HRCC Human Rights Quarterly Report, 01 April – 30 June 2001

Human Rights Co-ordination Centre

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 return questionnaire and send information for inclusion in the report to Eleanor Gordon: fax – 387-33-283-501 or Email – eleanor.gordon@ohr.int.

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HIGHLIGHTS

- On 01 April, 2001, Slobodan Milosevic was arrested and transferred to Belgrade central prison. On 29 June, Milosevic was transferred to ICTY. The Trial Chamber entered a “not guilty” plea on behalf of the accused at his Initial Appearance hearing on 3 July 2001. Indictments against Milosevic for crimes committed during the conflict in Bosnia and Herzegovina and in Croatia are also in preparation
- Dragan Obrenovic, under ICTY sealed indictment for war crimes committed in Srebrenica in 1995, was seized by international armed forces in Zvornik on 15 April
- The first DNA laboratory dedicated to the humanitarian identification of the missing began bloodstain processing in Tuzla on May 28 2001
- In May a new Chairman of the International Commission on Missing Persons (ICMP) was appointed. Mr. James V. Kimsey, founding CEO & Chairman Emeritus of America Online, Inc. (AOL), replaces the previous ICMP Chairman Bob Dole. In June, a new Commission member was appointed; Her Majesty Queen Noor. In May 2001, funds were eventually released to the Missing Persons Commissions by their respective Governments, thus facilitating the release of funds (for equipment) from ICMP

- Significant increases occurred in the number of applications and decisions by all five major human rights institutions in BiH
- Cornerstone laying ceremonies for the reconstruction of mosques in Trebinje and Banja Luka were prevented by violent riots on 05 and 07 May, respectively
- Rates of implementation of property legislation continue to rise by roughly 1% point per month (although in the month of June rates rose by almost 2% points) and, thus, the forecast for completion still stands at about six years: to date, approximately 19% of all cases in the RS have been solved, 38% in the Federation, and 22% in the Brcko District, giving a country-wide average of 29%
- Whilst the rate of return to destroyed and previously occupied property continues to accelerate, with 30,123 minority returns during the first 6 months of 2001, sustainability remains problematic and the number of return-related violence incidents also continues to increase
- Since April 2001, IPTF received 117 reports of incidents directed against minorities. The number of incidents of minority violence continued to be twice as high in the RS than in the Federation. The severity of incidents in the RS also remained far greater than in the Federation and Brcko District
- In May, the Zvornik Basic Court issued a decision in the case against Bosnian Serbs who violently protested the return of Bosniaks to the village of Divic. 14 persons were found guilty of obstructing officials in performing their duties. Two people were sentenced to 45 days of imprisonment and fines were levied against the remaining 12. The outcome fell far short of the severity of the crime, but the case represents the first instance in Eastern Republika Srpska in which Bosnian Serbs have

been held criminally liable for inciting violence against minority return

- Due to a more efficient BiH State Border Service since January 2001, UNMIBH stated that so far this year 6,800 persons have been prevented from illegally entering the country. Of continuing concern, however, is the number of those who require international assistance and protection
- There is now a system in-place whereby returnees can collect their pension via the PTT/bank: information leaflets for pensioners have been distributed throughout BiH
- Two Draft Laws concerning the protection of National Minorities entered procedure for adoption: one proposed by the Minister for Human Rights and Refugees, Kresimir Zubak, and adopted by the Council of Ministers on 19 April, and the other proposed by House of Peoples delegate, Ibrahim Spahic, adopted by the House of Peoples on 14 June 2001
- The Ministry for Human Rights and Refugees (MHRR) compiled its first treaty body report on the Rights of the Child. The report, written with the assistance of UNICEF Sarajevo, was sent to the Committee for the Rights of the Child and adopted by the Council of Ministers on 07 June 2001
- While the inter-entity Education Agreement of 10 May 2000 remains a blueprint for the gradual reform and modernisation of the education in BiH, on 26 April the EU proposed a 4-5 year “Sector Development Programme”, which aims at elaborating a shared strategy for the modernisation of primary and general secondary education in BiH

CONTEXT

Hercegovacka Banka: On 6 April, The High Representative appointed a provisional administrator, Tony Robinson, to Hercegovacka Banka, to investigate well-founded information that public funds were disappearing from the Bank, possibly to finance Croat "self-rule". The attempt by the OHR, SFOR and the Provisional Administrator to take control of the offices of the Hercegovacka Banka in Mostar and other towns in BiH on 6 April was met with well-organised violence resulting in 22 injuries among international officials and significant damage to the Bank and several vehicles of international organisations. On April 18th, the OHR, again with the support of the NATO-led SFOR peacekeeping troops, entered the headquarters of Hercegovacka Banka in Mostar, retrieving the remainder of documents required by the Provisional Administrator. There was no opposition to the second operation, which was carried out with enhanced security. Concrete information regarding certain irregularities already detected will await the completion of the audit.

Dobrinja I and Dobrinja IV: After the Dayton Peace Agreement was signed in 1995, the territorial status of two Sarajevo neighbourhoods, Dobrinja I and IV was left unresolved. The lack of will on the part of local officials from both Entities to agree on where the Inter-Entity Boundary Line (IEBL) should run, forced the High Representative to name an Irish High Court judge, Diarmuid Sheridan, **the International Arbitrator for the Dobrinja neighbourhoods**. On April 24th, Sheridan announced his final ruling on the disputed neighbourhoods, awarding 800 apartments to the Federation and 300 apartments and an Orthodox Church to the RS. Federation authorities welcomed the ruling unlike RS officials, in particular the RS President, Mirko Sarovic.

'Croat Self-Rule': The **HDZ and the Croat National Assembly**

(HNS) continued in April **to oppose the international community and the Federation authorities**. On April 3rd Herzegovina-Neretva Canton Interior Minister Dragan Mandic and 19 other Croat officials in the ministry declared they no longer acknowledged the authority of Federation Interior Ministry. These and other HDZ actions resulted in the **High Representative's** April 26/27 **passing of five Decisions creating a framework for the establishment of law and order** across the Federation. The High Representative removed Dragan Mandic from his post as Herzegovina-Neretva Canton Interior Minister, suspended three other officials from the Ministry and transferred the investigation, prosecution and trials of incidents of violence and intimidation during the past month to the Cantonal Prosecutor and Court of Sarajevo. On 16 May, most Croat soldiers who had initially declared their loyalty to the illegal Croat National Assembly (HNS), started returning to the Federation Army barracks following an agreement reached between the Federation Defense Minister, Mijo Anic, and rebel Croat commanders General Zlatan Mijo Jelic and his deputy Mario Bradara. At the same time, the Croat Democratic Union (HDZ), which has been boycotting the Federation and state institutions since the proclamation of Croat "self-rule", elected a "negotiation team" led by moderate HDZ member Bozo Ljubic to hold talks with the international community and Federation government in order to overcome the political crisis. On June 15, the Croat component of the BiH Federation Army was fully re-established. On that day, the deadline expired for those Croat soldiers who had "self-dismissed" themselves in support of so-called Croat "self-rule" in March 2001 to renew their employment contracts with the Federation Ministry of Defense. BiH Federation Minister of Defense Mijo Anic said that 7,200 soldiers had renewed their contracts by the time the deadline expired.

Renewed Regional Co-operation: On 21 May, an official BiH state delegation visited Belgrade for the first time since the end of the war. A week later, the Croatian President, Stipe

Mesic, paid a two-day visit to Sarajevo. A result of these meetings was the establishment (in the case of the FRY) and the more efficient functioning (in the case of Croatia) of Inter-state Councils between BiH and the two states. In addition, on May 14, the ministers of interior of these three countries signed an agreement on the fight against organized crime in the region, corruption and the trafficking of people, and on joint police activities. On 27 June, the Republic of Croatia, the Federal Republic of Yugoslavia and signed a 'regional action' programme in Brussles to accelerate refugee returns in the Balkans. The programme will be funded through bilateral initiatives and national action plans under the umbrella of the Stability Pact for SE Europe. The objective is to resolve the plight of approximately 490,000 refugees and displaced persons within two years. BiH On 29 June, the Agreement on Succession Issues of the Former Socialist Federal Republic of Yugoslavia (SFRY) was signed in Vienna by the Foreign Ministers of BiH, the Republic of Croatia, the Republic of Slovenia and the Federal Republic of Yugoslavia, and the Vice President of the Former Yugoslav Republic of Macedonia. The Agreement provides for the distribution of the rights, obligations, assets and liabilities of the SFRY among the States, and symbolises the beginning of a period of renewed regional co-operation.

Osman-pasha mosque in Trebinje and the Ferhadija in Banja Luka: On 5 May, Serb extremists prevented the symbolic cornerstone laying ceremony for the reconstruction of the Osman-pasha mosque in the southeastern BiH town of Trebinje. During the violent riots, several civilians and international officials, including the OHR Special Envoy to Trebinje, were slightly injured. On 7 May a mob of several thousand Serbs singing nationalist songs and carrying Chetnik flags and banners threw rocks and eggs at the participants and guests of the cornerstone laying ceremony which was to mark the beginning of reconstruction of the famous Ferhat-pasha mosque in Banja Luka. During the riots, which lasted for over eight

hours, more than 30 civilians and police were wounded. Senior international and national diplomats in BiH, along with several hundred Muslim visitors, were trapped in the building of the Islamic Center in Banja Luka. The angry protesters burnt the Islamic flag and set ablaze five buses which brought the Muslim guests, most of whom were expelled from Banja Luka during the war, to the ceremony. On 15 May 2001, the RS Government announced resignations and dismissals of senior officials in Republika Srpska in connection with the Trebinje and Banka Luka riots. They include the RS interior minister, Perica Bundalo, deputy RS interior minister Brano Pecanac, the RS security chief, Dobrislav Planojevic, and the Head of the Banja Luka Public Security Centre, Vladimir Tutus. On 26 May Murat Badic, a Bosniak who was injured during the riots in Banja Luka on 7 May and had since been in a coma, died. The ceremony to mark the laying of the foundation stone for the Ferhadija Mosque in Banja Luka was held successfully on June 18, despite demonstrations against the event organized by Serb nationalists. Republika Srpska leaders, including President Mirko Sarovic, who together with Prime Minister Mladen Ivanic attended the ceremony, called on RS citizens to show tolerance and allow the ceremony to take place. Despite these appeals, several hundred demonstrators clashed with RS Police. Fifteen officers securing the site were slightly injured. The events in Banja Luka and Trebinje provoked a number of minor, but potentially dangerous incidents across BiH, such as street protests in Sarajevo, a bomb attack on the Orthodox Church in Sanski Most, damage to an Orthodox cemetery in Tuzla and the distribution of inflammatory leaflets in several towns in the country.

BiH in the European integration processes: Limited progress was made during the reporting period by the authorities in Bosnia and Herzegovina to meet the conditions for Council of Europe membership. Still, of the 40 human-rights related accession criteria which require the adoption of legislation, only nine were met, and 6 of these had to be imposed by the

High Representative. A similar degree of progress was made to meet the EU Road Map conditions, which would allow the EC to undertake a Feasibility Study towards a Stabilisation and Association Agreement between BiH and the EU, the first step towards EU membership. The only change in criteria was with respect to the establishment of a mechanism to ensure access to and recognition of personal documents. This was upgraded from "unsatisfied" to "partially satisfied" due to the adoption of the draft *BiH Law on Recognition of Public Documents* by the Council of Ministers (CoM) and, thereafter, by the BiH House of Peoples (HoP) on May 16. However, the process before final adoption is still lengthy and the political will needs to be sustained.

Election Law: On 12 April, the Council of Ministers (CoM) adopted the Draft Election Law and subsequently passed it on to the BiH Parliamentary Assembly. On 17 May, the BiH House of Representatives (HoR) agreed to discuss the Draft Election Law under urgent procedure. At that same session, HDZ introduced its own Draft Election Law into the parliamentary procedure, and the House decided to deal with this Draft under urgent procedure as well. This means that **two** Draft Election Laws ([1] the Draft adopted by CoM, -which is a slightly amended version of the OSCE Draft prepared by a mixed expert group- and [2] the HDZ law) were discussed in parallel. CoE Political Rapporteur Laszlo Surjan, who addressed the Parliamentarians during their session on 17 May, passed a clear message to the BiH Parliamentary Assembly, saying they would have to adopt the Election Law by 22 June as a clear indication that BiH is ready (both in terms of willingness and ability) to join the Council of Europe in 2001. Nonetheless, on 21 June the members of the HoR failed to pass the draft Election Law. This failure undermines hitherto successful efforts to consolidate the democratic process in Bosnia and Herzegovina and give its citizens the effective political representation to which they are entitled. It also places in question Bosnia and Herzegovina's progress towards further integration in European

structures. The adoption of the Election Law was also a Road Map condition, a necessary precondition for the European Commission to launch a Feasibility Study assessing whether this country is ready to negotiate a Stabilisation and Association Agreement, which is the first step in the process of integrating with the European Union. The deadline set at the Zagreb Summit for BiH's completion of the EU Road Map expired in July of this year.

Citizens Identification Protection System (CIPS): The issue of the CIPS legislation, introducing unified drivers licences, ID Cards, the Jednistveni Maticni Broj (JMB – ID number) and the Law on Data Protection and the Law on Data Exchange forwarded by the Council of Ministers to parliamentary procedure continued to attract comment in the reporting period. Currently an individual can have two ID cards, two residencies and two JMB's, which creates administrative chaos and is a waste of public funds. In addition, this issue is clearly linked to freedom of movement and residency (Article 1.4 of the BiH Constitution). The new ID card conforms to ICAO (International Civil Aviation Organisation, the UN body that regulates this issue) standards for international travel documents. The driving license conforms the EU standards on driving licenses, which will facilitate BiH citizens driving in the EU and satisfy future requirements for BIH as it draws closer to joining the EU. Both documents conform to CoE resolution (77) 26 on the harmonisation of identity cards.

RIGHT TO RETURN / RIGHT TO PROPERTY

Implementation of the Property Legislation:

1. ***General Trends***: To date, approximately 19% of all cases in the RS have been solved, 38% in the Federation, and 22% in the Brcko District, giving a country-wide average of 29%. Implementation rates continue to rise by roughly

1% point per month (although in the month of June rates rose by almost 2% points) and, thus, the forecast for completion still stands at about six years (statistics for end June 2001).

2. The countrywide picture remains extremely varied, as before: implementation rates range from 100% of claims solved (in three municipalities with extremely low claims figures: Citluk, Srpsko Orasje, and Grude) to under 5%. Overall, however, Canton 7 and Canton 10 (Herzeg-Bosnia), both Croat majority Cantons, continue to show the lowest implementation rates in the Federation, both having solved less than 25% of all claims. Eastern RS remains the slowest region in both the RS and in the country as a whole, with Foca/Srbinje municipality, at less than 4%, showing the bottom rate of implementation countrywide. Canton 6 (Central Bosnia) is the most advanced region, with approximately 63% of claims solved.
3. Failure to provide alternative accommodation for persons due to be evicted, but unable to solve their own housing needs, continues to be the primary reason for failure by the housing authorities to increase their rates of implementation. Some housing offices are apparently conniving at the illegal sale or misallocation of unclaimed socially owned property, supposed to be used as alternative accommodation. Initiatives to provide accommodation using available resources remain sporadic, and, in most cases, superficial. Countrywide, this is one of the greatest sources for concern regarding the level of commitment shown by local authorities to implementation of the property laws.
4. Other significant obstacles to implementation of the property laws continue to include: deliberate prolongation of the claims process through bureaucratic obstruction; cancellation and postponement of scheduled evictions; and failure to adequately address double occupancy cases, particularly cases involving government

officials, members of the Judiciary, and prominent local individuals.

5. ***Federation Progress*: 67% of claimants have now received decisions, although only 36% have actually repossessed their property – meaning that little over half of these decisions have been implemented. Implementation of property laws is still proceeding most smoothly in Cantons 1 (Una Sana) and 6 (Central Bosnia). Major urban areas show some improvement: Tuzla has reached the Federation average of 36%, although Sarajevo lags behind at 29%. Particularly troublesome Federation municipalities include the Croat majority areas of Mostar Central Zone (7%), Mostar South West (16%), Stolac (16%) and Glamoc (9%) [in Cantons 7 and 10].**
6. ***Implementation Slow in the RS*:** Municipalities where the most numerous claims have been filed, including major urban areas, are again below the Entity average. Banja Luka has solved 13% of claims, Bratunac 8%, Foca/Srbinje less than 4%, Srebrenica just over 4%, Visegrad 6% and Zvornik 6%. The RS overall implementation rate, at 17%, with decisions issued on only 37% of claims, remains less than half the Federation rate.
7. ***Local Police:*** Under the UNMIBH *Policy on Registration, Provisional Authorisation and Certification*, police officers who are double or illegal occupants face de-authorisation if they do not vacate property within a specific time period. During the period of 1 April to 30 June 2001, 201 police officials have legalised their housing status, either by voluntarily vacating the property they occupied or concluding rental agreements with property owners. Since this policy entered into force, around 1500 police officers have voluntarily vacated property they had illegally occupied. Nevertheless, hundreds more police officers in both Entities continue to use claimed property. IPTF's Housing Action Team is continuing to compile and act on cases of police occupancy throughout the country, and to

notify fellow members of the multi–agency Property Legislation Implementation Plan (PLIP), which comprises OSCE, OHR, and UNHCR, together with UNMIBH and CRPC. Additionally, UNMIBH concluded the local police survey project, which consisted of verifying the legality of all police stations in Bosnia and Herzegovina through the CRPC claim. In the course of this project, 11 police stations were identified as illegally occupying somebody's else property for which there was a CRPC claim. At the end of the project, all these police stations were regularised, vacating the property or reaching a rental agreement with the rightful owner of the property.

8. ***Elected Officials*:** PEC Rules 7.16 and 108 bar officials from holding office if they occupy property where an administrative decision, CRPC decision, or Court decision remains outstanding. The PEC regulations have further led to parties screening their lists to ensure that none of their candidates are in violation of the ruling and, in numerous cases, to the vacation of contested property by candidates/officials in order to avoid removal. Ninety-five elected and appointed officials were removed under the PEC Rule on Illegal Occupants in 2000, and a further 7 in 2001, bringing the total up to 102. On 6 June 2001, the Bihac Minister of Culture and Education, Izolda Osmanagic, was removed by PEC due to her failure to comply with property laws. She was occupying someone's property and did not vacate the property in question by the deadline that she was issued.
9. ***Judges, Prosecutors and Housing:*** Under the auspices of the Property Legislation Implementation Plan (PLIP), OSCE has been systematically gathering information on judges and prosecutors who have failed to bring their housing situation into full compliance with the property laws. Through IJC, these cases will be brought to the attention of the competent entity review Commissions and

Councils under the Comprehensive Review Process, established to enforce standards of professional behaviour among judges and prosecutors.

10. ***Non-Compliance Reports:*** Non-Compliance Reports have been standardised to cover abuses of property legislation by housing officers and other government officials. The reports detail violations of the property laws and form the basis initiating domestic prosecutions, or in the most grievous cases, removals from office via joint decisions of the OHR and OSCE.

Unless where otherwise mentioned, the statistics given in this section are current until end of June 2001. These figures are based on the self-reporting of municipalities, and only provide a general indication of trends. For current statistics on the implementation of property laws in BiH, compiled with information from local authorities and field officers in the International Community (Property Law Implementation Plan Focal Points) see: *http://www.unhcr.ba/Protection/PLIP/PLIP_12.PDF*

11. ***Illegal Land Allocation:*** In May 2001 OSCE submitted a report to the Municipal Prosecutor on the conduct of the Mayor of Bratunac Miodrag Josipovic, the head of the Urbanism and Planning Department, Mladen Tolj, the municipal building inspector Stojan Ilic and the former head of urbanism Milan Rakita. On 21 September 2000, Mr. Josipovic was requested by the Office of the High Representative to cease all illegal construction in Bratunac to comply with the OHR Decision of 27 April 2000 on state owned real property. This decision made null and void any previous municipal decision affecting socially owned land unless certain conditions were fulfilled. Despite this request to comply with the law,

illegal construction continued in Bratunac on at least 5 different locations. On 17 May 2001, OHR again requested Mr. Josipovic and Mr. Tolj to cease construction and stop all illegal land allocation immediately. The beneficiaries of decisions to allocate land originally taken by the Bratunac Executive Board and confirmed by Mr. Josipovic's administration include the President of the Srebrenica Basic Court Mirko Zagorac, the current head of the Bratunac CID Maksim Maksimovic, the former deputy station commander Dragan Nedeljkovic and several other Bratunac police officers, several councillors, the building inspector Mr. Ilic and the head of the Cadaster office, and Novak Stjepanovic who is currently wanted by the police. Vidomir Banduka, RSNA delegate and President of the local SDS was also another original beneficiary. On 31 May, acting on the OSCE report and IC pressure, the Chief of the PSC Zvornik ordered the arrest of the Mayor Josipovic, of the Head of Urbanism, Tolj and of the building inspector Ilic and the former Head of Urbanism Rakita. The building inspector Ilic has been arrested as well as the former Head of Urbanism Rakita and the Head of Urbanism. The Ex Mayor has not yet been apprehended. The case went before the investigative judge at the end of June. On 01 June 2001, the High Representative issued decisions removing Miodrag Josipovic from his position as Mayor of Bratunac and removing Mladen Tolj from his position as Head of the Department of Urban Planning and Housing of the Bratunac Municipality.

Right to Return / Returns and Return-Related Incidents

Returns:

12. According to UNHCR figures, there were 30,123 minority returns during the period 1 January 2001 to 31 May 2001.

Of these, 18,825 were to the Federation, 10,172 were to the RS, and 1,126 were to Brcko District. These included: 12,089 Bosniak returnees, 3,583 Croats, 14,119 Serbs and 332 Others. Returns to the Eastern RS have continued, although there remain serious concerns as to the sustainability of these returns, especially given the security problems encountered in this region, as well as the difficulties encountered by returnees to these areas in overcoming problems related to access to employment, schooling for children, public services, pensions and health care.

13. Overall, however, minority return figures have continued to compare favourably with the same period last year and the year before, with monthly figures consistently almost double those of the same periods last year, with last year's figures themselves being double those of the previous year. It should also be noted that the actual number of returns may be greater than the registered number, as not all spontaneous returnees may yet have registered their return.

SUMMARY OF REGISTERED RETURNS OF DISPLACED PERSONS AND REFUGEES – 2001

	Displaced Persons				Refugees			Grand Total
	FBiH	RS	Brcko	Total	FBiH	RS	Total	
January	2,302	1,275	115	3,692	724	204	928	4,620
February	2,913	1,292	176	4,381	786	337	1,123	5,504
March	3,734	958	835	5,527	1,352	285	1,637	7,164
April	3,766	2,107		5,873	1,207	313	1,520	7,393
May	3,230	3,263		6,499	1,312	380	1,692	8,191
June	2,821	1,876		4,697	1,137	679	1,816	6,513

Total	**18,766**	**8,771**	**1,126**	**30,663**	**6,518**	**2,198**	**8,716**	**39,379**

For current return statistics see: http://www.unhcr.ba/Operations/Statistical%20package/cover.htm

Return-Related incidents:

14. Since April 2001, IPTF received 117 reports of incidents directed against minorities. 66 (or 56%) of these incidents occurred in the RS, 36 (or 31%) occurred in the Federation, and 15 (or 13%) in the Brcko District. In the RS, a high number of incidents were recorded in Bijeljina (12), Zvornik (9), Prijedor (6), Modrica (5), Banja Luka (4) Doboj (4), and Visegrad (4). In the Federation, a high number of incidents were recorded in Mostar (6), Sarajevo Centar (5) and Zenica (4).
15. The number of incidents of minority violence continued to be twice as high in the RS than in the Federation. The severity of incidents in the RS remained far greater than in the Federation and Brcko District. While the majority of incidents in the Federation involved verbal harassment and occasional damage to property, the incidents in the RS involved the use of explosives leading causing death (on 12 July in Dzamdzici, Vlasenica Municipality, Eastern RS, of a 16-year-old returnee girl), shootings, physical attacks, significant damage to property, and violent demonstrations. Police investigations into the serious incidents in the RS have been poor and few perpetrators were brought to justice.

Return-related incidents in the Republika Srpska:

16. ***Banja Luka:*** There have been serious concerns regarding

the RS police investigation pertaining to the 07 May 2001 violence against the rebuilding of the Ferhadija mosque in Banja Luka. The task force established by the RS Ministry of Interior to co-ordinate the investigation has been disorganised and ineffective, and the police have not made a serious attempt to investigate those who organised the violence. More than 1 month after the violence, Banja Luka PSC officials failed to conduct basic investigative tasks, such as interviewing certain witnesses and utilising video footage to identify perpetrator or inappropriate reaction by the police. Although hundreds police officers were deployed to control the violence, only 8 official reports have been initially filed. Criminal reports forwarded to the Prosecutor by the police identified only a very small number of those who committed criminal acts, and police officers have failed to support the prosecution of those accused. During judicial proceedings against Bosnian Serbs identified by the police as having engaged in violent criminal acts, 6 RS police officers gave false statements to a Banja Luka Basic Court Investigative Judge, contradicting their official duty reports. Sanctions against the officers are being considered by RS police authorities and UNMIBH.

17. UNMIBH continues to closely monitor the police investigation and judicial proceedings regarding the 07 May incident. Additionally, UNMIBH is performing an independent investigation into the conduct of officers during and after the 07 May incident.
18. After considerable pressure and attention from the international community, RS police authorities controlled violence at the second attempt to re-dedicate the Ferhadija Mosque reconstruction on 18 June 2001. Police officers far out-numbered protesters, and the ceremony was allowed to proceed. Several protesters were placed in criminal proceedings, and local police officers gave testimony to a Banja Luka Basic Court

Investigative Judge on 4 July 2001 (*after reporting period*). In contrast to the 07 May incident, the officers' statements appeared to be truthful and provided a full account of the events.

19. ***Trebinje:*** The Trebinje police failed to properly investigate the violent protests against the rebuilding of the Osman Pasha Mosque on 05 May 2001. Although police submitted criminal reports against individuals who attacked an OHR representative and a television cameraman, the police refused to investigate those who organised protesters and incited the violence. On 07 June 2001, the IPTF Commissioner de-authorised the Chief of the Trebinje PSC Crime Department for his refusal to investigate the incident in accordance with the law. UNMIBH has continued to press Trebinje police officials to investigate the incident, and several other individuals have been placed in criminal proceedings.
20. ***Bijeljina:*** In June 2001, the RS Minister of Interior removed the Bijeljina PSC Chief and Deputy Chief, in part for their failure to ensure that the Bijeljina and Janja police responded appropriately to minority return related incidents. The Minister was made aware of the results of UNMIBH independent investigations showing a pattern of extreme bias against Bosniak victims of ethnic violence. The area covered by the Bijeljina PSC has seen the highest incidence of minority return related violence in the country.
21. ***Zvornik:*** In May 2001, the Zvornik Basic Court issued a decision in the case against Bosnian Serbs who violently protested the return of Bosniaks to the village of Divic. Fourteen persons were found guilty of obstructing officials in performing their duties; two people were sentenced to 45 days of imprisonment, and fines were levied against the remaining 12. The outcome fell far short of the severity of the crime, but the case represents the first instance in Eastern RS in which Bosnian Serbs have been held criminally liable for

inciting violence against minority return.

22. ***Visegrad:*** On 30 May 2001, the Visegrad Basic Court found a male Serb guilty of attacking a police officer in February 2001 during a demonstration against Bosniaks who had returned to the municipality. The defendant was sentenced to 1 month in prison and only one other individual was found criminally liable for the incident, in which 400 Bosnian Serbs protested the Bosniaks' visit, burnt their car, and damaged the Visegrad municipal building.

Return-related incidents in the Federation:

23. ***Retaliatory incidents:***Following the May 2001 Trebinje and Banja Luka incidents, acts of retaliation against Serbs were reported in Cantons 1, 3 and 9. Several incidents took place in Sanski Most between 07 and 09 May 2001, including a demonstration in the town's main square, harassment of Serbs, and light property damage to Serb property. A hand grenade was thrown at an Orthodox Church, but the police apprehended the perpetrators. In Sarajevo, a bomb explosion at a Serb home caused minor damage. In Tuzla, 15 tombstones and a chapel in the Orthodox graveyard were vandalised.

Asylum and Irregular Migration:

24. In order to ensure respect for fundamental international refugee law principles, including refoulement and access to the territory, UNHCR is holding consultations with the Ministry of Human Rights and Refugees (MHRR), the International Police Task Force (IPTF) and the State Border Service (SBS):

- to ensure awareness of their particular obligations and to provide guidance;

- to ensure referrals and linkages to UNHCR;
- to clarify the modalities of the identification of asylum seekers and the manner in which individual cases should be processed;
- to assist with identified asylum seekers.

25. Over the course of last year, BiH became an attractive transit country for traffickers, smugglers, irregular migrants and asylum seekers. Reasons for this development include *inter alia*, the improved security situation, a relatively liberal visa policy, a number of legal *lacunae* with respect to migration and asylum. In addition, most of the 1666Km border of BiH is porous; passable on foot or by boat undetected.

26. Due to a more efficient BiH State Border Service since January 2001, UNMIBH stated that so far this year 6,800 persons have been prevented from illegally entering the country. Of continuing concern, however, is the number of those who require international assistance and protection.

27. the focus has been on "illegal" or irregular migration, a significant number of these may have legitimate reasons for fleeing from their country of origin, including asylum seekers, who must be assured protection in accordance with international refugee and human rights law. Although the *Law on Immigration and Asylum* is technically in force since 31 December 1999, it represents a complete institutional and structural reform of earlier legislation. Extensive by-laws and instructions are still needed and the required national institutions are not yet in place. UNHCR is in the meantime undertaking refugee status determination as well as making available extensive technical expertise and limited financial resources to the MHRR.

Rule of Law – Law Enforcement and Judiciary

Law Enforcement:

Registration of Law Enforcement Personnel:

28. BH/IPTF is currently provisionally authorising local police officers based upon an assessment of their integrity and capacity to function as law enforcement agents in accordance with democratic policing practices. As one of the main goals of the Mandate Implementation Plan, the Mission is working towards meeting the ethnic balance quotas as set by the Bonn-Petersberg and RS Framework Agreements. The mission will then move into the certification phase of the plan where middle to high level police officials will undergo further scrutiny to assess their integrity and professional capacity as police officers.

29. total number of registered police personnel throughout BiH now stands at 24,351. This figure includes uniformed police officers as well as administrative staff. Of the 13,349 police personnel registered in the Federation, 66% are Bosniaks, 29% are Croats, and 3% are Serbs. Of the 10,001 police personnel registered in the RS, 97% are Serbs, 2.5% are Bosniaks, and 0.5% are Croats.

30. To date, UNMIBH/IPTF has provisionally authorised a total of 10,657 persons to exercise police powers in both entities as well as BiH State police institutions and in the Brcko District. In the Republika Srpska, 5,580 officers have been provisionally authorised to exercise police powers; 97% are Serbs, 2% are Bosniaks, and less than 1% are Croats. In the Federation, 4,664 police officers have been provisionally authorised to exercise police powers including 61% Bosniaks, 35% Croats, and 3% Serbs.

Minority Recruitment:

31. In the Federation, 258 minority officers have been deployed since April 1999. Of these, 202 have graduated from the Vraca Academy and been deployed as officers. Twenty-three former officers have been re-employed by their pre-war police

forces after completing the Refresher Course, and 33 have voluntarily re-deployed from the RS Ministry of Interior. An additional 207 minority officers from the third and fourth Federation Police Academy classes will join Federation police forces once they complete their academic and field training. The third class with 109 cadets is due to complete their field training on 31 July, and the fourth class with 98 cadets began coursework in February 2001.

32. In the RS, 228 minority officers have been deployed since April 1999. Of these, 175 graduated from the RS Police Academy, and 30 have voluntarily re-deployed from Federation Ministries of Interior. An additional two classes for former police forces have trained 23 former officers to return to their pre-war areas. The 117 minority cadets in the fourth class of the RS Police Academy completed their coursework in April 2001, and started their 6-month field training, and the fifth class with 122 began in May 2001.

33. In order to enhance the effectiveness of UNMIBH in managing the Minority Recruitment project, the HRO has developed a new strategy which consists of collecting housing information of minority police officers – both cadets (directly in the Academies by completing questionnaires) and voluntary re-deployment candidates (through received from the Minority Recruitment Unit). A list of minority police officers who need reconstruction assistance has been compiled (and will be up-dated) and was distributed to all NGOs and donors for inclusion in their on-going reconstruction projects. Out of 310 potential beneficiaries currently included on the list, 62 have already been taken into consideration by various NGOs for the reconstruction of the property.

Arrest and Police Custody Projects:

34. The UNMIBH initiative to improve arrest and custody procedures has progressed significantly, both in the Federation and the RS. The Federation Arrest and Custody

Project is almost concluded: the joint UNMIBH/Federation Ministry of Interior Working Group completed their task of developing the model record-keeping material on deprivation of liberty in compliance with European standards. The uniform procedures and records on deprivation of liberty were adopted by the Federation Ministry of Interior in February 2001 and by all 10 Cantonal Ministries of Interior during May 2001. Since 01 June 2001, the Registry Books with standard records on deprivation of liberty have been implemented in the Federation police stations. UNMIBH continues to monitor implementation: of 53 Federation police stations visited by mid-June, 51 stations (96%) were fully implementing the new procedures, and no major problems were reported.

35. In February 2001, the IPTF Commissioner forwarded to the RS Minister of Interior a report summarising results of the UNMIBH micro-audit of 105 police stations and recommending that the RS authorities, in co-operation with UNMIBH, develop and implement a uniform record keeping mechanism on arrest and custody. A joint UNMIBH/RS Ministry of Interior Working Group was formed and the RS representatives agreed with the model record keeping on deprivation of liberty. In June 2001, the model records were tested in 12 selected RS police stations. It is expected that the new procedures on deprivation of liberty should be implemented throughout the RS by September 2001.

Police Misconduct and Inaction:

36. Of 193 incidents of police misconduct reported to IPTF during the period from 01 April to 30 June 2001, 113 have involved officers from the Federation, 78 from the RS, and 2 from the Brcko District. Categories of misconduct include assault, beatings in custody, excessive use of force, ill treatment, harassment, police inaction, illegal detention, restriction of movement, improper seizures, abductions, sexual assaults, negligence, corruption, and abuse of power.

Police Misconduct and Inaction in the RS:

37. Bijeljina: On 07 June 2001, the IPTF Commissioner de-authorised two police officers from the Bijeljina PSS for violations of law and duty. In mid-200, one of the officers beat a Bosniak visitor to the municipality while the other, his supervisor, failed to intervene. Despite the fact that both should have been criminally prosecuted, the Bijeljina PSS never sent a criminal report to the Public Prosecutor. A Bijeljina PSS Disciplinary Commission failed to recognise criminal responsibility as well, and instead found them guilty of violation of duty – failure to notify their supervisors of using force. The officers were fined a portion of their salaries over 6 months.

38. Sokolac: On 28 May 2001, the Sokolac Basic Court found 6 former RS police officers guilty of abuse of authority and torture in connection with their investigation into the 1998 murder of Srdan Knezevic, the former Pale Deputy PSC Chief. The Court found a seventh defendant, Slavko Kovacevic, innocent; an eighth defendant has been dropped from the case earlier because of lack of evidence. The prison terms meted out – ranging from 75 days to 11 months – are unacceptably low given the severity of the crimes committed. The acquittal of Kovacevic cannot be explained given the amount of evidence against him. The Public Prosecutor will likely appeal the verdict.

39. Prijedor/Matanovic: In 1997, the BiH Human Rights Chamber had order a full investigation into the disappearance of Father Tomislav Matanovic from Prijedor in 1995, but RS authorities have thus far failed to comply. On 28 May 2001, based on the independent evidence accumulated by UNMIBH, the IPTF Commissioner de-authorised three Prijedor police officers for their involvement in the illegal detention and disappearance of Father Matanovic. Despite conclusive evidence of their involvement, the three officers have not been placed in criminal proceedings because RS Ministry of Interior

officials have thus far failed to recognise the involvement of Ministry officials. The RS MoI investigative team only recently revealed that the Matanovic family car has been in the possession of the local police since the disappearance. The revelation may provide a basis to suspect additional RS Ministry of Interior officials in the disappearance.

Police Misconduct and Inaction in the Federation:

40. Canton 4/Visoko: **On 09 September 2000, the Zenica Cantonal Court rejected the appeal of two Visoko police officers found guilty of beating a Bosniak man at a bar in August 1999. The victim was permanently disabled because of the injuries sustained during the assault. The officers were sentenced to 15 months imprisonment. The IPTF Commissioner agreed to de-authorise four police officers involved in this case.**

41. Canton 7: On 11 April 2001, the Canton 7 Crime Chief delivered criminal reports relating to the Beljo case to the Mostar Public Prosecutor. In 1999, Beljo had been illegally detained and deported to Croatia by 4 Canton 7 and 8 police officers. IPTF Commissioner de-authorised 2 of the officers, but police authorities had suppressed efforts to impose criminal sanctions against them for 2 years.

42. Canton 9: UNMIBH continues to monitor the trial of 19 members of the Canton 9 Support Unit indicted for abuse of authority and excessive force during the 1999 raid of a Hadzici restaurant.

43. Canton 7 de-authorisations: **In April 2001, the IPTF Commissioner suspended 16 Canton 7 Croat police officers who signed a statement in effect renouncing the authority of Federation organs and pledging allegiance to an illegal structure. Following a full investigation, six senior officers were decertified and 10 others issued serious non-compliance reports on 14 May 2001.**

Internal Review Mechanism Project:

44. UNMIBH initiated the Internal Review Mechanism Project to assess structural and functional adequacy of internal disciplinary procedures. Information and statistics on disciplinary procedures which were collected in all Cantons and PSCs are being analysed with a view to make recommendations to strengthen and improve the current system.

Your Police Serving You/Vasa Policija Sluzi Vama Campaign:

45. The UNMIBH "Your Police Serving You/Vasa Policija Sluzi Vam" campaign, which focuses upon police and public rights/obligations in the four areas where the public comes most frequently into contact with the police, has continued. Following the first phase of the campaign related to traffic, the second phase on domestic violence was launched in June 2001. The phases related to return and arrest will follow.

Prison Reform:

46. UNMIBH's regular monitoring of all 15 prisons in BiH did not show any significant human rights violations. UNMIBH also continued to pursue the Mostar Prison Unification Project. Although the legal framework for the unification of the Mostar East and West prisons had been completed in late 2000, the process has been delayed due to political considerations. On 14 June 2001, the Federation Government, however, took an important step forward by appointing a Manager and Deputy Manager for the unified prison. The Federation Minister of Justice is expected to submit an operation plan for the unification to UNMIBH in the near future.

Violence against Women:

Domestic Violence:

47. During the reporting period, there were approximately 25 cases of domestic violence reported to the local police throughout BiH. Local authorities generally continue to treat such cases as domestic disputes instead of crimes.

48. On 15 May 2001, a domestic violence case in Pale concluded with a conviction against the husband for three counts of causing bodily harm (Article 134[1] RS Criminal Code) to his ex-wife. The Judge ordered the convict to pay a fine of 900 KM. This is an outrageously inadequate sentence considering the facts. The accused on three separate occasions, over a period of 6 months, hit his wife with his hands and legs, hit her in the head and caused damage to her eye and pushed her into the stove causing burns to her hands and legs. The UNMIBH Human Rights Office is also deeply concerned with the local police attitude in this case. The complainant had to attend the police station on a number of occasions to inquire into the police investigation into her case despite the fact that her ex-husband continued to threaten to kill her. Finally, the complainant sought the assistance of the IPTF. When the IPTF Human Rights Officer discussed this case with the Assistant Commander in Pale he responded to the incident by stating that it happened "behind closed doors" so the police could not intervene. This case highlights the need for additional training of local police on domestic violence issues and the need for the judiciary to issue sentences that address specific and general deterrence sentencing principles.

Trafficking in Women:

49. Trafficking in human beings, especially in women and young girls for sexual exploitation, continues to be a serious human rights problem in BiH. This is due to the weak state-level institutions that are unable to co-ordinate responses to the problem and the porous national borders that have facilitated the work of traffickers. The trade in human beings is run by well-established organised crime rings, which have been allowed to flourish because local law enforcement officials are either involved in trafficking themselves, or they are unable or unwilling to fight the crime rings. The illegal sex trade industry in BiH has also been fuelled by the presence of the international community; the supply of women forced into

prostitution has been fuelled by poor social and economic conditions in Eastern Europe, particularly in Romania, Moldova and Ukraine.

50. Repatriation of victims: UNMIBH and the International Organisation for Migration (IOM) continued to implement a project to assist trafficking victims. After local police raid bars whose owners are suspected of engaging in trafficking, UNMIBH determines whether employees of the bars are, in fact, victims of human trafficking. Those determined to be victims are transported to safe houses that are guarded by the local police, and IOM arranges for their repatriation to their home country.

51. Between 1 April and 30 June 2001, 25 trafficked victims were identified and assisted by UNMIBH and IOM. The majority of these victims were from Moldova, Romania and the Ukraine.

52. Protection of victims: IOM has received funding to continue to operate two shelters in Sarajevo for trafficking victims. One shelter is for low risk cases and the high risk shelter is for victims who are willing to testify at trial, or who have received direct or implied threats of violence and retaliation.

53. National Plan of Action to Combat Trafficking in Human Beings: On 19 April 2001, the Human Rights Office of UNMIBH met with the Deputy Minister of Human Rights and Refugees (MHRR) and the Assistant Minister for European Integration (MEI) and the Chiefs of Mission of IOM and OHCHR in order to discuss the pressing issue of providing shelter to trafficked victims in BiH. The MHRR gave an oral commitment that they will assume responsibility for the operation of the two shelters (high risk and low risk). It is a significant step forward for the state level government to agree to take an active role in combating trafficking. UNMIBH continues to press the MHRR in order that this commitment becomes a plan of action. OHR has presented the temporary shelter project, which

if approved, will ensure the costs for the accommodation of trafficked victims waiting for repatriation for two months.

54. Prosecutions: Local authorities have been generally reluctant to prosecute bars owners and traffickers. During the reporting period, there was only one successful prosecutions of a bar manager (an investigation against the bar owner is still ongoing). Moreover, sentences for convicted traffickers, bar owners and managers are often insufficient to be a deterrent and women are still prosecuted for crimes related to prostitution, illegal immigration and forged documents.

55. Sarajevo: On 06 June 2001, the manager of the nightclub "Como" was found guilty of trafficking related charges and sentenced to one year imprisonment. The accused has appealed. An UNMIBH Human Rights Officer (HRO) is pressing the local police and prosecutor to also charge the bar owner in this case, who has other outstanding trafficking changes pending against him. The HRO is also trying to persuade the court and prosecutor to utilise Article 66 (1) which precludes club owners or managers convicted of a crime involving the business from again working in that business. This criminal case arose from a raid on 16 March 2001 where six women (including one juvenile) were found with false passports and had been forced into prostitution.

56. Enhancing Legal Protection for Trafficking Victims in Bosnia and Herzegovina: OSCE and the International Human Rights Law Group will implement a project to train a cadre of specialised defence lawyers who, through *ex-officio* appointment, can then represent the victims of trafficking in BiH courts. The lawyers will be trained to use appropriate representation techniques for trafficked persons, relying on existing law in BiH and on applicable international standards. In addition to providing quality representation to the victims of trafficking, increased attention to the rights of trafficked persons by defence lawyers in court proceedings will also push judges and prosecutors to adhere to

constitutional and international obligations and to respect the rights of all defendants within their jurisdictions.

Judicial Reform:

57. Independent Court Budgeting : With respect to budgets, despite some rhetoric, there has been no real attempt or interest on the part of the government to increase funding for the court system and, in fact, there is a vested political interest in maintaining a dependent court system. Court budget funds are perennially late, low and often not paid in full. Obtaining payment may depend on the court president cultivating a good relationship with the Minister of Justice and some courts have reverted to taking loans from local businesses. Some prospects for better government funding in general are held out by the current reform initiatives in the sphere of public finance generally.

58. Delays in Civil Court Proceedings and Poor Enforcement of Civil Judgements hamper Justice: The cumbersome and ineffective system for enforcement of civil judgements has been identified as one serious impediment to the encouragement of investment in the economy. It has also been a problem in return cases involving evictions. The legislation, which dates from the existence of SFRY, is unduly protective of the rights of judgement creditors, and is highly procedural in nature, requiring judicial intervention at almost every stage of the process. Failure of the court police or local police to act effectively is also an issue in some types of enforcement.

59. Court Administration and Case Management – Disappointing State of Affairs: Generally, the structure of the courts and the expectations of staff are rigid and depend on outdated rules rather than adaptability to changing needs and circumstances. This influences the entire court work, from the systems for assessing the performance of judges to the organisation of the registry, the mail system and the court opening hours. The courts must make a paradigm shift from

being an inward-looking self-sufficient organisation to a results-oriented public service-minded one. The international community through judicial reform and targeted assistance programme is addressing the situation. One of the avenues being explored is to rationalise staffing and allow less discretion to the judges in choosing which cases to process. The current practice shows that, in most of the courts, judges process "easy" cases to fill in their quotas, which impacts negatively on the application of the rule of law at large.

60. Review Process of Judges and Prosecutors (see chart): The Comprehensive Review of all serving judges and prosecutors is scheduled to be completed by early 2002. There are over 750 judges and 260 prosecutors in BiH and each of them is the subject of an individual review, carried out by judicial and prosecutorial Commissions and Councils. So far, a total of approximately 1044 complaints have been received by the Commissions and Councils, of which 741 are in the preliminary review phase, 50 are in the subsequent review phase and 8 are in the final review stage.

61. Preliminary findings show that there exist difficulties concerning the ability and willingness of the Commissions and Councils to carry out the Comprehensive Review process in a proper manner. The IJC has noticed tendencies to treat instances of misconduct in an insufficiently serious manner, and also for them to act in a passive manner. It has also been noted that the Federal and Cantonal Commissions are working less effectively than the Councils in the Republika Srpska. In general, both the Commissions and Councils are insufficiently staffed to perform their duties.

***62. Appointment Process of Judges and Prosecutors Lacks Transparency*:** Together with a lack of transparency, the ethnic composition of courts and prosecutors' offices are of concern. The latter has recently come to a head with the rejection of the nominations for the Federation Constitutional Court by the Federation President and Vice-President. The issue is

complicated by the fact that the BiH Constitutional Court decision on constituent peoples has not yet been fully implemented.

63. MoU to Promote Free and Fair Appointment Process of Judges and Prosecutors in Both Entities: A Memorandum of Understanding on the standardisation of the appointment procedure for judicial and prosecutorial posts in both the Federation and in the Republika Srpska was signed on July 04 (*after reporting period*) by the Federation Minister of Justice and a representative of the RS Minister of Justice. With the signing of this Memorandum of Understanding, all parties will strive to implement uniform appointment procedures that will encourage and enable legal professionals to serve as judges and prosecutors regardless of geographic location or ethnic background in order to satisfy the public's expectation that the courts and prosecutors' offices are staffed by diverse legal professionals dedicated to upholding the law and to protecting the rights of all citizens.

Review Process of Judges and Prosecutors, Flow Chart

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*[Note: *Commissions operate in the Federation while Councils operate in the RS]*

***64. Criminal Procedure Code Reform*:** Draft criminal procedure legislation has been prepared by OHR-Anti-Fraud Department (AFD) that would be introduced at state and entity levels by the end of 2001. The Draft has been released to international agencies and will shortly, once translated, be released to national agencies. Within the Ministry of Civil Affairs and Communications a Working Group has been established, involving State and Entity Ministries, OHR, CoE and other organisations, which will elaborate principles for criminal procedure reform and a draft code for the State-level to be reflected in amended codes for the other jurisdictions. At this stage, the

criminal procedure legislation will:

- Reduce the role of the investigating judge;
- Remove the role of the private prosecutor;
- Give the public prosecutor more control over the investigative process;
- Encourage greater concentration of hearings;
- Require appeals to be finally decided by the appeal court;
- Include better provisions on witness protection.

65. In anticipation of the implementation of this legislation, the IJC has begun work on the initial stages of development of a comprehensive inter-agency training programme for judges and prosecutors, including UNMIBH, US DOJ and OHR-AFD.

See IJC web page – https://www.ohr.int/ijc/

Training for the Judiciary:

66. Human Rights Training for the Judiciary: A comprehensive three-year training programme on the ECHR and European legal standards was initiated in July 2000 by the Council of Europe with one year of funding provided by the US. Between September 2000 and June 2001, more than 250 judges and prosecutors took part in one-week practical courses on the application of the ECHR in the domestic legal system of BiH. From among the participants, a select few will receive specialised training in November 2001 on how to conduct training courses themselves. Despite the fact that the ECHR has been a part of domestic law since December 1995, most judges were ignorant of both the substance of the Convention and its status in the country. Funding permitting, from early 2002 all judges and prosecutors will receive specific training on the ECHR. In addition to the courses, substantial materials and commentaries on the ECHR are being produced and an ongoing dialogue with the judges on the ECHR has been initiated. Strengthening the functioning and independence of the

judiciary through developing local capacity is an important element of this programme.

67. Legal Workshops: From 28 to 31 May, OHR Banja Luka staff member organised Legal Workshops in Sarajevo and Banja Luka. These workshops successfully promoted awareness of the standards governing criminal law enforcement in BiH and further afield. The workshops gave perspectives on domestic criminal law, criminal procedure and police practice in the light of international standards and a comparison with other European systems. The workshops also presented concepts of crimes in international law and the way in which individuals or states are persecuted for violations of international humanitarian law, including through the ICTY and ICC. Expert presenters were invited from the University of Liverpool, UK and from Universities in Sarajevo and Banja Luka.

See Council of Europe internet site: http://www.coe.int/

War Crimes Prosecution

Domestic war crimes prosecution*:*

68. Rules of the Road Agreement: Under the 1996 Rome Agreement ('Rules of the Road'), signed by the signatories of the Dayton/Paris Peace Agreement, representatives of BiH Entities agreed to submit all cases of war crimes suspects to the International Criminal Tribunal for the former Yugoslavia (ICTY) prior to arrest by national authorities. Particularly regarding compilation of information and evidence-gathering, there is an obvious need for training. Many of the cases submitted for which ICTY has said there is insufficient evidence or a lack of connectivity of the evidence for the case to go to trial, for instance, could have been approved by ICTY if training on this issue occurs. To address these training matters, ICTY Rules of the Road Unit, the Coalition for International Justice and the American Bar

Association/Central and East European Law Initiative (ABA/CEELI) conducted training in Sarajevo and Banja Luka in March 2001, and will repeat the training (Lecture Series) in October of this year in Sarajevo and Banja Luka. The training is geared towards Judges, Advocates, Prosecutors, Investigative Police Officers and other interested parties, and was sponsored by the Netherlands Government.

69. Alleged War Criminals in BiH as Return Deterrent: An on-going concern, which is hampering return, the concept of justice and prospects for reconciliation and peace in BiH, is the presence of a large number of alleged war criminals in BiH, particularly those in positions of power or who remain influential over the local population, the political structures and the Criminal Justice System. This is a serious concern for which there are no facile remedies. One prospective channel is increased political and financial support for the work of the ICTY Rules of the Road Unit, in an endeavour to increase the number and standard of case files submitted for clearance to the ICTY and the number and standard of domestic war crimes trials. Support of the training mentioned above would help rectify the general lack of knowledge of fundamental investigative and judicial procedures and international standards with respect to war crimes prosecutions. Many of the cases submitted for which ICTY has said there is insufficient evidence or a lack of connectivity of the evidence for the case to go to trial, for instance, could have been approved by ICTY if training on this issue occurs. It is important to note that such cases can be resubmitted to the ICTY if further evidence is obtained

70. Monitoring: The International Community continues to monitor domestic war crimes trials. The majority of these cases relate to crimes committed in Central Bosnia (mainly Croat forces against Bosniak civilians). After the completion of pre-trial investigations and approval to proceed granted by the Rules of the Road Unit in ICTY based upon evidence

submitted, as required by the aforementioned Agreement, three trials against Bosnian Croats for war crimes in central BiH, namely Dominik "Como" Ilijasevic, Vlatko Buzuk and Tibor Prajo, are still pending before the Zenica and Sarajevo courts due to procedural problems. Trials and retrials against Bosnian Serbs Dragan Stankovic, Goran Vasic and Sretko Damjanovic before the Sarajevo Cantonal Court are underway as scheduled. Also underway is the trial before the Travnik Cantonal Court against Bosniak Hanefija "Paraga" Prijic for murdering three Italian humanitarian workers in 1993. The number of war crime trials is expected to increase in the coming months as the Zenica Cantonal Court has launched investigations into war crimes in central Bosnia committed by both the Croats and the Bosniaks.

71. Mostar Five Case: 10 May 2001- The Mostar Cantonal Court reached its final verdict in the "Mostar Five Case", finding all five of the defendants not guilty. Two of the five, Dzidic and Anicic, received not guilty verdicts because the prosecutor could not prove that they actually ordered or committed the crimes under a FBiH Supreme Court decision recognising criminal acts only if the defendant personally ordered or committed the act (s). The charges as filed by the prosecutor that Dzidic and Anicic were that they directly ordered/committed the crimes. The remaining defendants, Poznic, Skutor and Soldo, were also released due to lack of evidence.

72. The Trial of 13 Bosniaks: The criminal panel of the Mostar Cantonal Court on 04 May pronounced its verdict acquitting one of the accused Mr. Senad Orucevic. Nine of the Defendants are still in detention, and three are out of the country.

***73. War Crime Trials Invariably End with Acquittal in Mostar*:** In the recent months, Mostar Cantonal Court pronounced itself in three different war crime-related cases. In all cases the court reached a not guilty verdict. The OHR decision to ensure full anonymity to protected witnesses was never used.

International monitors further asses that should the case have been transferred in another canton, the verdict may have been different. Along the same line, it appeared that the trial of 13 Bosniaks accused of war crimes turned surrealistic when, at the hearing on May 03, four prosecution witnesses not only testified contrary to the statements they gave initially to the investigative judge but also shook hands with the accused and showed friendly gestures. These reports shed worrying light on the capacity of Mostar Courts to objectively hear sensitive trials. Some international monitors deem that there is a tacit understanding between the Croat and the Bosniak communities in the conduct of war crimes prosecutions.

International Criminal Tribunal for the former Yugoslavia (ICTY):

74. Milosevic Arrested and Transferred to ICTY: Indictments for crimes committed in BiH and Croatia being prepared: On 01 April, 2001, Slobodan Milosevic was arrested and transferred to Belgrade central prison. The ex-Yugoslav president, who had earlier said he would not be taken to jail alive, was arrested at his villa after a 36-hour armed stand-off outside his Belgrade residence. Both Serbian Prime Minister, Zoran Djindjic, and the Justice Minister, Vladan Batic, said that the timing of the arrest attempt, on the day that the US deadline to Yugoslavia to start co-operating with the Hague Tribunal expired, was a "coincidence". On 02 April, the US confirmed that 50M USD would be released in aid to FRY, as a result of these recent actions and further aid would be forthcoming if further co-operation with the ICTY occurs. On 29 June, Milosevic was transferred to ICTY in The Hague. The Trial Chamber entered a "not guilty" plea on behalf of the accused at his Initial Appearance hearing on 03 July 2001 (*after reporting period*). The following day, Judge May was appointed pre-trial Judge in this case. The tribunal indicted Milosevic in May 1999 on four counts of crimes against

humanity for his leading role in Serbian atrocities against ethnic Albanians in Kosovo earlier that year. Milan Milutinovic, Nikola Sainovic, Dragoljub Ojdanic, and Vlajko Stojiljkovic are also charged with war crimes under the same indictment. Indictments against Milosevic for crimes committed during the conflict in Bosnia and Herzegovina and in Croatia are also in preparation.

75. Obrenovic's Arrest: The level of co-operation of the authorities in BiH with the ICTY remains unacceptably poor, particularly in the RS. To date, none of the alleged war criminals indicted by the ICTY have been arrested by the national authorities in BiH. During the reporting period, one more additional indictee, Dragan Obrenovic, was seized by international armed forces (in Kozluk, Zvornik Municipality, Eastern RS on 15 April). This occurred after a lull in activity, since the attempted arrest of Janko Janjic on 12 October 2000, when the suspect detonated a hand grenade killing himself and injuring 5 others including 4 of the arrest team. The last successful arrest and transfer by international armed forces occurred on 25 June 2000, when Dusko Sikirica was arrested for crimes committed in Prijedor (Keraterm Camp). The indictment of Dragan Obrenovic was signed by the Prosecutor on 23 March 2001, and confirmed by Judge Liu Daqun on 09 April 2001, who also granted the Prosecutor's request that the indictment remain sealed until the detention of the accused. The indictment alleges that *"Dragan Obrenovic participated in a criminal plan and enterprise, the common purpose of which was to detain, capture, and summarily execute by firing squad and bury over five thousand Muslim men and boys from the Srebrenica enclave, including the exhumation of the victims' bodies and re-burial in hidden locations. This enterprise began on 11 July 1995 with the planning of the enterprise and ended on approximately 1 November 1995".* When the Srebrenica operation began on 04 July 1995, Dragan Obrenovic, as the Deputy Commander of the Zvornik Brigade, was in charge of the Brigade. He remained in charge throughout

until mid-day 15 July 1995 when the Commander, Vinko Pandurevic, returned to the Brigade area. Dragan Obrenovic then became again Acting Commander of the Zvornik Brigade from 04 August to 16 September 1995, and from 18 September to 24 September 1995. Indicted on the basis of his personal criminal responsibility and his responsibility as a superior, Dragan Obrenovic is charged with five counts: complicity in genocide (among others, for the mass-execution of thousands of captured Bosnian Muslim males from the Srebrenica "safe area" which occurred in several locations in and around the Zvornik Brigade zone of responsibility), crimes against humanity (extermination, murder and persecution on political, racial and religious grounds) and violations of the laws or customs of war (murder). Obrenovic pleaded "not guilty" to all counts at the initial appearance, which took place on 18 April 2001. The last status conference took place on 29 June 2001. The arrest, particularly being on Orthodox Easter Sunday, and the fact that the indictment was sealed, prompted demonstrations in Zvornik and harsh criticism by the RS leadership. Nonetheless, it appeared as though the nature of the arrest was used as an excuse for continued non-co-operation, especially in light of the recently increased focus of attention by the IC and the media on RS co-operation with the ICTY. Moreover, given the fact that no-one on the public indicted list have been arrested by RS authorities, it is highly unlikely that the policy of sealed indictments will cease until such a time that RS co-operation with regard to locating, arresting and transferring ICTY-indictees can be expected.

***76. Krstic – Closing Arguments*:** The closing arguments in the case against Radislav Krstic, detained by international NATO-led forces on 02 December 1998, were heard from 26 to 29 June 2001.
The trial started on 13 March 2000. The amended indictment of 27 October 1999, alleges that in early July 1995, units of the Drina Corps of the Bosnian Serb Army (VRS) shelled the

Srebrenica “safe area” and attacked Dutch-manned United Nations observation posts which were located there. VRS forces subsequently entered Srebrenica. By 18 July 1995, those forces either expelled or killed most of the members of the Bosnian Muslim population of the Srebrenica enclave. As a result of these actions, the VRS forces virtually eliminated the presence of any Bosnian Muslims in the Srebrenica enclave area, thus continuing an ethnic cleansing campaign which had begun in the spring of 1992. From October 1994 until 12 July 1995, Radislav Krstic was the Chief of Staff/Deputy Commander of the VRS Drina Corps. He was promoted to the rank of General-Major in June 1995 and assumed command of the Drina Corps on 13 July 1995. In April 1998, he was promoted to the rank of Lieutenant Colonel-General. The indictment charges the accused on the basis of individual criminal responsibility and/or alternatively, superior criminal responsibility with genocide, crimes against humanity, and violations of the laws or customs of war (Article 3 – murder).

77. Truth and Reconciliation Commission: On 12 May, 2001, a conference was held in Sarajevo on the prospective establishment of a Truth and Reconciliation Commission for BiH. President of the ICTY, Judge Claude Jorda, in his presentation at the Conference, commended the initiative, but emphasised the necessity for the Commission, which is a national initiative spear-headed by Jakob Finci, not to run counter to the mission of the ICTY. The Commission should be complementary to the work of the ICTY and can, in this vein, more effectively contribute to the ‘reconstruction of national unity’, a necessary precursor of democracy and lasting peace. ICTY have provided comments on the initial draft of the plan to establish a Truth and Reconciliation Commission for BiH.

78. Draft Law on Co-operation with ICTY: The original RS Draft Law on Co-operation with ICTY placed limits on co-operation that the RS is already obliged to give and subordinated the jurisdiction of ICTY to the RS. On 09 April 2001, ICTY

informed the RS Minister of Justice that the Draft Law needed more work and provided comprehensive comments and recommendations. The amended draft incorporated most of ICTY's recommendations regarding the initial draft. The revised Draft Law was discussed in the RS Government session on 02 July (*after reporting period*) and the Government passed it to the RSNA for adoption (*update: the Draft was adopted by the RSNA on 25 July and, under normal procedure, is on the agenda for the RSNA on 12 September*). The RS authorities are obliged to co-operate with the ICTY regardless of whether or not additional legislation is in place. However, it is hoped that the law will facilitate co-operation and will emit a strong and public message that the RS authorities accept their obligation to co-operate. Thus, an expeditious adoption of the law would be welcome.

79. RS Co-operation with ICTY: This year, the level of co-operation of RS authorities with regard to providing access to information and to prospective witnesses has increased, but is still not ideal. Co-operation, of course, will never be considered to be good until the RS authorities begin to facilitate the immediate location, arrest and transfer of ICTY indictees, particularly Radovan Karadzic and Ratko Mladic. The RS authorities, as yet, have not taken any concrete measures in locating and arresting any ICTY-indictees, nor have they forwarded information to SFOR which would lead to the apprehension of indictees. Despite knowledge to the contrary, RS authorities continue to declare that no ICTY-indictee resides within the territory of the RS. Particularly in light of Milosevic's transfer, increased pressure has been put upon the RS to fulfil its obligations to co-operate with the ICTY, by the International Community, particularly ICTY and OHR.

80. BiH Liaison Officers to ICTY: Progress has been made with regard to the problem of ensuring that the three Liaison Officers to ICTY in the Hague (Bosniak, Croat and Serb) receive equal and full financial, logistical and political

support. On 31 May 2001, the BiH Presidency adopted its Decision on the Status of Liaison Officers to the ICTY, thereby agreeing to accept full responsibility for the Liaison Officers. The need for each Liaison Officer to work independently of each other and the Embassy, with full staff and all necessary resources, has been accepted by the Presidency and, as such, budget approval has been requested. Budget approval is anticipated in late August (*update: 1,364,400 KM was granted by the Council of Ministers on 18 September, although there is no guarantee whatsoever that the money materialise because there is no money in BiH's Treasury*). Additionally, proposals for candidates for the vacant position of the Croat Liaison Officer are currently being received: appointment is anticipated early September (*update: in the BiH Presidency session on 14 September a Croat Liaison Officer was appointed*). The level of political and logistical support afforded by the RS authorities to the RS Liaison Officer has improved recently. Nonetheless, the existence of the RS Documentation Centre for War Crimes and the RS Bureau for Co-operation with the ICTY is creating unnecessary confusion and possible rivalry and each governmental body, together with other RS Ministries, do not facilitate the work of the RS Liaison Officer as best they could. The RS Bureau for Co-operation with the ICTY was constituted on 04 May 2001 and, according to an RS Ministry of Justice Press Release (04 May), is comprised of 'legal, military and other scientific experts, who in the first phase are tasked to collect all relevant information for the defence of the indicted persons for war crimes from the Serb population before the ICTY, in the context of the published indictments.'

All public court proceedings at the Tribunal can be followed on ICTY's website in English and Bosnian/Croatian/Serbian: http://www.un.org/icty/

Missing Persons/ Exhumations

International Commission on Missing Persons (ICMP):

81. In May, a new Chairman of the International Commission on Missing Persons (ICMP) was appointed. Mr. James V. Kimsey, founding CEO & Chairman Emeritus of America Online, Inc. (AOL), replaces the previous ICMP Chairman Bob Dole. In June, a new Commission member was appointed; Her Majesty Queen Noor.

82. In June (10-14), ICMP Chairman, James V. Kimsey and ICMP Commission member, HM Queen Noor visited the regions of the Former Yugoslavia. During the visit a meeting was held with the members of the BiH Presidency and the entity-level Prime Ministers, who all pledged their full support to the Missing Persons Institute (MPI). Their political support will bolster the legitimacy of the work of this unique national structure. In addition, ICMP hosted an historic meeting between the entity-level Prime Ministers, the entity-level Ministers of Justice, Finance, Defence and Interior, and ICMP Government Representatives (Foreign Minister, the Deputy MHRR and the RS President of the Supreme Court). In the course of the discussion they agreed to support legislation to force authorities to reveal information on gravesite location and support the Minister of Foreign Affairs to work with ICMP on the creation of agreements with BiH's neighbours for exchange of information and monitoring exhumations. The domestic authorities also agreed to support the creation and realisation of an annual line item in the entity-level budgets for missing persons issues.

83. During the ICMP Commission Meeting in Rome, June 26-27, 2001, the Commission Members agreed that, due to the lack of initiative on the part of the regional governments to engage in a meaningful process of exchange of information on the location of gravesites and monitoring by opposing sides, ICMP would propose to host a meeting between the Foreign Ministers from BiH, RoC and FRY (possibly September 2001) and ask them

to sign a protocol for co-operation that would address the 1991-1995 conflicts.

84. In May 2001, funds were eventually released to the Missing Persons Commissions by their respective Governments, thus facilitating the release of funds (for equipment) from ICMP.

85. In May 2001, UNMIBH met with the International Commission on Missing Persons (ICPM). Concerns have been raised regarding collection of evidence during exhumations conducted by Entity-level Missing Persons Commissions. Although numerous such exhumations have been conducted, it is unclear whether the information is collected in a way that supports domestic war crimes prosecutions. Subsequently, the issue of police investigations and domestic war crimes prosecutions was discussed in the Human Rights Steering Board. OHR and UNMIBH will meet with ICMP to co-ordinate future action.

MPI Recovery and Identification Program

86. By the end of June, the Federation and RS Commissions had recovered the remains of approximately 340 persons through ICMP/MPI-co-ordinated Joint Exhumation Process. The Podrinje Identification Project team made six positive identifications related to the case of Srebrenica missing and a further 636 bone samples were collected for DNA analysis during the last three months.

DNA Program

87. The first DNA laboratory dedicated to the humanitarian identification of the missing began bloodstain processing in Tuzla on May 28 2001. This laboratory is the first of three ICMP DNA laboratories planned for BiH to begin operations. On June 11, 2001, ICMP Chairman Kimsey dedicated this laboratory to the families of the missing at a ceremony held in Tuzla. The DNA instruments for the INGEB DNA laboratory in Sarajevo were installed during the last week of May and initial validation studies were initiated during early June.

88. In May, the total number of blood samples collected at the four operational Family Outreach Centres in BiH surpassed the 10,000 mark and by the end of June, 11,594 blood samples had been collected. These samples represent 11,124 missing persons. The Family Outreach Program (FOP) has collected contact information for approximately 85,000 family members who are missing loved ones in Bosnia and Herzegovina. It is estimated that this contact information represents approximately 21,500 missing individuals.

89. The following is a summary of the number of blood samples collected by the FOP, including the Family Outreach Centres in Tuzla, Sarajevo, Banja Luka and Sanski Most:

Month	Collected (in Month)	Collected (Total)	Representing Number of Missing
June	0	0	0
July	182	182	NA
August	689	871	1100
September	877	1748	2512
October	877	2625	3141
November	794	3420	4026
December	161	3581	4207
January 2001	1135	4715	4828
February	1320	6035	6001
March	1441	7476	7463
April	1391	8867	
May	1728	10595	10565
June	1330	11594	11124

Family Association Development Program:

90. Under its ongoing efforts to enable associations of families of missing persons to carry out activities focusing on advocacy/lobbying, raising public awareness about the missing persons issue, and strengthening co-operation, ICMP/MPI has made a total of 18 grants to date, totalling over 240,000 DM. These family association projects are for core operations costs, publications, and public tribunes and meetings covering the period between March and December 2001. Additional proposals are still pending.

International Committee of the Red Cross

91. To date (end June 2001), ICRC has received tracing requests for a total of 20,654 persons who disappeared during the course of the conflict. Over the last six-and-a-half years the fate of 2,347 individuals have been clarified. Out of these, 296 persons were found alive. Another 2,051 missing persons were identified and their mortal remains handed over to their families. The families of an additional 867 missing persons have received reports about the death of their relatives but are waiting to recover the mortal remains to confirm this information. Consequently, families of 17,440 missing persons are still seeking answers to their tracing request (statistics as of 02 July 2001).

Srebrenica Memorial Site:

92. On 25 October 2000, the High Representative designated the area in Potocari on the Srebrenica-Bratunac road known as ‘the cornfield’ to be the site of the Srebrenica memorial and cemetery. The High Representative appointed a Special Advisor/Program Manager for the Srebrenica Memorial Site on 26 February 2001. In March, the specific boundaries of the site were identified and eventually marked. In May, the VRS Munitions storage area across the road was relocated to Bratunac by SFOR.

93. In order to organise and focus the development of the

site, the Foundation for the Srebrenica/Potocari Memorial and Cemetery was created and registered. It will manage the development of the land and receive funds from donors. The High Representative made a Decision regarding the establishment and registration of the Foundation of Srebrenica/Potocari Memorial and Cemetery on 10 May, 2001. He initiated the Foundation through a Board of Sponsors, comprising various international and local interested parties and potential donors. The Foundation is managed through two bodies: The Executive Board and the Advisory Working Group.

94. The Executive Board comprises seven members from the Board of Sponsors including Reis ul-ulema Dr. Mustafa Efendia Ceric; Deputy Minister for Human Rights and Refugees Dr. Kadrija Sabic-Haracic, US Ambassador Thomas Miller, UNSRSG Jacques Klein, COMMSFOR, Fiona Grant, OHR Financial Advisor, and is chaired by the High Representative.

95. The Advisory Working Group comprises three representatives of the Family Associations; Mayor Sefket Hafizovic of Srebrenica; Mufti Husein Kavazovic/Tuzla; Architect/Engineer (to be appointed), and chaired by the OHR Special Advisor/Program Manager for the Srebrenica Memorial Site. The latter was appointed in February as Special Advisor/Program Manager for the work on Potocari.

96. There is no new time line for burials or other structures yet. There is still a lack of consensus on approach to burials and a need to specifically plan and fund for site security.

97. Sixth Commemoration of the Srebrenica massacre (after reporting period – 11 July): **The ceremony to commemorate the victims of the 1995 Srebrenica massacre in Potocari was attended by thousands of family members and friends of the victims, civic and political leaders from Bosnia and Herzegovina and representatives of the International Community. The marker stone unveiled on the site at Potocari designated by the High Representative represents a first step**

to establish a memorial and cemetery for the victims of the 1995 Srebrenica massacre. The planning group for the Foundation for Srebrenica/Potocari Memorial and Cemetery will immediately resume their planning work for burial and other memorial structures. The High Representative expresses his hope that the emerging memorial will be a beacon for all those, who remember this day in two words – never again.

Post-War Mine Accident Statistics:

98. Between January and May there were 42 recorded mine incidents, 35.7% of which were fatal.

	Year						Total
	1996	1997	1998	1999	2000	2001	
January	64	15	13	16	3	5	**116**
February	34	17	9	9	7	3	**79**
March	101	54	35	9	12	14	**225**
April	103	37	22	10	5	13	**190**
May	60	32	16	7	8	7	**130**
June	57	29	10	4	8		**108**
July	58	27	11	7	11		**114**
August	47	26	12	3	17		**105**
September	29	13	3	10	2		**57**
October	32	22	12	5	9		**80**
November	22	8	2	7	5		**44**
December	20	6	4	8	3		**41**
Total	**627**	**286**	**149**	**95**	**90**	**42**	**1252**
Fatal %	17	30.5	40	38.5	35.6	35.7	**32.9**
Non-fatal %	83	69.5	60	61.5	64.4	64.3	**67.1**

Source: ICRC/UNHCR

99. Following a meeting with the Steering Board Ambassadors on 03 April, the High Representative expressed his concern about the deteriorating financial status of the BiH Mine Action Co-ordination Centre (MACC). A serious lack of funding, totalling US $2.3M, meant that the MACC will have had to suspend its operations before the de-mining season was underway. With immediate effect, however, US, Canadian and Swedish Governments pledged large donations. Nonetheless, much more funding is required.

Economic and Social Rights

Overview of BiH Economy:

100. BiH's overall economic growth, projected at around five percent this year, continues to be inadequate. According to the World Bank, BiH needs an annual growth rate of at least six percent to reach credit worthiness in six to eight years.

Economic and Social Rights:

101. Significant deterrents to return remain in place. These include discrimination in the field of employment, denial of access to health care in the place of return, and the manner in which publicly-owned utility companies in many areas continue to deny minority returnees access to services such as electricity, gas, and tele-communications. Nonetheless, an increasing number of people are exercising the rights to return. However, because of wide-spread discrimination many minority returnees often return back to their former place of displacement, to areas in which they constitute part of the majority, or attempt to migrate to third countries. Ensuring the equal protection of socio-economic rights is crucial for the sustainability of returns of a multi-cultural society in general.

Health:

102. Access to health remains a problem, given that there is no system of transfer of payments from one entity to another, nor legal obligation of cantonal health funds to share their financial resources with the Federation Health Fund. An Agreement on health care provision for insured persons outside the area they pay the insurance contributions has been pending for months. Several meetings with International Community and national actors took place regarding the signing of the Inter-Entity agreement drafted by the group of National experts on health insurance. Sarajevo Canton continued not to support the proposed agreement. In May, the Canton submitted to the International Community a fundamental amendment. The International Community encouraged the Cantons and the Entities to discuss this proposal and to come to an agreement, which would guarantee access to health care facilities in an Entity other than where the person is insured. A small commission, with representatives of Cantons and UNOHCHR, was created in June to come, within a month, to an agreement acceptable by all parties. On 05 June 2001, it was agreed that the MHRR would take the lead in further discussions of the Draft Agreement on Health Care Insurance. It appears that the Draft Agreement is to be reviewed again upon the requests of some cantons.

103. Another problematic area is that of employees not having certified health books due to their employers failing to pay the contributions for health insurance. Additionally, a considerable number of employers allegedly fail to pay their compulsory contributions for employees' health insurance, thus depriving them from having continuous access to health care in practice. Consequently, major concerns remain in healthcare provision.

104. A UNHCR Health Study was finalised during the reporting period, outlining the legal framework in Bosnia and Herzegovina (Federation, RS and Canton Sarajevo as a case

study). It portrays obstacles for proper functioning of health insurance schemes in Bosnia and Herzegovina and difficulties encountered by special categories of persons. The Study not only highlights the inadequate health care system of BiH and the obstacle in the way of return that this often creates, it also highlights the exacerbation of the scale and severity of the health problems facing many people of BiH affected by the war. The current health care facilities and resources, as well as the legal and administrative frameworks, are insufficient to deal with the needs of returnees as well as all citizens of BiH. The problems are compounded by the effects of the war in BiH: increased health problems in the population, dire economic situation, population displacement and infrastructural damage.

Pensions

105. Inter-Entity Transfer of Pensions: There is now a system in-place whereby returnees can collect their pension via the PTT. The only exception is Mostar where a returnee contacts the pension fund which then transfers the pension to either the PTT or bank which ever is the most convenient for the potential recipient. Similar arrangements, with respect to health care provision and the social protection of disabled persons, are being negotiated by members of the International Community with local authorities. Whilst the Agreement on Pensions' distribution across the entities seems to be respected, due to arrears in contribution for pension funds, pensioners rarely receive their pensions on time. Despite the Mutual Rights and Regulations in the Implementation of Pensions and Disability Insurance, which entered into force on 25 May 2000, pension funds in the respective Entities still require different documentation to receive payments. The new law on pensions, entering into force in January 2002, will change the complicated system of pension payments, dependent on the former salary and years of service.

106. Distribution of Pension Leaflets throughout BiH: The

International Community has distributed information leaflets to pensioners for distribution throughout BiH. The purpose of the leaflet is to inform pensioners of the fact that they can now receive their pensions through postal offices outside the 'territory' of pension fund that they are registered with. During the war, the pension system fragmented into three ethnically divided funds covering only certain areas of the country. This development is, therefore, a very important step towards eliminating access to pensions as an obstacle to return. Developed at the initiative of OHR Human Rights Officer in Travnik, members of the International Community distributed around 30,000 leaflets to OHR, OSCE and UNHCR field offices throughout BiH, Legal Aid and Information Centres, Post Offices, Pensioners Associations, Transit and Collective Centres and to the relevant Ministries.

107. Regional Agreement: Work between OHR Human Rights/Rule of Law, Economics and Legal Departments, in order to facilitate expedient transfer of funds, has resulted in development regarding the Agreement between the states of the former Yugoslavia. The agreement for methods and transfer of pensions should be in place by September 2001. It is important that BiH ratify the already existing Agreement on Pensions with Croatia. There are still some problems regarding the payment of pensions to refugees in RS (Croatian Serb), as well as to BH refugees in Croatia (Bosnian Croats). Croatia discontinued payments in April 2001 and resumed payments again in June 2001.

Employment:

108. Endemic Unemployment: One of common features of both entities, but is particularly prevalent in the RS, is the ever-growing discrimination in employment and fewer and fewer job opportunities. In the Federation, about 420,000 persons are currently unemployed or 47% of active workforce, out of which the majority are women. Not surprisingly, 62 % of young people seek to leave the country due to lack of job

opportunities. Since the beginning of this year, dissatisfied workers have gone on strike regularly, especially in the metal and textile industries, mines and schools. According to the Federation Trade Union, over 200 strikes have been organised since the beginning of the year. Only 1/3 of the active (white economy) workforce of BiH effectively produce and get paid relatively regularly, while an increasing number do receive salaries over several months late. The number of unemployed persons is likely to increase as the privatisation process expands in all sectors. It might have an impact on the overall processing of claims under labour laws, especially Article 143 and Article 152 of the Federation and RS Labour Laws, respectively. Prospective investors, future owners may take-over liabilities only in accordance with the company's balance sheet.

109. Waiting List/Illegal Dismissal Articles of the Entity Labour Laws: The problems as described in the last Review remain. There does not appear to be much hope for the enjoyment of social and economic rights with respect to employment, nor for the enforcement of rights under these laws. Moreover, the convoluted and ill-planned system for processing claims may itself create human rights violations in that due process and other obligations of an administrative procedure may not be observed. This gloomy analysis is increased by recent events concerning the revision of the RS Labour Law. The RS government is in the process of amending their law to bring it in line with the Federation. The changes, if made, would mean:

- Giving the claimants an illusory right to their job back, which only raises false expectations in the current economic climate;
- Compensation will be paid by employers (rather than from proceeds of privatisation in the current law), hence employers will likely reject claims or just do nothing to avoid having to pay compensation;

- There will be a fresh round of claims (60,000 people made claims already) with the effect of bringing discredit upon the whole process.

110. Article 143: The Group on Economic and Social Rights (GESR), with the participation of ARC, expressed its concern regarding the implementation of a procedure described by Article 143 of the FBiH Labour Law during several meetings with Representatives of the Federation Ministry of Social Affairs (FMSA). In particular the GESR suggested the removal of an FMSA Instruction excluding the 'administrative' sector from falling under the remit of Article 143 and the issuance of new guidelines facilitating the work of the Commissions.

111. The Fair Employment Practices Strategy has been sent to all Embassies present in BiH, and has been presented individually to Embassies and at the Human Rights Information Meeting at OHR in June, 2001. This strategy, which was developed by OSCE, OHR, OHCHR and UNHCR, aims to prevent discrimination in employment. It encourages major donors and private firms to make their investment conditional upon respect of non-discriminatory principles.

112. ***Vares Conducts Employment Survey***: OSCE Vares has conducted a survey on the current status in employment in that Municipality, which included interviews with Directors and legal advisors of the 10 major companies and institutions. The report provides fundamental desegregated statistics ad information on *inter alia* the ethnic and gender breakdowns of the companies, the ethnic composition of the managing positions and the recruitment procedures. The report reveals that whilst generalised discrimination may be suspected, proof is a more difficult matter. Moreover, it suggests reinstatement or compensation for wait listed workers under Article 143 of the Labour Law has given rise to false expectations among the population due to lack of financial resources and political will. The report provides important information for strategic action and points of activity aimed

at having a positive influence on discrimination in the workplace.

113. OSCE and Federal Ministry of Justice co-operation on new Instruction on Employment of Employees in FBiH Prisons: Following reports from Bihac during 2000 that the Prison there had been issuing discriminatory vacancy notices, OSCE made interventions at regional and Federal level. Investigation showed that the notices were discriminatory, though it is important to note that their failure was due to a lack of understanding of the legal issues associated with discrimination in recruitment, rather than a wilful desire to discriminate against a particular group. Following work between OSCE and the Ministry of Justice over a period of months, a revised Instruction on Employment of Employees in FBiH Prisons has been produced and was circulated to the six prisons in the Federation during the reporting period. Both the Federation Ministry of Justice and OSCE believe the recruitment process and legal knowledge of the Ministry have been benefited by the technical advice and co-operation in drafting the new Instruction. The Instruction emphasised: non-discrimination (Article 5 of the Federation Labour Law); transparency and due process; gender; the need to avoid hiring on the basis of patronage, nepotism (as a corollary to the above); and, that notices should let people know the employer is committed to equal opportunities and invites women to apply for jobs.

Utilities:

114. Lack of access to public services including utilities supply hinder sustainable return and is contradictory to Annexes 6 and 7. The Inter-Agency Working Group on Utilities was established (with the authority of Human Rights Steering Board) in May 2001 to deal with legal analysis of the case material and development of a strategic approach regarding discriminatory application of existing laws and regulations. Despite the fact that public companies are bound by law to

represent the public interest and uninterruptedly supply services they choose to deliberately impose their internal regulations and disconnect their clients without a warning system when bills (caused by temporary users) were not paid. It has been reported that private lawsuits (about 400 in the Tuzla area alone) against public electric companies have been submitted to local courts. A first review of the verdicts showed inconsistency in applying local civil laws. The Working Group on Utilities developed a questionnaire to be used for reporting cases of discriminatory application of laws and internal regulations. It is to be decided by International Community if the already existing network of NGOs specialised in return and reconstruction issues could deal with and, if necessary, report cases for further consideration to Working Group on Utilities. The result of a thorough legal analysis would possibly demand changes of present legal provisions and regulations. At the same time conditionality of funding is being considered to be imposed on those state-owned companies that do not comply in supporting the basic needs of returnees. An action plan was developed in May 2001, by the Inter Agency Working Group on Utilities. An Agreement was reached to distribute the questionnaire through RRTF and LAIC (UNHCR) networks. The distribution has been accomplished. In parallel action representatives of the WG were meeting representatives of the Entities' Ministries of Energy and Mining to discuss the occurring problems in electricity supply around the country, and informing the relevant authorities and electricity companies about the forthcoming survey. The deadline for reporting was extended until the end of October 2001. Electricity providers, already included in the survey, were among the first respondents. The results of the survey will be analysed by the Working Group.

PTT:

115. The PTT have demonstrated increasing willingness to co-operate with the Committee, only due to the efforts and

expertise of the OHR HR/RoL members and Legal Aid and Information Centres. So far, the OHR PTT Advisory Committee has dealt with nearly 200 cases. This process is supported by the well organised network throughout the country for receiving and processing the claims (in case of disputes, the applicant addresses the closest Legal Aid and Information Centres, which forwards the complaint to the Committee in cases in which they were not able to reach the agreement with PTT).

Social protection of disabled persons

116. Social Institutions: **the ongoing crisis in the Pazaric Home for Disabled Persons is indicative of the appalling situation in social institutions in BiH. Due to arrears in payment of contributions (exceeding 4M KM) from almost all social centres, bar the Sarajevo Canton, the issue is at crisis point. The debt has recently been slightly reduced after certain cantonal ministries settled some arrears. The current status of social institutions in BiH also reveals the unresolved legal status of social institutions, non-uniform social policies and mostly the lack of commitment of respective authorities to meet their obligations towards all social institutions. OHR is assisting in ongoing negotiations between the relevant ministries of health and social policies in order to encourage their signature to a Special Agreement on ensuring the social protection for disabled persons irrespective of their place of residence in the entities. Therefore, the parties will commit to maintain the status quo and bear the costs for the overall social protection of disabled persons who remained within the each entity in the post-war period.**

117. Disabled Persons and the Right to Work: the Centre for Integration of Disabled Persons, Tuzla (CIOO), organised a Round Table on April 24 on the topic “Disabled Persons and the Right to Work”. Representatives of the disabled persons’ associations from both entities and NGO activists participated

in the event. The goal of the Round Table was to exchange experiences of the disabled persons related to employment and to creat a joint action to remove the barriers and discrimination in the future.

Conscientious Objection

118. In an effort to seek implementation of Annex 7, article 2 (2), regarding Conscientious Objection / Alternative Service (CO/AS), as well as other international provisions (EC and CoE recommendations of 1987) in regard to sustainable return, the International Community held several discussions in the spring of 2001 in order to develop a strategy concerning possible amendments to the relevant entity laws and practices, and in the light of state-building exercises underway to address the appropriate institutions at state and/or Entity level. Although Entity laws provide for CO/AS these are not being implemented. The existing legal remedies are not being exhausted because the system in place as provided by the law does not function. Recently FBiH Parliament rejected a proposal of a Defence Law, which did not foresee an improvement in respect to genuine alternative service or the punitive character of the alternative service. As the result, an action plan was developed, including legal review of provisions on CO/AS, filing of an individual case to Human Rights Chamber for human rights abuse of applicants to CO status, developing a public information campaign, strengthening co-operation between the relevant military institutions with state level institutions, and possibly a change in the current provisions on alternative service (for a new law on national service that would not be administered by the Defence Ministry). Both Entities considered legal changes in respect to shortening the length of service for conscripts, including the Alternative Service.

119. 15 May was the International Day of Conscientious Objection. Local NGOs and OSCE organised a roundtable on this event in Sarajevo.

Rights of Minority/Disadvantaged Groups

Gender Discrimination:

120. State Law on Gender Equality: **The Ministry of Human Rights and Refugees (MHRR) has drafted a State Law on Gender Equality in BiH. On 12 and 13 June, the MHRR organised a meeting for the Gender Co-ordination Group to have a general discussion on the draft law. Comments are to be submitted to the MHRR by 01 August and will be incorporated. The second draft of the Gender Equality Law will be distributed for review to the International Community and NGOs dealing with the issues contained in the draft. In September 2001, the MHRR will begin to organise a public debate of the draft law in the RS and FBiH.**

121. Gender Equality in Parliament: OSCE organised a conference "Partnership in Parliament–Strategic steps towards gender equality" in Sarajevo (06 08 April), attended by female members of the Parliament from the mandate 1998-2000 and newly elected members of the state and entity parliaments, NGO activists and experts. The participants of the Conference identified problems in the work of Parliament, ways of implementation, and adoption of strategies in achieving gender equality. Discussion about the possibilities of partnership within and outside Parliament showed that achievements of goals can be achieved via informal means. The Conference "Partnership in Parliament", concluded that the continuous education of all parliamentarians, co-ordination between and (non-parliamentarians') communication with all governmental organs, is vital if gender quality is to progress.

122. Stability Pact and Women: a Regional Round Table was held in Banja Luka from 06 to 08 April, on the subject of "What is the Role of Women in Stability Pact for Southeast Europe";. The organisers were "Udružene žene" (Associated Women) and

"Helsinki Citizens Assembly" Banja Luka in co-operation with "Žene ženama" (Women to Women) from Sarajevo. Participants included NGOs and Regional political parties. Conclusions adopted included the need to intensify co-operation, information-exchange, and sharing experiences between within and between Regional States.

Ethnic Discrimination:

123. Two Draft Laws concerning the protection of National Minorities entered procedure for adoption: one proposed by the Minister for Human Rights and Refugees, Kresimir Zubak, and the other by Ibrahim Spahic, a delegate in the House of Peoples. In the 5th session of the House of Peoples (14 June 2001), the *Draft Law on Rights of Ethnic and National Communities or Minorities*, proposed by delegate Spahic, was adopted. Zubak's Law was adopted by the Council of Ministers on 19 April and forwarded to the House of Representatives. It is commendable that both Laws were proposed independently of any International Community intervention or pressure. Nonetheless, particularly in Zubak's law, the International Community is encouraging both exponents to discuss the issue with a view to future harmonisation of the two Laws and under the direction of the domestic authorities, in line with the principle of ownership.

Freedom of Religion:

124. At the beginning of May 2001, freedom of religion suffered a setback after the outbreak of violence in Banja Luka before the beginning of a ceremony to lay the cornerstone of the Ferhadija Mosque. This followed on similar violence earlier that week in Trebijne. Although the fundamental right to freedom of religion is guaranteed by the Constitution of the Republika Srpska, the authorities failed to take necessary and reasonable precautions to ensure this freedom, by providing a secure environment for the observance of religious ceremonies and events. The reconstruction of the Ferhadija

mosque and other mosques in Banja Luka was ordered by the Human Rights Chamber in 1999 and strongly supported by the Peace Implementation Council (PIC) in subsequent meetings (*see page 6*).

Discrimination against Roma:

125. As the largest minority in Bosnia and Herzegovina and as a socially, economically and politically marginalised group, the issues of concern to Roma are diverse, ranging from education and employment discrimination, to housing and property needs, to revival of Romani culture and language. The property situation of Roma is particularly problematic as many Roma did not have legal entitlements to property/housing before the war and experienced difficulties in accessing international assistance for reconstruction as many Romani communities did not even have adequate housing before the war.

***126. Roma and Human Rights Institutions*: On 29 October 2001, the OSCE Mission to BiH will organise a roundtable meeting with representatives from the BiH Ombudsmen institutes and the Romanian Ombudsman institution. The meeting will provide an opportunity for BiH Ombudsmen to offer practical information to Romani representatives about how to file a complaint to the Ombudsman (including complaints involving discriminatory treatment of Roma by police and judicial authorities) and how these institutions can protect the rights of Roma. The meeting will also provide a forum for the Roma/National Minority Advisor from the Romanian Ombudsman's Officer to share his best practices in encouraging Roma to use the Ombudsman.**

***127. Capacity-Building Project with Roma Associations/NGOs of BiH:* Roma representatives in BiH have consistently articulated the view that they need to be involved in the elaboration, implementation and assessment of policies and programs aimed at improving their situation and status in BiH. However, due to the large number of Roma associations/NGOs and the limited number of funds they received to finance their projects and**

activities, the capacity and co-ordination between the associations is lacking, which has significantly hampered their ability to advocate and lobby the government to support them in their efforts to improve the situation of Roma in BiH. It is for this reason that the OSCE Mission to BiH is organizing a meeting on 9-11 November 2001 between international Romani experts (from Finland, the Czech Republic, Germany and Romania) and Bosnian Romani NGO representatives to assist BiH Roma with the development of a common national platform for Roma and the self-election of Romani representatives to become members of a National Advisory Board on Roma Issues. On 12 November 2001, national platform for Roma will be discussed at meeting between inter-ministerial governmental officials and the self-elected Roma experts to discuss the creation of a Roma Advisory Board.

128. Inter-Agency Co-operation on Roma Property Case: In response to disputes over the ownership of land, which resulted in the withdrawal of 525,000 Euros in donor funds to reconstruct 30 homes for Roma families returning to their pre-war homes in Gorica (Sarajevo), OHR, UNHCR and OSCE drafted a letter to the Mayor of the Municipality and City Councillors urging the resolution of the questions concerning ownership of the land. The Roma settlement at Gorica/Crni Vrh had existed since the eighteenth century until, in 1985, the Institute for Urban Construction requested appropriation of the land in order to build a memorial park. On 26 April 2001, a Sarajevo City Council meeting was convened in which the proposal to amend the regulation plan for Gorica was put forward. The changes to the Regulation Urbanism Plan for Gorica included proposed construction of new dwellings for Roma families. Immediately thereafter, a public consultation exercise began with respect to the land in question and the development plan. The development plan passed the public consultation exercise on 20 June and was also approved at the 17 July session of the Sarajevo City Council. World Vision has developed a comprehensive project proposal for reconstruction of homes and

the return of the Roma community to Gorica/Crini Vrh. The project has been submitted to the Dutch Embassy with support letters from the Sarajevo HRWG, RRTF and the OSCE Mission to Bosnia and Herzegovina.

Rights of the Child:

129. MHRR Treaty Body Report: In June 2001, the Ministry for Human Rights and Refugees (MHRR) compiled its first treaty body report on the Rights of the Child. The report written with the assistance of UNICEF Sarajevo, and was sent to the Committee for the Rights of the Child and adopted by the Council of Ministers on 07 June 2001. Due to lack of experience in treaty body reporting and lack of information or access to credible information, the report cannot be said to be comprehensive or an accurate and in-depth analysis of the status of the rights of children in BiH. The UN Convention on the Rights of the Child is part of the BiH Constitution. Nonetheless, as the report indicates, due to the massive demographic and political changes, economic and physical infrastructural damage, and huge loss to life, together with continued economic difficulties, many of the rights enshrined within law are not protected, particularly basic rights to life, survival and development. The report does not, however, mention that a large factor in the lack of protection of children's rights, and basic human rights in general, continues to be a lack of political will to afford protection of children's and citizen's rights, coupled with political agendas which perpetuate ethnic divisions, discrimination and persecution. The report, nonetheless, does state that fundamental human rights were violated throughout, in particular, and after the war and provides statistics with respect to the proportion of children who were affected by war time activities: 420,000 of 1,200,000 refugees from BiH were children; In 2001, 130,000 of 617,000 refugees from BiH are children; 250,000 of 1,000,000 displaced persons were children; in 2001, 108,000 of 518,000 displaced persons are

children; 22,000 of 200,000 persons killed in the war were children; 52,000 of 240,000 persons injured in the war were children; 4,000 of 17,000 registered invalids are children; 268 of 1,225 victims of mine incidents since 1996 were children. A large percentage of those tortured, raped and held in concentration camps were children and over 38,000 children lost a parent, of which 1,600 lost both. The report also mentions violations of children's rights in BiH toady, particularly prevention of access to school facilities and problems faced by children of mixed-ethnic marriages. Lack of governmental financial resources and impoverished families continue to hamper progress that could be made in the field of the protection of the rights of children. MHRR report states that only through 'co-ordinated, planned and strategic approaches to this issue is it possible to achieve social and economic development of the social community.'

130. FBiH Ombudsmen Report on the Rights of the Child: On 07 May 2001, the Ombudsmen of FBiH, with the support of UNICEF, released a *Summary Report on the State of Protection on the Rights of the Child in FBiH.* The Report details issues pertaining to education, civic rights and freedoms, health and health care, child-care, and measures of protection. The status in BiH with respect to each issue is presented together with recommended action points, which include the adoption of legislation in the fields of education, health care and social protection of vulnerable groups, and on the status of social welfare/protection institutions.

Cultural Rights: Right to Education

Primary and Secondary Education:

131. While the inter-entity Education Agreement of 10 May 2000 remains a blueprint for the gradual reform and modernisation of the education scene in BiH, on 26 April the EU proposed a

4-5 year “Sector Development Programme”, which aims at elaborating a shared strategy for the modernisation of primary and general secondary education in BiH. This programme was readily endorsed by the entity Ministers as well as all the International Organisations and will commence this Summer. This programme, which focuses on teacher training reform, curriculum reform, educational management reform, inclusive and special needs education reform, legal framework and school support system reform and textbook reform was readily endorsed by the entity Ministers as well as all the IC organisations.

132. In the field of education, concrete achievements, to date, are as follows:

- Human Rights and Civic education will replace the obsolete subject of ” Civil Defense ” in secondary education – grades 1 and 2 (September 2001), and will also be introduced in primary education at a later stage;
- One period per week of literature class will be devoted to the literature of the other constituent peoples of BiH, i.e. 40 hours per year (September 2001); language modules focusing on the common linguistic heritage and linguistic diversity today are to be prepared for February 2002;
- The new subject of ” Culture of Religions ” is to be introduced in September 2002; specific curricula and teaching materials will be developed;
- Teaching of both alphabets: obligatory in both entities as from the second semester of 2001(grade 2 of primary education);
- Textbooks imported from Belgrade and Zagreb which do not refer to Bosnia and Herzegovina will be phased out by September 2002;
- A majority of the Federation Cantons are now willing to devolve part of their responsibilities and powers to the Federation Ministry of Education in order to facilitate

strategic education planning in the future;

- The Educational Standards and Assessment Agency, established by the World Bank has finally been operationalised after nearly one year of obstruction concerning the appointment of its first director.

133. Although positive developments have taken place these past few months, it is clear that much more emphasis needs to be given to the education sector in BiH. Education for peace and reconciliation, of both the young and adults, should become a national priority to the same extent as economic recovery and development and the return of refugees and displaced persons. Key steps are seen as necessary to reach this objective:

- the public, unequivocal support of the leaderships in both entities for a policy of integrated, multi – ethnic education and eradication of widespread ethnically based discrimination; a commitment of this nature should be visibly reflected in discussions and documents of the Steering Board and PIC
- a substantial international financial assistance scheme for education, also reflected in entity budget commitments
- a high – powered state – level agency for educational standards, norms and assessment for all levels of education in BiH
- a regional scheme to foster education for peace and reconciliation at school in the three countries involved in the 1992 – 1995 conflict based on effective civil society and social fabric building programmes piloted by NGOs in both entities (with the participation of a critical number of schools engaged in triangular school – to – school co-operation schemes involving whole school communities)

134. Minority teachers: available figures show that only 3% of the teachers in the RS, at both Primary and Secondary

education levels, actually belong to the other constituent peoples; in the Federation available figures vary from one Canton to another; the average is between 5 and 8%. Entity Ministers are to report back to OHR in August 2001 on their efforts to integrate teachers from all constituent peoples on purely professional criteria, especially in return areas.

135. During March and April, OSCE and OHR carried out spot-checks in a selection of schools that use the Croat curriculum. This follows on reports that the former Deputy Minister of Education had reneged upon a prior agreement whereby all second grade students would be taught the second alphabet as from the second semester of the current school year. The checks are essential in order to verify compliance with ongoing efforts to establish common elements to the different curricula in BiH. Preliminary findings for the 12 schools visited by OSCE were that there was full compliance in one school, partial compliance in five schools and no compliance the remaining six schools. Unfortunately, the spot-checks were cut short because of political events in Herzegovina during March and April.

136. Students from the University of Denver and the University of Denver Law School have designed and facilitated an unprecedented summer school program in Vares. The program included children of all ethnic groups in the area, many of whom are otherwise segregated on the basis of ethnicity in public schools. Program curriculum focused on the development of English language skills and a range of co-operative art projects and sports. The summer school program is unique in that it provides a cross cultural exchange between American teachers and the multiethnic student body of over 150 students. Other students from the University of Denver’s Project Bosnia program are working with OHR, UNHCR, OSCE, ARC, CRPC and IRC.

Higher Education:

137. A new legislative framework for Higher Education is being developed under the aegis of the Higher Education Co-ordination Board and the principles of the Bologna Declaration (a single European space for Higher Education by 2010) will be gradually implemented in all universities. However, fundamental structural reforms will have to be carried out in order to meet the standards laid out in the above mentioned Declaration. So far only the University of Tuzla has convincingly strengthened the powers of the Rector in terms of strategic planning capacity based on academic criteria. The issue of the actual number of universities that a small country like BiH needs and can afford will also have to be addressed as soon as possible. Higher Education is a crucial area for the future of BiH as it can substantially reduce the tide of young people who wish to leave because they do not see a future for themselves in their own country at the present stage (62% according to a UNDP survey).

Brcko District:

138. The law on Primary and Secondary Education in the Brcko District, drafted by the Law Review Commission of the Office of the Brcko Supervisor, was rejected by the Assembly on 28 June 2001. The Serb councillors did not support this law due to dissatisfaction with the content of the Article 9, which is regulating the use of the language in teaching process. The amendment to the Article 9, proposed by the Serbs, refers to the use of one of three languages in teaching process, which is according to Bosniak and Croat councillors discriminatory. On 05 July, OHR imposed the law (*after reporting period*).

139. Implementation Plan: While the Assembly councillors failed to reach the consensus, the two Educational Boards (for Primary and Secondary education) have prepared the implementation plan for the next school year. The implementation plan leaves full freedom to students to express themselves in their own language and alphabet. Teachers are fully obliged to overcome the language differences and use

vocabulary of all three languages and both alphabets. Schools would be obliged to issue documents in the language and alphabet requested by students. The textbooks that would be used are those in accordance with the harmonised curriculum. In a case of lack of certain textbooks, annexes will be printed as an alternate solution.

140. Human Rights and Democracy: Regarding the introduction of the Human Rights and Democracy as a separate subject in grade 8 of primary schools and in other grades as part of other subjects (junior grades) or homeroom classes, CIVITAS will commence teacher training in July. The Department of education will select the teachers to attend this training.

141. History Subject: The work on harmonisation of Secondary Schools curricula has been completed for all vocations, occupation profiles and general studies. The only problematic issue that needed additional decisions of the board is the history subject in vocational schools. The way the history is presented is completely different in all three curricula. The best solution as seen by majority of Collegium members was to create an overview of history out of the curriculum of the Gymnasiums envisaged for four years. This involves a lot of work, especially in light of the existing textbooks, which cannot be used in classes. The Collegium agreed to task the Working Group to prepare the outline of units to be taught in the 1st grade of the schools and to discuss the issue of creation of the script for this subject subsequently.

Civil Society

142. The state-level *Draft Law on Associations and Foundations* has been adopted by the Council of Ministers and forwarded to the State Parliament. The House of Representatives adopted the draft on April 13. However, it will be necessary that the House of Peoples adopt the draft before the Law on

Associations and Foundations is finally passed at the state level. Apart from that, in order to implement the Law properly, the Ministry of Civil Affairs and Communications established a working group on bylaws that would facilitate the implementation of the Law. It is expected that the bylaws will be adopted before the Law.

143. In the RS, the *Draft Law on Associations and Foundations* was negotiated with the RS Ministry of Administration and Local Self-governance in order to harmonise it with Council of Europe and international standards, as well as the decision on languages of the BiH Constitutional Court. The draft has been adopted by the RS Government and forwarded to the RSNA.

144. With respect to the Federation *Draft Law on Associations and Foundations*, several meetings were held in March with the Federal Ministry of Justice and Ministry of Social Affairs, DPs and Refugees in order to harmonise the draft with international standards. The draft is supposed to be finalised by the Ministry of Justice by the end of June and sent to the Federation Government.

145. Monitoring of the situation regarding the laws that regulate financial aspects related to the work of NGOs has been continued. In addition, the Civil Society Co-ordination Group (CSCG) has decided to engage an expert group that would analyse the legislation in this field. The expert group is supposed to identify major problems in the current legislation, as well as the new drafts that are part of the general tax reforms in BiH.

146. A strong and vibrant civil society is an essential pre-condition for accountability and transparency in the country. Furthermore, strengthening and supporting NGOs and civil society through legislative reform, political intervention and training is crucial for the stability, prosperity, vitality and democracy of BiH. Thus, an expeditious adoption of the *Law on Associations and Foundations* at the entity- and state-

levels, as well as regulation of the financial aspects of the work of NGOs, is required.

Freedom of Expression and Media

147. Year 2001 has been proclaimed International Year of Mobilisation Against Racism, Racial Discrimination, Xenophobia and Related Intolerance and May 03 celebrated World Press Freedom Day. In a joint message, UNSG Kofi Annan, UNESCO DG Koichiro Matsuura and UN OHCHR Mary Robinson called upon decision-makers at all levels to do whatever they can to ensure that journalists can pursue their work unhindered and undeterred, so that people throughout the world can benefit from the free flow of ideas. The statement read: "We urge journalists to Adhere to the highest standards of their profession; to refuse to lend their skills to hate-mongering; and always to uphold the principle of impartiality… Free, independent and pluralist media have an indispensable role to play in rooting out racism and xenophobia". The message also reminded people that a free press is one of the most essential components of a democratic society. The High Representative noted that the independence and quality of the media in BiH have significantly increased over the last few years, which means that BiH has made progress on the way to a free and democratic society. Nonetheless, threats, attacks and assaults against critical journalists still occur in BiH.

148. The OSCE Mission to Bosnia and Herzegovina's Department of Media Affairs (DMA) works in a number of different media development programme areas, all of which share the underlying goal of building an open environment where journalists and media practitioners can provide a range of information and views to citizens, without fear of reprisal. Two key DMA areas of responsibility work are the development of media legislation and the protection of journalists' rights.

Media Laws: Freedom of Access to Information Act and Act on Protection against Defamation

149. In order to ensure the right to Freedom of Expression, as provided for in the Constitution of Bosnia and Herzegovina (Annex 4 of the General Framework Agreement for Peace in BiH), the High Representative, in a 30 July 1999 Decision, called for the adoption of freedom of information and civil defamation legislation that upholds the highest international standards. The Decision also called for the repeal of criminal defamation provisions. The Decision stated that the legislation should be prepared under the guidance of the OHR, the OSCE Mission to Bosnia and Herzegovina and legal experts.

150. In accordance with the High Representative's Decision, the OHR and the OSCE established the Advisory Group on Defamation and Freedom of Information Legislation. Comprised of national and international experts, representatives of the BiH governments, representatives of the OHR, the OSCE and the Independent Media Commission (IMC), the Advisory Group developed and reviewed draft Freedom of Access to Information and draft defamation legislation. The drafts were released to the public, on 28 June 2000 and 14 February 2001 respectively and were submitted to the state and entity governments. A series of consultation meetings were held in the weeks following the public release that allowed for comment from members of the media, NGOs, civic groups, legal practitioners and members of local government.

Freedom of Access to Information legislation

151. Freedom of Access to Information legislation establishes a general right of access by the public to information held by government and other public bodies. Access to information promotes greater transparency and accountability of public authorities, and is essential to the democratic process. For these reasons many countries around the world have enacted or are in the process of enacting Freedom of Information legislation.

152. The Freedom of Access to Information Act was adopted by

the Parliament of Bosnia and Herzegovina in October 2000, the Republika Srpska National Assembly in May 2001 and by the Federation of BiH Parliament in June 2001.

Protection against Defamation legislation

153. Defamation as a criminal offence, while intended to protect individuals from unjust attacks upon their reputation, has instead become a tool of censorship and repression through the threat of imprisonment. This constitutes a serious threat to the freedom of expression and the press in emerging democracies. Both Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 10 of the European Convention on Human Rights (ECHR) provide that everyone has the right to freedom of expression, including the right "to hold opinions" and "to receive and impart information and ideas" through the media regardless of frontiers and to do so "without interference" from any public authority. Many defamation laws from around the world, including in BiH, are being reformed so as to be more consistent with the goals and purposes of Article 19 of the UDHR and Article 10 of the ECHR.

154. The Act on Protection against Defamation regulates civil liability for defamation by codifying the highest international standards guaranteed by the BiH and entity constitutions, in particular those developed by the European Court on Human Rights. It also decriminalises liability for harm to a person's honour or reputation by repealing those provisions in the Criminal Codes of the entities.

155. The Republika Srpska National Assembly (RSNA) in the session held on 25 July 2001 (*after reporting period*) unanimously adopted the Proposal Act on Protection against Defamation. In addition, the RSNA adopted the Law on Amendments of the RS Criminal Code, repealing criminal insult and defamation provisions. On 24 May, the Federation Government adopted the Draft Defamation Act.

156. The adoption of these two very important laws will help to ensure that the freedom of expression is protected in BiH in a manner consistent with the European Convention on Human Rights and Fundamental Freedoms. After the adoption of the laws, work will enter its final phase. The implementation of the laws will be carried out in co-operation with the state and entity governments. Training on the application of the Acts will be organised for public officials, judiciary, journalists and NGOs by OSCE.

Police/Media Guidelines

157. The OSCE's DMA, together with UNMIBH, jointly developed and in May 2000 launched the *Police Guidelines for Dealing with the Media* and *Journalists' Guidelines for Dealing with the Police*, in order for each group to understand the rights and limitations of each group in their dealings with each other. The combined Police/Journalist Guidelines inform the police about the rights and proper treatment of journalists and inform journalists about their responsibilities in dealing with the police. As a part of the campaign, police stations and media outlets throughout the country were provided with detailed posters outlining the guidelines, and policemen and journalists were given wallet-size cards containing the text of these guidelines. The principles contained in them are consistent with local laws and international standards of human rights principles.

158. In 2001, the OSCE will provide training to police officials regarding relations with the media. In co-operation with the UNMIBH, this training will focus on the development of public information capacities within police agencies through the establishment of Spokespersons Offices and Public Information Units. The Police/Media Guidelines will be included in the Police Spokespersons training as well as in training of police officers.

Press Council

159. While the OSCE has worked to develop a stable legal framework for journalism, it has also assisted in fostering professional standards and self-regulation among journalists themselves as a means of promoting a free and professional press. The OSCE assisted, in co-operation with the IMC, in developing a Press Council Statute and a Press Code, which was adopted in April 1999. OSCE and the IMC provided local journalist associations with extensive background in the variety of self-regulatory mechanisms used internationally for press self-regulation and a Press Council was selected as the appropriate structure.

160. An official announcement of the creation of the Press Council took place on 21 September 2000. The Press Council consists of 12 prominent members of the BiH press and public (6 members each) and an international chairman. The OSCE will, in 2001, provide financial support for the preliminary phase of establishing the Secretariat case procedures, establishing a public information campaign about the Press Council's activities, and finalising membership structure before the body begins receiving complaints.

Freedom of Expression and Media

Protection of Journalists' Rights: The FreeMedia Help Line

161. The OSCE's Department of Media Affairs has, since November 1999, maintained the FreeMedia Help Line, offering a confidential point of contact for journalists who have been the victims of threat, intimidation or interference in the course of their work. The OSCE launched the FreeMedia Help Line with a public campaign in February 2000, in order to increase awareness of journalists' rights and the importance of not remaining silent when these acts occur. This "Progovori" (Speak Out) campaign included the wide dissemination of posters and wallet cards which urged

journalists, “Speak Out, Now is the Time.” Since November 1999, there have been 175 cases of perceived violations to journalists’ rights reported.

162. The Help Line was established for two purposes:

- To document actual instances of threats to freedom of the media and to establish the scope and magnitude of the problem in BiH;
- To provide direct assistance to journalists and media outlets which have experienced threat or interference, to the extent possible within the mandate and resources of the OSCE.

163. Since the last HRCC Report (August 31, 2000 to April 01, 2001), **70 cases** have been reported. These cases were categorised as follows (*see next page*):

Category of Incident	Number of Reported Cases
Explicit threat	21
Harassment	13
Physical Attack	11
Defamation Suit	6
Labour Dispute	5
Potential/Implicit Threat	4
Denial to Access Information	4
Interference by Authorities	2
Intimidation	1
Denial of Services	1

Pressure by Tax Authorities	1
Not Determined	1

164. That the most significant number of reported cases involved explicit threats is revealing: the intention of the perpetrators in these instances is to instil fear. This is an effective means of dampening investigative reporting and contributing to a culture of closure, rather than *dis*closure, within BiH.

165. In some cases, journalists or media outlets do not seek recourse or follow-up, but only express an interest in lodging a record of their complaint. In most cases, the OSCE co-operates with the International Community and local authorities to ensure that a swift and appropriate response to each incident is achieved. This involves OSCE co-operation, where appropriate, with the Office of the High Representative (OHR), the Independent Media Commission (IMC), and IPTF as well as the Ombusdman Offices, local journalist associations and NGOs, such as the Helsinki Committee. With the support of these bodies, OSCE can ensure a swift response to acts of intimidation. In conjunction with the Help Line, the OSCE has developed an e-mail distribution list of world-wide organisations involved in the protection of human rights and journalists' rights, through which they are informed about extreme cases of violations of journalists' rights in Bosnia and Herzegovina. In turn, awareness is raised about the importance of the protection of media within BiH.

Human Rights Institutions in Bosnia and Herzegovina

Highlights:

- Work has continued on draft legislation regulating the eventual merger of the Human Rights Chamber and the Constitutional Court.
- Significant increases have occurred in the number of applications and decisions by all five major human rights institutions in BiH
- Banja Luka authorities issued an overdue urban permit allowing the Islamic Community to submit building plans for a mosque on the Ferhadija site.

Overall case file progress with Dayton institutions:

Human Rights Chamber **Ombudsman** **CRPC**

Cases Registered 7,587 (+394) **6544** (+ 206) **297,594** (+ 5,301)

Cases Completed 1024 (+ 114) **2852** (+ 1028) **164,594** (+12,778)

Bolded numbers refer to current totals. Parentheses refer to changes from the 30 April 2001 HRCC report (for CRPC, figures relate to properties rather than the number of claimants – one claimant may have more than one property).

	April 2001	**May 2001**	**June 2001**	**Total (since March 1996)**
Applications Registered with the Chamber	121	134	139	7587

Decisions of the Chamber* -involving 995 individual applications	42	28	34	855
Decisions on admissibility	25	14	18	436
Decisions on admissibility and merits (delivered)			0	108
Decisions on compensation only			____	11
Decisions on review			____	1
Decisions on request for review – accepted (4) – rejected (45)			5	49
Strike-out decisions			11	249
Reports on amicable settlement			____	1

Human Rights Chamber:

166. New Decisions: The Human Rights Chamber met three times during the reporting period and issued five decisions on merits, and ruling 87 cases inadmissible or strike out. These cases may be may be obtained by contacting the Chamber in Sarajevo at Musala 9, tel. (387-33) 212-064.

167. During its 58th session from 02 – 06 April 2001, the Chamber adopted 25 admissibility decisions (all declared inadmissible), 13 strike out decisions and 1 request for review (rejected). It also adopted three decisions on admissibility and merits. On 06 April, in the Cantonal Court Sarajevo, the Chamber publicly delivered three decisions on

admissibility and merits in the following cases: **CH/97/73 BOJKOVSKI v. State BiH and the Federation of Bosnia and Herzegovina;** CH/98/1019 Sp.L., J.L., Sv.L. and A.L. v. the Republika Srpska; and **CH/98/1018 POGAR^I] v. the Federation of Bosnia and Herzegovina**. On 04 April, the Chamber also held a public hearing in the Dom Kulture/Community Centre in Brcko on the admissibility and merits of case numbers **CH/00/4115 Usanovic, CH/00/4116 Bisera Spahalic** and **CH/00/4117 Mustafa Spahalic v. Bosnia and Herzegovina and the Republika Srpska.**

168. During its 58th session from 07 – 11 May 2001, the Chamber adopted 14 admissibility decisions (all declared inadmissible), six strike-out decisions and five requests for review (all rejected). It also adopted three decisions on admissibility and merits. On 11 May, in the Sarajevo Cantonal Court, the Chamber publicly delivered the three decisions on admissibility and merits that it had adopted at the session. The cases are: **CH/98/575 Jasmin ODOBA[I] v. Republika Srpska;** CH/00/5408 Mina SALIHAGI] v. the Federation of Bosnia and Herzegovina; and **CH/98/1066 Savka KOVA^EVI] v. the Federation of Bosnia and Herzegovina**.

169. During its 59th session, from 04 – 08 June 2001, the Chamber adopted 18 admissibility decisions (all declared inadmissible), 11 strike-out decisions and five requests for review (all rejected).

170. One of new decisions is also **CH/98/1066 Savka Kova~evi} v. the Federation of Bosnia and Herzegovina**, which concerns the attempts of the applicant to regain possession of her apartment. The applicant has been the occupancy right holder of an apartment in Novo Sarajevo, which she left in March 1996 to care for her ill mother in Ljubljana. Since May 1998, the applicant has applied to various competent local administrative bodies to regain possession. In January 1999, the CRPC issued a decision confirming the applicant's status as the occupancy right holder and finding that she is entitled

to regain possession of her apartment. In May 2000, the local administrative body also issued a positive decision on her claim. However, it was not until 04 December 2000 that the applicant finally repossessed her apartment. The Chamber unanimously declared the application admissible and found violations of the applicant's right to respect for her home within the meaning of Article 8 of the Convention and the applicant's right to peaceful enjoyment of her possessions within the meaning of Article 1 of Protocol No. 1 to the Convention. The bases for these violations were the failure of the Administration to issue a decision awarding the applicant repossession of her apartment in a timely manner, the delayed enforcement of the Administration's eventual decision in the applicant's favour, and the non-enforcement of the CRPC decision in the applicant's favour. The Chamber ordered the Federation to pay to the applicant the sum of 2,000 KM in respect of non-pecuniary damage. The Chamber further ordered the payment of 5,600 KM as compensation for the loss of use of the apartment and for any extra costs during the time the applicant was forced to live in alternative accommodation until she repossessed her apartment. The Chamber also issued one more decision regarding non-enforcement of a CRPC decision **CH/97/93 Marija BOJKOVSKI v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina**, and one that concerns repossession of business premises in Prnjavor **CH/98/575, Odoba{i} v. Republika Srpska**.

171. CH/00/5408 Mina Salihagi} v. the FBH: The applicant concluded a purchasing contract that was registered in the public land books. Despite that, the authorities of the Federation have sought to evict the applicant from the apartment. She claims that her right to use the apartment could not be terminated because she bought the apartment and is registered as the owner of it in the land books of the municipal court. She claims that the matter could only be determined in court proceedings and therefore no eviction should be carried out. As to the merits, the Chamber found

violations of Article 8 of the Convention and Article 1 of Protocol No. 1. As the applicant is the current registered owner of the apartment, she is entitled, as a matter of Federation law, to exercise the registered ownership rights. Whether or not the purchase of the registered apartment was in accordance with the law, unless and until the land book is corrected, her ownership rights need to be respected. No emergency situation could be found, or has been asserted by the Federation, that could possibly justify the eviction of the registered owner. No provision in the domestic law could be regarded as a basis for the eviction. The attempted eviction of the applicant was therefore contrary to the law. This was in itself sufficient to justify a finding of a violation of her right to peaceful enjoyment of her possessions as guaranteed by Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention. Accordingly, the rights of the applicant under these provisions have been violated. The Chamber ordered the Federation to secure the applicant's ownership of the apartment and to prevent her eviction as long as the applicant is registered in the land book as the owner. Additionally, the Chamber considered it appropriate to order the respondent Party to pay to the applicant the sum of 1,000 KM in recognition of the sense of injustice she has suffered as a result of the proceedings against her, especially in view of the fact that she sustained fear and suffering due to her threatened eviction.

172. The Chamber issued one decision which concerns the right to work under Article 6 of the International Covenant on Economic, Social and Cultural Rights and Article 5(e)(i) of the Convention on the Elimination of All Forms of Racial Discrimination **CH/98/1018 Zoran POGAR^I] v. the Federation of Bosnia and Herzegovina.** This case concerns an applicant who worked for the Electrical Engineering School in Sarajevo for almost 30 years. The applicant was unable to continue working at the School on or around 31 May 1992 when the war hostilities made it impossible for him to get to work in

Sarajevo. He was living in the suburb of Grbavica, which was then held by Bosnian Serb forces. At the end of the hostilities, the applicant reported to the School and requested reinstatement. He was not reinstated. Based upon a decision by the labour inspector, on 25 October 1996, the applicant's labour relations were regulated. The School issued a procedural decision authorising the applicant's leave without pay from 30 April 1992 until 10 June 1996 and placed him on the waiting list thereafter. The applicant has not been taken from the waiting list. On 24 December 1996, the applicant submitted a complaint to the Court of First Instance II in Sarajevo challenging the 25 October 1996 decision that placed him on the waiting list. As far as the Chamber is aware, these proceedings are still pending before that court today. The applicant complained that he was discriminated against because of his national origin in his right to work. He also complained of the fact that there has been no significant development in the proceedings before the domestic courts for over four years. The Chamber concluded that the applicant has been discriminated against on the ground of national and ethnic origin in his enjoyment of the right to work under Article 6 of the International Covenant on Economic, Social and Cultural Rights and Article 5(e)(i) of the Convention on the Elimination of All Forms of Racial Discrimination. The Chamber further concluded that the length of proceedings had exceeded a "reasonable time" and therefore the Federation had violated the applicant's rights under Article 6 of the Convention. The Chamber ordered the Federation, through its authorities, to undertake immediate steps to ensure that the applicant is no longer discriminated against in his right to work, and that he be offered the possibility of resuming his work, or a fair and just retirement, on terms equal with those enjoyed by other employees and commensurate with his qualifications as a teacher, and in any event not later than three months after the date when this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

Further, the Chamber ordered the Federation to pay the applicant not later than one month after the date this decision becomes final and binding the sum of 24,600 KM by way of compensation for lost income and unpaid contributions. The Chamber further concluded that this sum would also provide just and sufficient satisfaction for moral damages.

173. The case **CH/98/1019 Sp.L., J.L., Sv.L. and A.L v. the Republika Srpska** concerns the attempts of the applicants to achieve the execution of a decision issued by the Court of First Instance in Doboj dated 23 July 1993, ordering the Kristal Bank, branch office in Doboj to pay to them the sums they had deposited in it. The applicants initiated proceedings on 18 December 1992 and until this date they are still pending since they never achieved an enforcement of the decision of 23 July 1993. The applicants made allegations regarding violations of the right to a fair trial and complained about the length of the court proceedings. The Chamber declared the case admissible since the remedies available to the applicants have not proved effective in practice. Accordingly, the Chamber held that the applicants have exhausted all domestic remedies available to them. The Chamber considers that no other ground for declaring the application inadmissible has been established. As to the merits, the Chamber found that the proceedings in question are still pending as the question of the enforceability of the decision of 23 July 1993 has not been finally determined. The relevant period, therefore, exceeded five years. The Chamber concluded that there has been a violation of the applicants' rights under Article 6 of the European Convention on Human Rights. The Chamber held that the obligation of the Parties to provide effective protection for the rights of an individual includes the enforcement of a court decision such as this one in the present case. In the proceedings before the Chamber, no convincing reason was put forward as to why the decision of 23 July 1993 should not be enforced. In these circumstances, the Chamber found that the respondent Party failed to secure the applicants' right to

peaceful enjoyment of their possessions. Thus, there was a violation of Article 1 of Protocol No. 1 to the Convention. The Chamber ordered the Republika Srpska to ensure the full enforcement of the decision of the Court of First Instance in Doboj dated 23 July 1993 without further delay and no later than one month after the date when the Chamber's decision becomes final and binding.

Implementation of Human Rights Chamber Decisions:

174. Implementation of Chamber decisions increased from 10% in early 1999 to the current 74%, in large part due to almost completed implementation of the JNA apartment decisions. However, progress in general was seen in the Federation, as many occupancy right cases and compensation awards were implemented in the reporting period. Republika Srpska also showed progress with respect to the payment of monetary compensation in 37 cases, although in all these cases the sums paid did not include interest charges as required by the Chamber. While the increase in implementation rates denote progress, there remain over 200,000 property repossession cases in BiH, all of which, under the Human Rights Chamber's jurisprudence, would be violations of the European Convention on Human Rights. Continuing progress in property implementation must be seen in order to decrease the caseload of the Human Rights Chamber.

175. There is, however, no resolution of the **Matanovi} (CH/96/1)** case, involving the disappearance of a Priest at the time of the end of the conflict. During the reporting period, the RS Ministry of Interior failed to take adequate steps toward investigating the disappearance of **Father Tomislav Matanovi}** (Bosnian Croat) and his parents. The investigation had been ordered by the Human Rights Chamber in its first decision on 06 August 1997. The Matanovi} family disappeared from Prijedor, after they had been placed under house arrest by the Prijedor police in 1995. The team assigned by the RS

Ministry of Interior to investigate the case has made little progress in identifying and questioning witnesses. The team has also failed to pursue inconsistencies in the statements of those who were involved in the disappearance. The RS Ministry of Interior continues to deny that the family was in police custody (instead referring to the presence of the police as a "protective measure"), and the Ministry continues to protect currently serving police officers that illegally detained the family. UNMIBH has undertaken an investigation, which resulted with first positive steps in implementation since 1997.

176. The RS Ministry of Interior has still taken no steps toward implementing the January 2001 Decision ordering a full investigation into the disappearance of Colonel Avdo Palić (**CH/99/3196, Esma and Avdo Pali**ć v. the Republika Srpska). In July 1995, when intensive fighting with Bosnian Serb forces was going on in that area, Colonel Palić, a military commander of the Army of the Republic of Bosnia and Herzegovina, was negotiating on UN premises and under UN safety guarantee the evacuation of civilians. On 27 July 1995, Colonel Palić was forcibly taken away by Bosnian Serb forces in the presence of UN soldiers and monitors and taken in the direction of General Ratko Mladić's command position. As of today, Colonel Palić is still registered as a missing person. The Chamber ordered the respondent Party to carry out immediately a full investigation capable of exploring all the facts regarding Colonel Palić's fate from the day when he was forcibly taken away and to bring the perpetrators to justice, to release Colonel Palić, if still alive, or otherwise, to make available his mortal remains to Ms. Palić, and to make all information and findings relating to the fate and whereabouts of Colonel Palić known to Ms. Palić.

177.In the case of **H.R. and Momani CH/98/946,** the Federation of BiH has still not conducted a criminal investigation into the arrest and detention of the two applicants, as ordered by the Human Rights Chamber.

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

178. As of the end of June 2001, through its regional offices, the CRPC had collected claims relating to 297,594 properties in Bosnia and Herzegovina, and had issued 164,953 decisions.

179. In addition 40,329 property records for houses and apartments have now been checked for reconstruction purposes since August 1997.

180. With the consistent pressure of the International Community, more and more displaced persons and refugees have been able to return with the assistance of CRPC decisions, which operate as a check on a domestic system which is not yet fully impartial or independent.

181. CRPC decision-holders are increasingly complaining to the CRPC that they are unable to enforce their CRPC decisions, which clearly confirm their right to the property that they are trying to repossess. CRPC has received over 6250 complaints regarding non-implementation of CRPC decisions, with the greatest numbers relating to properties in Banja Luka, Brcko, Doboj, Mostar, Sarajevo, Pale, Tuzla, Zenica and Zvornik. In order to assist CRPC decision-holders, the CRPC has increased its focus on monitoring and implementation of CRPC decisions.

182. CRPC continues to work closely with OHR, OSCE, UNHCR and UNMIBH to tackle ongoing problems associated with property law implementation, increasingly in co-ordination with domestic partners at municipal, Entity and State levels.

183. The Human Rights Chamber ruled in several cases that the non-enforcement of the decisions of the CRPC constitutes a violation under the European Convention for the Protection of Human Rights and Fundamental Freedoms and awarded the CRPC

decision-holders non-pecuniary damages. The Human Rights Chamber's decisions further protect the rights of CRPC decision-holders.

More information about the work of the CRPC is available at http://www.crpc.org.ba.

Ombudsman Institutions:

Human Rights Ombudsman of Bosnia and Herzegovina:

New Brcko Office:

184. The new Brcko Office, opened by the Human Rights Ombudsman of BiH on 15 December 2000, has, to date, interviewed 400 complainants and received 350 complaint form, despite the office consisting of only one lawyer and one administrative worker. A vast majority of the received complaints relates to improper implementation of the applicable property legislation both of the RS and the Federation. Pursuant to Chapter VI, Investigation Procedure of the Law on the Human Rights Ombudsman, the Ombudsman may conduct an investigation into each case, offering his good offices and mediation in resolving the individuals' problems.

Implementation of Ombudsman Reports:

185. The number of cases resolved during the second quarter of this year – by formal recommendation or otherwise – amounts to an encouraging 18.4 % of the total number of cases resolved since the institution was established in early 1996. During the same quarter, the number of cases waiting for investigation has dropped by a similarly encouraging 21.2 % of the number at the beginning of the quarter. However, the RS Ministry of Interior has taken no steps in heeding the September 1998 Recommendation of the Ombudsperson to investigate the disappearance of **Hasnija Demirovic** and **Nura**

Berbic from Banja Luka in August 1995. Demirovic and Berbic were abducted by two Bosnian Serb police officers, and have not been seen since that time. Approximately 66% of the BiH Ombudsman reports have been implemented. The Federation of Bosnia and Herzegovina authorities implemented *inter alia* eight cases concerning repossession of relevant property among which were three recommendations concerning enforcement of CRPC decisions. However, the Federation of Bosnia and Herzegovina has taken no effective steps toward implementation of the Special Report No. 348/97, concerning the Mostar incident of 10 February 1997 in which the Ombudsman recommended full and impartial investigation regarding the event in which one person was killed and several injured by West Mostar police.

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

Case statistics

Registered complaints				
Resulting in formal recommendation	1.288[2]		Special Reports	19
Resolved otherwise[3]	2.137		Complaints referred to Human Rights Chamber	176
Under investigation	453		Complaints referred to the High Representative	427

Investigation to be decided	2.666		Prior to the new law registered contacts requiring no further formal action	52.853[4]
Total	6.544			

Case handling and compliance examples

Compliance with his recent recommendations has taken place in, *inter alia*, the following cases:

- **S.T. v. the Federation of BiH of 21 April** concerned the failure of the housing authorities to enforce the decision of the Commission for Real Property Claims of Refugees and Displaced Persons (CRPC) by reinstating him in his house in Novo Sarajevo. The complainant was reinstated in the house on 14 May.
- **A.K. v. the Republika Srpska of 10 April** concerned the failure of the housing authorities in Doboj to enforce the CRPC decision. The complainant was reinstated in the apartment on 10 May.
- **M.K. v. the Federation of BiH of 11 April** concerned the failure of the housing authorities to decide on the complainant's repossession claim regarding an apartment in Sarajevo. On 25 April, the complainant was reinstated in the apartment.
- **A.M. v. the Republika Srpska of 09 April** concerned the failure of the housing authorities in Prnjavor to enforce a CRPC decision concerning the complainant's apartment. On 03 May, the complainant was reinstated to her apartment.

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

Ombudsmen of the Federation of Bosnia and Herzegovina:

186. In March 2001, the Federation Ombudsmen adopted their Report on Human Rights Situation in the Federation of Bosnia and Herzegovina for 2000. In this valuable document the Federation Ombudsmen outline the human rights situation in the Federation, and provide an overview of problems in the functioning of the government structure in the Federation, judicial authorities, return of refugees, social rights, protection of the right of the child, endangerment of media freedoms.

187. In this report the Federation Ombudsmen underlined that positive steps in co-operation with state organs have increased, especially in settling individual claims, but also that the positive steps are missing when it comes to co-operation with the institution and acceptance of their special reports and general issues. According to the assessment of the Ombudsmen, the authorities are generally reluctant to accept recommendations that identify flaws in the system and request changes of policy in certain fields.

188. Some of the areas highlighted by the Federation Ombudsmen in their conclusions which require immediate attention include a review of the monopolistic positions of utility companies, the need for a law on public procurement and the need for a law on consumer protection.

189. The second part of the Report is dedicated to a detailed review of the return process set out in Annex VII of the General Framework Peace Agreement for Peace in Bosnia and Herzegovina and the situation of social rights protection in the Federation.

190. During the reporting period the Federation Ombudsmen registered 3992 and decided on 3984 cases (this is the number of files registered in any period of time, which were decided upon within this three months period) in all offices. In the same period Sarajevo office registered 917 files and decided on 333 cases.

Three-Months Report for the period 01.04.2001 – 30.06.2001

FBiH Ombudsman

DATA COVERING ALL OF THE OFFICES

NUMBER OF REGISTERED FILES: **3992**

NUMBER OF CASES DECIDED: **3984***

NUMBER OF ALL OMBUDS-ACTIVITIES: **8584**

NUMBER OF ANSWERES RECEIVED: **2165***

SARAJEVO OFFICE DATA

NUMBER OF REGISTERED FILES: **917**

NUMBER OF CASES DECIDED: **333***

NUMBER OF ALL OMBUDS-ACTIVITIES: **2528**

NUMBER OF ANSWERES RECEIVED: **161***

***Notification: this is the number of answers on ombuds-activities performed in any period of time, which was provided within this three-months period.**

(More information about the work of the Federation Ombudsmen is available at http://www.bihfedomb.org/men-eng.htm)

Ombudsmen of Republika Srpska:

Establishment of the RS Ombudsmen institution:

191. On 30 November 2000, the RS Ombudsmen officially opened their headquarters in Banja Luka, and four field offices in the municipalities of Prijedor, Doboj, Bijeljina, and Fo~a / Srbinje. During the reporting period, the RS Ombudsmen

obtained further equipment and training for the staff of the Offices.

192. In the period from November 2000, when they initially started to receive individual cases, to 30 June 2001, the Ombudsman of the RS received 1492 cases, of which 490 have been completed.

193. Out of the total number of cases, 504 are related to socially owned property repossession, 635 private property repossession, 35 to labour relations, 96 to courts, 222 other matters. The Ombudsman had 2763 oral contacts during which the applicants were given legal advice and 798 telephone contacts with the applicants.

194. In the relevant period, the Ombudsmen assisted with two international seminars. On 16-17 May they assisted in the Review Meeting in Strasbourg, scheduled in order to assess the progress achieved within the Stability Pact Project on independent National Human Rights Protection Institutions including the Ombudsman. On 28-29 June, they assisted in a seminar on the Ombudsman and its relationship with mass media, which was held in Moldavia.

195. The ombudsmen had also several contacts with the representatives of different international organisations and embassies within the country. They met with the International Mediator, Mr. Schwarz-Schilling, in Visegrad on 02 May. They attended his mediation for Visegrad and Foca-Srbinje, during which they undertook the obligation to organise a day for interested parties to come and express their views, suggestions and concerns. They defined every Tuesday as a visiting day, and their Deputy Ombudsmen for Foca – Srbinje field office will visit Visegrad every Tuesday to meet all the relevant parties, such as municipal authorities, representatives of returnees and refugees, in order to help them to find suitable solutions and to put into effect the return and reconciliation plan agreed upon. They will adopt a

similar program with Mr. Schwarz-Schilling for Trebinje in the next period.

196. During the initial period, the RS Ombudsmen have ensured media presentation of the Office and information to the public regarding the scope of work of the institution and its competence, including the whereabouts of their offices. The Ombudsmen also expressed a wish to have regular contacts with the media regarding the activities of the Institution.

Future of the Institutions:

197. The OSCE has been drafting memoranda of understanding (MoU) concerning the transfer of full responsibility for the Entity Ombudsmen to national authorities. The MoU outline the minimum structure and requirements necessary for the Entity Ombudsmen to effectively and independently carry out their important tasks. The financial implications of this structure will require international financial support of the institutions in the next five years.

198. Three meetings have been held in the reporting period concerning the proposed merger of the Human Rights Chamber and the Constitutional Court of BiH. A preliminary draft law has been negotiated between the institutions with the assistance of the Venice Commission. Work remains on additional legislative steps necessary in order to ensure that the merged body has legal and procedural tools necessary to carry out the work currently being done by the Human Rights Chamber.

See Constitutional Court web site: http://www.ustavnisud.ba/

199. Amendments will be necessary to the Law on the Federation Ombudsmen. The necessary legislative amendments have been drafted with the assistance of the Venice Commission and will be discussed with Federation Ministry of Justice officials.

Questionnaire

In order for the Report to be as useful as possible, the HRCC would be very grateful if all readers could fill in this short questionnaire and return to Eleanor Gordon: *fax – 387-33-283-501 or email – eleanor.gordon@ohr.int.*

Your organisation or profession:	
1. **Are you on the direct email address list?**	Yes/No
• **Do you wish to be put or remain on the direct email address list?**	Yes/No Email address: If you have no email address but wish to receive a copy please give address or fax no.:
• **Do you distribute the Report to others?**	Yes/No Who?
• **How could the Report be more useful to you/your organisation/others? Do you have any comments or suggestions regarding the content/readership/format of the Report?**	Comment:

HRCC Member Organisations

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 tel: 387-33-283-500

Emerika Bluma 1 fax: 387-33-283-501

Sarajevo, Bosnia web: www.ohr.int

***OSCE*:** The OSCE mandate derives form 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 Centres 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 tel: 387-33-444-444

Dzenetica Cikma 2/4 fax: 387-665-236

Sarajevo, Bosnia 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 tel: 387-33-666-160

Unis Building Tower A fax: 387-33-470-171

Fra Andela Zvizdovica 1 web: www.unhcr.ba

Sarajevo, Bosnia

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.

UN House tel: 387-33-496-265

Aleja Bosne Srebrene b.b. fax: 387-33-496-539

Sarajevo , Bosnia

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.

UN House tel: 387 33 49 6402, 6403

Aleja Bosne Srebrene b.b. fax: 387 33 49 6438

Sarajevo, Bosnia

***IJC*:** The Independent Judicial Commission (IJC), while initially being created under the auspices of OHR, carries out its pivotal role of directing judicial reform in BiH independently. The IJC is responsible for initiating, guiding and co-ordinating a comprehensive judicial reform strategy and professional training measures. It also assists and advises the judicial and prosecutorial commissions/councils in both entities on matters related to the appointment, discipline, and review of judges and prosecutors. This concentration of judicial reform responsibilities is expected to achieve more uniform and accelerated reform measures that directly impact on and improve the conduct of judges, prosecutors and other legal professionals as well as the institutional operations of the justice sector.

Independent Judicial Commission tel: 00 387 33 445 216

Emerika Bluma 8 fax: 00 387 33 445 223

71 000 Sarajevo, Bosnia and Herzegovina web: www.ohr.int/ijc/

***CoE*: The Council of Europe (CoE)**

CoE: The Council of Europe has instituted a multi-faceted co-

operation programme with Bosnia and Herzegovina, aimed at assisting the country in meeting the organization's standards of pluralist democracy, human rights and the rule of law. To support and monitor the implementation of these co-operation activities, the CoE has a field presence in Sarajevo and Mostar

Council of Europe/Vijece Europe tel: 00 387 33 264 360

Zelenih Beretki 16/A, fax: 00 387 33 264 360

71000 Sarajevo, Bosnia and Herzegovina web: www.coe.int.org

LIST OF ACRONYMS

ABA/CEELI	American Bar Association/Central and East European Law Initiative
AFDIL	Armed Forces DNA Identification Laboratory
BiH	Bosnia and Herzegovina
CoE	Council of Europe
CoM	Council of Ministers
CRPC	Commission for Real Property Claims
DMA	OSCE Department of Media Affairs
DP	Displaced Person
DPA	Dayton/Paris Peace Agreement
EASC	Election Appeals Sub-Committee
EC	European Commission
ECHR	European Convention on/Court of Human Rights

EU	European Union
FBiH	Federation of Bosnia and Herzegovina
FoAIA	Freedom of Access to Information Act
FRY	Federal Republic of Yugoslavia
GFAP	General Framework Agreement for Peace/DPA
HDZ	Croatian Democratic Union
HNS	Croat National Assembly
HRCC	Human Rights Co-ordination Centre
HSS	Croat Peasant Party
HVO	Bosnian Croat Defence Council
ICMP	International Commission for Missing Persons
ICNL	International Centre for Not-for-Profit Law
ICTY	International Criminal Tribunal for the Former Yugoslavia
IJC	Independent Judicial Commission
IMC	Independent Media Commission
IOM	International Organisation for Migration
IPTF	International Police Task Force
JNA	Jugoslav National Army
JSAP	Judicial System Assessment Programme

MPI	Missing Persons Institute
MHRR	Ministry/Minister of Human Rights and Refugees
MRDP	Minister/Ministry for Refugees and Displaced Persons
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the High Commissioner for Human Rights
OHR	Office of the High Representative
OSCE	Organisation for Security and Co-operation in Europe
PEC	Provisional Election Commission
PIC	Peace Implementation Council
PLIP	Property Legislation Implementation Plan
PSC	Public Security Centre
SPRS	Socialist Party of Republika Sprska
SNS	Serbian People’s Union of Republika Sprska
SRS	Serbian Radical Party of Republika Sprska
SNSD	Party of Independent Social Democrats
PDP	Party of Democratic Progress

SBiH	Party for Bosnia and Herzegovina
RS	Republika Srpska
SDA	Party of Democratic Action
SDP	Social Democratic Party of BiH
SDS	Serbian Democratic Party
SFOR	Stabilisation Force (NATO)
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
UNMIBH	United Nations Mission in Bosnia and Herzegovina
USAID	United States Agency for International Development