

**ECMI CIVIL SOCIETY PROJECT  
IN BOSNIA AND HERZEGOVINA:  
THE ROLE OF ANNEX 8 IN BRIDGING  
COMMUNITIES, PROMOTING RECONCILIATION,  
AND DEVELOPING A UNIQUE IDENTITY  
IN BOSNIA AND HERZEGOVINA**

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## **I. BACKGROUND TO THE PROJECT**

The ECMI Civil Society Project in Bosnia and Herzegovina aims to assist local actors in assuming responsibility for democratic governance in Bosnia and Herzegovina. They are being involved, with the assistance of international experts, in a process of reviewing existing policy on practical issues of concern to all communities in Bosnia and Herzegovina and of developing specific policy recommendations to further governance and civil society development within the framework set out by the Dayton Peace Accords (DPA).

The project targets civil society representatives, policy and decision makers in Bosnia and Herzegovina at all levels of governance, and researchers from all national communities. Representatives from the international implementing agencies and donors are invited to attend as observers. To launch the series of Workshops, a constitutive meeting was held in June 2001 to identify broad themes that could provide the basis for more specific and focused work as the project progresses. A follow-on event on media issues was held in November of that year. This meeting therefore represents the third in the ongoing series of meetings, addressing the important area of the implementation of Annex 8 of the Dayton Accords.

# **The Role of Annex 8 in Bridging Communities, Promoting Reconciliation, and Developing a Unique Identity in Bosnia and Herzegovina**

## **II. INTRODUCTION**

On Saturday, 15 December 2001, over 30 people gathered in Sarajevo to discuss the policy development and challenges of implementation related to Annex 8 of the General Framework Agreement for Peace (GFAP). The participants came from a broad range of relevant backgrounds, including the museum, culture, preservation, history, archaeology, architecture, civil society, and academic, governmental, and diplomatic fields. While full representation of the relevant government officials from the Federation of BiH (FbiH), Republika Srpska (RS), and Brcko District was expected, on the day before the workshop the representatives from the RS cancelled, and the representatives from Brcko failed to appear the day of the meeting.

The goal of the meeting was to identify Annex 8 policy and implementation challenges and opportunities, and to discuss the role of Annex 8 in the peace implementation process. Annex 8 (Agreement on Commission to Preserve National Monuments) is relevant to several aspects of a democratic society, including rule of law development and respect, power-sharing mechanisms, human rights protection, fair, transparent and equitable access to public services, conflict management, refugee return, and development of effective relations between minority and majority populations in a diverse, multiethnic society. As the constitutive workshop on the topic, the participants used the forum as a starting point for identification of further work and research efforts.

The workshop consisted of four main themes: first, a review of the policy development concerning Annex 5 to date was discussed, with an emphasis on recent efforts to draft and adopt harmonized legislation in the FBiH, the RS, and Brcko. Second, participants discussed their own experience with Annex 8 and cultural heritage protection in general in BiH. Third, the group generated specific recommendations and suggestions for effective implementation of Annex 8 policy. Fourth, the participants agreed that additional work must be done by the group to

ensure that implementation is monitored throughout 2002, and to continually study the impact of the Annex on BiH's sustainable development.

All participants agreed that this is a necessary and timely topic for study and review. Adoption of relevant policies in late 2001/early 2002 will create an environment in which implementation can begin. The extent to which the Annex is effectively implemented in communities throughout BiH, not the simple adoption of legislation, will determine the role that Annex 8 will ultimately play in the peace process in BiH.

### **III. SUMMARY OF PROCEEDINGS**

The workshop was held at the Law Centre in Sarajevo, on Saturday, 15 December 2001, from 9 a.m. to 3 p.m.. A pre-workshop briefing paper had been distributed to all participants prior to the workshop. A brief introduction to ECMI, the ECMI project in BiH, and the Annex 8 research started the session.

#### *A. Presentations from OHR*

Senior Deputy High Representative Ambassador Matthias Sonn from the Office of the High Representative (OHR) opened the workshop. Ambassador Sonn noted that Annex 8 is of critical importance to peace implementation in BiH, as the issue of national monuments has too often been used to obstruct return and community redevelopment. Instead, effective Annex 8 implementation can show that all peoples are welcome in BiH's communities. He noted that the issue has been manipulated by all parties, for their own unproductive ends, hard-liners have sought to deny protection to minority communities through use of legal devices, while overzealous minority community leaders have used Annex 8 to push the peace process and make their own political statements, often by making dubious claims.

Until recently, the international community (IC) addressed Annex 8 on a case by case basis, but it became clear that a uniform and strengthened approach would be necessary. Therefore, OHR worked to develop a two-track approach to the issue.

Track one involves reconstituting the Commission, which will in turn begin the petition review and granting process. (During the petition process, all items noted on the provisional list will have interim protection.) Track two involves development of harmonized legislation, to be in place early in 2002.

Ambassador Sonn ended his opening statements by noting that he hoped that this workshop forum will be the last looking at the issue as a “problem”, so that progress can begin to be made in a productive environment.

James McNaught, Political Advisor at the OHR, was the second speaker. He noted that he and Christopher Harland provide the political and legal advice concerning Annex 8, respectively, in order to ensure that all relevant rule of law issues are addressed. He noted that until recently, Annex 8 has been the “red-headed stepchild” of GFAP, because there had never been a focus on the critical nature of the Annex and its role in peace implementation in general. In reality, Annex 8 is all about peace implementation, and about people feeling comfortable and integrated into their communities.

Before the war, during the war, and in the post-war period, the issue of cultural heritage has been legislated by a jumble of un-harmonized and often contradictory laws, many of which approached the issue of Annex 8 differently, leaving fertile ground for “mischief makers”. Mr McNaught noted that a draft Annex 8 state level law did not make it past the Council of Ministers, so when the issue resurfaced, the decision was made from a policy perspective to localize the issue at the level of the entities. There have been numerous confrontations in both entities regarding monuments and rehabilitation, and the situation has become intolerable. However, OHR recognized that it would be virtually impossible to individually protect the 776 monuments currently on the provisional list. Therefore a global solution is necessary. Upon adoption of the legislation, implementation should be a purely procedural and technical issue, following accepted and standardized mechanisms and procedures. Unfortunately, the issue is too often politicized and used as a tool by hard-liners who have no interest in culture or heritage, but use it as a means toward their own personal gains.



Christopher Harland, the Head of Human Rights/Rule of Law at OHR, was the third OHR representative to speak. He noted the important role of Article 5 of Annex 8, and of the goal of rehabilitation. He reminded the group that the provisional list is not final; it is provisional, and part of an ongoing process in which monuments could be added or removed.

To conclude the OHR presentation, Ambassador Sonn again reviewed the Annex 8 mandate. He noted that Annex 8 is at its core about the right of owners of sites and monuments destroyed in the recent war, and that it is the duty of the IC and the government to protect and implement the rights of these owners to their property.

He noted that the solution being developed by the OHR, in conjunction with government officials, divides the process into two levels of governance. The state level, through the Annex 8 Commission, designates and defines what is and what is not a national monument. The entity level governments are then entrusted with implementing procedures to protect and rehabilitate these designated monuments.

As part of the GFAP, there is no choice for the IC or the BiH government regarding legislation and implementation of this issue. They simply must address the issue. The legislative procedures regarding this issue must be the same in both entities, and must utilize symmetrical procedures, so that every property owner has the same rights without regard to where he is in the country.

#### *Comments/Questions*

Mevlida Serdarevic, the Director of the City Museum in Sarajevo, noted the difficulties concerning the use and definition of the word “national” in the discussion of the protection of national monuments. She noted differences in language and meaning that could create difficulties.

Ambassador Sonn responded that while he cannot give a definition of what a national minority is, he can give a definition of what a national minority is according to Annex

8, and that definition is a technical definition. He noted that OHR's interest in this issue concerns Annex 8, not the larger issue of cultural heritage in general. Unfortunately, people involved in the law drafting process have often mixed these two issues. Instead, there must be a focus on national monuments, with other potentially important sites addressed as a purely cultural heritage issue. The core issue, in the view of OHR, is the basic right of owners to use their own finances to rehabilitate property damaged in the recent war.

Jakob Finci from the Cultural society "La Benevolencia" noted that not just damaged and destroyed properties are included in the provisional list of the 776 monuments, but others as well.

Ambassador Sonn agreed that it is also the duty of local authorities to protect items that have not been damaged or destroyed in the recent war. These objects simply must be protected for the future.

Luka Markesic from the Croat National Council noted that the use of the terms "minority" and "majority" by the IC is not clear, and that in BiH, constituent nations are majorities no matter where they are.

Ivanka Milicevic-Capik from the Institute for the Preservation of Monuments noted that, concerning this issue, discussion of a minority is not a reference to Roma, but to the main three constituent peoples. She went on to ask who the members of the Commission will be.

Mr Harland responded to these issues noting that Annex 8 provides the broad definitions that the IC is using in terms of this issue. The test is the importance of a monument to a group of people. He further noted that the Commission members have not been selected yet, and that the Presidency is in the process of making a decision. As a first task, the Commission will formally designate property as national monuments, noting that more information besides simply naming a site is needed to do this. Decision making processes, and procedures for making formal and public

decisions, must also be established. He added that the Commission will also give findings of fact on these issues.

Ambassador Sonn responded to the comments and questions by noting that the three constituent peoples in BiH are equal. However, with common sense it is “exceedingly obvious” that there are minority groups of constituent peoples. Through the return process, these numbers shift so that minority and majority populations still do exist. He also noted that the terms “minority” and “majority” do not appear in the drafts.

Tomislav Isek, of the History Institute in Sarajevo, noted that he found the Ambassador’s comments concerning the fact that this issue must be addressed in a pragmatic way encouraging. However, he noted that the situation in Sarajevo is exceedingly complex. He agrees with a previous speaker that there is a paradox concerning the status of the three constituent peoples. He questioned the larger issue of important definitions, and openly wondered how a law could be passed at the state level.

*B. Presentation by Jakob Finci*

Mr Finci noted that in six years there has not been a serious workshop or discussion on Annex 8. In spite of this neglect, the issue of cultural heritage in BiH is not new. People need to remember the time before the war and GFAP, when certain monuments were protected under UNESCO.

Regretfully, he noted that the issue of cultural protection is always influenced by politics. The word “nationality” cannot be easily translated here. People do not say that they are Bosnians, but Jews, Serbs, etc. Language and definitions can be problematic.

He noted that the provisional list developed thus far seems to have been compiled “out of thin air”, with 777 being arrived at as a “magical number”. He agreed that there are a number of religious monuments included in the list. However, he also noted that it should be remembered that some important monuments in BiH are not

listed, and therefore the provisional list should not be viewed as a comprehensive inventory of cultural heritage in BiH.

Mr Finci stated that unfortunately, in practice, protection of monuments does not exist today. He gave the example of the Jewish cemetery near the OHR building, the rehabilitation and protection of which has been held up time and again through administrative procedures. He questioned these administrative steps, asking why owners of the site of the Ferhadija mosque in Banja Luka must get a license to rebuild, when it had stood there for centuries. The issue concerns unfair treatment throughout the country.

It has been very difficult to include Annex 8 in the BiH vocabulary as there has been resistance in the government to pass any state level law not specifically mentioned in Annex 4 of GFAP (the Constitution). However, it is nonetheless important to have such protection at the state level. By putting legislation at the entity level, there is the concern that in the Federation it could be further devolved to the cantonal level, thereby losing the protection that is so needed.

Further, it is important to make priorities of what we want and need to protect. In many ways, it is more important to protect what has not been destroyed. Mr Finci commented on the value of completely rebuilding monuments that were destroyed. For example, to rebuild the bridge in Mostar, should (can) it be the real old bridge, or a copy of the style? This is also relevant to the religious buildings that were completely destroyed.

Mr Finci noted that in BiH, the only period of history and culture that was non-political was the Roman era. However, there are positive signs, such as the rehabilitation of Svrzina Kuca, and Despica Kuca. He concluded by noting that he hopes that we will protect what we have from further damage, so that we can then proceed to reconstruct the damaged and destroyed, according to instructions from experts. He suggested a full valorization of cultural heritage in BiH, and closed by saying that cultural heritage should influence politics, and that politics should not influence cultural heritage.

### *Comments/Questions*

Zilka Kujundzic-Vejzagic, Curator of Archaeology and Fine Arts at the National Museum, noted the importance of archaeology in BiH as an element of regional heritage that does not “belong” to anyone. This part of the region’s culture must also be valued. She wondered why the Historical Museum was not involved in the Annex 8 process to date. She also asked if the OHR or IC could support the efforts of the Historical Museum if they were to select certain monuments that are significant for the whole of BiH, to ensure their protection and rehabilitation. She concluded by noting that while religious monuments should not be minimized in their importance, it is important to look at all of BiH’s heritage, including non-religious aspects.

Mr Harland agreed that the enormous issues of movable monuments and archaeological monuments still need to be fully addressed. He also noted that all interested parties can petition the Commission for designation of items as protected, and that such petitions could include movables. He reiterated that in the Federation it will not be the responsibility of the Cantons, but of the entity-level government, to implement Annex 8.

#### *C. Presentation by Sabira Husedzinovic*

Sabira Husedzinovic, from the Ministry of Education, Science, Culture and Sport, began her comments noting that her that this will not be the only meeting session on this topic, but the first of a series. She stated that only when there is a law on cultural heritage in the whole of BiH will the country be on its way to be a unified state.

She reiterated that there are difficulties concerning the use and definitions of the word “national”, and suggested that rather than saying “national monuments”, thought should be given to using the phrases “cultural monuments”, or “monuments with special, significant value”.

She further suggested that the Commission review and continually develop the list of protected monuments based on the value of the monuments under consideration.

While this country has many laws, it is the implementation of these laws which has been and will continue to be difficult. Her Ministry would be the appropriate body to be responsible for implementation issues, and she noted that her ministry has developed a strategy for the preservation of cultural heritage in the Federation, together with a set of resolutions (she also provided copies of these documents to ECMI).

### *Comments/Questions*

Mevlida Serdarevic noted that she cannot accept that people do not speak about the buildings that were not damaged during the war, but which still need to be preserved. She also raised additional questions and concerns about the definition of national monuments.

Amra Hadzimuhamedovic, from the Ministry of Urban Planning of the FBiH, noted that it is sad that there is a debate on what constitutes a national monument. She noted that Annex 8, together with the guidelines provided by the Council of Europe, defines categories of monuments and heritage that need to be protected. BiH should follow the guidelines used throughout Europe. However, she noted that the term “national museum” in Europe can be used without people thinking that the term refers to a group of people (such as the Roma), as it is generally understood that the term relates to the state.

She provided a review of the activities that have occurred related to Annex 8 since June 2001. In the preparation of the harmonized draft legislation, four main items were included to ensure that obstruction could be avoided: 1) the value of the designated items; 2) authority for the implementation of technical activities at the entity level (Article 5, Item 5); 3) the definition of the term rehabilitation; and 4) elimination of obstruction through permit or license-granting procedures by referring to the goal of returning sites to their previous status.

Christopher Harland reminded the group that the draft law concerning the status of national minorities is a completely different issue from the Annex 8 harmonized

legislation. While OHR can envision a state level law regarding cultural heritage, it is important to work within the framework of GFAP, and therefore through the terms of Annex 8. He noted that no parties can legitimately object to Annex 8, since it is part of a signed agreement. Therefore, addressing the issues of national monuments through Annex 8 implementation can help to minimize obstruction. However, if people try to develop a new process or procedure, they could in effect open up more potential opportunities for obstruction. It is therefore better and potentially faster to work through Annex 8. While present actions are based on Annex 8 of GFAP, article 3.5.a of the Constitution could come into play in the future and lead to modifications or changes.

He also gave the status of the harmonized legislation as of the workshop: Brcko has adopted the legislation. The Federation House of Representatives has adopted it, and the Federation House of Peoples will adopt it soon. Regarding progress in the RS, he noted that the OHR has sent a letter to Ivanic, requesting that he put the issue on the agenda of the RSNA session at the end of December.

In response to comments that Annex 8 has been neglected throughout the peace implementation process to date, he noted that the incidents in Stolac, Banja Luka and Trebinje made it increasingly clear that some action had to be taken to standardize Annex 8 procedures.

One participant asked why representatives from the RS were not present for the meeting.

Tomislav Isek joked that Mr Finci does not have time to personally implement everything in BiH. He also noted that while the IC has very good intentions, it does not fully appreciate the deeply ingrained situation concerning national issues. He said that BiH was only formed in 1943 (his statement, not a statement of fact). While countries such as France can have cathedrals that are at the same time state and national monuments, national issues in this region are based on a “principle of blood”. However, he reiterated that he is encouraged by Ambassador Sonn’s comments

regarding implementation, and he asked OHR to continue with the completion and adoption of the laws, followed by full implementation.

Amra Hadzimuhamedovic again noted that BiH should use definitions of heritage as they were standard in Europe, and that we should not be frightened by the difficult realities in BiH.

*D. Presentation by Amra Hadzimuhamedovic*

Amra Hadzimuhamedovic began her presentation by noting that “the fact that so many people are sitting here just before the holidays shows the importance of Annex 8 in BiH”. She noted the interrelation between Annex 7 (return) and Annex 8, as it is impossible to talk about rehabilitation of culture in the absence of return of people to the culture and community to which they want to return.

She noted that there are several key issues to be considered. She asked, for example, to what extent the role of heritage reconstruction reflects the reconstruction of more than mere forms. She also discussed important sites that have been completely destroyed, and the impact of these changes on returnees and their children. She noted that while we often hear that it is more important to build factories than to rebuild heritage, this is not in fact true. As an example, she referred to elements of Eskimo culture that were destroyed in Finland, and the impact on children who do not remember the places from which they were born and expelled.

In her discussion on the work of the original Commission, she noted that artificially created dilemmas faced the Commission in its work. In response to the question “What is a national monument?” and related procedural issues, she noted that representatives from the RS are very persistent, stating that if something is to be designated as a *national* monument, it must also be approved by the RS before approval and designation are final.

In a review of the challenges facing Annex 8 implementation, she noted the danger of non-transparency that could de-legitimize the process. She also introduced the



problem of obstructionists using the excuse that a monument that was destroyed in the recent war actually stood on the site of an even older previous monument site. Examples of this tactic include incidents in Stolac and Pocitelj. Unfortunately, rather than having archaeological or historical merit, these claims in themselves create “facts”. For instance, she noted that the Church of St. Ann is believed to have existed somewhere in the region, but people are unsure of where. This uncertainty is used to slow the rehabilitation process in general, as sites are marked “potential site” of the church.

In relation to the current status of the Annex 8 process, she noted that while there is a list of provisional monuments, no decision has been made on any in terms of Annex 8. Her department has put together a plan that could contribute to implementation. She noted that other reports, including the materials prepared for this workshop, could also contribute to broader knowledge and understanding of the issue. Other forms of analysis could include the development of maps of different kinds of monuments, possibly similar to the graphics presented in a 1999 Council of Europe report. It could also be interesting to compare lists of registered monuments before and after the war, noting that some of the items on the pre-war list might not be reflected in the current provisional list, as they may not fit the aims or requirements of Annex 8.

Ms Hadzimuhamedovic noted the importance of asking people in communities throughout BiH what reconstruction and preservation of cultural heritage means to them and to their community. Issues of historical identity and cultural heritage are relevant to all Europeans. She noted the example of the central square in Brussels that was destroyed in the mid-seventeenth century, yet later reconstructed in its old form and style. This is an example of a case in which it was not a new square that was built, but a square that reflected the layers of heritage in the city. This reflects the understanding that the city itself is more important than simple buildings, and has deep history.

In her closing comments, Ms Hadzimuhamedovic noted that rehabilitation of national monuments should be the responsibility of the Government of BiH. She noted her concern that the provisional list compiled by the original Commission was done in a

non-transparent, non-constitutional, and unclear manner, rather than being based on the terms of Annex 8. She concluded by noting that the Annex 8 implementation process is one part of the sustainable development of the peace process in BiH.

### *Comments/Questions*

James McNaught referred to incidents in Stolac, noting that the city is an example of the politicization of Annex 8. The pretext for the obstruction is the question of whether there was once a church on the site of the mosque that was destroyed in the recent war. However, this claim is obstruction just the same, manifest in the obstructed issuance of construction permits. He noted that it does not matter what lies under the destroyed mosque in Stolac – it could be anything, but it does not matter – because it is not covered by Annex 8, which only refers to monuments destroyed in the recent war.

He also addressed the issue of categorization of the monuments on the provisional list, asking whether all 776 monuments really deserve the highest priority. He noted that categorization can allow more space for obstruction by questioning the relative value of monuments.

Mr McNaught said that the Commission established after the signing of the GFAP did not fulfil the Annex 8 mandate since it did not accept petitions. However, it did provide a starting point. Any list, he reminded, will be a living document. The provisional list is not final, but a starting point.

Finally, in response to questions concerning the status of the RS in terms of Annex 8, he noted that they have two ministries that regulate issues under Annex 8, and that they have admitted that they need to address and refine the issue.

Enes Pelidija of the Bosniak Council of Intellectuals noted that the Council has written on many related issues in its own publications. He asked why the IC does not react when construction licenses are denied or withheld, considering the frequent use

of such licensing obstruction technique. He also noted that representatives from the RS should have been present for the workshop.

Mevlida Serdarevic, Director of City Museum, Sarajevo, responded that she respects the fact that RS representatives were not able to attend, but she suggested to ECMI that after the new year, the group should take a bus to Banja Luka to hold a similar meeting with RS representatives there.

Snjezana Mutapcic of the Institute for the Preservation of Cultural Heritage (Canton Sarajevo) noted that it is unfortunate that there was no coordination between the original Commission and the preservation institutes before. She has been involved in the drafting of recommendations and related work, and noted that coordination has been a main problem. The institutes for preservation and museum experts all have vital experience, and should work with authorities on the issue. Cultural societies should also be involved in this issue. She suggested that interested and experienced volunteers be identified and brought into the implementation effort.

Zilka Kujundzic-Vejzagic suggested that groups that claim that archaeological work must be done before reconstruction can begin be allowed to do such research in order to determine or prove whether something existed on the site previously. The important thing is to find a solution that will add value to the whole process and to every building. She noted that in Dubrovnik there are also a lot of cases in which buildings have been built on top of previously existing buildings.

Amra Hadzimuhamedovic responded that after the systematic destruction of buildings, one cannot justify to retard rehabilitation because of the possibility of previously standing buildings. Using archaeology as a justification for the crimes committed in the recent war is not right, and could promote the notion that it was in fact good that the monuments were destroyed. Archaeological research is not being prohibited, but is not the priority of Annex 8. She also noted that obstructionists can use the future, as well as the past, to forestall reconstruction, noting an incident in which officials refused to allow the reconstruction of a mosque, claiming that there

were plans to build a new road on that space. These forms of obstruction are humiliating and insulting to returnees.

Luka Markesic noted that in his opinion, the work that the original Commission did was not done through close work with the state, and that without cooperation, the reconstituted Commission will fail. He added that the Commission's work in the future must be determined and defined.

Markesic went on to say that licenses should not be necessary to begin the reconstruction process, and that if you recognize the relicensing procedure, you must recognize the violence that destroyed the buildings. He suggested that there is a need to distinguish between religious and cultural monuments, and possibly to divide them into two tracks, with religious monuments reconstructed by religious communities.

In response to this suggestion, it was noted that it could be difficult to make a distinction between cultural and religious monuments. Measuring the cultural value of religious monuments would be difficult and controversial, even with participation by experts.

Kemal Zukic from the Centre for Islamic Architecture in Sarajevo began his comments by noting that he was disappointed that the representatives from OHR had to leave the workshop early. He then noted that he had never met or spoken with members of the original Commission, despite the fact that he has worked in his present line of work for six years.

Mr Zukic commented that the IC could have taken stronger and faster action on Annex 8 issues. He wondered why the IC would go to the authorities in Banja Luka to "ask" for a permit to rebuild a mosque. He noted that he thinks that authorities in the RS, including Dodik, think that if they allow mosques to be rebuilt, they will restart the war. Additionally, he is afraid that the IC goes along with this line of reasoning in order to keep the peace.

For four years he has been going to Banja Luka to get approval for construction licenses. Based on this experience, he wonders who can effectively implement Annex 8 legislation. He does not think that people who destroyed such monuments can do so, and that only the OHR and the IC can be effective. Much time has been lost over the past five years, and the current process of drafting and adopting the laws is also taking a long time. People with power, honesty, and the ability to give orders are needed. He noted that if the OHR issues a short letter, the situation could improve. Therefore the IC needs to take more initiative and be more active in the implementation. However, he also noted that the OHR has not been very responsive to him in terms of letters he has sent to the Office. He closed by noting a need to segregate practical short-term issues from long-term strategy.

Snjezana Mutapcic noted the need to measure the validity and value of a potential monument, and the complicated and difficult issue of criteria. She also noted that the issue of who had destroyed a monument, and in what way, is another issue altogether.

Emir Kovacevic of the World Conference on Religion and Peace, who noted that he is a lawyer by profession, told the group that laws are necessary, but not sufficient for the situation in BiH. He said that it is not too late (even before and while the laws are being adopted) to encourage communities to begin to address issues of policy and implementation. Implementation should be focused on those places where it is most needed. He suggested that a media campaign be developed to educate the public on the issue so that people throughout BiH realize that this issue is in their best interest. He noted that this workshop is a good step toward raising awareness.

Enes Kujundic, the Director of the National Library, acknowledged the specific experience of the National Library, which was destroyed by shelling in 1992. He also noted that there is a need for a media campaign on this issue, as well as on the broader but related issues of ethnic cleansing and genocide.

While there is a need to educate the public, Mr Kujundic suggested that it could be useful to have a poll or survey to determine how interested people in BiH are in cultural heritage. A media campaign would have to be realistic in its goals, but honest.

There is also a need for educational institutes that could train people in BiH in the work of structural rehabilitation, preservation and heritage management. He referred to a monograph on the mosque in Foca, and a range of articles that have been published on similar topics.

He added that the value of the property of the library, and of movable property in particular, is not just in the interest of the citizens of BiH, but of the FRY, Slovenia, Croatia, and other parts of the region. Unfortunately, at the present time he noted that they have better coordination with Belgrade than with Banja Luka. Regional awareness-raising is also important.

Mr Kujundic also noted some specific concerns of libraries as cultural monuments. There are laws on library activities in the FBiH, RS, and several cantons, developed at various times over the past years. Libraries in BiH are currently funded at the cantonal level, with the federal government saying that they will fund them, but not providing funds to date. There are questions concerning whether or not municipalities should play a role in funding libraries as well.

He also noted basic administrative challenges that the new Commission will face, including the need for databases and expert staff (both from BiH and from other regions).

He concluded by noting that it is in the best interest of libraries to cooperate with as many institutions as possible to develop and encourage a rich collection. The goal should be to combine modality of libraries throughout BiH, with regular exchange procedures, of both materials and experts.

Snjezana Mutapcic noted the existence of a white paper written during the war which catalogued the various degrees of damage done to monuments in BiH. This and other resources could provide valuable information for future efforts. She also noted that museums in general face a challenge identifying and securing premises for their collections. For instance, the City Museum in Sarajevo is currently facing problems with its present location.

Zilka Kujundzic-Vejzagic noted the ambiguous status of the National Museum, which is not recognized by the state or the entities. This lack of status can lead to very basic problems that are difficult to resolve. For example, they do not have a central heating system. They only manage to function by ignoring everyone who tries to impose on them, and doing as much as they can independently. When they realized that they would not get support from local Bosnian authorities, they began to actively identify IC donors. They are working with a German archaeological institute to do research at a site at Butmir, and hope that other joint research projects will help to assess the real value of their collections. She also suggested that mobile exhibits and exchanges could provide similar opportunities. Their success with minimal support and resources provides an example that if interested people have good will, positive things can happen.

She agreed that there is a real need to educate and train young people about their cultural heritage. She suggested that youth be the focus of educational programmes, rather than adults.

Finally, she mentioned two regional projects. One will protect the town of Jajce, which has a rich heritage as well as natural beauty. She would also like to go to Sokolac to do a pilot project in the region, to determine the potential level of cooperation or obstruction.

Vidosava Lolic from the Travnik branch of the NGO Strength in Diversity wished the parties luck in passing the law. She noted an incident last year in which a cemetery in Travnik was seriously damaged, as well as other examples of destruction, which demonstrate that existing monuments are not being protected. She noted the potential challenges concerning rebuilding monuments that have been completely destroyed, but agreed that rebuilt or rehabilitated heritage has value and deserves respect.

She went on to explain the NGO's activities, which seek to connect children in communities throughout BiH through their common shared culture. Their projects and

activities include field trips to cultural and historical sites. She noted that “when you work with children, you actually work with their parents”.

Dubravka Kovacevic from the NGO Association “Most” in Visegrad noted that it could be useful to try to organize roundtables in Visegrad and throughout BiH. She agreed that many people are not aware of Annex 8, as most people focus on Annex 7 or 9. She noted that people in her region became intrigued by the issue due to the old bridge in Visegrad, and that they have thought about holding cultural events on the bridge. In fact, their organization “Most” means “bridge.” She said that there is a need to stress and show the Serbian people that they are not alone in BiH, that there are other peoples throughout the country, and that this diversity makes the country richer.

Svetlana Bajic, an ethnologist from the National Museum, reminded the group that even in 1994, during the war, they prepared an exhibition on the diversity of nations in BiH. She suggested that individuals from Visegrad and other regions could do the same thing, by holding multicultural events for children, and inviting exhibitors from throughout the region. She noted that the rural regions of the country pose a challenge to cultural awareness programmes in general.

In response to a question concerning the current situation in Visegrad, Ms Kovacevic noted that many people in Visegrad hate the refugees who have come to the town since the war. Before she moved there, she did not know much about eastern Bosnia in general. She personally cannot understand how people could have been involved in causing the incidents in Trebinje and Banja Luka. She is unsure of the progress of rebuilding mosques in and around Visegrad.

Aladin Husic of the Historical Museum noted that his museum shares the same challenges as others with a “state” prefix. He thinks that cooperation could be better if it involved more experts coming to the region from abroad. However, he noted that they have observed that more international researchers come to the museum to do work on certain topics than people from within the country itself. Although the museum does not have resources to support a large number of researchers, it would still be beneficial to encourage greater use of the museum facilities, particularly



among researchers from both entities. He acknowledged the difficulties in researching both World War II and the recent war in this region.

Ivanka Milicevic-Capik noted that the key issue is funding in general and for the preservation institutes in particular. As an archaeologist, she is very aware of the damage done to heritage sites simply from negligence and time. She noted the differences in opinion that can exist between archaeologists and architects concerning historical preservation, and particularly concerning the role of archaeological excavations in reconstruction efforts. Organized research for scientific purposes in cultural heritage in general would be beneficial.

Enes Kujundic added that there is a need for the renewal of movable property as well as its protection, and that people in BiH do not even know what is missing. Movable property removed during the recent war must be returned. While he noted that there was a dissertation written at Indiana University on heritage materials that have been removed from BiH, there is a need for an inventory. He suggested that all of the issues discussed could be facilitated through increased cooperation with UNESCO in BiH.

Mr Markesic noted that government institutions in general must be more effective in order to address the specific issues being considered. Culture is too important to just be left to the reconstituted Commission, and political institutions and rule of law are needed for full protection and action.

Tomislav Isek was interested in learning of the composition of the original Commission. He noted a concern that if the Presidency has nominated people to the reconstituted Commission, decisions will be based more on political considerations rather than on identifying technical experts who are directly involved in the issues. Current candidates under consideration for the Commission should be publicly announced.

Mr Isek also noted that representatives from the RS should have been present for the workshop if full implementation is expected or possible. He noted that while the

Commission will be responsible for Annex 8 issues, the OHR should continue to be involved in implementation.

Svetlana Bajic suggested that Sarajevo should be the model on how to create and preserve Bosnia's heritage and identity. She suggested that all relevant people, including the future members of the Commission, visit galleries to see the works available and in need of protection.

#### **IV. RECOMMENDATIONS**

The participants were successful in developing a set of specific recommendations for policy makers as well as for parties responsible for policy implementation. The group agreed that the recommendations and conclusions stemming from this preliminary workshop and from subsequent work should be distributed to all relevant actors. Suggestions are noted in the review of the workshop proceedings, and are categorized and summarized below.

##### *Cooperation and Coordination*

There was broad agreement that increased cooperation and coordination will be necessary once the Annex 8 Commission is re-established and begins its work in earnest. The Commission should plan on working closely with the relevant cultural preservation institutes and cultural and preservation experts. Coordination must occur in both directions, with the Commission informing the relevant interested actors of their work, while also soliciting advice and feedback. Such cooperation will be facilitated by standardized methods of communication. For example, open meetings could be held quarterly to discuss progress and status of implementation. Additionally, there should be a clear contact person at the Commission (or its Secretariat) responsible for receiving comments and concerns from the interested community. Further, the creation of technically specific sub-commissions working with the Commission itself could increase coordination, while bringing added and necessary expertise to the process.

### *Education and Public Awareness*

Both formal and informal educational activities are needed to inform the public about the policies and laws governing Annex 8 implementation and cultural preservation in general. There was a general agreement that educational activities should reach out to all BiH citizens, but with an emphasis on educating the children and youth of the country. Several specific suggestions were offered:

- A media campaign aimed at both explaining the Annex 8 implementation process, as well as at promoting BiH's shared regional cultural heritage, would promote public awareness of the issue. Examples of past successful media awareness building campaigns by SFOR and the OSCE were noted.
- NGOs involved in community building and youth activities should be supported in their efforts to provide cultural and educational field trips and activities to children in their regions. Such activities are not only beneficial to the children, but also to their parents.
- Museums and cultural groups must build awareness of their experience and resources in order to educate the communities on their role in social and cultural protection and development, and begin to build alliances with interested NGOs.
- Museums should be encouraged (through technical, financial and moral support) to preserve and develop exhibits that illustrate BiH's shared cultural heritage. Regional exhibits, exchanges, or even small, temporary, mobile exhibits should be promoted when logistically possible to ensure that access to culture is not limited. Joint research between researchers and facilities throughout BiH should be strongly supported and developed. A state-level Institute for Preservation and Research could be one option for progress and cooperation.
- Primary and secondary school curricula should consider including cultural heritage and heritage protection in their educational plans. Such content could be included as a topic within the human rights course that has been presented and supported by the Council of Europe.

### *Rule of Law*

- The process established by the Commission to designate, preserve, and rehabilitate national monuments should be transparent and clear, and should eliminate the often lengthy process of permit/license granting that presently occurs on the local level. Commission decisions should include granting of an unconditional license to enable rehabilitation of monuments to begin immediately according to the standards noted.
- There must be a clear monitoring body charged with reviewing the work and decisions of the Commission. An ombudsman or special representative should be in place to ensure that appeals and complaints concerning Commission decisions can be fairly heard and considered.
- The criteria used by the Commission in the petition process (including review and amendment of the provisional list) must be clear and transparent. All decisions must be publicly announced.
- The issue of movable property must be addressed in future legislation to ensure full and complete protection of BiH's cultural heritage.

### *Funding and Administration*

- There must be adequate funding and resources available to the Commission to ensure that their work is supported from the beginning, and that they can handle claims, comments, and questions efficiently and transparently.
- Self-help should be encouraged in perpetually underfunded institutions through support of collaborative endeavours and matching funds programmes.

## **V. FOLLOW-ON**

While the group made considerable progress in its first meeting, and compiled a solid list of recommendations and suggestions, there is considerable work to be done in 2002. While many of the challenges facing this Annex are specific to the nature of cultural heritage protection, many are related to general problems and difficulties

inherent in BiH's system and process of governance. It became clear that there is strong interest in this topic, and that the role of cultural heritage protection in BiH has been neglected for too long.

The following methods will be used to continue the momentum on the issue:

- One or more expert papers will be commissioned to examine specific issues and examples of implementation.
- The work of the reconstituted Annex 8 Commission will be closely monitored.
- Legislation adoption will be monitored to ensure harmonized law throughout BiH.
- All recommendations and reports from this and future workshops will be sent to all interested and relevant actors in the policy, governmental, diplomatic, and cultural communities, as well as to the Commission.
- A strategy for monitoring and evaluating Annex 8 implementation in several parts of BiH will be developed as a part of the broader ECMI BiH project.
- Small, focused meetings will be held (in Sarajevo or other sites in BiH) to continue the monitoring and evaluation of policy development and implementation.
- Key players who were unable to attend the constitutive workshop will be contacted for involvement in future meetings.
- All interested participants will stay informed of relevant research activities, with feedback and participation encouraged.

ECMI looks forward to working with the participants, and future interested participants, on these activities throughout 2002.

## VI. APPENDICES

### A. List of Participants Attended

NAME	AFFILIATION
Bajic, Svetlana	Ethnologist, National Museum
Finci, Jakob	Cultural society "La Benevolencia"
Gendin, Kim	US Embassy, Sarajevo
Hadžimuhamedović, Amra	Ministry of Urban Planning FBiH
Harland, Christopher	Head of Human Rights/Rule of Law Department, OHR
Husić, Aladin	Historical Museum
Husedžinović, Sabira	Ministry of Education, Science, Culture and Sport
Išek, Tomislav	History Institute, Sarajevo
Kittredge, MJ	American University
Kovačević, Emir	World Council on Religion and Peace
Kovačević, Dubravka	Association "Most" Višegrad
Križanović, Maja	Advisor to Deputy Minister, Ministry of European Integration
Kujundžić, Enes	Director National Library
Kujundžić-Vejzagić, Zilka	Curator , Archaeology and Fine Arts National Museum
Lolić, Vidosava	NGO "Strength in Diversity", Travnik
Markešić, fra Luka	Croat National Council
McNaught, James	Political Advisor, OHR
Miletić, Bosa	Association "Most" Višegrad
Miličević-Capik, Ivanka	Institute for the Preservation of Monuments, Croatian Community of BiH Mostar
Mutapčić, Snježana	Institute for the Preservation of Cultural Heritage, Canton Sarejevo, Slovene Cultural Society "Cankar"
Orzech, James (Dr.)	SFOR Historian
Pelidija, Enes	Bosniak Council of Intellectuals
Serdarević, Mevlida	Director of City Museum, Sarajevo
Sonn, Matthias (Ambassador)	Senior Deputy High Representative, OHR
Trbović, Amela	NGO "Strength in Diversity", Travnik
Zukić, Kemal	Centre for Islamic Architecture, Sarajevo

ECMI staff:

Perry, Valery	ECMI Regional Representative
Porča, Ermina	ECMI Local Assistant

B. List of Invitees

<b>NAME</b>	<b>AFFILIATION</b>
Abdijević, Lamija	Institute for the Preservation of Culture, History and Natural Heritage of BiH
Buturović, Dženana	Director of the National Museum
Dragutinović, Olivera	Representative, Brcko District Government
Dedić Ismet	Representative, Brcko District Government
Eminagić, Jasmina	Legal advisor, Institute for the Preservation of Cultural Heritage, Sarajevo Canton
Englehardt, Mike	World Council on Religion and Peace
Filandra, Šaćir	Cultural society “Preporod”, Professor at the Faculty of the Political Science, Sarajevo
Imamović, Enver	(Wartime Director) National Museum, Professor at the Faculty of the Philosophy
Orsolić, fra Marko	International Multireligious and Intercultural Centre
Spahić, Ibrahim	Link Diversity
Stojanović, Radmila	Link Diversity
Stanković, Milenko	RS Ministry of Urban Planning and Reconstruction
Vidaković, Mladen	Serb’s Citizens’ Council

C. Annex 8

**Agreement on Commission to Preserve National Monuments**

The Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska (the “Parties”) have agreed as follows:

**Article I: Establishment of the Commission**

The Parties hereby establish an independent Commission to Preserve National Monuments (the “Commission”). The Commission shall have its headquarters in Sarajevo and may have offices at other locations as it deems appropriate.

**Article II: Composition**

1. The Commission shall be composed of five members. Within 90 days after this Agreement enters into force, the Federation of Bosnia and Herzegovina shall appoint two members, and the Republika Srpska one member, each serving a term of three years. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall appoint the remaining members, each for a term of five years, and shall designate one such member as the Chairman. The members of the Commission may be reappointed. No person who is serving a sentence imposed by the International Tribunal for the Former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may serve on the Commission.
2. Members appointed after the transfer described in Article IX below shall be appointed by the Presidency of Bosnia and Herzegovina.

**Article III: Facilities, Staff and Expenses**

1. The Commission shall have appropriate facilities and a professionally competent staff, generally representative of the ethnic groups comprising Bosnia and Herzegovina, to assist it in carrying out its functions. The staff shall be headed by an executive officer, who shall be appointed by the Commission.
2. The salaries and expenses of the Commission and its staff shall be determined jointly by the Entities and shall be borne equally by them.
3. Members of the Commission shall not be held criminally or civilly liable for any acts carried out within the scope of their duties. Members of the Commission, and their families, who are not citizens of Bosnia and Herzegovina shall be accorded the same privileges and immunities as are enjoyed by diplomatic agents and their families under the Vienna Convention on Diplomatic Relations.

**Article IV: Mandate**

The Commission shall receive and decide on petitions for the designation of property having cultural, historic, religious or ethnic importance as National Monuments.



## **Article V: Proceedings before the Commission**

1. Any Party, or any concerned person in Bosnia and Herzegovina, may submit to the Commission a petition for the designation of property as a National Monument. Each such petition shall set forth all relevant information concerning the property, including:
  - a. the specific location of the property;
  - b. its current owner and condition;
  - c. the cost and source of funds for any necessary repairs to the property;
  - d. any known proposed use; and
  - e. the basis for designation as a National Monument.
2. In deciding upon the petition, the Commission shall afford an opportunity for the owners of the proposed National Monument, as well as other interested persons or entities, to present their views.
3. For a period of one year after such a petition has been submitted to the Commission, or until a decision is rendered in accordance with this Annex, whichever occurs first, all Parties shall refrain from taking any deliberate measures that might damage the property.
4. The Commission shall issue, in each case, a written decision containing any findings of fact it deems appropriate and a detailed explanation of the basis for its decision. The Commission shall make decisions by a majority of its members. Decisions of the Commission shall be final and enforceable in accordance with domestic law.
5. In any case in which the Commission issues a decision designating property as a National Monument, the Entity in whose territory the property is situated (a) shall make every effort to take appropriate legal, scientific, technical, administrative and financial measures necessary for the protection, conservation, presentation and rehabilitation of the property, and (b) shall refrain from taking any deliberate measures that might damage the property.

## **Article VI: Eligibility**

The following shall be eligible for designation as National Monuments: movable or immovable property of great importance to a group of people with common cultural, historic, religious or ethnic heritage, such as monuments of architecture, art or history; archaeological sites; groups of buildings; as well as cemeteries.

## **Article VII: Rules and Regulations**

The Commission shall promulgate such rules and regulations, consistent with this Agreement, as may be necessary to carry out its functions.

## **Article VIII: Cooperation**

Officials and organs of the Parties and their Cantons and Municipalities, and any individual acting under the authority of such official or organ, shall fully cooperate with the Commission, including by providing requested information and other assistance.

**Article IX: Transfer**

Five years after this Agreement enters into force, the responsibility for the continued operation of the Commission shall transfer from the Parties to the Government of Bosnia and Herzegovina, unless the Parties otherwise agree. In the latter case, the Commission shall continue to operate as provided above.

**Article X: Notice**

The Parties shall give effective notice of the terms of this Agreement throughout Bosnia and Herzegovina.

**Article XI: Entry into Force**

This Agreement shall enter into force upon signature.  
For the Republic of Bosnia and Herzegovina  
For the Federation of Bosnia and Herzegovina  
For the Republika Srpska