

Human Rights Report August 1999

SUMMARY

- **Obstruction in Education intensifies as school year commences**
- **Shooting incident in Kozarac**
- **Complete blockage of property law implementation in Stolac and Capljina**
- **Violations of Religious Property in Republika Srpska**
- **Brcko Annex issued; potential model for multi-ethnic co-existence**

REFUGEES, DISPLACED PERSONS, and the RIGHT TO RETURN

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

General Overview on Visits/Returns:

1. Minority return movements have continued in August, both in terms of assessment visits by displaced persons and refugees, and returns. Returns to both the Eastern and Western RS have been on-going, even to areas which have been difficult to date [see below]. Returns to and within the Federation are also on-going. Assessment visits have continued throughout August, largely without incident, in all areas of BiH, including a high number to the Eastern RS, a previously difficult area for visits. This includes a visit of 50 refugees currently residing in Sweden, who visited **Bijeljina** (RS).

Visits/Returns to Republika Srpska:

2. On the 13th of August, a Bosniac returnee to **Kozarac** shot two Serbs at a café bar, killing the leader of the Ostanak association, as well as another Bosniak recently converted to the Serb Orthodox faith. The incident concerned a property rights issue regarding the premises on which the café bar is located. The atmosphere in the municipality is presently apprehensive but calm; the perpetrator committed suicide on the 31st of August. Several hundred Bosniaks have returned to Kozarac this year without incidents.
3. A high profile return of 30 Bosniaks to **Vecici, Kotor Varos** took place without incident on the 4th of August. This follows upon several months of obstruction by Serb residents against the return of the Bosniaks [see [HRCC July report](#) at para 8 and [HRCC May Report](#) at para 4]. Efforts to encourage dialogue between receiving authorities and the returnee population have provided a political situation more conducive to return, but there are concerns about sustainability.
4. The return of 16 families to the municipality of **Glinje** (Ugljevik Municipality) in August is also significant. After a tense exchanges between several resident Serbs and the Bosniak returnees which culminated in the erection of roadblock by the Serbs, a compromise was successfully negotiated whereby the Bosniaks were able to return.
5. After numerous unsuccessful previous attempts [see [HRCC July report](#) at para 6], a number of Bosniaks returned to **Bosanska Dubica**, with the support of SFOR and IPTF. The return is precarious, however, as the DP (Displaced Person) population in Dubica has threatened physical violence against the returnees. Thirty Bosniak families were able to return to reconstructed homes in the Eastern RS village of **Banja Lucica** (Sokolac Municipality).

Visits/Returns to the Federation:

6. Violence against returnees continues in **Drvar**. Three elderly Bosnian Serb returnee men were beaten by Bosnian Croat DP's on the 22nd of August. Although police were on the scene at the time of the incident, the suspects were permitted simply to leave the site, while the victims were taken to the police station to provide statements. This continues the pattern of violence against returnees to the municipality by the local DP population. At present there are approximately 5000 Bosnian Serb returnees in Drvar, predominantly living in the surrounding villages, and approximately 6000 Bosnian Croat DP's, largely from central Bosnia, living in the town itself.
7. Significantly, on the 26th of August, a small group of Bosniaks visited **Ljubuski**, near the Croatian border with BiH. This was the first organized visit to this Croat-majority municipality in Canton 8. On the day of the visit, a group of Bosnian Croat DP's blocked the entrance to Gradska village in an effort to block the visitors. After negotiations, 20 visitors were able to stay over night, and a larger group returned back to Mostar.
8. In the area of Tiskovac, in south Canton 1, a border dispute between Croatia and Bosnia continues to leave some 20 elderly Bosnian Serb returnees without freedom of movement, adequate security provisions, or access to food or medical facilities. The returnees, who returned to the area from Belgrade in October of 1998, have since then been caught in this territorial dispute. Neither IPTF nor SFOR are able to enter the area. Most recently the returnees have been informed that they may only cross the check-point established by the Croatian government, on foot. The returnees have indicated that they may be forced to go back to Belgrade if the alternative is a second winter without basic human rights.

Returns to the Federal Republic of Yugoslavia:

9. It is difficult to give exact figures on how many refugees from Kosovo and FRY have returned from BiH, due to the fact that most of the families who have departed have not de-registered from the Centre for Displaced Persons (Federation) or the Local Red Cross (RS). It appears that FRY refugees remaining in BiH fall into two categories: those who plan to return but lack of information regarding the current situation before they feel comfortable repatriating; and those who feel they cannot return in the foreseeable future. Possible reasons for not being able to return include: membership of the ethnic minority group in the place of return; perception of collaboration with the Serbs; possible prosecution of draft evaders/deserters; and ethnically mixed marriage.
10. An estimated 12,000 Kosovo Albanians, 13,5000 Sandzak Muslims, and 10,000 ethnic Serbs have repatriated to FRY since the 15th of June, 1999.

PROPERTY

Implementation of Property Laws in the RS:

11. ***Confusion over 'Abandoned' private business premises in the RS:*** Returns to some parts of the RS are being stalled due to confusion over which administrative body is responsible for processing repossession claims. Although claims for these premises should be adjudicated through the same procedure used for other property, the Ministry of Refugees and Displaced Persons has issued several instructions which allowed municipal offices to refer some cases to other bodies. This is preventing the return of displaced persons to the RS, as well as blocking potential domestic investment and thus economic development. In Bijeljina, the Ministry of Urbanism is using these instructions as a basis for evicting DP's from their temporary accommodation, where the building contains both residential and business premises or where the displaced persons have converted business premises into temporary accommodation.
12. ***Violations of Religious Property:*** In **Bijeljina** (RS), where the "Atiq" mosque was destroyed

during the war, local authorities have stated that rebuilding the mosque would be perceived as provocative, and have commenced building a theatre on that site. Similarly, in **Zvornik** (RS), a religious site has been re-appropriated by the municipal authorities and building has commenced. In both cases, provisional measures have been ordered by the Human Rights Chamber, to allow parties to gather documentation and present their cases. During this time, construction should cease. Both cases appear to be in violation of the May 27 Decision of the High Representative on Socially Owned Land, which specifies that land being used for religious or cultural purposes before the 6th of April, 1992, cannot be re-allocated. In addition, the actions of both municipalities violate positive obligations established by the prominent Chamber decision, *The Islamic Community in BiH vs Republika Srpska* [see HRCC June report at paras 38 & 39], which is based on the ECHR and Annex 6.

13. **On-going Violations by “Tools Factory” in Trebinje:** The District Court in Trebinje is issuing illegal eviction orders against illegal occupants in properties of the Tools Factory. These flats, the vast majority of which belong to Bosniaks now displaced in other parts of BiH, are being reallocated to Tools Factory Staff and military personnel (all Serbs) in violation of the property laws. According to the property laws, the illegal occupants should only be evicted in favour of the pre-war occupants, not to instate altogether new occupants. To date some 31 apartments are slated for evictions, of which 7 have taken place. Interventions against the Tools Factory Director have to date been unsuccessful.

Implementation of Property Laws in the Federation:

14. **Complete blockage of property law implementation in Stolac and Capljina:** The Federation Ombudsman and the OSCE have documented the complete blockage of property law implementation in these two Canton 7 municipalities. There is 100% non-implementation in both municipalities. In Capljina, the municipality has failed even to create a municipal housing office.

RULE OF LAW

15. **Brcko Arbitration Award:** The finalized Annex to the Brcko Arbitration Award was issued on the 18th of August. The Award itself was issued in March of 1999, declaring Brcko a neutral, multi-ethnic, demilitarized district, under international supervision. The Annex elaborates the operationalization of the District, in areas ranging from judicial and penal system, law enforcement, customs service, taxation, voting, and more. The establishment of the district may provide a unique opportunity to develop a model for the protection of human rights in BiH, by promoting integration in all spheres of life, including education, policing, and the court system.

RIGHT TO A FAIR TRIAL

16. **Postponement of Golubovic proceedings:** The trial of three Bosniak men accused of the 1992 murder in Konjic of a Serb family resumed on the 23rd of August 1999 in the Mostar High Court East, but was post-poned indefinitely. The presiding Judge stated that since the Cantonal Court had not been constituted and the jurors had not been appointed, the East Mostar High Court does not have jurisdiction. The Defence lawyers requested release of the defendants, who have now been in prison for 8 months. The Golubovic case is considered a test case for judicial developments in divided Mostar. The case may involve a breach of the right to a speedy trial, since the implementation of a multi-ethnic Cantonal court has still not been achieved [see HRCC July report at para 23].

17. **Arrest of Talic:** The arrest of Republika Srpska Ministry of Defence Chief of Staff Momir Talic by the Austrian police has set a precedent on international cooperation with the ICTY. Talic was arrested based on a sealed indictment while in Vienna. The arrest caused some reactions in the RS regarding the system of “sealed indictments.”

ECONOMIC AND SOCIAL RIGHTS

18. **Law on Pensions:** On 26 August, the Federation Government approved the draft law on the organisation of the Federation pension funds, which would merge of the Mostar and Sarajevo-based funds. *The Law on the Organisation of Pension and Invalid Fund* aims at abolishing parallel institutions in the field of pensions and through this, will put an end to complex technical issues which have prevented people from receiving their entitlement. In particular, the current existence of two pension funds within the Federation, along ethnic lines, is the source of discrimination, especially against returnees.
19. **Discriminatory Pension Access:** Discriminatory effects are in evidence as a result of the instruction issued by the Director of the Sarajevo PIO (Pension and Invalid Insurance), on the 7th of May. Paragraph 5 of the Instruction requires from the claimant a certificate issued by the Municipal Department for Abandoned Property, Housing and Public Utilities, “proving that the person who submits the request has returned to his/her apartment which he/she abandoned before the war or during the war, and the date of his/her return”. This discriminates against those who have not yet been able to obtain a decision in their favour from housing authorities, as well as against those who may have settled in a new municipality since the war. This instruction was issued after a letter from OHR requesting the Sarajevo Fund to withdraw a similarly discriminatory instruction issued in January 1998.
20. **Discrimination in Utility Provision:** Throughout BiH, many people continue to be discriminated against in the provision of basic utilities such as electricity. Both minorities who stayed during the war, as well as minority and majority returnees find themselves confronted with bills for electricity consumed by war-time occupants, irregular and excessive reconnection charges, and in some cases, outright refusal by the companies to ensure reconnection. In extreme cases, electricity has been terminated to an entire apartment building where one person has failed to pay a (usually irregular) fee. As autumn begins, this is particularly serious for the elderly and vulnerable.

EDUCATION

21. **Explosion of cases of obstruction in education:** The beginning of the new school year has seen a sudden explosion obstruction of integrated education. Groups of “minority” children of returnees, predominantly in **Stolac** and **Capljina** (Federation, Canton 7), and in **Bugojno** (Federation, Canton 6) have been denied the right to access and use school premises on the officially stated grounds that they want to follow their own curriculum rather than share the curriculum in use by the “majority” children. A similar situation has arisen in **Vitez** (Federation, Canton 6) where Bosniak returnee children are educated in private houses, while the teacher is remunerated through a parallel Bosniak administrative structure in **Stari Vitez**. Competent authorities have been instructed to accommodate these groups of children whose rights are being denied. The underlying human rights issue is the intention of authorities to maintain separate curricula which reflects an education system organised along ethnic lines, in order to promote intolerance and division.
22. **Publication of Education Guidelines:** In order to raise the awareness of field monitors, the HRCC has published Guidelines on education issues. These Guidelines, which were drafted by the OSCE, provide background on legal, constitutional and factual aspects of education in BiH,

and identify key elements of policy of the international community. The Guidelines also suggest intervention strategies. (The Guidelines are available from the HRCC at the address stated on page 1, or from the OSCE at andrewm@oscebih.org / 387-444-444.)

HUMAN RIGHTS INSTITUTIONS

23. **Case File Progress:** To the end of July 1999, the Institutions had registered the following number of cases. Figures in brackets indicate increases over the past month:

	Ombudsperson	Human Rights Chamber	CRPC
Cases registered	3293 (+147)	2623 (+106)	216,559(+10,008)
Cases completed	1227 (+27)	258 (+16)	55,482 *

*CRPC cases registered and completed refer to properties over which an application was made. These figures are approximate.

Human Rights Chamber:

24. No session of the Human Rights Chamber was held in August, although decisions were released on the admissibility of the case, striking out the application, on a request for review, and on a compensation claim. (Chamber decisions and reports are available from the Secretariat or on the Internet at www.gwdg.de/~ujvr/hrch/hrch.htm.)

BiH Ombudsperson:

25. The BiH Ombudsperson this month reported on compliance with her decisions, particularly four cases of compliance by the RS government, and two of the Federation government. Specifically, the RS had complied with her recommendations in three cases concerning the length of civil proceedings; and one case concerning effective remedy before a national authority. The Federation complied in one case concerning enforcement of a property decision of an administrative body, resulting in the reinstatement of the applicant in her home; and in one case also concerning property, but with respect to the enforcement of a court decision restoring possession of an apartment to the applicant. The Ombudsperson did not make any reports public in the month of August. This is usually done when the compliance with her recommendations is not forthcoming within the specified time limit.
26. Of particular importance is the case of compliance in the RS with respect to effective remedy before a national authority. This case concerned the applicants' unsuccessful efforts to commence criminal proceedings against eight police officers who ill-treated and injured them during interrogation at the local police station. The Ombudsperson found violations of the applicants' rights guaranteed by Articles 3 and 13 of the ECHR and recommended that the competent Office of the Public Prosecutor take the necessary steps with the view to having the police officers concerned being investigated on the basis of the criminal charges pressed by the applicants. The government of the RS fully complied with the recommendations within the specified time limit. (Specific information about each case mentioned here, and other information about the work of the Ombudsperson is available at <http://www.ohro.ba/index.htm>.)

Commission for Real Property Claims (CRPC):

27. During August 1999, the CRPC responded to a significantly increased volume of queries from claimants and decision holders. Many requests for individual advice and information were received, chiefly relating to: deadlines for filing Federation apartment claims; progress on claims previously lodged with CRPC; and difficulties encountered in implementation of all kinds

of property and housing decisions. CRPC has also been conditionally accepting a broader range of claims, in response to numerous complaints about municipal officials refusing to accept claims, and the lack of guidance on how to document such refusal. (More information about the work of the CRPC is available at <http://www.crpc.org.ba>.)

NOTE: *The HRCC Human Rights Monthly 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 or sirpa.rautio@ohr.int or eric.frejabue@ohr.int.*

Office of the High Representative