

Status of compliance and Steps required in the implementation of the Ombudperson recommendations

Status of compliance and Steps required in the implementation of the Ombudperson recommendations

September 1999

Discrimination

Compliance in 3 cases (provisions suspending working contracts annulled, postal and/or telecommunication services between FHB and RS established) (Brcko Special Report; BH Special Report; RS Special Report); non compliance in one case (Article 139 of the Law on Pension and Disability Insurance, reducing the military pensions the military pensions of the former members of JNA, was not amended by the FBH Parliament). In another case (Special Report on Discrimination in the effective Protection of Human Rights of Returnees in Both Entities of Bosnia and Herzegovina), the deadlines have not expired yet.

Special Report No. 2859/99 v FBH

- take necessary steps to render ineffective 50% payment reduction of the pensions and provide just compensation for the period in which these pensioners, without compensation through certificates, were treated discriminatory and in breach of their property rights.

Special Report No. 3275/99 v. FBH and RS

- on or before 1 December 1999 the Respondent Parties should take the necessary steps in order to identify the officials responsible for the failure to protect human rights of returnees and to proceed in accordance with the applicable rules in that respect, and should also ensure prompt effective and vigorous investigation in all cases of return related incidents.

Right to life and ill-treatment

Partial Compliance in the Mostar Incident (FBH – Special Report): an impartial criminal investigation carried out by an independent investigation team (with the supervision of IPTF and UNMIBH).

Special Report No. 2650/99 v. RS

- As, upon conclusion of the said investigation, the West Mostar Public Prosecutor has now requested a judicial investigation by the Cantonal Court against five persons for endangering the safety of people and property (while UNMIBH Human Rights Office considers the shootings to warrant an investigation into more serious offenses), the criminal proceedings should continue anyway to be closely examined by the competent Human Rights Offices.

Fair hearing in a criminal trial

Compliance in 2 RS Special Reports (applicants received a copy of the judgment, the case returned to the first-instance court)

Partial compliance in another RS Special Report, (Zvornik 3): according to the Ombudperson, decision of the

Supreme Court met only partially her recommendations. No compliance in the part in which the Supreme Court did not quash the judgment of the District Court of Bijeljina on the ground of its lack of impartiality.

Special Report No. 348/97 v. FBH

- According to the provisions within the Law on Pardon OHR should push for the release of the applicants.

Disappearance Case

Non Compliance (no information and none likely to be forthcoming) (RS – 1 case)

Case Berbic-Demirovic No. 7/96 v. RS

- An investigations must be commenced and carried out, with the involvement of IPTF, to establish the whereabouts or fate of Hasnija Demirovic and Nura Berbic (RS – 1 case)

Non execution of decisions and property rights

Non compliance (compensation was not paid) (FBH – 1 case)

Case B.D. No. 746/97 v. the Federation (Tuzla)

- ensure the enforcement of the judgment of 9 December 1996 giving the applicant the right to monetary compensation

Repossession of real property

Non compliance (investigation was not carried out nor the machinery at issue returned to the applicant) (RS -1 case)

Case Halebic No. 23/96 v. RS

- ensure that thorough investigation is carried out with a view to disclosing the circumstances of taking away the applicant's property, and the latter subsequent whereabouts
- depending on the outcome of the investigation, return the machinery at issue to the applicant or provide him with a just compensation therefor.

Civilian Apartments

1 FBH Special Report (Privatization of FBH Housing Fund)

Compliance (the Law on Purchase of Apartments was amended)

1 RS case (accommodation of DPs, art. 17 LAP)

Compliance (the law was amended) (RS – Special Report)

1 FBH case and Special Report (abandoned apartments)

Compliance (laws on Abandoned Apartments and on Purchase of Apartments were amended)

19 FBH cases (non issuing of a decision in the applicants' cases)

Non compliance

case Buntic and others No. 47/96 v. FBH

- process the applicants' repossession claims in substance without further delay, with a view to them being granted and the decision swiftly enforced.

4 RS cases, 1RS SR and 3 FBH cases (non-enforc. of evictions)

Partial compliance (reinstatement in 3 RS cases and in 1RS Special Report but in case N.K. No. (B) 88/96 v. RS (Banja Luka))

- Eviction must be carried out and the applicant must be reinstated into his apartment.

cases Baric No. 739/97 (Travnik), N.B. No. 245/96 (Kresevo) and B.T. (Sarajevo) No. 76/96 v. FBH

- Evictions must be carried out and the applicants must be reinstated into their apartments.

8 RS cases (tenancy contracts declared illegal)

Partial compliance: law changed but in

cases Gajic, Dukic, Ukmar, Grozdanic, Lucic, Tesanovic, Vidovic and Curlic (Nos. (B)124/96, (B)30/96, (B)146/97, (B)52/96, 1119/97, (B)57/96, (B)9/96, (B)78/96) v. RS

- Decisions recognizing the validity of the applicants' tenancy contracts must be taken.
- An instruction must be given to the local Departments of the Ministry for Refugees in the RS in order to prevent future interference of the authorities in these and other similar cases.

Length of civil proceedings

3 RS cases (repossession of mobile items)

Non compliance in all 3 cases

cases Sabic, Eger, Spahic (Nos. 945/97, 320/97, 946/97) v. RS

- Hearings must be scheduled and proceedings have to be carried out, eventually splitting the proceedings)

7 RS cases (repossession of apartment)

Compliance in 6 cases (applicants reinstated) follow up in 1 case

1 FBH case (repossession of apartment)

Non compliance

case R.I. No. (B)102/96 v. RS (follow up)

- Hearings must be scheduled and proceedings have to be carried out

case Mijailovic No. 1323/98 v. FBH (Sarajevo)

- Hearings must be scheduled, proceedings have to be carried out and the applicant must be provided with an alternative accommodation until the final ending of his case.

Military apartments

Partial compliance: law changed, but

1. Applicants in cases Petkovic and others (No. 31/96) and M.P. (No. 84/96) must be reinstated, unless differently established by the administrative authorities according to the amendments to the LCLAA (July 1999) (Federation).
2. All applicants must be registered as the owners of the apartments (186 cases public,

Federation).

OHR Human Rights/Rule of Law Department