. If recovery is not possible, the United States

calls upon these governments to assist IDPs with obtaining appropriate compensation or another form of fair reparation.

In this regard, the United States welcomed Turkey's adoption of the Law on Compensation of Losses Resulting from Terrorist Acts, which allows IDPs to receive compensation for material losses caused by the PKK conflict since the beginning of emergency rule in 1987. While we find the criteria for accepting applications potentially too restrictive considering the scope of the law, we welcome the ability to seek judicial recourse.

Lack of documentation demonstrating legal title to property can also hamper returns. Often these documents were destroyed in the same conflicts that forced IDPs to abandon their homes in the first place. Authorities should work with IDPs to reissue these documents and avoid hard deadlines for reclaiming property, as artificial cutoff dates can unjustly terminate claims because of a lack of documentation or discriminatory bureaucratic delays. In addition, respective authorities should seek the contribution of displaced persons and NGOs on restitution initiatives and strive to fully inform the displaced about these programs and procedures.

When possession is restored, the return process can be retarded when property is uninhabitable due to damage, looting and/or disuse and when the infrastructure of the region is destroyed. Assistance is therefore needed to aid returning IDPs with rebuilding their property or businesses, as well as with repairing damaged infrastructure. Government assistance or international aid should be distributed according to need and not based on membership in a particular political, ethnic or religious group. Croatia has started to become a positive example in assisting returning refugees and IDPs. While much work remains there, in particular to providing a welcoming environment for minority returnees, the OSCE Mission in Croatia reported that Croatian Serbs now constitute the majority of beneficiaries receiving reconstruction assistance from the government.

In Kosovo, lack of security prevents many IDPs from returning to their homes, even if their ownership rights have been restored. The Provisional Institutions of Self-Government (PISG) have made notable progress in rebuilding many of the houses damaged or destroyed during the March violence, but more remains to be done to ensure all people, regardless of ethnicity, have the right to return to their homes in safety and in dignity. The fair enforcement of property rights is essential to encourage returns and foster economic development, and will be a key indicator of Kosovo's progress toward developing a multi-ethnic society.

The difficult challenge of property restitution and repossession for regions with IDP populations must be addressed thoroughly and equitably. Several OSCE participating States have taken commendable steps in insuring IDPs are either able to reclaim property or be duly compensated. The United States calls upon all governments with IDP populations to expand their efforts to remedy property claims, regardless of whether the property was destroyed or confiscated by others.