

Human Rights Report May 1998

SUMMARY

- New Common License Plates Improve Freedom of Movement in all but Croat-Majority Areas
- Bosnian Serb Indictree Apprehended
- Obstacles to Implementation of Federation Property Legislation
- Agreement on Textbook Review for the Removal of Offensive Material
- Inter-Entity Judicial Cooperation Memorandum Signed

Annexes:

1. Instruction on the application of article 4 of the Law on the Cessation of the Application of the Law on Abandoned Apartments
2. Claim Form for Repossession of an Apartment with the Occupancy Right (PDF file – use Acrobat Reader to view)

RIGHT TO RETURN/FREEDOM OF MOVEMENT

1. OSCE reports that approximately 250 Bosniaks traveled from the Federation to the **Japra Valley, Novi Grad (RS)** for cemetery and assessment visits on 2 May. The visit took place without incident, with significant SFOR, IPTF and local police presence. A prior attempt to visit the area on 8 April had been blocked by a group of around 100 Bosnian Serbs (see HRCC Monthly Report – April 1998, para.11).
2. On 8 May, around 200 Bosnian Serbs traveled from **Teslic, Brcko, and Rogatica (RS)** for graveyard and cemetery visits in **Sarajevo Canton**, and more than 80 Bosniaks visited their pre-war homes in **Foca (RS)**, according to OSCE reports. On 10 May, two days after the visit, four abandoned houses belonging to Bosniaks were set on fire in **Rudine, near Rogatica**.
3. On 10 May, an attempt by a group of over 50 Bosnian Serbs to visit three villages in the **Sanica area, Kljuc (Fed)** was blocked by a crowd of 150 Bosniaks carrying rocks and sticks. A group of around 15 Bosniaks shouted ‘murderers, murderers’ during the visit to one of the villages. An elderly Bosniak woman, who remained in Prijedor (RS) during the war and who was participating in the visit, was badly beaten during the incident. The group was accompanied by UNHCR, SFOR, IPTF and the local police. The visit had been approved by the local authorities. Two women have been charged in connection to the incident, according to OHR reports.
4. Also on 10 May, 150 Bosniaks from Sanski Most visited their pre-war homes in the **village of Cela, near Prijedor (RS)**. OSCE notes that the assessment visit was conducted without serious incident, despite the presence of crowds verbally harassing the visitors. The Head of the Public Security Centre in Prijedor reportedly made a speech welcoming the visitors and underscoring the right to return.
5. Three unoccupied houses belonging to Bosniaks were damaged by explosions during the night of 18 May in the **Doljani area, Jablanica municipality**. UNMIBH (Human Rights Office) reports that investigations carried out by the local police have been unsatisfactory. The Bosniak owners had been visiting their houses on a regular basis and were reportedly planning to return in the next few months.
6. On 24 May approximately 200 Bosniaks visited **Ahmici, near Vitez**. Following the visit, fifty heads of households have been staying overnight in the village to reconstruct their houses, according to OSCE reports.
7. During a UNHCR-organised trip for 75 Bosniaks from **Tuzla to Klisa (RS)** on 24 May, one of the

vehicles was stoned as it passed through **Setici (RS)** while a group of 15 Bosnian Serbs blocked the road in protest. UNMIBH (HRO) reports that RS police were at the scene but reportedly failed to intervene. SFOR, UNHCR, OSCE, UNMIBH were present.

8. On 26 May, two Bosnian Serb men (father and son) were found dead in their home near **Kalesija (Fed)**. A family member (mother) had been seriously injured. Distorted media reports and rumours were reportedly being circulated within the RS stating that the victims had been shot by Bosniaks. UNMIBH (HRO) reports that the circumstances to date would appear to indicate a murder/suicide by the father. A visit to **Klisa (RS)** scheduled for 26 May was postponed, reportedly as a result of increasing tensions in Zvornik following the incident.
9. Around 150-200 Bosniaks safely visited **Prozor town** on 28 May from **Bugojno, Konjic and Jablanica**. According to OSCE reports, approximately 40 have been staying overnight.
10. On 31 May, 46 Bosnian Croats from **Zupanja** attended a mass in **Zasovica, near Bosanski Samac**. At the end of the mass, a group of Bosnian Serbs gathered in front of the church, throwing stones at the bus. The visit had been approved by the local authorities.
11. At least 16 Bosniak houses were damaged by explosions and fires in **Capljina municipality (Fed)** during the period from 8 April to 31 May, according to OSCE reports. Most of these incidents occurred in the villages of **Bivolje Brdo, Sevas Njive and Pocitelj**, where the majority of returns of Bosniaks are taking place. Approximately 300 Bosniaks are present in the villages, 270 of whom reportedly remain overnight.
12. **Freedom of Movement Violations in Zvornik Area:** OSCE reports several disruptions over the past few weeks of UNHCR buses traveling between the Federation and the RS on the **Kladanj - Vlasenica route**. On 14 May, a UNHCR bus from **Kladanj (Fed)** was stopped by approximately 20 Bosnian Serb women carrying sticks near the village of **Cica (RS)**. The bus was empty at the time of the incident. The local police and IPTF were present at the scene. UNMIBH (HRO) reports several assaults and robberies of Bosniaks traveling on the UNHCR bus from **Sapna to Zvornik**. On 21 May, seven Bosniaks were assaulted and one was beaten by a group of ten Bosnian Serbs in front of a bus-station, after having used the UNHCR bus from Sapna to Zvornik. UNMIBH (HRO) reports a lack of police intervention and inadequate investigations in connection with these incidents.
13. **Stolac Update:** Following the series of explosions and fires targeting Bosniak property in Stolac municipality since the end of March, the Minister of Internal Affairs set up a **special investigation team** to investigate these incidents and to put in place adequate measures of crime prevention. The special investigation team, which consists of Bosnian Croat and Bosniak crime investigators, began its work on 4 May. In a press statement issued on 27 May, UNMIBH (HRO) reports that the special investigation team has carried out extensive investigations and that the local police has increased its patrols to return villages, in particular during evening hours when most of the incidents have occurred. UNMIBH (HRO) further notes that the number of incidents in Stolac decreased during the last three weeks of May. From 4 to 27 May, UNMIBH received reports of four fires and one explosion, compared with 11 explosions and eight fires in the period of 26 March to 1 May. UNMIBH (HRO) has expressed concern, however, that no arrests have taken place in connection with the incidents in Stolac and has called on the Minister of Internal Affairs and the local police to step up its efforts to hold accountable those responsible for these crimes and to ensure a safe and secure environment in areas of return.
14. **Drvar Update:** UNMIBH (HRO) reports that investigations have been opened into the violent incidents of 24 April. A number of witnesses and suspects have been questioned but no arrests have yet been made in connection with these incidents. On 21 May, an abandoned house belonging to a Bosnian Serb was set on fire on 21 May in **Vrtoce (Fed), near Drvar**. One abandoned house belonging to Bosnian Serbs was set on fire on 31 May in **Drvar**. Finvest fire brigade were informed and reportedly failed to intervene.
15. **Police Refuse to Issue ID cards to Returnees:** UNMIBH (HRO) has received a significant number of complaints by Bosniaks in **Bijeljina** against the Bijeljina police station in connection

with a growing number of refusals or delays in issuing requested ID-cards. The matter was raised with the Chief of Police on 14 May, who stated the problems were supply related. UNMIBH (HRO) has requested that this problem be solved without delay.

16. **New Common License Plates Improve Freedom of Movement:** UNMIBH (Civil Affairs) reports that freedom of movement has significantly improved with the distribution of the new common license plates in all but Croat-majority Cantons. Obstacles to distribution are reported with Ministries of Internal Affairs in Canton 2, Canton 6, Canton 7, Canton 8 and Canton 10 where unrecognised vehicle registration documents are reportedly being issued with the new license plates in contravention of repeated OHR and UNMIBH (IPTF) warnings. In addition, Bosnian Croat authorities are reportedly charging up to DM 45 rather than the official DM 15 price for the new plates and documents. UNMIBH (IPTF) is monitoring local police compliance at border. From 1 June 1998, only cars with the new Bosnia and Herzegovina uniform license plates issued together with the uniform vehicle registration documents are allowed to cross international borders. By 31 August 1998, all vehicles in Bosnia and Herzegovina will be required to carry the new license plates and uniform vehicle registration documents.

RIGHT TO PHYSICAL INTEGRITY

17. **Allegations of Ill-Treatment by Police:** UNMIBH (HRO) reports continued allegations of ill-treatment by local police combined with a failure of police to respond, in both the Federation and the RS. In May, for example, the majority of cases of ill-treatment involved beatings and intimidation by the police. Incidents of ill-treatment were reported in the following areas: **Capljina, Ljubuski, Mostar, Novo Sarajevo, Stolac, Tuzla (all Fed)**, in **Derventa, Dobo, Gornji Zovik, Janja, Trebinje, Zvornik (all RS)** and the **Brcko area**.

RULE OF LAW

18. **ICTY Prosecutor Announces Withdrawal of Charges against 14 Accused; Bosnian Serb Indictree Apprehended:** On 28 April, the ICTY Prosecutor filed two motions to withdraw all of the charges, and the associated warrants of arrest, against a total of 14 accused named in the Omarska and Keraterm indictments, none of whom had yet been arrested or surrendered to the Tribunal. The motions were granted on 5 and 8 May. The ICTY Prosecutor stated that this course of action was without prejudice to the Prosecutor's right to pursue the same or other charges against those accused if, in the future, the circumstances change. The Prosecutor further stated her readiness to provide assistance to those domestic jurisdictions which pursue, in good faith, charges of serious violations of international humanitarian law against any of these fourteen accused. On 28 May, SFOR troops detained Bosnian Serb **Milojica KOS**, who was indicted on 13 February 1995 for crimes allegedly committed at the Omarska camp near Prijedor. Kos was one of the three deputy commanders at the Omarska camp. Last month, three Bosnian Serb indictees were transferred to the Hague, including the other two deputy commanders at the Omarska camp, Miroslav KVOCKA and Mladen RADIC.
19. **Zvornik 7 Retrial Update:** On 19 May, the retrial of the Zvornik 7 defendants commenced at the District Court in Bijeljina (RS). The first hearing date had originally been set for 26 March, postponed to 23 April and again postponed to 19 May, in each case because of the failure of one of the seven defendants to appear in court. This same defendant again failed to appear on 19 May, but the court decided to proceed with the trial against all defendants, with the missing defendant being tried *in absentia*. The trial session included the testimony of the six present defendants. The next session is scheduled for 10 June and will be devoted to testimony of witnesses. [**Ed. Note:** the session of 10 June was again postponed to 1 July, because of the failure of one of the six defendants to appear in court].

PROPERTY RIGHTS AND PROPERTY LEGISLATION

20. **Federation:** Since the passing of new laws to enable persons to reclaim their pre-war homes on 4 April, a number of obstacles have arisen in the course of implementing this legislation. OHR raised a number of these issues in a letter to Federation Prime Minister Bicačić on 21 May, asking him to ensure full implementation of the laws by the Federation authorities. The implementation issues encountered so far include:
- Failure by military and police authorities to transfer files relating to apartments to the municipal housing authorities, and refusal by some municipal authorities to accept claims involving military and police apartments.
 - Some housing offices have refused to accept claims unless the claimant provides certain “required” documents, although the Ministry of Urban Planning’s Instructions require that *“the competent authorities shall accept claims regardless of whether or not the necessary documentation is supplied.”*
 - Some housing offices have been requiring persons who are seeking to claim their apartments to demonstrate that they have already registered with a Municipal Returns Office (MRO), or requiring them to fill out the form used by the MROs.
 - Several municipalities, particularly in the Tuzla-Podrinje Canton, have been charging fees for receiving claims.
21. These, and other issues, were identified through extensive monitoring by international organisations, particularly ECMM. International organisations, including OHR, are intervening to ensure that each of these concerns are resolved, and that the claims process fully conforms to the laws and to the Peace Agreement.
22. On 18 May, the **Human Rights Ombudsperson for BiH** issued a press release on occupancy rights in the Federation which clarifies that persons who filed their cases to repossess socially owned or private property with the Office of the Ombudsperson must still file with the municipal authority under the new Federation laws. In particular, the Human Rights Ombudsperson for BiH welcomed the passing of the Law on the Cessation of the Application of the Law on Abandoned Apartments and emphasised that the submitting of an application or any other contact established with the Office of the Ombudsperson does not mean that a request for return into possession of the apartments has been submitted in accordance with the new law. All interested citizens are obliged to proceed in the manner prescribed by the new law and its instructions.
23. **Halting of Evictions of Illegal Occupants in the RS:** Legal evictions of illegal occupants, necessary for the reinstatement of returnees to their pre-war homes in Republika Srpska, have been repeatedly halted during this reporting period. The RS authorities took measures to halt evictions, thereby preventing the reinstatement of legal occupants, on 2 April, 23 April and 21 May. Although UNHCR and OHR intervention brought about the resumption of evictions for short periods, there have been only ten reinstatements of legal occupants since 1 April, and currently all evictions are halted.

INSTITUTIONAL AND POLICY DEVELOPMENTS

24. **Agreement on Textbook Review:** On 18 May, an agreement was reached between the Federation Minister of Education, the RS Minister of Education and the Federation Deputy Minister of Education regarding the review of all textbooks in use in public primary and secondary schools (with the exception of textbooks for math, science and technical vocational courses). The Agreement stipulates that the Ministers will establish teams of experts to perform the textbook review and compile sets of textbooks for immediate use by the teams. Each expert team will review the complete set of textbooks to identify offensive material which should be removed in advance of the coming school year. The review should be completed by 19 June

1998. Any differences between the experts teams' reports will be submitted to an Independent Commission for Textbook Review which will be formed by the OHR, in cooperation with the Council of Europe and UNESCO. The Independent Commission will then review the reports submitted by the expert teams and make final recommendations concerning removal of offensive material. The Ministers will then ensure that the Independent Commissions recommendations for eliminating offensive material are implemented in full, in advance of the coming school year. [**Ed. Note:** The target dates originally set for this process have been moved back by several weeks based on administrative difficulties. The process is still on course for completion in advance of the next school year, however].

25. **Inter-Entity Judicial Cooperation Memorandum:** On 20 May, following extensive negotiations, the Ministers of Justice of the two Entities signed a Memorandum of Understanding on Legal Assistance between Institutions of the Federation of BiH and the RS. The Memorandum is an important 'interim measure' to address the most urgent issues regarding inter-Entity legal cooperation in civil, criminal and administrative matters, such as:
 - tracing witnesses and serving *subpoenas* on them;
 - harmonization of the Entities' Laws on the Bar (admissibility of lawyers from the other Entity);
 - protection of witnesses when testifying in the other Entity;
 - establishment of an inventory of real estate and cadastral records;
 - serving court documents to the other Entity.
26. The Memorandum provides a working basis for the **Commission on Inter-Entity Judicial Cooperation** which was, in view of the Bonn PIC's conclusions, established by the Presidency in February 1998 and held its Inaugural Session on 4 June.
27. **The Working Group of the European Commission for Democracy through Law (Venice Commission)** discussed a new legislative framework for the Federation Ombudsmen Institution in Strasbourg on 4 May. The Ombudsmen were present at the meeting and provided comments on the proposed legislation and the draft legislation for the proposed RS ombudsmen institution. Representatives of OHR and OSCE also attended the meeting. Draft legislation is to be submitted to the Federation Government and Parliament later this year.
28. A seminar on the **European Convention on Human Rights** (ECHR) was co-organised by the Council of Europe and the Helsinki Committee for Human Rights of Republika Srpska in Bijeljina on 8-9 May. Judges, prosecutors and defence lawyers from Bijeljina, Brcko and Zvornik attended. A similar training will be organised for lawyers from the Office of the Federation Ombudsmen in Travnik from 5-7 June. A further ECHR training seminar for legal professionals is to be organised in Brcko in July.
29. Discussions were held with staff members of the Law Faculty of the University of **Banja Luka** on 11 May regarding the proposed establishment of a **Human Rights Centre**. The Council of Europe helped to set up a Human Rights Centre at the University of Sarajevo which was inaugurated in December 1996 and currently has three staff and several interns/volunteers. The Sarajevo Human Rights Centre was provided with a basic human rights library which is open to the public and contains the judgements of the European Court of Human Rights.
30. A **workshop on human rights curriculum development at the university level** was co-organised by the Council of Europe and the Human Rights Centre of the University of Sarajevo on 12-13 May. Participants discussed various models for the introduction of human rights into the curricula of different faculties, ranging from interdisciplinary courses on human rights to specific post-graduate courses. Further action will be discussed by a working group at the Conference of European Rectors meeting in Sarajevo in June. The Faculty of Criminology of the University of Sarajevo is planning to start a specific human rights programme in the 1998/9 academic year.

HUMAN RIGHTS INSTITUTIONS

31. The **Federation Ombudsmen** were awarded the 'Democracy and Civil Society Award' on 18 May. The award, which is sponsored by the US and the EU, was established last year to commemorate the Marshal Plan, the Treaty of Rome and the Universal Declaration of Human Rights.
32. **Human Rights Chamber:** On 25 May, the Human Rights Chamber announced an amicable resolution in the case of *Malic v. Federation*. The applicant, a Bosnian Serb, was an associate professor at the Faculty of Dental Medicine of the University of Sarajevo until May 1992 when she stopped working due to war-related circumstances. The Faculty terminated her employment that month for the reason of her absence without leave for more than 20 working days. The applicant appealed against this decision to the Dean of the Faculty but did not receive any response. The Federation Ombudsmen investigated the complaint and concluded the case raised serious concerns of discrimination. The case was referred to the Chamber by the Human Rights Ombudsperson for BiH on 15 January 1997 at the request of the Federation Ombudsmen. The Federation Ombudsmen represented Malic in the proceedings before the Chamber. Following a hearing in February 1998, the Chamber invited Malic and the Federation to reopen discussions and negotiate in good faith with a view to reaching an amicable resolution. On 3 April 1998, the parties submitted a declaration on the amicable resolution which provides that the Faculty will annul its decision terminating Malic's employment and reemploy her in her former position.

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 Michelle Morris or by e-mail to michelle.morris@ohr.int.*

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