



**ECMI CIVIL SOCIETY PROJECT  
IN BOSNIA AND HERZEGOVINA:  
ANNEX 8 OF THE GENERAL FRAMEWORK  
AGREEMENT FOR PEACE AND THE ROLE  
OF THE PRESERVATION OF NATIONAL  
MONUMENTS IN SUCCESSFUL  
PEACE IMPLEMENTATION**

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**WORKSHOP 2:  
IMPLEMENTATION, PROFESSIONALISM AND COMMUNITY  
INVOLVEMENT, BANJA LUKA , 12 APRIL 2002**

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## **I. BACKGROUND TO THE ECMI BOSNIA AND HERZEGOVINA PROJECT**

The ECMI Civil Society Project in Bosnia and Herzegovina aims to assist local actors in assuming responsibility for democratic governance in the country. They are involved and engaged, with the assistance of international and local 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 July 2001 to identify broad themes that could provide the basis for more specific and focused work as the project progresses. Follow-on events were held in November of that year on media issues, and on the implementation of Annex 8 of the Dayton Accords in December. This theme was considered so important as to demand a series of three projected meetings addressing the issue. This meeting therefore represents the second in the ongoing series on the area of the implementation of Annex 8 of the Dayton Accords. Together, the three workshops form the “pilot phase” of the Annex 8 project, and will be the basis for potential future work on the issue.

## **II. INTRODUCTION**

During the recent armed conflict in Bosnia and Herzegovina (BiH) the destruction of the cultural heritage of several communities was an undeclared aim of some of the parties to the conflict. Over 1,000 mosques were destroyed or damaged, and hundreds of Catholic and Orthodox churches were also damaged or destroyed. Non-sacred structures suffered as well, most famously the Ottoman era bridge in Mostar, and

hundreds of other bridges, Roman ruins, and medieval sites have suffered from a combination of the damage of war and a decade of neglect.

Just as Annex 7 of the General Framework Agreement for Peace (GFAP) guarantees the right of people to return to their pre-war homes, so Annex 8 guarantees that citizens have the right to reconstruct, rehabilitate and protect national monuments. Annex 8 of the General Framework Agreement for Peace (GFAP, or Dayton Peace Agreement), is entitled “Agreement on Commission to Preserve National Monuments”. The workshops on Annex 8 are related to several of the themes that will be investigated in the larger BiH civil society project. The extent to which governmental authorities and politicians implement Annex 8 will reflect the quality of governance and the commitment of the government to rule of law. Hence, it was felt useful to consider these difficult issues facing multiethnic communities in a post-conflict environment by providing a forum in which these issues, essential to long term conflict management and conflict resolution, can be considered by the parties themselves.

On 12 April 2002, in Banja Luka, ECMI held its second workshop on the theme of Annex 8, entitled “Annex 8 of the General Framework Agreement for Peace and the Role of the Preservation of National Monuments in Successful Peace Implementation: Workshop 2 – Implementation, Professionalism and Community Involvement”. This workshop followed on the success of the constitutive workshop on the subject held in Sarajevo in December 2001 and the summary which follows is intended to give an overview of the main issue areas raised. In substance, however, this report focuses on the recommendations that flowed from the discussions, and on the way in which this issue can be pursued further in the context of the ECMI Civil Society Project in Bosnia and Herzegovina.

### **III. SUMMARY OF THE WORKSHOP PROCEEDINGS**

Fifty-five professionals from a variety of relevant backgrounds, including museums, cultural heritage institutes, preservation institutes, architectural and archaeological centres, NGOs, the BiH Government and the international community, attended the

workshop, providing a rich base of experience for discussion and debate. A full list of participants is appended to this report.

In the short time period between the first and second workshops on this topic, there have been many changes in terms of the legislation and implementation of this Annex. Therefore, a range of legal and practical issues were discussed throughout the course of the meeting.

Several concerns regarding effective implementation were raised by the participants as they sought clarification of the relevant laws, expressed the need for professionalism to transcend politics, and agreed that this topic is important and merits continued attention. More challenges were noted than solutions or concrete actions, which is to be expected with a controversial and complex topic. However, the fact that the dialogue has continued and has attracted significant interest is an important first step towards developing solutions and steps forward. This is best evidenced by the concrete recommendations that were developed during the intensive discussions at the workshop.

#### **IV. RECOMMENDATIONS**

The following recommendations were developed through the course of the formal workshop, and through discussions with workshop participants. They can be divided into several thematic clusters:

##### ***Establishment of Criteria for Valorization of Important Sites and Monuments***

- Many participants noted the need for a valorization of BiH's cultural heritage sites/national monuments according to a list of criteria that effectively reflects the multiple layers of a monument or site's importance.
- Criteria should include aspects such as historical importance, conceptual importance, architectural quality, etc., and should be precisely defined using international standards.

- The developers of such criteria should focus on the full scope of BiH cultural heritage, not only on certain eras.
- A group of dedicated professionals from a variety of relevant backgrounds should be involved in the development of such criteria, and the application to BiH's important sites.

### ***Annex 8 Commission<sup>1</sup> Progress***

- The Annex 8 Commission should be very clear and transparent in stating its mandate and goals, using clear and widely accepted professional terms.
- The working procedures of the Annex 8 Commission should be professional, transparent, and developed as quickly as possible.
- The Annex 8 Commission, and all relevant ministries involved in the Annex 8 implementation process, are expected to utilize the advice and experience of professionals in the field in their decision-making processes. There should be discussion among the professionals on whether or not this can best be achieved through legal means, or enforceable, self-regulatory measures.
- The implementation procedures and practices should be used by relevant bodies in both entities to ensure effective implementation of the legislation will have to be determined.
- The construction permit application and documentation process should be standardized and streamlined to ensure consistent treatment of property owners, while at the same time the involvement of professionals in the fields of urban planning and cultural heritage preservation has to be ensured.

### ***Multiple-Layered Sites***

- It would be useful to begin compile a list of “multiple-layered sites” in BiH, in the region, and in the world as a whole. Particular attention should be accorded to cases of multi-layered sites where a negotiated, compromise “space sharing” arrangement was developed by the parties.

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<sup>1</sup> The Annex 8 Commission was established by the GFAP to ensure full implementation of the Annex. In 2002 it was transferred to local BiH ownership, as an independent state-level body. A full description of the Commission’s roles and responsibilities is included in Annex C of this document.

- It would be useful to determine what European or global conventions exist that deal with multiple layered sites issues.
- The role, purpose and intent of archaeological digs and excavations at sites suspected of having multiple-layered histories will have to be determined.
- A variety of relevant questions should be considered, through the engagement of archaeological professionals: What would be entailed in such excavations? How much would they cost, and who would be responsible for paying? How long do they typically take to conduct? What would be the next step if ruins were indeed found on a site?

### ***Communication and Cooperation Among Professionals***

- The value of establishing a regulating organ or professional association to provide support to relevant institutions and professionals in the field should be assessed.
- It ought to be determined whether increased cooperation among professionals in the entities is desirable, and if so, what means could be taken to develop such cooperation.
- Cooperation among other researchers in the former Yugoslav region should be encouraged.

### ***Education and Public Awareness***

- Relevant experts should begin to determine how Education Ministries, teachers, and curriculum/textbook developers can become involved in the issue of teaching cultural heritage in BiH's schools.
- Relevant experts should be consulted to identify the role that the media can play in raising public awareness on the issue of Annex 8.
- The participants recommended that an educational or media awareness campaign could help to inform the public on this issue, and should be considered.

### ***Participation of Civil Society***

- Means of support for NGOs working on issues of cultural heritage and diversity projects need to be identified.
- Local communities should be encouraged to protect their own heritage.
- It ought to be assessed how NGOs and volunteer organizations can be integrated in the preservation and education processes.
- The potential involvement of youth and the Diaspora in the Annex 8 implementation process should be considered.

### ***Financing and Support***

- Adequate financing and support for the Annex 8 Commission and relevant ministerial bodies has to be granted to ensure effective implementation.
- Sources of support from international organizations or relevant foundations will have to be determined to acquire the technical equipment needed to conduct all work professionally.
- Sources of support for NGOs working in this field should be identified.

## **V. STEPS FORWARD**

A third workshop on Annex 8 implementation will be held in June 2002. Workshop 3 will aim to build on the initial work done in the first two meetings by providing the participants with a forum to develop more *concrete* suggestions for progress in Annex 8 implementation. Concerning the organization of the third workshop, the following suggestions were made:

- A third workshop should be held in the upcoming months. Mostar was suggested as a potential site.
- Future workshops should include representatives from cultural societies and pedagogical institutes.

- Future workshops could be organized according to specific themes or issues, or could include working groups on specific themes or issues.
- A phased approach to problem-solving should be developed to comprehensively address this issue.
- Communications between the workshop participants should continue during the time between workshops to ensure ongoing interest and activity.

Further goals of Workshop 3 include the following:

- The participants will be organized into four specific and focused working groups (see below).
- Concrete and detailed project recommendations will be developed, reflecting the goals of each working group.
- Working group level “statements of shared principles” will be assembled which, when brought together, will serve as the basis for a workshop-wide “statement of shared principles”.
- The concrete project recommendations and principles will be combined into a foundation for a BiH statewide approach to effective Annex 8 implementation.
- The basis for continued and dedicated effort to the project, as well as the potential for work in the “post-pilot stage”, will be determined.

Each working group will be asked to work to achieve two end-results:

1. They will develop at least one concrete project idea relevant to the theme of the working group, including details on the purpose, potential, and planning needed for successful completion of the project. This process may be facilitated by the identification of best practices that could be more broadly applied throughout BiH.
2. They will also be asked to develop a statement of principles held by the participants that can guide the group and be presented to relevant government ministries to encourage interest, action, and accountability on the issue.

In a plenary session at the end of the third workshop, the suggestions of the four working groups will be shared and compiled, and will form the basis of a national strategy for addressing the issues of effective Annex 8 implementation. The statements of principles suggested by the working groups will form the basis of a text of agreed basic principles to be adopted by the group as a whole.

Together, the three workshops form the “pilot phase” of the Annex 8 project, and will be the basis for potential future work on the issue. Findings and recommendations will be compiled and forwarded to relevant BiH government agencies, to international organizations, and to potential donors.

## VI. APPENDICES

### A. LIST OF PARTICIPANTS

Name	Association
<b>Andrić, Mato</b>	Association of Soldiers of Second World War in B/H, Lawyer
<b>Bajić, Svetlana</b>	National Museum
<b>Blaha, Vladimir</b>	“Beseda” – Republika Srpska Association of Czechs
<b>Bojić, L.</b>	Museum of the Republika Srpska
<b>Božić, Jelena</b>	Architecture Faculty, Banja Luka
<b>Bugarski, Astrida</b>	National Museum, Museum Advisor
<b>Durić, Katica</b>	Strength in Diversity, Travnik
<b>Dygeus, Philip</b>	Office of the High Representative, Sarajevo
<b>Efimov, Andrei</b>	UNMBIH (UN Mission to Bosnia and Herzegovina), Senior Advisor to the Special Representative of the UN Secretary General
<b>Elezović, Milada</b>	Institute for Protection of Cultural, Historical and Natural Heritage, Mostar
<b>Gogsadze, Zaal</b>	UNMIBH, Banja Luka, Civil Affairs
<b>Hadžimuhamedović, Amra</b>	Ministry of Urban Planning, Federation BiH
<b>Heiskanen, Joonas</b>	Office of the High Representative, Banja Luka
<b>Hrvačić, Esad</b>	Islamic Community of BiH
<b>Husedžinović, Sabira</b>	Ministry of Education, Science, Culture and Sport, Federation BiH
<b>Husić, Aladin</b>	Historical Museum, Curator
<b>Išek, Tomislav</b>	Institute for History, Sarajevo
<b>Ivanisević, Andjelka</b>	UNMIBH, Banja Luka, Civil Affairs
<b>Jabučar, Adnan</b>	Soul of Europe, Director of BiH Projects
<b>Josipović, Verica</b>	Republika Srpska Archive, Archivist
<b>Kastanja, Rinaldo</b>	Muzej Republike Srpske
<b>Kličić, Smail</b>	Cantonal Ministry of Education, Science and Culture, Bihać
<b>Kovačević, Emir</b>	World Conference on Religion and Peace
<b>Lalić, Slobodanka</b>	Museum of the Republika Srpska
<b>Lolić, Vidosava</b>	Strength in Diversity, Travnik
<b>Mehović, Berisa</b>	Ministry of Education, Science, Culture and Sport, Federation BiH
<b>Miličević-Capek, Ivanka</b>	Institute for Protection of Cultural Monuments, Croatian Community Herceg Bosna, Mostar

<b>Mičanović-Kukrić, Biljana</b>	Ministry of Science and Culture, Republike Srpske
<b>Misirlić, Liljana</b>	Link Diversity
<b>Miroslavljević, Slavka</b>	Museum of the Republika Srpska
<b>Muškić, Mirsada</b>	National Museum, Assistant Director
<b>Mutapčić, Snježana</b>	Slovene Culture Society “Cankar”
<b>Odavić, Đorđe</b>	Museum of Herzegovina, Trebinje, Director
<b>Omcikus, Valerija</b>	Office of the High Representative, Banja Luka
<b>Orsolić, Marko</b>	International Multireligious and Intercultural Center, Sarajevo
<b>Ostojić, Sonja</b>	Association of Citizens of Macedonian Origin
<b>Ovad, Gregorije</b>	Society of Ukrainians in BiH “World Culture”
<b>Radoja, Milka</b>	Museum of the Republika Srpska
<b>Radošević, Ljiljana</b>	Republika Srpska Archive Director
<b>Rakušić-Hadžić, Tanja</b>	Office of the High Representative, Sarajevo
<b>Ratković, Aleksandar</b>	Institute for the Protection of Cultural Heritage, Trebinje Archaeologist
<b>Samardžija, Zdravko</b>	Diving Club “BUK”, President
<b>Šaula, Valerija</b>	Senior Deputy Human Rights Ombudsman, Banja Luka
<b>Serdarević, Mevlida</b>	City Museum, Sarajevo
<b>Ševo, Liljana</b>	RS Institute for the Preservation of National Monuments
<b>Simonović, Goran</b>	Museum of the Republika Srpska
<b>Sošnja, Franc</b>	Society of Slovenes of the Republika Srpska, President
<b>Stanković, Milenko</b>	RS Ministry of Urban Planning
<b>Stojanović, Nikola</b>	Association of the soldiers of Second World War in B/H Economist
<b>Tanevski, Andon</b>	Association of Citizens of Macedonian Origin, President
<b>Trbović, Amela</b>	Strength in Diversity, Travnik
<b>Tritunovski, Dimitrije</b>	Association of Citizens of Macedonian Origin
<b>Trninić, Drago</b>	Museum of the Republika Srpska

#### ECMI STAFF

<b>Perry, Valery</b>	ECMI Regional Representative
<b>Porča-Memić, Ermina</b>	ECMI Local Assistant

## B. PREPARATORY DOCUMENT FOR WORKSHOP 2

*This document was distributed to all invited participants two weeks prior to the meeting in Banja Luka, to provide basic information on the history and current status of Annex 8 legislation and implementation. A similar introductory brief was distributed to workshop participants prior to the constitutive session in December, and together the two documents provide a solid overview of the key issues concerning Annex 8. The participants noted their appreciation for the documents at both workshops, as they provided basic facts and a common basis for discussion. As an additional resource, on the day of the Banja Luka workshop, many other documents were available for review, including the Annex 8 laws.*

### **Annex 8 of the General Framework Agreement for Peace and the Role of the Preservation of National Monuments in Successful Peace Implementation: Workshop 2 – Implementation, Professionalism and Community Involvement**

*“The task of imagining memorials that do justice to the memory of all the victims of violence from all sides might help to unlock the imaginative sympathy that will be so necessary in the coming months.”<sup>2</sup>*

#### **INTRODUCTION AND WORKSHOP GOALS**

In the months and years immediately following the signing of the General Framework Agreement for Peace (GFAP), the focus of attention by domestic and international authorities was on peace implementation issues of dire importance to basic individual and state survival. Military stabilization, reconstruction of homes and infrastructure, return, and development of democratic institutions were the priorities of both the local authorities and the international community (IC). The fact that serious attention is now being given to Annex 8’s goals of preserving national monuments is in many ways a sign of the slow but gradual normalization of life in Bosnia and Herzegovina (BiH).

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<sup>2</sup> Fintan O’Toole, *Irish Times*, November 1994, cited in Jane Leonard, “Memorials to the Casualties of Conflict: Northern Ireland, 1969-1997”, Cultural Diversity Programme of the Northern Ireland Community Relations Council, November 1997, 5.

While some people might argue that an issue such as the protection of national monuments is trivial in a country still beset with unemployment, corruption, human rights abuses, and the challenges of return, the role that protection of national monuments and cultural heritage can play should not be underestimated. Protection of culture can have both symbolic and practical importance in social development. Recognition and protection of sites important to all citizens of BiH is an important step forward in the region's development that will play a role in educating and shaping the future by drawing on the region's collective past.

The constitutive workshop on the issue of Annex 8 was held in Sarajevo on 15 December 2001 and was well attended by professionals from a range of relevant backgrounds and interests. In the initial workshop, participants expressed their ideas, opinions, and concerns on the legislation and implementation of Annex 8. A list of challenges, opportunities, and recommendations for further work was compiled, and it was broadly agreed that this topic deserves further work and consideration. This second meeting, to be held in Banja Luka on 12 April 2002, will provide a forum for continued debate, and an opportunity to invite additional participants to join in this dialogue.

This brief review is designed to provide a basic starting point for all participants, reviewing the facts and circumstances surrounding Annex 8, and exploring some of the issues that will be important to implementation success. These materials are designed to actively engage all participants both during and after the workshop.

The basic goals of this second workshop in the Annex 8 project are described below, and it is likely that more goals and challenges will be identified as the workshop and project proceeds. The participation, suggestions, and feedback of all participants is strongly encouraged and will be very welcome, as only through a joint effort will the gap between policy and implementation begin to be bridged.

### ***Annex 8 Workshop and Project Goals***

- ✓ Ensure an understanding of Annex 8 progress to date, including the legislation and the reconstitution of the Annex 8 Commission
- ✓ Discuss the goal and purpose of Annex 8
- ✓ Discuss the role that cultural heritage protection plays in BiH and other European states
- ✓ Consider the impact of rehabilitation of monuments recently damaged by war on community relations
- ✓ Discuss the role that NGOs, museums, cultural societies and others can play in educating communities on the role and purpose of Annex 8 legislation
- ✓ Discuss the role of museum, culture and preservation professionals in ensuring and supporting the effective implementation of Annex 8
- ✓ Discuss the challenges that will confront effective implementation of the law, and consider potential strategies to promote full implementation
- ✓ Discuss the need and potential for a public awareness campaign on the issue of Annex 8
- ✓ Discuss the most effective way to include and involve civil society in the Annex 8 implementation and community education process
- ✓ Determine effective means of tracking implementation in communities and regions throughout BiH
- ✓ Discuss methods of engaging all participants in a long-term implementation monitoring process

### **ANNEX 8: DAYTON'S MANDATE**

Annex 8 of the GFAP is entitled “Agreement on Commission to Preserve National Monuments”, and consists of eleven short articles. The Annex provides a very basic framework, including the following tasks and mandates:

- Establishment of an independent Commission according to specific composition criteria (Articles 1 and 2);

- Funding of the Commission and its staff, to be determined and shared jointly by the Entities (Article 3);
- A mandate to receive and decide on petitions for the designation of property as a national monument (Article 4);
- Cooperation among the parties, cantons, and municipalities with the work of the Commission (Article 8);
- Transfer of the Commission from the parties to the Government of BiH five years after the signing of GFAP (Article 9).

Article 2 notes that the Commission will include two members appointed by the Federation BiH (FBiH), one member appointed by the Republika Srpska (RS), and two additional members appointed by the UNESCO Director General, all serving for a five-year term. The UNESCO Director is also directed to designate one member as the Chairman. After the first five years, the members of the Commission are to be appointed by the Presidency of BiH. UNESCO is the only international organization (IO) noted in the Annex, and its mandate and responsibilities as stated in the Annex are limited to the selection of two Commission representatives and designation of the Chairman.

### **THE FIRST FIVE YEARS: DECEMBER 1995-DECEMBER 2000**

While not highly visible, Annex 8 implementation began with the development of the Annex 8 Commission. The Commission met approximately every three to four months, with the process driven by the Bosnian representatives, rather than by representatives of the international community. UNESCO funded the work of the Commission for this five-year period. Two issues were addressed during this time period: development of a provisional list of national monuments, and attempts at development of relevant Annex 8 legislation.

#### ***Development of a Provisional List of National Monuments***

The main achievement of the Commission in this time period was the development of a provisional list of national monuments. However, Annex 8 does not specifically

request that such a comprehensive list be developed. Instead, Annex 8 mandates that the Commission should proceed by accepting petitions for potential designated monuments. Then, based on these petitions and subsequent designation decisions by the Commission, a *de facto* list would in time be compiled.

Some international observers note that the Commission members decided not to initiate a petition process because of the concern that there would be a large number of petitions submitted to a Commission that lacked the financial or human resources needed to effectively process them. Based on the circumstances and limitations, international observers at the time agreed with this decision. While accepting and reviewing petitions would have been the ideal, under the circumstances and limitations it was not viewed as appropriate or logically possible.<sup>3</sup> It is also possible that concerns for the protection of existing, potentially “at-risk” sites affected the decision to adopt a less public approach.

Therefore, rather than working through a petition process, the Commission members developed a provisional list of potential national monuments, building on existing pre-war documentation and consultations with experts. The process of developing the list continued from 1996 through 2000, including a series of 17 joint meetings of the representatives of the various preservation institutes. The most recent version of the provisional list contains 776 designated monuments.<sup>4</sup>

Development of the provisional list has been a controversial and delicate exercise. At one stage the Commission was “unwilling to publicize the contents of the list, due to the well-founded fear that ultra-nationalist groups or individuals might attempt to destroy monuments and sites that reflect a different group’s heritage”.<sup>5</sup> However, in the absence of a petition process, the list development constituted an important first step in simply defining cultural heritage sites throughout BiH.

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<sup>3</sup> For a basic numerical point of reference, claims or petition have been solicited by the Centre for Real Property Claims (CRPC), which has received 300,000, and by the Human Rights Chamber, which has received 8,000.

<sup>4</sup> The breakdowns used in this report are based on a total of 777, reflecting this preliminary count and coding, and the various versions of the provisional list.

<sup>5</sup> “Is Dayton Failing?” International Crisis Group Report, 28 October 1999, 52.

The provisional list includes three general categories of monuments:

- Damaged or destroyed;
- Existing/intact;
- Movable property (art, icons, etc.).

There is often a misperception that Annex 8 refers only to religious buildings or monuments, when in reality a review of the provisional list reflects much more diversity in identification of important sites. An initial review of the provisional list reveals that of the total number of potential monuments, approximately fifty-six per cent are religious in nature.

<b>Religious<sup>6</sup></b>	<b>RS</b>	<b>FBiH</b>	<b>Total</b>
<b>Muslim</b>	22	103	125
<b>Orthodox</b>	88	27	115
<b>Catholic</b>	100	92	192
<b>Jewish</b>	0	3	3
<b>Total</b>	210	225	435

The non-religious potential monuments reflect a similar range of diversity, illustrating that Annex 8 is relevant to the entire cultural heritage of BiH:

<b>Cultural<sup>7</sup></b>	<b>RS</b>	<b>FBiH</b>	<b>Brcko</b>	<b>Total</b>
<b>Castle/tower</b>	26	29	1	56
<b>Important buildings (Parliament, post, bank, apartment buildings etc.)</b>	11	9	13	33
<b>Museums and libraries</b>	2	4	0	6
<b>Socialistic time</b>	5	2	0	7
<b>Academies and theaters</b>	3	1	1	5
<b>Stecak/necropolis of stecak</b>	34	23	0	57
<b>Famous houses</b>	9	17	2	28
<b>Historical and archeological places</b>	40	49	1	90
<b>Total</b>	157	165	20	342

<sup>6</sup> In this initial cursory survey of the list, there was occasionally some difficulty in determining whether a church is Catholic or Orthodox. Decisions were made based on regional knowledge.

<sup>7</sup> The table was developed based on a review and assessment of the list by the author and Ermina Porča-Memić.

## ***Legislation Development***

After preliminary work in 1999, in the spring of 2000 UNESCO submitted a draft framework law (a “roof” law) to begin formally addressing the issues left unresolved yet earmarked for attention by Annex 8. The draft law addressed the issue of national monument protection at a state-level. The draft addressed issues of both movable and immovable heritage, created a 30-member “Heritage Commission”, and included procedures for the classification and registration of protected property. However, this law was rejected by the RS, in part in response to the proposed establishment of a 30-member state-level Commission.

The Council of Europe has worked closely with UNESCO on general issues of heritage protection, and in 2000, in cooperation with closely related diplomatic initiatives, developed its own draft law. This law (“Law on the Protection and Preservation of Cultural Monuments in BiH”) proposed placing responsibility for implementation at the cantonal level in the Federation, through the establishment of Cantonal Institutes for the Protection of Monuments in FBiH, and through an RS Institute in the RS. Review of the draft indicates a strong emphasis on conservation and protection of heritage, using a broad definition of national culture, and also includes detailed references concerning excavations and both movable and immovable monuments. However, this law was not further developed or adopted.

## **2001-2002: A NEW APPROACH**

The nominal transfer of authority took place automatically on 14 December 2000, as stated in Annex 8. The mandate of the Commission ended in March 2001, leaving no subsequent structure and creating a legal void.

For some time local authorities throughout BiH had used procedural and bureaucratic tactics to stall or deter efforts to rebuild or rehabilitate monuments (particularly religious facilities) that had been damaged or destroyed in the war. Issuance of construction permits, slow and non-transparent decision-making processes, and application of subjective, locally developed procedures contributed to slow progress

on the community level, and growing frustrations and tensions among community groups seeking to rebuild.

A series of controversial, news-making incidents occurred in the spring and summer of 2001 to put Annex 8 back in the spotlight. Most notably, violence and civil unrest at cornerstone laying ceremonies for mosques to be rebuilt in both Trebinje and Banja Luka brought the focus of the international community on this issue, and on the apparent failure of existing procedural mechanisms to address Annex 8 issues. In August, controversy concerning the reconstruction of the Emperor's Mosque in Stolac also demonstrated the growing need for effective and standard legal means of both addressing reconstruction as well as preventing or minimizing related civil unrest.<sup>8</sup> Although not as highly visible, controversies also continue to surround such sites as the Radimlja Stecak in Stolac, the Zitomislici monastery in Mostar, and other important sites. While UNESCO and the IC in general had spent time and money addressing individual projects and issues on a case-by-case basis, the need for a broader solution became clear.

In light of these events and ongoing concerns, the High Representative took the initiative to address the issue thoroughly and completely. Senior Deputy High Representative Matthias Sonn reinvigorated the process, as the Office of the High representative (OHR) adopted a two-track approach to addressing the issues of Annex 8. One track involved the development of harmonized, Entity-level legislation on the issue, and the other focused on re-constituting the Commission. On 10 October 2001, the High Representative requested the Presidency and the Prime Ministers of both Entities to appoint representatives to serve on a working group to develop draft, harmonized legislation. Such harmonized draft laws would then serve as the basis for new Entity-level laws in the Federation, the RS, and in the Brcko district.

Working Group members included representatives from the FBiH Ministry of Urban Planning, the FBiH Institute for the Protection of Historical Monuments, the RS Ministry of Science and Culture, the RS Ministry of Urban Planning, and the Brcko

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<sup>8</sup> Unrest continues around the site of the mosque in Stolac, as on 4 December 2001 a small group of extremists tore down a fence surrounding and protecting the building site. (*Radio Free Europe Daily Newsline*, 5 December 2001).

District government. The first meeting of the Working Group was held on 17 October 2001 in Sarajevo, and additional meetings followed in Banja Luka (29 October) and Brcko (5 November). Harmonized legislation was drafted, and the draft laws were presented to the Entity governments for consideration and adoption. In December the Federation Parliament adopted the law, using a broad definition of monuments to be protected under the law. The RS Government continued the review process into 2002.

On 8 February 2002, the High Representative issued two decisions concerning the Annex 8 legislation. One decision amended the law passed in the Federation, changing the definition of a national monument to reflect those monuments specifically protected under the terms of the GFAP, and ensuring that permits be issued within 30 days of a request. The second decision imposed the law in the RS. The goal of the imposition and the amendments was the adoption of harmonized legislation and a country-wide uniform procedure for the implementation of Annex 8.

The harmonized laws include a definition of the monuments protected by the legislation, reference to the Ministries responsible for implementation, and guidelines for the timely issuance of permits for rehabilitation of national monuments. A key feature of the harmonized laws is the fact that they put responsibility for Annex 8 preservation of national monuments at the Entity level. During the five years of the original Commission, the laws on administrative procedure put the issue at the level of municipality and canton. This led to widely varying practices, as various regions subjectively employed a panoply of old laws and statutes to address the issue.

In the Federation, the Ministry mandated to address implementation of the law is the Ministry of Urban Planning and Environment. In the RS the appropriate Ministry is the Ministry of Urban Planning, Housing Affairs and Utilities, Construction and Ecology, though there has been some discussion in the RS concerning the role of the Ministry for Science and Culture. In the Brcko District, the Department of Urbanism, Real Estate Affairs and Economic Development is charged with the implementation of the law.

The harmonized laws continue to use the definition of national monument as originally proposed in Article 5 of Annex 8. This article, which describes the petition and designation process, applies as well to the monuments noted on the provisional

list until such time as a final decision on the monuments currently on the list is made. The laws make a clear point of defining “rehabilitation”, in order to eliminate the construction vs. reconstruction debate. It therefore refers to bringing damaged or destroyed property into its pre-war condition. The laws also note the high levels of protection of national monuments by the governing bodies, the obligation to cooperate across all levels of governance, and included a basic reference to inspections and monitoring the enforcement of the Annex. The issue of movable property is not addressed.

There has also been progress on the Annex 8 Commission. On 22 December 2001, the BiH Presidency re-established the Annex 8 Commission, and the 5 Commission members were selected. The Commission members are Amra Hadzimuhamedovic, Dubravko Lovrenovic, Liljana Sevo, Tina Wik, and Zeynep Ahunbay. The first meeting of the reconstituted Commission was held on 4 March 2002. Key aspects the Commission must address as it begins its work includes administrative issues, financial sustainability, and the rules of procedure for accepting and deciding on petitions.

These examples illustrate that a significant amount of progress has been made on this issue in a short period of time. However, the law has not been tested in either Entity at this point, and methods of implementation in practice are not yet clear. Additionally, it should be noted that there is still the potential for a national level law to be drafted and adopted, to take over from the Commission at some point in the future, and directly address the issue of *national* monuments in BiH. The progress made under the current proposed laws could shape the development of an eventual national level law, and systematic monitoring of implementation of the entity-level laws throughout BiH could provide the basis for improved legislative protection in the future.

Finally, in addition to the importance that the Commission and the harmonized laws have in terms of the protection of national monuments and cultural heritage in BiH, the Annex 8 issue could serve as an example of the transferring of authorities and responsibilities from the international community to local authorities. In that sense, its challenges, successes, and experiences could help to inform other institutions making the same transition.

## **RELEVANT EUROPEAN CONVENTIONS**

In addition to the importance of the development and adoption of entity-levels laws within BiH, it is useful to note that there are other European and international conventions that also seek to preserve and protect cultural heritage. There are numerous relevant conventions and agreements, including the following:

- European Cultural Convention (Paris, 1954);
- Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954);
- European Agreement on the Protection of the Archaeological-Cultural Monuments (Strasbourg, 1969);
- Convention for the Protection of World Cultural and Natural Heritage (Paris, 1972);
- Convention for the Protection of the Architectural Heritage of Europe (Granada, 1985).

These conventions and agreements are important for BiH in two respects. First, as BiH continues to join international structures, its obligations under these structures will further augment the protection of the country's cultural heritage. Second, this body of diplomatic initiatives could provide necessary support to BiH's own efforts through administrative, technical, or financial support and provision of a set of best practices and relevant lessons learned.

## **IMPLEMENTATION CHALLENGES**

Policy development and adoption of legislation is often difficult. Implementation of policies and laws is equally, if not more, challenging. The challenges facing effective Annex 8 implementation at every level are great, and range from the technical to the financial to the political. In many ways, effective implementation will above all else depend on rule of law. The following questions illustrate the range of implementation challenges, and may suggest potential subjects for further research and investigation.

### ***Property Rights and Restitution***

- How can continued implementation of the property laws confirm ownership, confer ownership rights documentation, and facilitate the process of designated sites as protected national monuments?
- How will restitution laws impact the Annex 8 implementation process?
- How can restitution legislation address issues of contested ownership rights over time, among multiple past owners?
- How will restitution affect the financial positions of property-owning religious bodies?

### ***Access to Services and Procedural Transparency***

- How can the petition review procedure (as outlined in Annex 8, Article 5) be developed operationally to ensure a fair and objective review procedure? Will rejected petitions have the opportunity to submit an appeal?
- Once granted status as a national monument, how can site owners/operators be guaranteed access to relevant public services, such as construction permits and utilities support? What recourse will owners have in the event of continued municipal level obstruction?
- How can the media support and promote implementation by reporting on the petition process, on petitions received, and status granted or denied?
- How could a website ensure full access to information about the petition process, and about the status of Commission decisions?

### ***Movable Property***

- How can BiH's movable heritage and cultural objects be protected under related legislation?
- Does an inventory of movable property in BiH (pre- or post-war) exist?
- What opportunities exist for cultural exchange and mobile exhibits in BiH, to give people broader access to BiH's cultural tradition?

### ***Financing and Administration***

- Is there a sustainable budget that will ensure that the Commission will be able to effectively operate and begin the petition acceptance and review process?
- How can a combination of public and private funding together support conservation, rehabilitation and preservation efforts? What real or potential revenue sources exist?
- What is the minimum administration necessary to provide support to the Commission, develop a national monuments inventory and process petitions and related information?

### ***Cooperation at all Levels of Government and Community***

- How can cantonal and municipal level governmental officials best be briefed in the content and spirit of the Annex 8 law, and drawn into the implementation process to ensure effective implementation and enforcement?
- What NGOs currently exist that can cooperate in the implementation and education processes at the community level?
- What oversight will exist to monitor implementation at the local level, and to receive implementation complaints?

### ***Return Issues***

- Does rehabilitation and reconstruction of important sites affect return?
- Should return be well underway before cultural rebuilding occurs, or can rehabilitated monuments help to drive return?
- Do any specific case studies demonstrating either potential impact exist?

### ***Security***

- Is security needed at certain sites to prevent or deter acts of violence or vandalism at designated monument sites? (consider the concerns noted in footnote 6)

- Is additional security needed at certain sites during rehabilitation and reconstruction work?
- How can more effective security prevent or deter violence at related commemorative events, such as ribbon-cutting or cornerstone laying ceremonies?
- What lessons were learned by local police forces after the civil unrest in May 2001?

### ***Creating a Culture of Conservation***

- How can the development of a definition of cultural heritage, and creation of a culture of conservation in BiH, help to de-politicize the Annex 8 debate?
- Should different approaches be adopted when addressing issues concerning the preservation of antiquity and the rehabilitation/reconstruction of monuments recently destroyed?
- How can restoration and rehabilitative plans more effectively address issues of simple pre-war neglect?
- How can museum, culture and preservation professionals play a role in the protection of national monuments and the preservation of BiH's cultural heritage?

### ***Education and Information***

- Is a public information campaign needed to ensure understanding of the law, the implementation process, and the greater vision of the Annex?
- What is the role of educating the public in ensuring long-term implementation success?
- Is mainstreamed human rights education in both primary and secondary schools a necessary or potential component in effective community level reconciliation?
- Could a unified curriculum on the topic of preservation of national monuments, help to ensure a standard and integrated approach to implementation?

## **CONCLUDING REMARKS**

BiH is not the first post-conflict society to be faced with these issues, and lessons should be learned from successes and failures in other regions and societies. Research has been done on the role of symbols, memorials, and monuments in the conflicts in Northern Ireland, Germany, and other regions that have experienced war, civil war, and political violence. Regions that have experienced large-scale population movements, or frequent border changes, could also provide interesting lessons learned. Greece and Turkey, the Caucasus, Cambodia, and other regions beset by turmoil and coming to terms with the distant and recent past could inform similar efforts in BiH and the Balkans.

There are signs of hope and progress in BiH that demonstrate the potential when cooperation between local officials, communities, and preservation experts collaborate. The Swedish NGO Cultural Heritage Without Borders (CHWB) was founded in 1995 in the wake of the war of BiH, when “the systematic destruction of cultural heritage became apparent”. CHWB sends architectural and cultural protection experts into the field to identify projects that need support, and to oversee the rehabilitation of these sites in cooperation with local partners. In addition to their direct hands-on work, CHWB also works to educate people in the region (both technical experts and community members) about their work and the process of cultural preservation. They operate under a set of principles, including the belief that in terms of cultural heritage, “whatever is done can always be undone”.<sup>9</sup>

There are other efforts that share many of the same goals. The members of the BiH Inter-Religious Council (comprised of the Head of the Serb Orthodox Church, Nikolai, the Head of the BiH Islamic Community, Mustafa Ceric, Cardinal Vinko Puljic and Jakob Finci of the BiH Jewish Community), together with Jacques Paul Klein of the UN Mission to BiH, recently signed a memorandum on the reconstruction of four important religious sites. The facilities that will be reconstructed are the Aladza Mosque in Foca, the Orthodox Cathedral in Sarajevo, a Catholic Church in Derventa and the Jewish Cemetery in Sarajevo. The UK-based

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<sup>9</sup> Cultural Heritage Without Borders website at [www.chwb.org](http://www.chwb.org).

organization “Soul of Europe” has been involved in the effort to rebuild the Ferhadija mosque in Banja Luka. The Travnik branch of the NGO “Strength in Diversity” has compiled an impressive catalogue of cultural heritage sites in the Travnik region that they will use in their ongoing programmes with youth from the region. Bosnia-Herzegovina Heritage Rescue (BHHR) is continuing its efforts to raise awareness of BiH’s unique cultural, architectural and archaeological heritage.

BiH has also experienced many “quiet successes” in efforts related to cultural heritage protection. UNESCO representatives note the importance of successful restoration and protection of cultural sites around BiH, which are often ignored by the media because they do not carry the political weight of commemoration ceremonies in Banja Luka or Srebrenica. They point out that places such as Mostar, Kozorac and Stari Rijeka have successfully begun to address issues of cultural heritage in their communities, working from the ground up, and in cooperation with pro-active political and community leaders.

It will be important for all actors involved in the Annex 8 process – politicians, curators, architects, cultural society members, religious figures, community leaders, and international donors and sponsors – to be realistic concerning the potential pace of change and what can be achieved in the short- and long-term. In her survey of memorials to the casualties of conflict in Northern Ireland, Jane Leonard clearly illustrates the difficult role of memorials and symbols in conflict regions, noting the difficulties that exist in commemorating events such as the American Civil War, or the Spanish Civil War.<sup>10</sup> A combination of commitment and continued patience will be necessary to ensure that progress that is made is lasting. A multiethnic society depends of effective rule of law, access to public services, human rights protection, and power-sharing practices that protect the marginalized. Cultural heritage rehabilitation, protection, and conservation touches on each of these themes, and can therefore serve as an interesting and targeted case study of the development and implementation of effective policy, the responsiveness of government authorities, and the commitment of a states’ citizens to the past, present and future.

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<sup>10</sup> Jane Leonard. “Memorials to the Casualties of Conflict: Northern Ireland, 1969-1997.” Cultural Diversity Programme of the Northern Ireland Community Relations Council, November 1997.