

# **HRCC Human Rights Quarterly Report, February 2000 May 15, 2000**

*The HRCC Human Rights Quarterly Report is based on the regular and special reporting of inter-governmental and non-governmental organisations. The aim of the Report is to provide a concise overview of human rights issues, cases and trends affecting the overall human rights situation in Bosnia and Herzegovina during the reporting period. Questions on specific items should be directed to the reporting organisation or to the HRCC. Please send information for inclusion in the report to 387-71-447-420 to the attention of Lene Madsen, Sirpa Rautio, or Eric Frejabue, or by e-mail to [lene.madsen@ohr.int](mailto:lene.madsen@ohr.int), [sirpa.rautio@ohr.int](mailto:sirpa.rautio@ohr.int), or [eric.frejabue@ohr.int](mailto:eric.frejabue@ohr.int)*

- **High Representative imposes ban on all transfers of socially owned land**
- **Rash of incidents in Eastern RS as return season begins**
- **SFOR detains 3 alleged war criminals, including most high ranking to date**
- **UNMIBH and OHCHR release a report on trafficking on human beings more than 180 trafficked women found in BiH since March 1999**
- **Children's Embassy opens hotline for abused children; 362 calls received in 2 months**
- **Steps towards independent impartial judiciary; key laws in place in both Entities**
- **Three Ombudsmen appointed for Republika Srpska**

## **Right to Return / Right to Property**

### ***Developments in Property Legislation***

1. ***Ban on Allocation of All Socially-Owned Land***: On 27 April 2000 the High Representative imposed a Decision to ban the re-allocation of socially-owned land in both Entities. This decision extends the 26 May 1999 Decision, which banned the reallocation of certain categories of socially owned land, such as socially-owned land used for cultural or religious purposes. The Decision is intended to curb the allocation of socially owned land for the purpose of constructing new accommodation, which would be allocated in a discriminatory manner in favour of one ethnic group. The Decision stipulates that OHR may provide local authorities with a written waiver of the Decision if the relevant authorities can demonstrate that their proposed re-allocation serves a legitimate social aim and that any construction will be allocated in a non-discriminatory manner.
2. ***Extension of Deadline for Purchasing of Apartments in the Federation***: The Federation Government extended the deadline for purchasing apartments, for those persons not displaced from their socially-owned accommodation, until September 6, 2000. This was done due to information that only a very small percentage of persons entitled to purchase their apartments have actually done so to date. This does not affect those persons who are in the process of repossessing socially-owned property and who will under current law have the right to purchase their flats two years after actual repossession.
3. ***Expiry of Deadline for Claiming Socially-Owned Apartments in the RS***: The deadline for claiming socially-owned apartments in the RS expired on April 19. However, people who submitted or attempted to submit their claims with the responsible housing authority within the deadline, but encountered difficulties, have until 18 June 2000 to file a claim with the Commission for Real Property Claims (CRPC). Categories of persons covered include people who tried to submit a claim with the responsible housing authority before April 19 deadline, but were prevented from doing so and can document their unsuccessful attempts; people who successfully submitted their claim, but did not receive a decision within 45 days; and those who received a negative decision from the housing authority can file a claim with the CRPC.

4. **Passage of the Law on Privatization of Socially-Owned Apartments:** On 28 April 2000, the RS National Assembly passed the Law on Privatization of Socially-Owned Apartments, including last minute amendments put forward by the Government. Among the amendments is an article stipulating that there is no required occupancy period of socially-owned property before the occupant is permitted to purchase the flat; as well as an article allowing the possibility of exchange of socially-owned property. At the time of the writing of this report

**Implementation of the Property Legislation:**

*Statistical Update:*

Number of	Federation	RS	BiH
Claims	115,179	95,875	210,054
Decisions	38,310 (33%)	17,697(18%)	56,007 (26.6%)
Repossessions	15,565 (14%)	6,696 (7%)	22,261 (10.6%)

*The statistics are current until end of March 2000. These numbers do NOT include Brcko. These figures are based on the self-reporting of municipalities, and only provide a general indication of trends.*

6. **General Trends:** During the reporting period positive developments in the processing of property claims and implementing property decisions, including CRPC decisions, were noted in some parts of BiH. Nevertheless, a substantial number of housing authorities (particularly in Cantons 7, 8 and 10) are not making progress in processing claims for the return of real property, both private housing and socially- owned apartments. It is therefore worth noting that the above statistics regarding Federation are being considerably lowered by the poor implementation of the Croat controlled Cantons. Some housing authorities, as well as courts, wrongfully claim that a lack of alternative accommodation for the temporary occupants prohibits them from implementing the laws. Moreover, it is apparent that some housing officials are refusing to provide alternative accommodation to persons who are entitled to such accommodation under the property laws.
7. **Successes in Implementation in Una Sana Canton:** Implementation of property laws is proceeding most smoothly in Canton 1 (Una Sana). All eight municipalities are demonstrating not only improved rates of decision-making on claims, but also significant rates of reinstatement of owners and occupancy right holders. For example, in **Bihac**, decisions have been made in approximately 76% of cases for both socially owned and private property, and reinstatements of the original right holder have occurred in some 13% of cases for socially owned property and in approximately 30% of private property cases. Progress is most evident in **Velika Kladusa**, where decisions have been issued in 94% of all cases for socially owned property, and 100% of all private property cases. 24% of socially owned property cases have resulted in reinstatement, and 41% of private property cases have resulted in the same. Velika Kladusa is likely to be the first municipality in BiH to have issued decisions on all cases.
8. **Croat-controlled areas remain slowest to implement property laws:** The process of property law implementation remains blocked in Croat controlled municipalities. In **Mostar South West**, for example, a new head of the Housing Office was only appointed in early April, following the dismissal of the previous head by the High Representative in November 1999. In **Mostar West**, a new head of the Housing Office has been appointed, and although there have been some decisions made, no evictions have been carried out to date. However, there have been some positive developments: in the new **Mostar South West** office, a number of staff have been appointed; in **Capljina**, housing officials have been appointed, and terms of reference for the double occupancy commission have been established. The first eviction notices were issued in **Mostar West** in March; the first forcible eviction took place in **Ljubuski**

in April; and the housing office in **Stolac** issued its first decisions in mid-April. In Drvar, as well, the Housing Office started receiving and deciding housing claims in March, when 13 decisions were made. Despite these positive developments, it still remains to be seen whether the new housing bodies are willing to start the implementation of the property laws.

9. **Implementation in the RS Remains Slow:** During the reporting period, there has been minor improvement in the implementation of property law in the RS. The overall rates remain below those in the Federation. It should be noted, however, that this can partially be due to the fact that the RS passed the legislation 8 months after the Federation authorities. The RS government has been slow to identify alternative accommodation, and double occupancy, by and large, remains untackled. Although the 19 April 2000 deadline for claiming socially-owned property has expired, the RS authorities have failed to ensure that unclaimed properties are vacated, in order to allow for alternative accommodation.
10. **Threats to Housing Authorities in some Parts of BiH:** During the reporting period a number of housing authorities, responsible for property law implementation have been threatened and/or assaulted. In **Cazin** (Fed), the housing board director received numerous threats in February and in April, the Head of the Banja Luka OMI resigned after receiving threats. The latter had been under strong pressure not to carry out evictions of Croatian Serbs and war veterans occupying property. In late April, the head of the housing authority in **Bijeljina** (RS) was stabbed. On 29 April, the head of **Stolac** Housing Board was beaten up by an alleged double occupant, who also tried to stab him. The victim was hospitalized with serious injuries. Local police did not respond adequately and the case was reported to the IPTF. Subsequently the IPTF issued two non-compliance reports against the local police and continues to monitor the investigation into the incident by the local police. It appears that these assaults have taken place in response to movements in property law implementation in the respective areas.
11. **PEC Rule 7.16 Results in Removals from Candidate Lists:** Since the introduction of the PEC (Provisional Election Commission) Rule 7.16 in December 1999, a total of 54 persons from the candidate lists for the municipal elections were removed; 52 were removed prior to the elections and 2 after the elections. According to this rule, individuals occupying property on which there is an administrative decision, CRPC decision, or Court decision could be struck from the candidate lists. The Rule also applies to sitting representatives, but none have yet been removed. According to the OSCE sources, for every candidate removed, several more have vacated voluntarily the property they occupied.
12. **Need for Alternative/Emergency Accommodation:** With moderate successes in some areas with respect to implementation of the property laws, alternative accommodation is increasingly becoming an issue. The issue is most acute for illegal occupants, who, under current property laws are not entitled to alternative accommodation when evicted, although if they are displaced persons, they will be entitled under the *Law on Refugees and Displaced Persons*. In some areas, most notably Sarajevo, local authorities are reluctant to offer alternative accommodation to illegal occupants who are displaced despite their legal obligation to do so. Where those evicted are vulnerable populations, including ex-camp detainees, rape victims, or others for whom return may not be a viable option, this is revealing a need for humanitarian housing. Some municipalities have recently approached the international community, which is pressing for property implementation and asked formally for one year-extensions of rights for temporary users, due, apparently, to lack of alternative accommodation.
13. **Temporary Secondary Allocation of Apartments:** There are indications throughout BiH that there is ongoing misuse of municipal housing stock, which should otherwise be available for alternative accommodation. In Sarajevo, for example, there are reports that secondary allocation of accommodation is provided by the housing authorities to people who do not meet the criteria defined in the legislation. In many municipalities there are indications that available housing stock is given to officials and other influential persons, rather than being used for

humanitarian and social housing.

14. **Border Police as Illegal Occupants:** The border police in **Trebinje** (RS) have been working out of a private house, owned and claimed under the law by a Bosniak displaced person. After many attempts by the international community in Trebinje to solve the problem, the police unit moved out on 26 April 2000 and has now rented new premises where ownership is not contested.
15. **Housing Office/OMI Budgets Continue to be Inadequate:** The international community continues to be engaged in the budgetary processes of the local housing authorities. The budgets still do not provide the resources needed to fulfil obligations to implement property legislation, and to provide temporary solutions for those in displacement without infringing on the rights of others.
16. **Federation Fails to Compensate Owners on Livno-Glamoc Firing Range:** Despite repeated requests from the property owners, the Federation authorities have so far failed to provide payment to the vast majority of land owners affected by the expropriation process for the creation of the Livno-Glamoc Firing Range. The expropriation of land affects approximately 250 registered property owners (and in total some 700 property owners), whose property is located in the vicinity of the military training centre in Livno and Glamoc (in Canton 10). To date, the Federation has set aside 250,000 KM for compensation of property owners, but has only paid compensation to three affected persons. On 29 November 1999 the Human Rights Chamber issued Provisional Measures on behalf of 11 claimants, ordering the Federation to "refrain from any action, especially continuation of military exercises, causing further harm to the applicants' properties." In April alone, 46 additional cases of affected property owners were referred to the Human Rights Chamber.

## Right to Return / Visits, returns and return related incidents

*[This section focuses on return-related information which is significant from a human rights perspective]*

### **General:**

17. **Increase in Minority Returns:** During the first quarter of 2000, a total of 7,377 minority returns were registered throughout Bosnia and Herzegovina. This constitutes a fourfold increase compared to the same period last year, when only 1,700 minority returns were registered.
18. **Federation Passes Legislation on Displaced Persons:** On 21 March 2000, the Federation House of Peoples adopted the *Law on Displaced-Expelled Persons and Repatriates in the Federation of Bosnia and Herzegovina*. The passage of this law means that both the state and the entities now have legislation in place, allowing for the two Entity Ministries for Refugees and Displaced Persons to start a re-registration exercise. This will determine the number of people in BiH who are still in need of a durable solution to their displacement.

### **In the Republika Srpska:**

19. **Increased Tensions in Eastern RS:** Tensions were on the rise as return movements picked up and reached areas previously closed to returns. In February, UNHCR reported increased tensions in **Zvornik**, in Janja (**Bijeljina** municipality) and in Koraj (**Lopare** municipality). In Koraj, security conditions deteriorated and resulted in several incidents. In Janja, there were grenade throwing and other incidents in February, followed by serious tensions between the Bosniak returnee community and displaced Serbs.
20. On 1 February, house cleaning started in Konjevic Polje/Pobuje in **Bratunac** municipality constituting the first return movement to Bratunac. No security incidents were reported despite the number of participants exceeding more than 100 on most days. The second phase started

on 26 February with additional 77 heads of households taking part in housecleaning activities. Local police monitored the activity. Also in **Vlasenica** municipality the first return movement started on 19 February, when some 250 persons started housecleaning activities (the number has since decreased significantly). The first Bosniak (an elderly man) returned to **Srebrenica** in the end of March.

21. In March several incidents against Bosniak returnees were reported in **Prnjavor**. On 12 March a Bosniak shop was blown up; on 12 March a house owned by a returnee was blown up; on 21 March a grenade exploded when returnees were cleaning their property, and on 26 March a Bosniak house was stoned. The local police initially placed the blame on the "arrogant and provocative attitude of the returnees," but in April the local police arrested 3 young persons, who apparently confessed to have been involved in the incidents, and were later on released.
22. In April the self-organised return movements of Bosniak displaced persons from Sarajevo Canton to their places of origin in Eastern RS Municipalities increased. These returns often take place without any assistance and the returnees live on the ruins of their pre-conflict homes. Since 1 April, some 100-150 people returned to their villages of origin in Miljevina MZ, municipality of **Foca/Srbinje**. They settled in tent camps in seven locations and started cleaning their ruined houses and fields. No security incidents have been reported. The first self-organised return to **Zepa** took place on 20 April. Twenty-nine displaced persons from the Sarajevo area returned to four villages, and 20 persons remained overnight. A second self-organised return movement to **Rogatica** took place on 27 April. More than 100 persons joined the convoy on the announced day, the majority were taking advantage of the movement to make an assessment visit to their destroyed properties. Approximately 45 persons remained camping in the three villages.
23. In April some 350 (250 during the night) people visited the villages of Cela, Gomjenica and Trnopolje, in the municipality of **Prijedor**, staying overnight in tents. Seventeen heads of household returned to Bastasi village near **Banja Luka**, from Sanski Most. It is the first time a group of Bosniaks is returning to the municipality of Banja Luka. The main triggering factor behind the recent return to Bastasi is the improved implementation of property laws in **Sanski Most**. On 20 April Bosniak Councillors moved into **Srebrenica** to the two properties reconstructed by an NGO.
24. Several security incidents were directed at minority properties during the month of April. The front door of one minority house in **Pale** urban area was set alight. One returnee, who had just moved back from Sarajevo to assess the security situation, received threatening phone calls during the night. In another incident directed at minority returnees in Pale rural area, a hand-grenade was thrown approximately 300 meters from a returnee's newly reconstructed house and a shotgun was fired through the roof of the house. All incidents are being followed-up by IPTF and local police.
25. On 9 April 2000, in the early morning, an explosive device was thrown at the Merhamet (a local NGO) in **Kotor Varos**, damaging the facade as well as the new Merhamet vehicles. Nobody was injured. According to the IPTF, the same day, local police detained two suspects. However, after questioning, they were released. Local police also interviewed another 20 people and the investigation is ongoing.
26. On 10 April, the Head of **Bijeljina** OMI was stabbed and seriously wounded. Investigations have prevailed that the assailant was a displaced person from Tuzla who was dissatisfied with the way the OMI had dealt with his case. The perpetrator was arrested and sentenced to 60 days prison. [see para 9, above, for description of other incidents related to housing.]

#### ***In the Federation:***

27. **Tiskovac Border Disputes Resolved:** According to the *State Border Treaty* between BiH and Croatia, the Croatian check-point, which had prevented freedom of movement of returnees in **Tiskovac** village located in the southernmost part of Canton 1 [see [HRCC September 1999](#)

Report at para 17], is on the Croatian rather than Bosnian territory. Sixteen Bosnian Serb returnees to the village have now been registered by the Bihac municipal authorities and can, in general, pass freely in and out of their area through the checkpoint. Presently, the Croatian police generally allow BiH citizens and residents of Tiskovac (returnees and visitors) to pass through the checkpoint during the day. On 25 April, 7 visitors from Belgrade were permitted to cross the checkpoint as each could demonstrate pre-war residency in the area. Local police, other local authorities, contractors and other agencies remain unable to cross, thus preventing much needed reconstruction, and other potential assistance.

28. In February, the efforts to evict the “mujahedin” residents of Bocinje (in **Maglaj** municipality) were underway following the issuance by the CRPC of 180 decisions on property claims of Bosnian Serbs originating from the village. The next step that needs to be taken is to evict the temporary occupants, which are not only blocking the return of Bosnian Serb displaced persons, but is also indirectly preventing Bosniac return to the property currently occupied by the Bosnian Serb DPs.
29. Spontaneous returns to Canton 1 have picked up in April, particularly to **Kljuc** and Bosanska **Krupa** municipalities, areas to which only very small numbers of returnees had returned since 1996. More than 50 Bosnian Serbs have come back to Kljuc and there are indications that many more will follow both from the RS and FRY. Visits to clean and plant the fields have increased.
30. **Returnee Monitoring Study: Refugees Repatriating to Tuzla Canton, Bosnia and Herzegovina**: In January 2000, UNHCR released a study of the conditions of returnees to Canton 3 (Tuzla Canton) targeting in particular recent repatriates (both returnees and displaced persons), predominantly displaced from the RS, transit centre inhabitants and Roma. UNHCR conducted 226 interviews on issues relating to security, residence registration and documentation, employment, education, access to social services, pensions, and access to public services. UNHCR found many areas of concern with respect to ensuring the sustainability of return. A quarter of interviewees had been asked to pay war taxes either during their stay abroad, or upon their return to BiH. An extremely low percentage (3%) of interviewees had secured employment since their return, while a correspondingly high percentage indicated re-employment to be their chief concern at present. Of the interviewees who believed they were eligible for a pension, 34 % had not been able to secure this pension and 26% of interviewees indicated that they had problems with access to electricity, telephones and/or water.
31. Several issues appeared to be particularly pressing for the Roma population. The level of confidence of Roma in the police was very low. The employment rate of Roma interviewed was less than 2% and participation rates of Roma children in education stood at a mere 9%, with most families citing financial difficulties preventing them from sending children to school.
32. Of people interviewed who are living in transit centres, approximately 50% were extremely vulnerable individuals (EVI's), many of whom had been unable to repossess their property, and none were employed.
33. **Gender study: “Daunting Prospects Minority Women: Obstacles to their Return and Integration”**: In April, UNHCR (assisted by the OHCHR) issued a report on the current situation and specific obstacles to return and integration faced by displaced and returnee women. The study focuses on female-headed families, single women and extremely vulnerable women, from all ethnic backgrounds.
34. The study identified three specific obstacles to return for the categories of women examined: (1) lack of familial or community support, (2) personal security and (3) psychological trauma. It was generally found that their fear of returning (whether or not justified) was compounded by the lack of familial or community support, or by psychological trauma. Regarding access to the reconstruction assistance, it was found that there is no common (BiH wide) criteria for beneficiaries of reconstruction assistance. In many cases, it was not clear whether women were prioritised or sidelined for such assistance, or indeed if such aid was evenly distributed. Specific concerns were raised with the principle of “funding follows return,” which may disadvantage

those who require child care assistance, are alone or are elderly and/or immobile. Regarding the repossession of property, the report recommends serious efforts be made to ensure that vulnerable women are not forgotten, whether with respect to monitoring evictions, the allocation of alternative accommodation, or the re-allocation of unclaimed apartments.

35. Other issues, such as the prosecution of alleged war criminals, satisfactory gender and ethnic composition of local police forces, access and quality of health care, employment opportunities and access to education and vocational training, were also reviewed as factors affecting return and/or integration potential. Without improvements, the report found, women will continue to be marginalized, and their return and/or integration potential compromised.
36. This study strongly recommends, in line with the *Beijing Platform for Action*, an active and visible policy of mainstreaming a gender perspective into all policies and programs by both international actors and local governments, in order to assess the impact of decisions on women and men, respectively. The study further recommends that collective return programs be enhanced, incorporating female-headed families and single women, alongside other returning families, in order to ease the fear about return expressed by many women interviewed, as well as providing community support, for those who genuinely and freely choose to return. In addition, while noting the need to continue to promote and support minority returns, other durable solutions, such as local integration and settlement, will need to be found for those who are unable for valid protection reasons to return, or who are unwilling to do so.

## Rule of Law - Law Enforcement and Judiciary

### **Law Enforcement:**

36. **Human Rights Violations by Police:** On 1 March 2000, the Sokolac Basic Public Prosecutor raised indictments against nine former RS police officers for their alleged unlawful conduct during the investigation into the murder of the Deputy Chief of the Pale Public Security Centre (PSC), Srdan Knezevic, in August 1998. Among those indicted were the former RS Ministry of Interior Chief of Uniform Police, Ljubisa Savic, Head of the Pale PSC Crime Unit, Spasoje Camur and the Chief of Staff of the Pale PSC, Momir Vukovic. Between the nine indictees, they were charged with unlawful deprivation of freedom; extraction of statements by duress; maltreatment in the discharge of duty; illegal search; failure to render aid and the crime of unauthorised photography. The former RS Ministry of Interior Chief of Uniform Police was charged with all of the above crimes, excepting unauthorised photography. Seven of those charged were officers that had been identified by UNMIBH/IPTF independent human rights investigation as being involved in the illegal deprivation of liberty, torture and ill-treatment of fourteen suspects and witnesses. Also, several of the detainees had been coerced into confessions and into signing incriminating statements [See UNMIBH-HRO Public Report HRO 1/99 External]. The above indictments represent a positive step towards judicial independence and police accountability.
37. **Trafficking of Persons for the Purpose of Forced Prostitution:** On 12 May 2000, UNMIBH and OHCHR released a joint report on "*Trafficking in Human Beings in Bosnia and Herzegovina A summary report of the joint trafficking project of the UN Mission in Bosnia and Herzegovina and the Office of the High Commissioner for Human Rights.*" The report explains the work of the international community to respond to the growing problem of trafficking in Bosnia and Herzegovina and consists of a survey of recorded incidents of trafficking over approximately 18 months. It provides the context in which the problem has arisen and illustrates the part played by state actors most particularly how the police and courts operate and where the shortcomings lie. It also assigns state responsibility for dealing with the issue and illustrates how a human rights framework can be used in a very practical and real sense to combat what have become serious violations of human rights in Bosnia and Herzegovina.

38. Between March 1999 and March 2000, 40 cases of trafficking or possible trafficking in persons, involving 182 women, were identified by UNMIBH. However, many other women in similar circumstances, who did not wish assistance, were also identified. BiH has emerged as a significant destination point for women trafficked from Eastern Europe; however there is little evidence of BiH being a transit country (unlike with refugees, asylum seekers or illegal migrants). The research conducted did not specifically focus on outward trafficking of women, but it appears that BiH is not a major source country.
39. According to the report, for the most part, the state authorities have acted to prosecute victims rather than to protect their rights, and do not pursue the traffickers and pimps. In legal proceedings, victims have often been denied basic legal rights to counsel and the services of a translator. Authorities do not fully understand the complexities of the trade in human beings and do not comprehend its scope. Law enforcement is often complicit, either overtly or by silence and failure to act, and the law enforcement agencies are not co-operating effectively across internal boundaries and international borders. However, there appears to be evidence that law enforcement and other relevant authorities wish to learn about the issue, and to target the local agents of trafficking and address the organized crime aspects of the trade.
40. **Gender Based Crimes and Inaction by the Police:** Disturbing reports of police inaction to domestic violence and sexual assault continued unabated in BiH as illustrated by two recent cases. In the first case, a police officer from Zvornik Public Security Centre (PSC) was accused of having raped two teenage girls. The father reported the incident to the local police station, but the officers on duty did not record the complaint. When the police finally interviewed the victim, the incriminated police officer was allowed to be present in the room. An independent investigation by the PSC has been requested by UNMIBH. In Canton 4, a police officer hung up on a midnight call of a daughter calling for help when her father threatened her mother with a knife. No record of the complaint was made. UNMIBH has called for an investigation and for disciplinary action against the duty officer.
41. **Registration of Law Enforcement Personnel:** The UNMIBH/IPTF project to register and authorize all law enforcement personnel throughout Bosnia and Herzegovina has progressed during the last quarter. During the project, all police officers are registered and then subjected to background checks, whereupon those that meet the minimum requirements are then provisionally authorized to exercise police powers, evidenced by an identification card. Thus far 8,293 (3,353 in the RS and 4,635 in the Federation) persons have been registered. The authorization process has been concluded in Canton 9 and Foca PSC with 2,295 police personnel having been provisionally authorised to exercise police powers within Bosnia and Herzegovina. Forty persons were not authorised because they failed to meet the minimum requirements. The authorization process continues for the other Cantons and PSCs. In the Republika Srpska, personnel from the Ministry of Interior in Banja Luka, Public Security Centre (PSC) Banja Luka, PSC Foca, PSC Trebinje and the RS Police Academy have all been registered. In the Federation, personnel from Canton 6,7,8 and 9 have been registered. In addition, all personnel from the Brcko District have been registered. The background checks are ongoing.
42. **RS and Federation Academies:** The selection of minority cadets for both the Federation and RS Police Academies in Sarajevo and Banja Luka has continued. The aim of the process is to achieve adequate minority representation in both academies. From the last class that was held at the RS Academy (February 2000) 82 cadets passed the tests and have been selected for training (59 Bosniaks, 5 Bosnian Croats and 15 Bosnian Serbs). During the reporting period, 106 cadets from the Federation Vraca Academy in Sarajevo graduated. They had commenced the course in April 1999, passed all the tests and completed the field training. An official graduation ceremony was held on 26 April 2000 for the 106 cadets at the Vraca Academy in Sarajevo. Out of the 106 cadets there were 59 Serbs, 28 Bosnian Croats, 8 Bosniaks and 13 others who graduated.



### **Judicial Reform:**

43. **Important Steps towards an Independent and Impartial Judiciary:** The goal of creating an independent and impartial judiciary has been promoted in the reporting period by the adoption on 25 April by the RS National Assembly of the *Law on Courts and Court Service* and the *Law on Public Prosecutors Office*. These laws regulate the selection and dismissal of judges and prosecutors. In the Federation, the *Law on Judicial and Prosecutorial Service* was imposed by the High Representative on 17 May. When finally adopted and implemented, these laws will provide a merit-based, non-political structure for the appointment and dismissal of judges and prosecutors and lay down uniform standards for their professional conduct. As well, there will be review period during which all prosecutors and sitting judges who fall below the standard of professionalism set out in the laws will be vetted.
44. **Judicial and Prosecutorial Training Institutes:** Laws for setting up such institutes are being prepared in both Entities with the assistance of the Council of Europe and OHR experts. The drafts were considered at a meeting of representatives of the two Entities at Strasbourg on 21-22 February 2000. At this meeting an Interim Inter Entity Co-ordinating Board for judicial and prosecutorial training was also set up. This Board met at different locations in each Entity in March, April, and May, in order to discuss and further develop the proposed drafts. At a meeting held at Neum on 3-4 May 2000 the Interim Board and senior members of the BiH judiciary and prosecution finally agreed upon the structure and content of these draft laws. Final versions will now be prepared by the respective entity Ministries of Justice.
45. **Informal Legal Cooperation Between FRY and Republika Srpska in Possible Violation of ECHR:** The invitation of two journalists of "Reporter" magazine in February to give statements to the Banja Luka Municipal Court on the request of a court in FRY, would appear to violate the European Convention on Human Rights. It may also violate freedom of expression within the jurisdiction of BiH. The journalists were both charged under Article 157 of the FRY *Penal Code* with damaging the reputation of FRY by publicly bringing it into derision. While the Banja Luka Municipal Court simply complied, seemingly impartially, with a request to cooperate, and did not express a view on the substance of the case, the situation raises concerns about the correct method of court cooperation between states. Both journalists were questioned on the basis of Article 146 of the RS *Criminal Procedure Code* which governs domestic, not international, court-to-court cooperation. Of concern is that it appears that should the two journalists be convicted, an arrest warrant may be issued from the FRY court directly to an arresting agent in the RS, bypassing the involvement of the court. This would contravene the RS *Criminal Procedure Code*, as well as the *BiH Constitution and the ECHR*.
46. **Study Shows RS Authorities are Generally Implementing the Revised Amnesty Legislation:** A survey conducted by UNMIBH-JSAP indicated, that in general, RS courts appear to have complied with the provisions of the July 1999 amendments to the Law on Amnesty, which brought legislation passed in 1996 into line with the provisions of Annex 7 of the Dayton Agreement. In March 2000, six JSAP teams reviewed the activities of sixteen RS courts with respect to amnesty in municipalities including Banja Luka, Novi Grad, Prijedor, Doboj and Nevesinje. They found that the courts have generally implemented the law and that draft evaders and deserters, with few exceptions, were granted amnesty. It is important to note, however, that JSAP was not able to inspect every court and so that the findings are not comprehensive. A full report will be issued shortly.
47. **Multi-Ethnic Courts in Herzegovina-Neretva Canton:** On 29 March 2000, following numerous interventions by the international community, the President of the Canton 7 Court signed a Decision on appointment of judges for the 9 Municipal Courts in the Canton. Seventy candidates had been selected, ensuring multi-ethnic composition of all courts, in accordance with the 1991 census.
48. **Rule of Law Challenged in Canton 10:** The situation in Canton 10, notably Livno and Drvar,

remains problematic. The local judicial and prosecutorial authorities have proven unable, or unwilling, to meet fundamental rule of law requirements. The administration of justice is characterized by incompetence, delay, and discrimination on ethnic grounds. Efforts by Federation authorities and the international community to remedy this have been greeted with an uncooperative attitude, in many cases even outright obstruction, and the little public confidence that exists in the judicial bodies is rapidly eroding. In an attempt to curtail discretion and improve performance, the IC has put the canton 10 judiciary “under probation” and considers additional steps to ensure that rule of law prevails.

## Right to a Fair Trial

### ***Domestic war crime trials:***

49. **Djedovic:** Ibrahim Djedovic was released from prison on 27 March after having been in prison for almost three years. On 27 March, the Sarajevo Cantonal High Court, where he was on retrial acquitted him of all charges for lack of evidence. Djedovic had originally been convicted of war crimes and sentenced to 10 years imprisonment in 1998. This verdict had been overturned earlier by the Federation Supreme Court. Djedovic is considered to have been one of the highest ranking officers under Fikret Abdic, who during the 1992-1995 war unilaterally proclaimed an autonomous province in north-western Bosnia in the “Bihac pocket,” dividing the Bosniak community. Djedovic was arrested in May 1997 after having been elected member of the parliament to the BiH Parliament in 1996.
50. In the **Golubovic** case, where 3 Bosniak men are standing trial in Cantonal High Court in Mostar for allegedly murdering a Serb family of a four in 1992, the presiding judge ordered exhumations to be carried out in order to have the bodies of the Golubovic family examined. The exhumation was carried out on 6 May. So far the prosecutor has heard 12 witnesses and the defence counsel none. It is anticipated that when the autopsy reports are finalized the case will be ready for the final arguments.
51. **5 Croats indicted for war crimes by Mostar local Court:** On March 31, arrest warrants were issued against five former HVO soldiers for war crimes against civilians and prisoners of war by the Cantonal High Court in Mostar. This led to the resignation of the Cantonal Minister of Interior (a Bosnian Croat) and the three Chiefs of Police in Bosnian Croat controlled areas of Mostar. The police had refused to implement the arrest warrants. Subsequently the Interior Ministry formed a special unit to arrest the five Mostar Croats indicted, who remain at large.

### ***Other Trials with Human Rights Dimensions:***

52. **Vikalo case:** On March 27, former Prime Minister of Tuzla Canton, Vikalo was found guilty of abuse of official position and sentenced to 26 months in prison. His former health and finance ministers were also found guilty and sentenced to 6 and 12 months respectively. All have lodged appeals against the verdicts. This was the first time that high-ranking officials in BiH were convicted of abuse of official position.
53. On April 14, the Doboj Basic court convicted two Bosniaks to two years in prison for “endangering public safety” by throwing two grenades at a group of Serbs, in an incident, which happened in 1998. The investigators, however, appear to have ignored vital facts about the role of the group of Serbs in instigating the incident. The investigation has been reopened. The Bosniaks are free pending appeal of the conviction.

## International War Crimes Tribunal

54. **Arrests of Indicted War Criminals:** Detention by SFOR of indicted war criminals continued.

On 5 March, **Dragoljub Prcac** was apprehended by SFOR troops. Prcac is one of the eight individuals indicted for crimes allegedly committed at the Omarska prison camp in Prijedor. He has been charged on the basis of his alleged criminal responsibility for, among other crimes, murder, torture, rape and unlawful confinement of Bosnian Muslims and Croats at Omarska. Prior to the start of the war, Prcac was employed by the Ministry of Interior in Prijedor.

55. On April 3, SFOR detained **Momcilo Krajisnik**, a former member of the BiH Presidency and a war time ally of the former Bosnian Serb leader Radovan Karadzic. Krajisnik was under a sealed indictment for war crimes. According to the indictment, between July 1, 1991 and December 31, 1992, Bosnian Serb forces, under the direction and control of Krajisnik, then a leading member of the Serbian Democratic Party of Bosnia and Herzegovina, secured control of several municipalities which had been proclaimed part of the RS. He is accused of genocide, crimes against humanity, violations of the laws and customs of war, and grave breaches of the Geneva Conventions (including murder, wilful killing, extermination, complicity in genocide, deportation, and inhumane acts). He is the highest ranking politician so far standing trial in the Hague tribunal.
56. On April 22, SFOR detained **Dragan Nikolic**, who served during the war as the camp commander in "Susica Prison Camp" located in the municipality of Vlasenica. Nikolic is charged with crimes against humanity, violations of the laws and customs of the war, and grave breaches for his actions and omissions and the acts of his subordinates while acting as prison commander.
57. SFOR has apprehended 7 indicted war criminals during the past 6 months and in total has detained 20 alleged war criminals in BiH.
58. **Ongoing Trials before the ICTY:** On 28 February, the trial against **Kvock, Kos, Radic and Zigic** started. The four defendants are charged with violations of laws or customs of war and crimes against humanity for crimes allegedly committed at the Omarska & Keraterm camps. In those two camps more than 3000 Bosnian Muslims and Bosnian Croats from Prijedor municipality were confined and many were killed, sexually assaulted, tortured, or beaten.
59. On 20 March, the trial of **Kunarac, Kovac and Vukovic** began. The defendants are charged with crimes against humanity and violations of the laws and customs of war. The charges involve large-scale and systematic sexual assaults and rape of women in Foca after it fell to Serb forces on 16 or 17 April, 1992.
60. On 3 March, the Trial Chamber I sentenced General **Tihomir Blaskic**, a Bosnian Croat, to 45 years imprisonment for having "personally ordered a significant number of attacks and having failed to prevent or punish crimes committed by his subordinates." General Blaskic is the highest-ranking military Commander so far convicted by the Tribunal. With this verdict the Tribunal determined for the first time that the Croat-Bosniak conflict in Central Bosnia was of international character because of the extensive intervention by Republic of Croatia. Blaskic has appealed the decision.
61. The long awaited transfer of **Mladen Naletilic alias Tuta** from a hospital in Zagreb to the custody of the ICTY finally happened on 21 March. Naletilic will stand trial together with **Vinko Martinovic alias Stela**, who was transferred into the custody of the ICTY on 9 August 1999.

## Missing Persons / Exhumations

62. **Mass Graves Covered by Rubbish, in Zvornik:** Zvornik authorities continued dumping municipal rubbish on private property in the Sultanovici Valley, near Zvornik [see [HRCC October report](#) at para 20]. The location is also the site of four secondary grave sites from the Srebrenica massacre, and it is believed that approximately 320 bodies are in four separate sites under and near the rubbish. Municipal trucks reportedly dump between 30 and 35 loads of rubbish a day, all of which is slowly smouldering, potentially causing irreparable damage to the

bodies underneath, thereby destroying evidence for use in future war crimes trials related to the Srebrenica massacre. Two returnees are reconstructing their homes within the rubbish site. Although local Zvornik authorities have agreed to halt dumping in June, to use an alternate site, and to remove rubbish currently in Sultanovici, it remains to be seen whether action will follow.

## Economic and Social Rights

63. **Erosion of Economic Rights through Discrimination in Privatization:** Numerous human rights concerns have emerged with respect to the privatization programmes of both the Federation and the RS. Both entities have designed programs indirectly giving substantial preferential treatment to members of the ruling ethnic group. In the RS, by expanding the pool of Serbs allowed to participate through the creation of categories of participants, which are by definition only Serb, the value of vouchers accruing to Bosniaks/Croats has been diminished. This means that it is unlikely that Bosniaks will be able to gain control of many or in fact any of the companies being sold in the RS. Mono-ethnic ownership can be expected to have a deleterious effect on employment policies of companies. (Please note that currently the Federation Privatization agency has suspended the privatization process of larger scale sales through tender on the recommendation of the international community. However, it seems that the reasons for suspension are unrelated to the concerns expressed above.)
64. **Violation of Property Rights through Irregular Audits:** There are also concerns that companies performing audits are ignoring the claims of shareholders who participated in the pre-war partial privatization process named after the Prime Minister at the time, Ante Markovic. This is exacerbated by the fact that companies undergoing privatization – which have little interest in recognizing shareholder rights – are responsible for paying the auditing companies to determine shareholder ownership. There are also concerns about the independence of the appeals bodies, given that these sales affect the vital political and economic interests of the ruling parties, and that obligations to workers may be circumvented in some cases.
65. **Human Rights Chamber Decision on Employment Discrimination:** On 7 April, 2000 the Human Rights Chamber delivered its decision in the case of *Edita Rajic vs. the Federation of Bosnia and Herzegovina* (CH/97/50). Ms. Rajic is of Croat origin and a teacher in Semizovac, near Vogosca (Fed), where she stayed and worked during the war while the town was under the Serb occupation. After the reintegration of this area into the Federation she was unable to retain her position and was asked to submit her application for job competition. She was not employed. Ms. Rajic filed a case for civil action but was rejected in the first instance on the ground that the applicant, by staying on territory controlled by the Serb forces, “had put herself on the side of the aggressor.” Ms Rajic appealed the decision and requested a transfer of her case-file to the Cantonal Court in Sarajevo but neither was done.
66. The applicant complained that her rights were violated on the grounds of Article 6 of the *International Covenant on Economic, Social and Cultural Rights*, Article 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination* and Article 6 of the *European Convention on Human Rights*. The Human Rights Chamber decided that the applicant rights were violated on the above listed grounds and that the real reason for dismissal was that Ms. Rajic did not move to the territory held by the Army of the Republic of Bosnia and Herzegovina and held unjustified differential treatment. However, the Chamber ruled that the applicant was not discriminated against on the accounts of her Croat origin.
67. **Human Rights Ombudsperson Report on Employment Discrimination:** On 9 March the Office of the Human Rights Ombudsperson adopted a report on Application No. 351/97, *Devleta Saric against the Federation of Bosnia and Herzegovina*. She is Bosniak and was employed in the public elementary school in Capljina from 1966. In 1993, Ms. Saric was dismissed from her employment, together with 10 other Bosniak teachers, on the explanation that this was to

ensure their safety. In 1996 the school published a job competition. Ten teachers were employed while Ms. Saric's application was rejected. She filed an appeal with the School's Board, which was rejected on the ground that "Šfor political reasons, Croat teachers who speak the Croat language should teach Croat children and Ms. Saric, in these circumstances, cannot work as a teacher." The Ombudsperson decided that Ms. Saric was discriminated against on the basis of her origin, in the enjoyment of her right to work, to have an access, on general terms of equality, to public service, and in enjoyment of her right to equality before the law concerning her right to work.

68. ***Alleged Employment Discrimination in Prijedor Iron Mine:*** Following the positive results of the ILO suit against companies *Aluminij* and *Soko* in Mostar [see next para] a similar case was opened in February. This time, based on the claim filed by the Confederation of BiH Trade Unions, the ILO is inquiring into what appears to be the discriminatory dismissal of more than 2000 non-Serbs from iron mine Ljubija-Prijedor in Prijedor, RS. The reasons for dismissing the workers in the summer of 1992 were "protection of production and state property." The possible reintegration of non-Serb workers in Prijedor would be all the more crucial for the sustainability of the substantial number of returns that have occurred in that area.
69. ***Aluminij-Soko Follow up:*** In February, the Federation government tasked the Minister for Social Affairs, Displaced Persons and Refugees, who is responsible for labour matters, and the Minister for Energy, Industry and Mining, with the supervision of the implementation of a November 1999 ILO recommendation. The recommendation concerned one of the most notorious cases of discrimination in BiH: *Aluminij* and *Soko*, two Mostar-based companies [see [HRCC January 2000 report](#) at para 76]. The ILO report had recognised the violation of Convention No. 111 *Concerning Discrimination in Employment and Occupation* as well as a violation of Convention No. 158 *Concerning Termination of Employment*.

#### ***Children's Rights:***

70. On March 13, the First Children's Embassy, a local Sarajevo-based NGO, started a 24-hour S.O.S. phone line service for children victims of violence. The NGO also operates a shelter, where children can receive temporary accommodation if their safety is in danger. During the first two months of the operation of the SOS line, 362 calls were made, the majority seeking for advice or information. Fifty-eight children reported incidents, and 2 requested shelter. The most common types of violence reported were sexual abuse (20 cases), domestic violence (17 cases), harassment by teachers (7 cases), psychological mistreatment/religious intolerance (4 cases) and murder threats (2 cases). The First Children's Embassy has also recently addressed the Federation Parliament requesting the amendment of articles Art. 224-229 of the *Federation Criminal Code*, related to the sexual abuse of children, arguing that the penalties established are too lenient.

## **Cultural Rights: Right to Education**

71. ***Home School in Stolac Closed, Bosniak Children attend Stolac Elementary School:*** On 2 May, following high level political intervention in April, approximately 85 Bosniak children who had previously been attending home schools in Stolac, were integrated into the **Stolac** Elementary School. The children were given four classrooms, and their teachers have access to one staff room. Although the children will initially follow a Bosniak curriculum, while the Bosnian Croat children will continue to follow a Croatian curriculum, it is hoped that the sharing of space will eventually lead to integration as has been the case in **Tesanj**. It is hoped that the limited progress in Stolac may help resolve a similar situation in **Bugojno**, where Bosnian Croat children have been educated also on private premises and not in the majority Bosniak facility.
72. ***Brcko District Advisory Education Committee Established:*** In February, the Brcko District

Advisory Education Committee commenced work on the harmonization and integration of the school system within the District. The Committee, comprised of 6 persons representing the three constituent peoples, has established working groups to address specific issues, including curriculum reform, creation of new textbooks/instructional materials, training of teachers, finances, infrastructure development, and personnel for schools in the District, as well as the development of exchange programmes. In April, four Advisory Education Committee members met with members of the Council of Europe in Strasbourg on numerous issues related to education development in Brcko. The other two members went to Northern Ireland to work with University of Ulster consultants on the further professional development of teachers in the District.

73. **Education Ministers Sign Declaration and Agreement:** On 10 May, the Ministers of Education in both Entities, as well as the Deputy Minister in the Federation, signed a declaration and agreement indicating potential for improved collaboration. The documents, which include a strategic and operational plan, stress the need to accelerate the second phase of textbook review; the need for each constituent people to develop curricular modules with regard to its culture and language/literature to be integrated in the curricula of the other two constituent peoples; and the imperative of teaching both the Cyrillic and Latin alphabets, as well as the shared linguistic, literary and cultural heritage of the three communities; among other issues. The agreement also provides for the establishment of a "Curriculum Harmonisation Body" reporting to the Conference of Ministers of Education which is convened on a monthly basis.

## Gender Equality: Right to Non-Discrimination

74. **Women achieve 18% Representation in April 8 Municipal Elections:** On 8 April 2000, citizens of BiH went to the polls to elect new municipal representatives. They did so on an open ballot on which the Provisional Election Commission (PEC) mandated that one in every three candidates should be female. Five-hundred and ninety women were elected out of 3,270 seats (18.04%). This compares with 7% representation of women in national parliaments in the region and 13.8% in comparison with representation of women in national parliaments globally.
75. **Pilot Project on Addressing Violence Against Women:** During the reporting period, the first phase of a pilot project by OHCHR, UNMIBH, and Medica-Zenica was successfully completed in Zenica. The main component of the project, which is being implemented by Medica-Zenica, was training of the police, judiciary and social workers on how to effectively address violence against women. Altogether, some 20 police personnel, 17 judges and prosecutors, and 20 social workers and other staff from the Centre for Social Work received training during the first phase of the project. In the next phase, health professionals, NGOs, as well as advocates and journalists, will receive the training. The training revealed that the police department needs to change procedures regarding violence against women, including domestic violence. As an example of procedural changes already initiated, a system has been put in place to avoid the need for victims to repeat their story to several officers. It was recognized that professional women should be hired to take the testimonies of the victims, rather than the current practice of having male police officers do so. The training has also led to establishment of a working group comprised of several project participants, which intends to lobby for changes in the *Family Law* and in the Federation *Criminal Code*. In particular, the group has identified the need for restraining orders, and the need for changes to allow the prosecution *ex officio* of the crime of "light bodily harm."

## Freedom of Expression and Media

76. **Threats against Journalists in Livno and Travnik:** Abusive leaflets were distributed in Croat-controlled **Livno** (Fed) in the first week of April, insulting both the person and the work of the Editor in Chief of an independent radio station *Studio N* and one of its journalists. *Studio N* is the only independent radio in the Livno area, and is widely respected among journalists and citizens for its fair, balanced and accurate reporting. It has been the object of politically motivated pressures in the past, including the brutal beating of the wife of the Editor in Chief in March 1999 by unknown assailants.
77. **Avdic case:** The Editor in Chief of *Slobodna Bosna*, Senad Avdic, has been involved in several court proceedings in the past year [see HRCC September 1999 report at paras 81 & 82]. The international community is currently monitoring a case, which was initiated by K&B Company and Bakir Alispasic, which has been ongoing since the summer of 1999. The plaintiffs claim that the Editor in Chief published information, which led to the failure of their company. At the last hearing on 6 April 2000 and after the plaintiff's lawyer, without basis, complained that Avdic was unfairly manipulating the case, the judge cancelled the hearing and said that she would revisit the case in two months. She stated that if the plaintiffs do not go ahead with the case at that time, the case would be closed.
78. **Survey on Journalists' Rights and Freedom of the Media Released:** The OSCE mission in BiH released a survey on 5 May, conducted among representatives of 50 media outlets. Results of the survey reveal that 92 percent of the surveyed journalists consider the status of journalists' rights unsatisfactory. Asked about current trends, 74 per cent of the journalists indicated that their freedom of expression and movement is being impeded; 62 per cent said that had personally experienced intimidation and interference with their work, including direct and indirect pressure applied by both political parties and elected and appointed government officials.
79. **Help-Line Campaign to Assist Journalists Victim of Intimidation Launched:** In response to the disturbing trend of intimidation affecting journalists, on 3 May, the OSCE launched a Help-Line campaign for the protection of journalists' rights. Since last November, the OSCE has received 65 incident reports pertaining to journalists' rights or freedom of media. Although not all incidents are confirmed violations of rights, the response to the Help-Line appears to indicate that journalists are still not operating in a free and safe environment.
80. **Guidelines for Police Officers and Journalists:** On 17 May, in an effort to improve police-media relations, OSCE and UNMIBH released two sets of guidelines: *Police Guidelines for Dealing with the Media* and *Journalists' Guidelines for Dealing with the Police*. The initiative is aimed to promote a better understanding of the rights and responsibilities of police and media in BiH and to enhance a professional relationship between them.

## Domestic Human Rights Protection

### **Progress in the work of the Institutions**

#### *Human Rights Ombudsperson*

81. **Reports made public:** During the reporting period, the Ombudsperson issued Final Reports in 28 cases involving the Republika Srpska in housing matters (non-decision by the responsible housing authority in repossession of property claims or non-enforcement of final and binding decisions), which have now become public<sup>1</sup>. The Ombudsperson issued 77 reports in housing matters involving the Federation of Bosnia and Herzegovina and 20 reports on abandoned JNA apartments involving BiH and the Federation of BiH. The case of *Zlatko Polic v. FBiH* (length of

the court proceedings) became public, as did two Final Reports against the Republika Srpska (length of the civil proceedings in the labour dispute before the court of the First Instance in Banja Luka).

82. **Amicable Solutions:** During the reporting period, the Ombudsperson achieved amicable solutions and closed cases in four matters involving the Federation of BiH and in two cases concerning the Republika Srpska. All cases concerned property. The applicants were reinstated into their apartments within the time limits established by the Ombudsperson.
83. **Implementation of Ombudsperson Reports:** The Federation authorities fully complied with the Ombudsperson's recommendations regarding six cases in which the failure of the competent administrative organ to enforce its decisions and to restore the possession over the apartments had been found to violate the human rights of the applicants. The Ombudsperson had recommended that the Federation authorities ensure that the applicants be reinstated into the apartments.
84. In *DD Otpad v. Republika Srpska*, concerning two sets of court proceedings initiated by the applicant in November 1997 and April 1998, the Ombudsperson recommended that the court examine the applicant's cases without further unnecessary delay. The time limit set for implementation was 27 February 2000. On 8 February 2000 one proceeding was terminated in favour of the applicant while a hearing the second proceeding was scheduled for 21 February 2000.

(More information about the work of the Ombudsperson is available at <http://www.ohro.ba/index.htm>.)

#### **Human Rights Chamber:**

85. **New Decisions:** The Human Rights Chamber met three times during the reporting period and issued eleven decisions on the merits, striking out or ruling inadmissible over 110 cases. These cases may be viewed on the Chamber's web site (<http://www.gwdg.de/~ujvr/hrch/hrch.htm>) or, alternatively, copies may be obtained by contacting the Chamber in Sarajevo at Musala 9, tel. (387-71) 212-064.
86. The eleven **decisions on the merits** concerned pension rights, employment rights [see paras 68 & 69 above, for further details], freedom from arbitrary arrest and detention, occupancy/property rights, fair trial rights and religious rights/discrimination. In the most significant of these, the Chamber ruled that the Federation's 50% reduction in pensions for former members of the Yugoslav National Army did not violate Annex 6. The applicants had not contributed to the relevant pension fund "PIO BiH" and therefore, under Article 1 of the First Protocol of the ECHR, possession rights did not attach.
87. *Zihad Secerbegovic, Josip Biocic and Nikola Oroz v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina* (the "JNA Pension" cases), cases No. CH/98/706, 740 and 776. The claimants, citizens of BiH, were former Yugoslav National Army officers who had retired prior to 1992. Prior to the war, they received their pensions from a pension "institute" in Belgrade. After the start of the war, the Federation of BiH paid their pensions, but provided 50% of what was paid to Federation army pensioners. This 50% reduction was reflected in 1998 legislation. The Chamber ruled (13 votes to 1) that the 50% reduction did not constitute a violation of the right to a "possession" as the persons in question, who now receive their pensions not from Belgrade but from the "PIO BiH" fund in Sarajevo, had not paid into the fund in question. As to discrimination, the Chamber found that the applicants were not in a relevantly similar situation to civil pensioners, as the applicants had paid into the funds in Belgrade rather than the Federation fund. In addition, the Chamber noted that JNA pensioners received, on average, significantly higher pensions than the average pensioner in the Federation of BiH.
88. *Natasa Cajlan v. Republika Srpska* CH/98/866 the Chamber found that the decision by the Banja Luka Court of First Instance to refuse to hear a property case, constituted a violation of Article 6



of the European Convention on Human Rights, and Article 8 of the same Convention. The relevant authorities were ordered to reinstate the applicant, who was further awarded KM 1000 compensation.

89. *V.C. v. The Federation of Bosnia and Herzegovina* CH/98/1366. Under the *Rules of the Road* (Rome Agreement), prosecutions for war crimes in BiH require the approval of the Prosecutor of the ICTY. In this case, the Prosecutor agreed to prosecution on unlawful confinement but not on genocide and other war crimes. The applicant was convicted of genocide and sentenced to 11 years in prison. The Chamber found that the failure to respect the ruling of the Prosecutor of the ICTY violated the Rules of the Road and Annex 6. The Chamber ordered a retrial (if requested by the applicant) and awarded KM 4000 in damages.
90. **Implementation of Human Rights Chamber Decisions:** Implementation of Chamber decisions increased from 10% in early 1999 to the current 60%, in large part due to implementation of the July 1999 JNA apartment amendments. However, progress in general was seen in the Federation, as many occupancy right cases and compensation awards were implemented in the reporting period. In addition, the Federation is now in the process of paying its compensation awards. The RS is slower in meeting its obligations resulting from Human Rights Chamber decisions.
91. As an example of such delays, in the case of *Islamic Community v. RS* (CH/96/29) of June 1999, the Human Rights Chamber ordered the RS government to ensure that requests, filed by the applicants in March 1997, to reconstruct seven mosques in Banja Luka, be granted without delay. However, one year has passed without implementation by the authorities of this decision. In addition, in the first case of the Chamber, *Matanovic v. RS*, involving the disappearance of a priest in the RS, the RS authorities were required to determine the fate or whereabouts of Father Matanovic. This Decision also not yet been implemented. More recent cases in which there has been no implementation include another *Islamic Community v. RS* (CH/99/2177) involving a requirement to revoke a municipal decision forbidding burials in the Muslim cemetery of the town, as well as three Federation cases requiring investigations into illegal arrests and detentions.

**Commission for Real Property Claims of Displaced Persons and Refugees (CRPC):**

	Human Rights Chamber	Ombudsperson	CRPC
<b>Cases Registered</b>	4582 (+969)	4076 (+228)	297,000 (+11,000) <sup>2</sup>
<b>Cases Completed</b>	556 (+127)	1749 (+210)	97,000 (+24,200)

*Parentheses refer to changes from the 31 January 2000 HRCC report (in respect of properties, rather than the number of claimants one claimant may have more than one property).*

92. The CRPC has increased its capacity to issue decisions on claims, and at its last plenary, issued over 8000 decisions and 9000 at the previous plenary. The total number of adopted decisions is approximately 97,000 of the 297,000 properties claimed with the Commission. In addition, the CRPC has issued 28,883 reconstruction verifications to reconstruction agencies, including all those agencies financed by EC DG1A and ECHO funds, specifying whether beneficiaries of reconstruction assistance have a legal right to the houses and apartments identified for repair.
93. In order to obtain better enforcement of its decisions, the CRPC has been meeting with authorities at all levels, and has seen some recent improvements in the reporting period. It is working closely with international community partners on the Property Law Implementation Plan (PLIP) on co-ordinated strategies for addressing key problems relating to property law implementation.

### **Federation Ombudsmen**

95. In February 2000, the Federation Ombudsmen released their Annual Report for 1999. The report identifies a number of structural problems causing human rights violations in the Federation and emphasizes the lack of co-operation of the authorities at different levels with the office of the Ombudsmen. The report reveals that while local authorities often give verbal support, in practice, they insufficiently implement recommendations and reply to requests for reports either late, incomplete or not at all. The Federation Ombudsmen also criticize the lack of independence of judges and public prosecutors manifested in the selection and appointment procedure, the way of financing judicial institutions and the practice by certain Court Presidents of allocating politically sensitive cases to the obedient judges. The lack of independence of administrative authorities also impacts on the return process. The Ombudsmen draw the conclusion that administrative obstruction by housing authorities exist on municipal level and that this practice is influenced by politics.
96. The Ombudsmen find that the level of realization of social rights is unsatisfactory. The report highlights that the existing legislation contributes to the monopolistic position of public utility enterprises. The Ombudsmen also focus on the status of children's rights and note that the most serious violations are related to the right to education. In addition, the Ombudsmen express their concern that no adequate places for the detention of juvenile offenders exist in the Federation. Finally, the Ombudsmen's report finds that obstacles of financial, political, legislative and judicial nature undermine the independence of journalists. At the same time, they argue that the multitude of professional organizations of journalists preserve existing ethnic and professional division.

*The report is available from the Federation Ombudsmen's office, which can be contacted at [ombudfbh@bih.net.ba](mailto:ombudfbh@bih.net.ba), or at tel: 387-71-211-392.*

### **Future of the Institutions:**

97. A new Ombudsperson for BiH, Mr. Frank Orton, was appointed by the OSCE Permanent Council on 1 May 2000. Mr. Orton, who is Swedish, replaces Ms. Gret Haller, who has been Ombudsperson since the creation of the institution in Annex 6 of the Dayton Agreement.
98. On 28 April, the first three Ombudsmen for the RS were appointed by the outgoing Ombudsperson for BiH, Ms. Gret Haller, in accordance with Article 38 of the RS *Law on Ombudsmen*, following consultation with RS officials, OHR and OSCE. This follows the adoption on 8 February 2000 by the RS National Assembly of the Law [see [HRCC January 2000 report](#) at para 100], which establishes a multiethnic Ombudsman institution in the RS. The new permanent Ombudsman Institution will investigate violations of human rights and maladministration in the RS, and make recommendations for positive changes. The three Ombudsmen, provisionally appointed for a period of twelve months, are Franjo Crnjac, Darko Osmić and Slavica Slavnić.
99. The Federation legislature is debating a similar draft law on the Federation Ombudsman. The draft law has passed the first reading (of two) in the House of Representatives, with only minor changes. The law will clarify and expand the present provisions in the Federation Constitution, providing a legislative basis for the Federation Ombudsman institution. The Law has now also been adopted by the House of Peoples at first reading and is before the government, which will return it to the two houses of Parliament for final adoption and publication in the Official Gazette.
100. The draft Organic Law for the Ombudsman of Bosnia and Herzegovina has been presented to the Parliament of BiH. This draft law, when passed, will ensure continued international presence

within this institution for a further three years, while enabling BiH to assume responsibility for its continued operation, as foreseen in Annex 6 of the Dayton Agreement.

## Minority Rights

100. **Attack on Roma in Banovici reported:** On 11 April 2000, a group of SDA members attacked a group of Roma in Banovici (Fed), according to the report of the Helsinki Committee for Human Rights and the Center for the Protection of Minorities' Rights. It is alleged that five of the Roma suffered serious bodily injuries inflicted by a knife and in other ways. The report claims that the Roma were attacked because they had voted for SDP in the municipal elections. When representatives of the Helsinki Committee and the Center for the Protection for Minorities' Rights came to Banovici to meet the Roma, policemen arrived at the meeting, provoked the attendees and followed the vehicles in which the participants left Banovici after the meeting. It is also alleged that neither the police, nor the judicial authorities have taken any steps to prosecute the perpetrators. UNMIBH/IPTF is investigating the incident.

## Policy Developments

101. EU Consultative Task Force: The European Union has identified a number of steps which should be taken by BiH in order to prepare for the launch of a feasibility study which would lay the groundwork towards eventual integration into the European Union. The steps identified include tasks within the political realm, economic developments and steps in the field of "Democracy, Human Rights, and Rule of Law." Within the latter, the EU has prioritized: implementation of property laws; stronger engagement for the creation of conditions for sustainable returns; implementation of decisions and reports of the human rights institutions; adoption and implementation of laws on judicial and prosecutorial service in both entities; and cooperation with OHR regarding implementation of public broadcasting at both the state and entity levels.
102. **Progress towards meeting CoE Accession Requirements:** In May 1999 the Council of Europe identified 13 requirements for BiH to be admitted into the Council of Europe, of which 7 accession requirements pertain to human rights (totaling 40 separate tasks). These include tasks pertaining to domestic human rights institutions, judicial reform, compliance with the European Convention on Human Rights, cooperation with the ICTY, adoption and implementation of property laws, and the establishment of a non-discriminatory education system. The HRCC has been monitoring progress on these criteria in each entity as well as at the state level, and has found that progress is very slow. Of the 40 tasks specifically related to human rights, as of today, only 10 tasks have been achieved, six of these through imposition of legislation by the High Representative. During the reporting period and after the issuance of the last HRCC report on accession of BiH to CoE, two additional tasks were fulfilled: the passage of the *Law on Courts and Court Service and the Law on Public Prosecutors Office in the RS, and the imposition by the High representative, of the Law on Judicial and Prosecutorial Service* [see para 57 of this report]. Other completed tasks include adoption of various property laws (through imposition by the High Representative), adoption of the revised Law on Citizenship, and adoption of the *Law on Immigration and Asylum*.

(A copy of the most recent report issued on April 21 is available from the HRCC.)

103. **Beijing plus 5 in BiH:** The OHCHR, in co-operation with the IHRLG (International Human Rights Law Group), organized a BiH Panel on *Beijing plus 5*, which took place on 29 March. Participants included women's NGOs, some governmental representatives and international organizations. The discussion centered on developing Bosnia-specific recommendations to the Special Session

of the General Assembly to be held in New York in June 2000 on Beijing plus 5-review. The recommendations by the NGOs will focus on the impact, which the armed conflict, domestic violence, trafficking and gender differences in economy and politics have on women in Bosnia.

104. **Improved Co-ordination on NGO/ Civil Society Issues:** In February, in co-operation with OSCE, OHR has established Civil Society Co-ordination Group which consists of several inter-governmental and donor organizations which address human rights and democratization. The priorities of the group are promotion of the co-operation between the agencies working to advance the capacity of NGOs and other members of civil society, as well as development of a common policy. Furthermore, the new group will co-ordinate further efforts of the international community to avoid overlap, and to ensure a more systematic and long term approach towards the advancement of a sustainable civil society throughout BiH.

## Human Rights Documents: February 2000 - May 15, 2000

Federation Ombudsmen, *Report on the Human Rights Situation in the Federation of Bosnia and Herzegovina for 1999*, March 2000.

HRCC *Progress of BiH towards Meeting Accession Requirements of the Council of Europe*, April 21, 2000.

HRCC *Progress of BiH towards Meeting Accession Requirements of the Council of Europe*, March 20, 2000. HRCC *Progress of BiH towards Meeting Accession Requirements of the Council of Europe*, February 21, 2000.

OHCHR and UNMIBH. *Trafficking in Human Beings in Bosnia and Herzegovina A summary report of the joint trafficking project of the UN Mission in Bosnia and Herzegovina and the Office of the High Commissioner for Human Rights*, 12 May, 2000.

UNHCR. *Returnee Monitoring Study: Refugees Repatriating to Tuzla Canton, Bosnia and Herzegovina*, January 2000.

UNHCR. *Daunting Prospects Minority Women: Obstacles to their return and Integration*, April 2000.

## HRCC Member Organizations

**OHR:** Under the Annex 10 of Dayton Agreement, the Office of the High Representative is tasked with co-ordination of civilian aspects of peace implementation in Bosnia. OHR maintains a regional human rights presence, and works closely with other agencies who monitor the human rights situation, to develop strategies and co-ordinate interventions. For more information about the OHR generally or about human rights specifically, please contact:

### Office of the High Representative

Emerika Bluma 1

Sarajevo, Bosnia

tel: 387-71-447-275

fax: 387-71-447-420

web: <https://www.ohr.int>

**OSCE:** The OSCE mandate derives from Article 10 of Annex 6 of the Dayton Agreement. The Human Rights Department advances civil, political, social and economic rights including property, return, education, employment, and others. The Human Rights Department interprets its mandate to include inter alia: monitoring on and investigating allegations of human rights abuses and training of national NGOs. Its 28 Field Offices and 4 Regional Centers allow the OSCE to ensure the full coverage of the territory of BiH and makes the organisation a direct actor in addressing human rights-related issues.

**OSCE Human Rights Department**

Dzenetica Cikma 2/4  
Sarajevo, Bosnia  
tel: 387-71-444-444  
fax: 387-665-236  
web: <http://www.oscebih.org>

**UNHCR:** The United Nations High Commissioner for Refugees is the lead organisation for the implementation of Annex 7 of the Dayton Agreement, which guarantees the right of refugees and displaced persons to return to their homes of origin. UNHCR provides international protection and assistance to refugees and displaced persons, and other persons of concern. For more information about UNHCR in Bosnia, please contact:

**UNHCR**

Unis Building Tower A  
Fra Andela Zvizdovica 1  
Sarajevo, Bosnia  
tel: 387-71-666-160  
fax: 387-71-470-171  
web: <http://www.unhcr.ch>

**UNMIBH/IPTF Human Rights Office:** The existence of International Police Task Force is mandated by Annex 11 of the Dayton Agreement. Under Security Resolution 1088, the IPTF's work includes "investigating or assisting with investigations into human rights abuses by law enforcement personnel." The main objectives of the Human Rights Office are to: investigate human rights violations by law enforcement agents; design remedial measures to correct such violations; and to monitor and ensure the implementation of corrective measures. To implement these objectives, the Human Rights Office carries out investigations into serious incidents of police misconduct and conducts comprehensive inspections of law enforcement agencies to address persistent endemic institutional deficiencies. The Human Rights Office is comprised of 145 International police and 17 international civilian staff, deployed throughout the country.

**UNMIBH**

Mese Selimovica 69  
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fax: 387-71-496-539

**OHCHR:** As of December 1998, the OHCHR in Bosnia and Herzegovina is part of the Office of the Special Representative of the Secretary General (SRSG, in charge of the UNMIBH). It focuses its activities on human rights training and on issues of gender and discrimination, with particular emphasis on social and economic rights. It continues to support the mandate of the Special Rapporteur of the Commission on Human Rights and participates in the work of the Human Rights Co-ordination Centre (HRCC) of the OHR. The legal authority for its presence is based on annual resolutions of the Commission on Human Rights as well as Article XIII of Annex 6 of the Dayton Agreement.

**Office of the High Commissioner for Human Rights**

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1) Reports of the Ombudsperson are initially confidential. If there is no compliance with the report within the specified time period, the finding of the report will be made public.

2) The HRCC January 2000 Report erred in identifying the number of cases registered to the end of January as 248,000. The number should have read 286,000. The 11,000 case increase reflected in this report is the actual increase from February to April 2000, over and above 286,000.

## **Office of the High Representative**