HRCC Human Rights Quarterly Report, February 2000

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

- **High Representative removes 22 obstructionist officials throughout BiH on November 29**
- **Cautious optimism warranted as property implementation continues to improve in most areas of the country**
- **UNMIBH commences the re-registration and testing of law enforcement officials in both Entities**
- **Substantial number of people detained in BiH without a final verdict for long periods of time**
- **Land-mine incident in Gacko destroys vehicle of CRS and injures two**
- **Security incidents in Stolac and Capljina – displaced persons in a collective centre in Capljina attacked**

Right to Return / Right to Property

General Overview:

1. On 29 November 1999, the High Representative removed 22 Bosnian officials for obstructing the implementation of the Dayton Peace Agreement. Some were removed for

obstructing the return of refugees and displaced persons through non-implementation of property laws, and other tactics; others directly disobeyed that rulings of the Human Rights Chamber; and others attempted to block the basic right of minority populations to education. Removals included the Mayor of Banja Luka, the Governor of Una Sana Canton; the Mayors or Capljina and Stolac; among others. In addition, two Heads of Housing Departments (Federation) and two Heads of OMI's (RS) were removed for failure to implement property laws.

2. The focus on returns has been increasingly on the property implementation rather than returns driven by reconstruction, partly due to the winter conditions, but also due to the High Representative's October 1999 property decisions [see HRCC October Report at para 13] and the November 1999 dismissals.
3. In addition to severe weather conditions, funding gaps continued to hamper return and reconstruction programs. Heavy snowfall (which lead to the state of emergency declared in many parts of the country) in mid-December blocked many of the return movements as well as the delivery of assistance to collective centres and return sites. In some parts of the country, returns were blocked by snow in January as well.
4. Some return related security incidents took place during the reporting period. On 30 November a land mine explosion on the road to the Bosniak return location in Gacko (RS) destroyed a vehicle of the CRS (Catholic Relief Service) and injured two of their staff members. Results of the investigation by SFOR indicated that the mine was put there recently, likely with an intention to harm returnees. The security situation appears to have again deteriorated in Capljina and Stolac, where three incidents against returnees, including arsons, explosions and looting of houses, occurred in January.

Property legislation – developments:

5. On 27 October 1999 the High Representative imposed amendments to property laws in both Entities, as well as instructions on their application [see HRCC October 1999 Report at para 13]. The legal framework for return of refugees and displaced persons, as well as implementation of decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) is now in place throughout BiH.
6. On December 10, 1999, due to the failure of some housing authorities to receive claims, and due to the non-functioning of some housing offices during the NATO air-strikes against Serbia and Montenegro, the High Representative extended the deadline for filing claims for socially-owned apartments in the RS for a further four months, to 19 April 2000.
7. On December 30, 1999, due to lack of confidence in the commitment of municipal authorities to uphold the public interest with respect to land allocations, the High Representative also extended his Decision of 26 May 1999 prohibiting the disposal of state property in certain categories, (eg. socially-owned property used for cultural or religious services, residential, business or private agricultural purposes), to 30 June 2000. This Decision is applicable throughout BiH.
8. In November and December 1999, in an effort to ensure implementation by the housing authorities of the new laws imposed in October 1999, international organisations conducted eight property training seminars for the Heads of Offices of the RS housing authorities throughout the RS. The property training seminars provided instruction regarding the application of the property laws, and enabled the housing officials to clarify issues of concern. The Ministry of Urban Planning of the Federation conducted similar seminars for Federation housing authorities.
   (Copies of the Decisions of the High Representative are available on the OHR web site: https://www.ohr.int)

Implementation of the property legislation:

9. During the reporting period positive developments in the processing of property claims and implementing property decisions, including CRPC decisions, were noted in some parts of BiH. This can be attributed, in part, to the international community's insistence with political leaders in the Federation and the RS that property laws must be implemented. The November 29 removals of 22 obstructionist officials may also have played a role.
10. Nevertheless, a substantial number of housing authorities (particularly in Cantons 7, 8 and 10) are not making progress in processing claims for the return of real property, both private housing and socially owned apartments. Some housing authorities, as well as courts (e.g., Mostar where 300 evictions of illegal occupants are pending) wrongfully claim that a lack of alternative accommodation for the temporary occupants prohibits them from implementing the laws. In Zivinice judges have issued court orders staying the execution of housing officials' eviction orders. This is at variance with the 27 October 1999 Decision of the High Representative that an appeal will not stay the execution of a first instance decision. It also conflicts with the fact that the courts no longer have competence to decide repossession cases. Actions such as these continue to inhibit the return of DPs and refugees.
11. ***Housing Office/OMI Budgets continue to be inadequate:*** The international community continues to be engaged in the budgetary processes of the local housing authorities. The budgets reviewed fail to provide the resources needed to fulfil obligations to implement property legislation, and to provide temporary solutions for those in displacement without infringing on the rights of others.
12. ***PEC Rule 7.16:*** Various measures and initiatives have

been taken by the international community in an effort to enhance the implementation of property legislation. On January 20, the Provisional Election Commission (PEC) determined that nine candidates were ineligible to stand for office in the forthcoming municipal elections (April 8, 2000), as they had refused to vacate property which they are currently occupying despite an administrative decision requiring them to do so.

13. The action was taken pursuant to Rule 7.16 of the Provisional Election Commission which was adopted in December 1999. The rule allows the PEC to remove candidates from the candidate list, who refuse to vacate property within the deadline given in a CRPC decision, an administrative decision, or a court decision. However, the impact of this measure is limited because, effectively, it penalizes only candidates who are in the municipalities which are the *most* compliant with the property legislation; i.e., those which are actually issuing decisions on repossession claims. In those municipalities which are not issuing decisions at all, no candidates can be removed, even though they are in some cases the individuals responsible for the municipality's failure to implement the property laws.
14. ***Progress in Forcible Evictions:*** UNMIBH has concentrated its efforts on ensuring that local police successfully carry out forcible evictions and that police officers do not themselves violate property laws and Annex 7. In this regard, a significant eviction of an illegal occupant (a Bosniak) took place in **Crkvica** Municipality (Zenica-Doboj Canton), permitting the return of a minority (Bosnian Serb) to his private property. The eviction was executed on 13 December 1999 despite protests from approximately 150 persons mobilized by the "Organisation of Citizens Protecting the Human Rights of Temporary Users." The Zenica Acting Chief of Police, four cantonal Ministry of Interior Officials, fifty police officers and members of the cantonal Support Unit

arrived at the eviction scene. Police officers removed approximately fifty of the demonstrators and arrested fifteen of them, forced open the door and arrested the illegal occupant and his wife. Such action on the part of the local police was unprecedented and represented a step towards encouraging further minorities to return to the Zenica area. In addition, it served as a deterrent to others who might have chosen to prevent minority return and set an example to other police administrations.

15. ***Police as Illegal Occupants:*** In November 1999, UNMIBH launched a project to prevent the illegal use of property by police officers and to simultaneously facilitate the return of those officers to their pre-war homes, should they be willing. Fifteen Canton 9 Ministry of Interior personnel were identified, who did not have documents proving their right to use the properties they occupied. By 5 February, eleven of these personnel had returned their keys to the housing authorities. The remaining four cases continue to be investigated, although two of the occupants have already indicated that they will vacate their premises as soon as they are requested to so by housing authorities.
16. Another example of improved property law implementation comes from the **Doboj** Region. From November 1999, UNMIBH/IPTF has co-located a Special Advisor in the local MRDP (Ministry of Refugees and Displaced Persons) office. This initiative was undertaken because of the complete lack of property legislation implementation. No evictions had been enforced and the authorities rarely carried out property evaluations. Since the project began, however, over 60 evictions have been successfully carried out with 43 pertaining to minorities. Special hearings for temporary users were established for temporary users in order to explain criminal consequences to facilitate peaceful evictions. The international organizations working on property

implementation (OSCE, UNHCR and UNMIBH) have accompanied the MRDP authorities to the field for assessments. They have also facilitated regular cross-IEBL meetings to discuss possibilities for two-way returns.

17. ***Majority of Bosnians still wish to return to pre-war homes, CRPC/UNHCR Study finds:*** In November 1999, the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) and the United Nations High Commissioner for Refugees (UNHCR) released the results of a survey (conducted by the CRPC) on the preferences and intentions of displaced persons and refugees. More than 3,000 interviews were conducted throughout Bosnia and Herzegovina, in Croatia and the Federal Republic of Yugoslavia. Respondents were requested to identify how they would prefer to exercise their property rights, and what factors influenced their preferences.
18. The research confirms that the majority of interviewees still wish to return to property they occupied prior to the war. The results reveal that approximately 61% of all respondents wish to return to their pre-war property. Within BiH, 76% of respondents currently residing in the Federation and 34% of respondents currently residing in the RS prefer to return to their pre-war property. 76% of all Bosniak, 73% of all Croat, and 36% of all Serb displaced person respondents indicated a preference to return to pre-war property. 54% of refugees in Croatia and 49% of refugees in FRY expressed a desire to return to their pre-war homes.
19. The majority of all respondents (59%) who indicated a preference to return cited the mere fact that “this was their home” as their main motivating factor. The second most prevalent factor cited by those who indicated a preference to return was that their current housing situation was unacceptable. According to the study, one of the main barriers to return identified by respondents is personal security and security of their property. The majority (58%) of all respondents who indicated a

preference to sell, exchange or lease their properties indicated that they would return if the local authorities guaranteed their safety or if their pre-war neighbours returned. Economic factors also affected preferences to return. 21% of all respondents who indicated a preference to sell, lease or exchange their property indicated that they would return if there were job opportunities available.

20. The study concludes that to enhance returns in any meaningful way, and to find durable solutions for a majority of the displaced, property laws must be strictly implemented as a matter of absolute priority. Concrete material support should be provided through a flexible funding mechanism, to assist refugees and displaced persons to exercise their preferences (be this to return or to locally integrate). (The research was conducted before the High Representative amended the legal property framework through his 27 October 1999 Decisions.)

Right to Return / Visits, returns and return related incidents

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

In the Republika Srpska:

22. In November 1999, 22 families began to return to the village of Nevacka in **Han Pijesak** municipality (Eastern RS), where their houses are being reconstructed, and 29 families returned to the village near **Cajnice**. There were two assessment visits of Bosniak displaced persons to **Sokolac** municipality. Some 160 persons visited the village of Knezina and other 145 visited the pre-war homes in the previously multi-ethnic villages of Pedise and Preljubovici. No incidents were reported.
23. Despite the attack on the Bosniak councillor in **Srebrenica** that took place on 9 October [see HRCC

October 1999 Report at para 2], and the tense atmosphere following the attack, an assessment visit (second) took place in early November to Suceska/Bektici villages in Srebrenica municipality. Also, a "go and see" visit organized by the Swedish Immigration Board took place on 24 December to Srebrenica. The visit, in which 14 refugees participated, passed without incident. The visitors discussed returns to the outlying villages with the local authorities. Security concerns of the Bosniak councillors further eased in January, as the IPTF established a permanent presence in Srebrenica and a security plan was developed.

24. Despite tensions and security incidents in **Zvornik** in October 1999, which apparently were not related to minority returns [see HRCC October Report at paras 5 & 6], there were no increased tensions in the return villages. In the three new return villages, joint (Bosniak/Bosnian Serb) house cleaning activities started in December 1999. Also, the first ever minority reinstatement to a flat in the centre of the town took place in December. Following the firing of a shot outside the door of the apartment (which turned out to be harmless), the Bosniak decided to leave, but has since returned. By the end of January, 11 properties belonging to Bosniak minorities had been vacated, but only two had been repossessed. On 24 January, return to the last empty village in Zvornik municipality, Kula Grad and two other villages started, bringing the total number of return villages to 65. No adverse reactions to these house cleaning activities were reported. Also, in **Milici** (unrecognized) neighbouring municipality, house cleaning activities began at the end of January.
25. The return of Bosniaks to **Kopaci** remains blocked. Several displaced persons remain camped at the IEBL near Srpsko Gorazde, hoping to return to their homes. The reconstruction work on 7 Bosniak houses in Kopaci/Srpsko Goradze was stopped again in November by the local

authorities. In January, however, a constructive meeting on the Kopaci return was held between the relevant entity ministries and the DP's, during which the RS Minister of Refugees and DP's promised that the DP's would be allowed to return soon.

26. Some incidents targeting minority returnees (Bosniak and Bosnian Croats), the latest in November, have been reported in **Derventa** (Northern RS). The local police have been slow to investigate. Despite harsh weather conditions and the fact that their houses are partly destroyed, some 25 Bosnian Croats returned to Cardak village in **Modrica** municipality.
27. In January 2000, a group of Bosniak displaced persons started housecleaning activities in Kotorsko, **Doboj** municipality, working on the access road to the village, where their unoccupied destroyed houses are located. The activities were conducted without incident and the situation in Kotorsko, where some 450 displaced Serbs live, remained calm.
28. Despite the winter weather, returns continue in the **Novi-Prijedor** area. With the completion of reconstruction, the number of returnees has continued to rise. The main concern of the returnees is the lack of funds for the repair of the electricity or water systems.

In the Federation:

29. Promising assessment visits of Bosnian Serbs currently displaced in Northeastern Bosnia (e.g. Zvornik, Brcko, Bijeljina, Vlasenica) took place to Ilijas (near Sarajevo) in January. Preliminary administrative steps were taken by the visitors towards initiating return.
30. In November, some return movements took place both in Canton 7 (including to **Capljina, Mostar** of Bosniaks and Serbs) and Canton 6. No incidents were reported. A relatively large number of Serbs returned to **Bugojno** (119 only in November) and some to **Travnik**. From Bugojno

some 50 Bosniaks returned to different villages in **Jajce** municipality and Gornji Vakuf and some 30 families to **Vitez** (in Canton 6). In December, due to adverse weather conditions only one return in this area took place, when some 60 Bosniaks returned to villages of Klek and Kucani in **Prozor-Rama** municipality under very harsh conditions and against the advice of the international community.

31. A serious security incident took place on 26 December in the village of Krcevine in **Capljina**, when 4 unknown persons forced their way into a collective accommodation, harassed the returnees, smashed the furniture and caused minor injuries to a person. The returnees moved out of the accommodation and the village out of fear.
32. On October 12, a bomb explosion destroyed a Bosniak house in Kablici, **Livno** municipality. The house had been reconstructed by UNHCR/UMCOR.
33. Returns of Bosniaks to **Orasje** municipality, including to Vukosavlje, continued without incident. However, the local authorities seemed increasingly concerned about the growing number of minority returnees.
34. The organized visit of 35 Bosnian Serb displaced persons to **Zivinice** on 11 December, triggered off violent reactions from Bosniak displaced persons from Srebrenica, apparently as a result of the broadcasting of a documentary on the fall of Srebrenica on television the previous night. Despite the serious incident, it appears that the authorities of Zivinice are committed to minority returns and some action was been taken to deter further incidents.
35. Returnees in the contested border area of **Tiskovac** (**Bihac** Municipality) are facing a second winter without the freedom of movement, security and access to social services. Winter and bad weather make the access to the villages possible only on foot and lack of food and other essential supplies are major concerns for the returnees, most of whom are elderly.

Rule of Law – Law Enforcement and Judiciary

Law Enforcement:

35. ***Registration of Law Enforcement Personnel:*** UNMIBH has embarked upon an extensive project to register and test all persons within BiH, whom the Entity Ministers of Interior stated were exercising police powers. The project was prompted both to implement the December 1998 *Framework Agreement on Police Restructuring, Reform and Democratisation in the Republika Srpska*, and due to the continued lack of accountability of personnel in the BiH Ministries of Interior. Lists of persons were provided by the RS, and Federation Ministry of Interior in April and September 1999, respectively.
36. Upon completion of the registration, testing and conducting of background checks, UNMIBH/IPTF will provisionally authorize those persons who meet the requirements to exercise police powers, and will provide UNMIBH/IPTF identification. The registration process for personnel from Foca Public Security Center, Canton 9 and Canton 6 was conducted during the last three months. In Foca, 472 persons were registered, but after testing and background checks, 459 persons have been authorized to exercise police powers. In Canton 9, 1557 persons were registered, with background checks on going. In Canton 6, 1004 persons were registered with background checks on going.
37. ***Removals of Provisional Authorization ("De-authorizations"):*** On January 14, the IPTF Commissioner removed the provisional authorization to exercise police powers from 7 police officers in the Federation. They included four officers from Canton 1, one from Canton 8 and two from the Federation Anti-Terrorist Unit. The "de-authorizations" were issued for violations ranging from illegal deprivation of liberty to assault on civilians in custody and assault while off duty. In one

case, where the officer was intoxicated, a civilian was shot. De-authorizations are undertaken by the IPTF when those who exercise police powers commit serious violations of human rights and /or grossly deviate from established principles of democratic policing. Non-compliance reports had previously been issued against the 7 police officers. So far UNMIBH has received confirmation that the officers from Cantons 1 and 8 have handed over their uniforms, side-arms and UNMIBH/IPTF identification to their particular Minister of Interior or designate.

38. ***Inappropriate and Offensive Insignia used by Law Enforcement Officials:*** In order to assess compliance with the July 1999 High Representative Decision on Insignia and the subsequent UNMIBH Implementing Instruction, UNMIBH conducted a survey of selected police administrations in all ten Cantons on 16 and 17 November 1999. The Instruction required that police administrations display the Federation insignia and prohibited the use of inappropriate or offensive insignia.
39. In the course of the survey, 22 police administrations were inspected, 10 in Bosnian Croat majority areas and 12 in Bosniak majority areas. The results of the survey quite clearly showed that it was mainly police administrations in the Bosnian Croat majority areas that had not taken adequate steps to enforce the High Representative's Decisions and UNMIBH's Implementing Instructions. Eventually Non-Compliance Reports were served on the Cantonal Ministers. Due to the continued disregard for the Implementing Instructions, IPTF Commissioner further issued non-compliance reports to all Chiefs of Police Administrations who continued to ignore their obligations. As a result, during January 2000, a total of 15 non-compliance reports were issued to police chiefs of all Bosnian Croat police administrations in Cantons 7 and 10.

40. ***Trafficking of persons for the purpose of forced prostitution***. Since the spring 1999 the trafficking of persons for the purpose of forced prostitution has emerged as a major human rights problem in Bosnia and Herzegovina. By the end of 1999, 37 trafficking victims (all female) had been assisted to return to their home countries under an IOM program on safe return, which also includes a nominal cash grant to the victims upon their return and referral to council services, when available. Several new victims of trafficking were found in December 1999 – January 2000, including 3 minors, who are in a process of being assisted to return home.
41. The trafficking program of the international community (involving mainly UNMIBH, OHCHR, IOM and UNHCR) was initiated in response to the unwillingness or inability of the local authorities to address the problem. In most cases, the police do not conduct thorough investigations against the café-bar owners and others involved in the recruitment, transportation and movement of trafficking victims, and prosecutions of those involved are still rare. The police often fail to ensure the safety and security of trafficking victims and return the victims to their procurers. The victims are frequently arrested for prostitution or failure to have proper travel documentation and threatened with deportation. The legal proceedings, that the women have been subjected to, have in many cases been conducted without respect for basic legal rights such as assistance of a lawyer and translator. Finally, due to the lack of witness protection schemes in place in Bosnia and Herzegovina, it is difficult to provide for and protect the women who agree to give evidence against the traffickers and others involved.
42. On 26 October 1999, the High Representative issued a decision, prohibiting any decisions on the refusal of entry against aliens (including removals from country such as deportations) without prior consultation with

the IPTF, until legislation on immigration and asylum is adopted and implemented. Although the *Law on Immigration and Asylum* was adopted by the Parliamentary Assembly in November 1999, its implementation still requires many steps to be taken.

43. While there has been some progress in assisting the victims of trafficking, the local authorities are still not fully undertaking their responsibilities and obligations. In particular, the law enforcement authorities must investigate and prosecute criminal elements involved in trafficking. Also, "safe houses" must to established for victims and witnesses, and access to medical care and other assistance must be ensured. In December 1999, the Minister for Civil Affairs and Communication made a commitment to commence a search for appropriate facilities to accommodate victims and to co-operate with competent non governmental organisations to provide the services required.

Judicial Reform:

44. ***Substantial Number of People held in Detention without Final Verdict:*** On February 7, UNMIBH Judicial System Assessment Programme (JSAP) released an *Interim Report on Delays and Detention*, which examines the effect of delayed proceedings on the actual length of detention of accused persons against whom there is no final verdict. JSAP found that there are a substantial number of people detained without a final verdict some of whom have been detained for several years. Many cases examined raised concerns about the ability of the judicial system to prioritize and deal with cases promptly, and about the effective application of the ECHR.
45. After examination of the situation both in Banja Luka (RS) and Mostar (Fed), JSAP concluded that: in ordering detention, courts presently take greater account of the nature of the alleged crime than the pertinent

circumstances, and are therefore in breach of the ECHR; that some accused are in detention for several years while awaiting final verdict; and that lengthy periods which elapse between filing an appeal and the decision itself can lead to excessive detention. JSAP further concluded that the absence of *habeus corpus* provisions means that detainees are effectively penalized without a sentence; the absence of psychiatric facilities in the Federation has lead to persons being detained rather than properly treated; potential liability of the government to pay compensation for periods in detention may create an incentive to find the defendants guilty; and that uncertainty over second instance jurisdiction following the creation of the inter-entity boundary line (IEBL) in 1995 has resulted in some cases remaining unaddressed, with ongoing detention as a consequence.

46. JSAP put forward a number of recommendations, including that both entities must urgently address the question of split jurisdiction following the creation of the IEBL; that the Federation authorities must urgently take steps to address the issue of provision of services to those requiring psychiatric treatment; that courts should be required to deal with cases in few concentrated hearings rather than through numerous hearings over a long period of time; that second instance courts should render verdicts rather than referring back to lower courts; that the judiciary and counsel should be trained in the application of the ECHR; and that proper habeus corpus procedures should be considered in the review of criminal procedure in both Entities.
47. ***Inter-Entity Legal Co-operation:*** The Federation and the RS maintain separate structures of courts and prosecution agencies, with few or no points of contact over the entity line. Although there have been isolated instances where the 1998 *Memorandum on Inter-Entity Legal Co-operation* has been used successfully, little sustainable progress has been made in creating viable

and effective structures for such co-operation. For example, there is no mechanism between the Ministries of Interior to enable arrest warrants to be executed throughout BiH. Legislation that allows lawyers registered with any Bar Association in BiH to exercise his/her duties on the entire territory of BiH has been included in the draft *Federation Law on Legal Practice*, but no action has yet been taken in the RS in this respect.

48. ***Arrest Warrants, Amnesty, Trials in Absentia: In December 1999, JSAP issued a report on:*** *"Arrest Warrants, Amnesty and Trial in Absentia."* The report revealed that in the Federation, there is indiscriminate use of trials in absentia against persons who had fled from what is now Federation territory during the war. The subsequent use of arrest warrants in order to execute the sentence means that a disproportionate number of outstanding warrants are issued against minority groups. Examination of certain cases highlighted the lack of full application of amnesty provisions (both in the Federation Law, and in the GFAP). Serious problems were found with respect to recording of arrest warrant issue and withdrawal, and communication between the courts and Cantonal Ministries of the Interior, resulting in some instances in accused persons still being liable to arrest after acquittal. The report also revealed that there is no inter-entity co-operation with respect to the execution of valid arrest warrants, helping to create a safe haven for criminals in the other entity.
49. The report finds that the problems are systemic (lack of suitable procedures, inflexibility in rules, etc.) or political (absence of inter-entity co-operation). It argues that efforts to address these issues must be undertaken at a variety of levels. The report predicts that proper implementation of new amnesty legislation should remove the worst difficulties, for the future,

but advises that adequate and country-wide systems should be in place in order to ensure that criminals are brought to justice and that the rule of law prevails.

50. ***Federation Passes Law on Amnesty:*** A new *Federation Law on Amnesty* came into effect in the Federation on 11 December 1999. This law grants a much wider amnesty than that required by the GFAP, granting amnesty to almost anyone who committed a crime between 1 January 1991 and 22 December 1995, except for very serious crimes such as those against humanity and international law, and those defined in the state of ICTY, as well as specified crimes under the criminal code, such as rape and murder. The *RS Law on Amnesty* was amended in July 1999 in order to bring it into compliance with the GFAP. Monitoring of the application of both laws is on-going.
51. ***Steps towards Creation of Independent and Impartial Judiciary:*** The goal of creating an independent and impartial judiciary has been promoted in the period by the adoption of the *Law on Judicial and Prosecutorial Service* regulating the selection and dismissal of judges and prosecutors in the Federation (The Federation House of Peoples still needs to pass the law). The *RS Law on Courts and Court Service* was passed as a draft and the second reading will be at the next session of the RS National Assembly. When finally adopted and implemented, these laws will provide a merit-based, non-political structure for the appointment and dismissal of judges and prosecutors and lay down uniform standards for their professional conduct. National policy-makers and the international community are now confronted with the task of building constituency for the new structures to ensure that they are provided with adequate means to perform their functions.
52. ***Crimes with an "inter-ethnic dimension":*** Concern over the judicial system's ability to address effectively cases with an "inter-ethnic" dimension, particularly threats or violence against returnees and political

minorities, has led to an increased focus on available means to enhance prosecution of such crimes. Notably, the imposed *Federation Law on Amendments to the Law on the Supreme Court* establishes a trial chamber within the Federation Supreme Court to try specific classes of serious "Federal crimes". In parallel with this effort, the *Law on the Federation Prosecutor's Office* has been amended to provide for effective prosecution of such crimes. These changes have proven difficult to implement, politically as well as legally. The international community therefore needs to ensure that these bodies have the standing and resources they need to adequately perform their functions.

53. ***Enforcement of Judgements:*** Enforcement of judgements and decisions remains problematic for both political and material reasons. The *Law on Judicial Police in the Federation*, which was enacted already in 1996, has not significantly changed the situation. The Federation Judicial Police are only active in three out of ten cantons. The RS still lacks a corresponding legislation. It is therefore necessary to create new legislation to establish effective sanctions for non-enforcement of judgements and judicial decisions in both entities.
54. ***Minor Offences Courts:*** The discretion and lack of due legal safeguards that characterize the system of Minor Offences Court remain a source of concern. In essence, two alternative approaches are considered: (1) re-organize and streamline the Minor Offences Courts in order to make sure that they meet fundamental legal and human rights standards, or (2) abolish the Minor Offences Courts or integrate them with the system of regular courts.
55. ***Prison Reform:*** The international community has continued to press for prison reform in parallel with judicial reforms in both Entities. Council of Europe assessments in 1998 (and follow-ups by OHR in the last quarter of 1999) of prison conditions throughout BiH indicate that

the situation is slowly improving and that fundamental human rights standards are usually respected. There are, however, structural and organisational problems faces by the prison services. The Council of Europe and both the entity Ministers of Justices have agreed to establish a joint Steering Committee on prison reform. Also, the monitoring activities carried out by the international community must continue to ensure compliance with international standards.

Right to a Fair Trial

Domestic war crime trials:

57. ***Djedovic:*** Djedovic's retrial is finally nearing completion. Djedovic, a Bosniak and prominent leader of the DNZ, was convicted of war crimes against the civilian population and sentenced to 10 years imprisonment at first instance. After a series of court hearings, including a hearing of witnesses currently living in Croatia held in Rijeka, it is expected that the date for the closing arguments will be set in the next hearing which is scheduled for 23 February.

Other Trials with Human Rights Dimensions:

58. ***Golubovic:*** After many delays and procedural complications, the Cantonal High Court in Mostar appears to be addressing the substance of the **Golubovic** case, which concerns the murder of a Serb family of four in June 1993. However, recently three of six suspects were granted amnesty for their role. These three individuals were not charged with the murders but with failure to report the event to their superiors and to take actions to prevent the perpetrators to carry out this crime. This application of the *Federation Amnesty Law* is questionable and is being reviewed.
59. ***Knezevic:*** On 16 December 1999 the Republika Srspka Supreme Court rejected the appeal filed by the Public

Prosecutor of the Srspko Sarajevo District. The prosecutor had filed an appeal after the Sarajevo District Court had acquitted all six defendants in August 1998 for the murder of Srdan **Knezevic**, Deputy Chief of the Pale Public Security Centre. In its decision, the District Court explained that much of the evidence against the defendants had been "suspiciously obtained," and that police officers involved in the investigation had tortured and mistreated several witnesses and suspects. This determination echoed the results of a UNMIBH Human Rights Office investigation which found that RS police officers had illegally deprived fourteen suspects and witnesses of their liberty and had subjected them to torture and ill-treatment for periods of up to ten days, coercing several of the detainees into signing confessions and incriminating statements (see UNMIBH HRO Public Report HRO 1/99 External).

60. ***Trbojevic:*** Marko Trbojevic, the son of the Minister of Justice in the RS, is charged with sexually assaulting three young women in Banja Luka on the night of 27/28 August 1995. The trial has been hindered by approximately 15 false starts. The trial finally commenced in earnest on 24 December 1999 and is ongoing. The proceedings are politically charged: the Minister of Justice himself represented his son in the initial stages of the proceedings.
61. ***Vikalo:*** Former Prime Minister of Tuzla Canton, Hazim **Vikalo**, is facing charges involving corruption during his time in office in 1997 and 1998. The trial began in November 1999 and is ongoing. The Vikalo case is the first corruption/fraud case against a relatively high public official that has moved forward. This case is similar to the Alagic case currently tried in Sanski Most. In both cases criminal charges were brought against the defendants for having abused their official position.

International War Crimes Tribunal

61. ***Arrests of Indicted War Criminals:*** On 20 December 1999, Stanislav **Galic**, a retired Major General in the Bosnian Serb Army was detained by SFOR in Banja Luka. Stanislav Galic has been charged on the basis of his individual criminal responsibility and his command responsibility with four counts of crimes against humanity and three counts of violations of the laws or customs of war for his part as Commander of the Bosnian Serb Army's "Romanija Corps" between 1992 and 1994. The charges relate to the deliberate campaign of shelling and sniping of the civilian population of Sarajevo by forces under his command.
62. Zoran **Vukovic** was detained by SFOR on 23 December in Foca. The indictment against Vukovic contains eight charges, four for crimes against humanity and four for war crimes. The indictment was issued in June 1996. On 25 January, Mitar **Vasiljevic** was detained by SFOR in Visegrad. Vasiljevic's indictment was confirmed and sealed on 26 October 1998. He has been charged on the basis of his individual criminal responsibility with seven counts of crimes against humanity and seven counts of violations of the laws or customs of war for his alleged participation in the mass murder, torture and other cruel treatment of the Bosnian Muslim population, including women, children and the elderly, in and around the eastern Bosnian town of Visegrad, between May 1992 and October 1994.
63. In total, SFOR has now detained seventeen (17) alleged war criminals in BiH. Twenty eight (28) remain at large, predominantly in the Republika Srpska, and thirty five (35) are in custody in the detention facilities of the ICTY in the Hague.
64. ***Decision in the Kupreskic et al case***. On 14 January the Trial Chamber of the ICTY issued a decision in the Kupreskic et al case. This case is centered around the

16 April 1993 Ahmici (Central Bosnia) massacre. Of the six Bosnian Croat indictees one was acquitted, while the remaining five were sentenced to prison ranging from 6 to 25 years. For the first time the Trial Chamber was given the opportunity to define the constitutive element of the term "persecution" under Article 5 (h) of the Statute as the "gross or blatant denial, on discriminatory grounds, of a fundamental right, laid down in international customary or treaty law, reaching the same level of gravity as the other acts prohibited in Article 5 (f) the Statute". [Š] The requisite criminal intent is the intent[ion] to discriminate, to attack persons on account of their racial or religious characteristics or political affiliation as well as knowledge of the widespread or systematic nature of the attack on civilians." Some peaceful demonstrations were organized by Bosnian Croats in Vitez and Mostar to protest the decision."

65. ***Chief prosecutor of the Hague Tribunal, Carla Del Ponte condemned the activities of Bosnian Croats directed against the Tribunal***. Information obtained by the NATO-led Stabilization Force (SFOR) in its operation "Westar" conducted in October 1999 in West Mostar and made available in December 1999, revealed significant anti-Dayton activities conducted by a secret intelligence service of Bosnian Croats, directed against the Dayton agreement, citizens of BiH and international organizations in BiH. According to information by SFOR, one of the operations had targeted the investigation team of the ICTY. In a press release issued on 17 December, Del Ponte condemned such behavior and highlighted that all sides in Bosnia and Herzegovina are to cooperate with the ICTY.
66. During December 1999, the investigators of the ICTY conducted interviews of seven members of the VRS (The Army of Republika Srpska) in Banja Luka. According to public information available, interviewees voluntarily

agreed to be questioned, with the consent of the RS authorities, after guarantees had been given that they will not be arrested by the ICTY.

Missing Persons

67. ***UN Releases Report on Srebrenica Massacre:*** In November, the Secretary General of the UN issued a report on Srebrenica, submitted pursuant to paragraph 18 of General Assembly resolution 53/35 of 30 November 1998. In that paragraph, the General Assembly requested that a comprehensive report be issued, including "an assessment, on the events dating from the establishment of the safe area of Srebrenica on 16 April 1993,Šuntil the endorsement of the Peace Agreement by the Security Council under resolution 1031 (1995) of 15 December 1995, bearing in mind the relevant decisions of the Security Council and the proceedings of the International Tribunal in this respect". The General Assembly encouraged the Member States and others concerned to provide relevant information.
68. Despite the United Nations mandate to "deter attacks" on Srebrenica and five other "safe areas" in Bosnia and Herzegovina, up to 20,000 people, overwhelmingly from the Bosnian Muslim community, were killed in and around the safe areas. In addition, a majority of the 117 members of UNPROFOR who lost their lives in Bosnia and Herzegovina died in or around the safe areas.
69. The main purpose of the report is to review the role of the United Nations Protection Force (UNPROFOR) in the fall of Srebrenica, and in the almost-forgotten case of Zepa. The report also recalls, how, having failed to act decisively during all of these events, the international community found a new will after the fall of Srebrenica. The report also documents that after the last Serb attack on the safe area of Sarajevo, a concerted military operation was launched to ensure that no such

attacks would take place again.

70. By going over the background of the failure of the safe area policy, the report illuminates the process by which the United Nations in July 1995 found itself confronted with these shocking events. The report discusses the issue of responsibility, and concludes that the United Nations must share in that responsibility. By preparing this report, the Secretary General wished to clearly reflect the importance which he attaches to shedding light on what Judge Riad (of the ICTY in the indictment of Karadzic and Mladic for their role in the Srebrenica massacres) described as the "darkest pages of human history."
71. ***Total Number of Missing Persons in Bosnia and Herzegovina:*** As of 31 January, according to the ICRC (International Committee of the Red Cross), the total number of missing persons, whose fate has not been clarified following the conflict in Bosnia and Herzegovina between 1992 – 1995, currently stands at **17,467**. The number of missing from the Srebrenica area is **7,421** persons. In 1999, approximately **1,900** bodies were exhumed by the local commissions in charge of tracing missing persons from approximately 500 sites in all parts of country. The majority of the bodies exhumed, approximately 1,200 is Bosniaks, some 580 are Serbs and 118 of Croats.

Economic and Social Rights

72. ***Employment and Non-Dicrimination:*** In November 1999, ILO issued a report regarding a complaint submitted by the BiH Union of Metal Workers and the BiH Confederation of Independent Trade Unions in November 1998, concerning discrimination in Aluminij and Sokol, two large Mostar-based companies.
73. The report, prepared by a tripartite committee of independent experts in charge of examining the case –

recognises the violation of Convention No. 111 Concerning Discrimination in Employment and Occupation as well as a violation of Convention No. 158 Concerning Termination of Employment. The Committee also found a breach of Convention No. 81 Concerning Labour Inspection, as the cantonal labour inspection was not permitted to visit the company by the Cantonal Deputy Ministry of Social Affairs (while according to ILO standards, labour inspectors should have the right to conduct surprise visits without prior authorisation).

74. Although Convention No. 111 came into force in 1994 in BiH, and while the allegations pertain to 1992, the Committee found out that "the detrimental consequences of the alleged violations have continued to be felt since the entry into force of Convention No. 111," in the sense that the dismissed workers have to date not been reinstated in their posts, nor have they received the arrears of wages owed to them or any compensation.
75. The Committee of Independent Experts stressed that "the primary responsibility of any State that ratifies an ILO Convention [is] to ensure that it is actually applied," adding that "as regards Convention No. 111, incorporating the principle of discrimination in employment into the Constitution or legislation, is not in itself enough to ensure that the principle is applied in practice; it is also necessary to provide guarantees to all workers that their national extraction or religion shall not be considered a reason of dismissal".
76. In its recommendations, the Committee invited the Government of BiH "to take necessary measures to ensure that workers dismissed from the Aluminij and Soko factories solely on the grounds of their Bosniak and Serbian extraction or their religion: "receive adequate compensation for the damage that they have sustained; receive payment of any wage arrears and any other benefits to which they would be entitled if they had not been dismissed; and are as far as possible reinstated in

their posts without losing length of service entitlements." Where reinstatement is impossible, the Government is invited "to ensure that a formal dismissal procedure be instituted". In November, Aluminij recruited several Serbs and Bosniaks. However, relative to the overall number of employees, the proportion is negligible."

77. ***Federation Labour Law:*** On February 4, Article 143 of the *Federation Labour Law*, which was gazetted on November 5th 1999, expired. This Article provided for compensation to workers put on waiting lists during the war but not re-employed. For those former workers who were not already on the waiting list, the Article provided the three month time limit for making contact with the former employer for the purpose of re-establishing a working relationship. If the individual satisfied the requirements of Article 143 and did not come to an agreement with the former employer, he or she was then eligible for compensation. Awareness of the provision was low, as the Federation government did not inform the population that they could apply for this compensation.
78. ***Trade Unions and Gender:*** From 27 to 29 January, a conference of Eastern European Women was organised by the International Confederation of Free Trade Unions in Hungary. ICFTU BiH took part in the event along with BiH women union members. As female representation in BiH unions is extremely low (out of 38 trade unions in BiH, only three are presided by a woman and none in RS), it was agreed that BiH women would organise themselves in order to increase their representation and leadership in unions.

Cultural Rights: Right to Education

79. ***Textbook Spot Checks exercise completed:*** OHR issued a preliminary report on the "textbook spot checks" based

on OSCE, OHR, ECMM and SFOR-CIMIC research throughout the country. The spot checks were intended to verify the compliance of schools with commitments entered into by Ministers of Education in the Federation of Bosnia and Herzegovina and Republika Srpska on 20 August 1999. Directors of all schools were to "black out" materials deemed offensive. More than half of all BiH municipalities were visited in order to carry out spot checks. Schools with a Bosniak curriculum were found to have the highest level of compliance, followed closely by schools with the Croat curriculum. Schools following the Serb curriculum had the highest level of partial or non-compliance level. Spot checks will continue to be carried out in the coming months, especially in sensitive areas of the Federation and the RS.

80. ***Supplemental annexes to school textbooks are handed over:*** Supplemental annexes to foreign textbooks imported from Belgrade and Zagreb (which still make up the bulk of the textbooks used in the schools in the RS and the Croat part of the Federation), were handed over to the international community in January 2000 after much delay and obstruction from the Serb and Croat authorities. The current textbooks are problematic because the country of reference is not Bosnia and Herzegovina but FRY and Croatia. These supplemental annexes, which should make explicit reference to Bosnia and Herzegovina, are now under review, and will eventually be appended to the "national subject" textbooks.
81. ***Symposium on Curriculum Reform:*** UNESCO and OHR co-hosted a symposium on curriculum reform in BiH on 7 and 8 February 2000 in Sarajevo. The symposium was intended to address the current education situation in the country which is almost entirely divided along ethnic lines. A main conclusion was that the curriculum model best suited to the present needs of BiH is the Swiss model. This implies curricula with a high level of co-ordination between the authorities of the Entities,

practical co-ordination mechanisms, mutual exchanges of information on changes and developments in the respective systems, and mutual recognition of certificates. Each constituent people should offer curricular modules to be integrated in the curriculum of the others, especially in the areas of culture and language.

82. ***Education in Bosnia and Herzegovina – Report by the Council of Europe for the World Bank:*** The report, issued on November 10, 1999, addresses the question of how the current, deeply divided education system in Bosnia and Herzegovina can be brought closer to contemporary standards of good public administration, and become an instrument of reconciliation in Bosnia, rather than a force of division. Based on extensive research, the report documents and quantifies many aspects of the present educational system in BiH, examining issues such as student-teacher ratios, public education budgets, and education levels of teachers throughout the country.
83. On the basis of this examination, the report stresses two key issues; the need to produce and share information on education in BiH at all levels of the system; and the need to create and nurture common institutions and mechanisms in BiH, aimed not at shared political control, but at professional co-operation and co-ordination across constituent groups. The report states in its conclusion that while the educational issues confronting BiH are enormous, they are not insurmountable. Progress can be made, the report argues, if education ceases to be used as a platform for the propagation of political and ethnic ambitions.

Freedom of Expression and Media

84. ***Federation Ombudsmen Special Report:*** In December 1999, the Ombudsmen of the Federation of Bosnia and Herzegovina submitted (to the Federation Parliament and

the Federation government) a *Special Report on the Freedom of Information and Legal Regulation of Slander and Libel in the Federation of BiH*. The report gives a summary of court practice in the Federation before and after the July 1999 decision of the High Representative, which abolished the penal sanctions of crimes of slander and libel in the Federation. It also provides a critique of the December 1999 draft *Law on Compensation of Damages Caused by Libel or Slander* proposed by the Federation Government (which had been sent to the Federation Parliament for adoption, but which has been withdrawn by the Government in January). Finally, the report gives concrete recommendations for the model legislation to be drafted in compliance with international standards.

85. Until the Decision of the High Representative in July 1999, according to the Criminal Code of the Federation of BiH, the possibility of incarceration for the crimes of slander and libel remained enforce (from 3 months to 3 years). According to the survey of the court practise in Sarajevo Municipal Court I (most of the media are located in the centre of Sarajevo making this court the competent court in many of the cases), during 1997 and 1998 there were in total 56 criminal cases involving slander and libel. Most of the cases were against journalists and editors. In 1999, eight new cases were brought forward against journalists and editors. Most of the charges were against editors-in-chief of the weekly “Slobodna Bosna” and the daily “Dani”. In one case during 1999, the editor-in-chief of “Slobodna Bosna” was sentenced to a suspended sentence and several court cases are still pending.
86. The report of the Federation Ombudsmen points out that despite the Decision of the High Representative, which abolished the penalties for these crimes, the criminal trials are ongoing, against the intention of the said decision. The main critique against the Federation draft

law is that the proposed fines are unacceptably high considering the financial status of the journalists and the press and would represent a real threat against the freedom of media. In their report, the Federation Ombudsmen recommended a complete abolition of the criminal acts of slander and libel; adoption of a law on civil proceedings for compensation for damages, but with a nominal fine (of 1 KM) or much lower fines than proposed in the Federation draft, combined with an obligation of the respondent party to publish the verdict as a way of establishing the facts and truth.

87. ***Federation Ombudsman Prioritizes Freedom of Expression:*** Mr. Mehmed Halilovic was appointed in mid-November to the position of Special Assistant on Media to the Federation Ombudsmen, where he will concentrate on media-related issues within the work of the Federation Ombudsmen's office. He will monitor and intervene in cases where the rights of freedom of expression and movement of media professionals have been violated, examine the activities of any institutions of the Federation, Cantons, or Municipalities related to the media. He will also monitor the implementation of BiH media legislation, provide recommendations regarding the drafting of the new legislation related to the media. This work is essential to promoting and protecting the freedom of the media in the Federation of Bosnia and Herzegovina.
88. ***Helsinki Committee for Human Rights in BiH finds freedom of expression limited:*** In December 1999, the Helsinki Committee for Human Rights in BiH released a report entitled "Position of media in BiH within the context of Human Rights" analysing the situation of freedom of expression, freedom of media and position of journalists in Bosnia and Herzegovina. The Helsinki Committee lists a number of attacks and threats against journalists as well as various cases showing how pressure has been put on the media and journalists. The Helsinki Committee

outlines six different categories of violations of freedom of expression and freedom of the press: threatening personal safety of journalists and physical assaults; pressure on public media and journalists; closeness of sources of information and inaccessibility of information; legal regulations; and misuse of media and of the financial position of media and journalists. The Helsinki Committee concludes that the situation regarding freedom of expression and freedom of the media during the reporting period has been very difficult, and recommends accelerating the overall reform of media system in BiH, through legal reform as well as through continued engagement of international organisations in these activities, including in funding.

Domestic Human Rights Protection

Progress in the work of the Institutions (1 November 1999 to 31 January 2000):

Cases Registered	Human Rights Chamber	Ombudsperson	CRPC
Cases Registered	3,613 (+646)	3848 (+267)	248,000 (to Dec 99 +appr. 21,000)
Cases Completed	429	1539 (+141)	72,800 (to Dec 99 +appr. 6,800)

Parentheses refer to changes from the October HRCC report. For the Chamber the number of cases completed has been compiled using a different counting system and therefore could not be compared to previous reports. In addition, the CRPC has conducted 23, 500 reconstruction verifications.

Ombudsperson of BiH:

88. ***Reports made public:*** Most cases made public in the reporting period concerned housing matters, and

consisted of a failure to reinstate applicants within the deadline established by entity legislation. A Special Report outlining these issues was made public on 27 January 2000. The Ombudsperson stated that "Although human rights entail much more than just housing issues, the large number of such cases proves that the housing problem is a crucial point in Bosnia and Herzegovina after the war. Through the issue of return, the above mentioned political background becomes the most visible and, therefore, human rights institutions today in Bosnia and Herzegovina are focusing on this issue."

89. ***Compliance and Amicable Solutions:*** During the reporting period, the Ombudsperson, in her monthly summaries, referred to 11 cases in the Federation, which were solved either before or after a decision had been issued, and 2 in the RS. Examples include:
90. ***In the case of Z.D. against the Federation of Bosnia and Herzegovina*** binding administrative decision on the applicant's reinstatement had not been enforced. The applicant was reinstated into his apartment in the time limit given by the Ombudsperson to the FBiH Government. The Ombudsperson, therefore, closed the investigation.
91. ***The case of Dijana Brkic against the Republika Srska*** concerned a forcible eviction from her house in 1995. Since July 1996 the applicant lodged a number of requests for return into her house, including, *inter alia*, the request for forcible eviction of the illegal users, pursuant to a relevant judgement of the Court of First Instance of Bijeljina of 22 January 1997, and the request for return, in accordance with the *Law on Cessation of the Application of the Law on Abandoned Property*. Officials of the Ministry for Refugees and Displaced Persons in Bijeljina informed the Ombudsperson that the applicant was reinstated into her house and the investigation by the Ombudsperson has been closed.
92. ***Three cases against the Federation of Bosnia and Herzegovina*** concerned the failure of the competent

housing authorities to enforce decisions issued in the applicants' favour and to restore their possession over the apartments. The Ombudsperson found violations of human rights guaranteed by the European Convention on Human Rights (ECHR) and recommended that the FBiH Government ensure that the applicants be reinstated into the apartments. The Government fully complied with the Ombudsperson's recommendations.

93. ***In the case of Verica Vuckovic against the Republika Srpska***, the applicant had not received an administrative decision upon her request to repossess the apartment in respect of which she had been the holder of the occupancy right. However, after the Office of the Ombudsperson communicated the case with the Government of the Republika Srpska, the competent Municipal Department for Refugees and Displaced Persons issued a decision recognising the applicant's right to be reinstated into her apartment. According to that decision a temporary user was obliged to vacate the apartment up to 20 December 1999. The applicant and the temporary user, however, agreed to postpone the applicant's entering into the possession over the apartment for 1 June 2000. Their written agreement was recorded by the Municipal officer. Consequently, the Ombudsperson closed the investigation.
(More information about the work of the Ombudsperson is available at http://www.ohro.ba/index.htm.)

Human Rights Chamber:

94. ***New Decisions:*** The Human Rights Chamber met four times during the reporting period and issued nineteen decisions on the merits and many more cases were decided on admissibility or struck out. These cases may be viewed on the Chamber's web site (http://www.gwdg.de/~ujvr/hrch/hrch.htm) or, alternatively, copies may be obtained by contacting the

Chamber in Sarajevo at Musala 9, tel. (387-71) 212-064.

95. These nineteen decisions concerned occupancy/property rights, arrest and detention/ill-treatment, fair trial provisions, religious rights/discrimination and length of civil proceedings. It is of note that the arrest and detention cases further clarify ECHR standards in the matter of arrest and detention and forced or compulsory labour (Articles 4, 5 and 6 of the Convention). Examples of these recent cases decided include:
96. ***Mohamed Momani v. The Federation of Bosnia and Herzegovina (CH/98/946):*** The Chamber found that being unlawfully arrested and detained, as well as subjected to forced labour and ill-treated for a period of 179 days, without being charged with an offence, constituted violations of Articles 3, 4, and 5 of the ECHR. The Chamber ordered that an investigation be undertaken to find those responsible and ordered compensation awards be paid.
97. ***Sretko Damjanovij v. The Federation of Bosnia and Herzegovina (CH/98/638):*** The Chamber found a violation in a retrial in that "the reasoning of the Cantonal Court is grossly inadequate and devoid of the appearance of fairness," that the presiding judge of the panel that rejected the applicant's petition had been the president of the District Military Court at the time when the applicant was convicted, and that the applicant did not enjoy a fair chance to appeal to the Supreme Court against the decision of the Cantonal Court. The Chamber ordered that a retrial begin within six months.
98. ***The Islamic Community in Bosnia and Herzegovina v. The Republika Srpska (CH/99/2177):*** The Chamber found that following the closing of a Muslim cemetery in 1994, the subsequent failure by the Municipality of Prnjavor to permit Muslim burials (without justification) constituted a violation of Article 9 of the EHCR, freedom of religion. The Chamber ordered that the decision closing the cemetery be revoked within one

month.

99. **Implementation of Decisions:** During the reporting period, the Federation of Bosnia and Herzegovina complied with many outstanding compensation awards, and is close to achieving full compliance with respect to its obligation to damage awards. In addition, during the reporting period, compliance was achieved in the *D.M v. BiH and FBiH*. (Livno property repossession – case) through the reinstatement of the applicant, as well as full compliance in the *Zahirovic v. BiH and FBiH* (Livno Bus Company – case) case. The RS was able to report that in the "tenancy contract" cases, 27 October 1999 amendments to RS legislation amounted to compliance and prevented future violations. The RS also announced that it had paid its three outstanding compensation awards. In addition, JNA military apartment cases are being resolved, with applicants receiving consent orders to register their ownership in the property books.
100. However, in the *Islamic Community in BiH v. the Republika Srpska* (Banja Luka mosques – case), there has not been compliance with respect to the granting of permission to rebuild mosques. In addition, there has not been compliance in 20 Gradiska property cases, nor in Matanovic, the Chamber's first case, involving a disappearance in the RS. In the Federation, four property cases are in non-compliance, and not all JNA cases have been solved.

CRPC:

101. By the end of 1999, the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) received a total of 194,401 claims relating to 248,079 properties throughout BiH, and had issued a total of 72,801 final and binding decisions. In addition, CRPC received requests for checks on a total of 23,580 housing units identified for repair from reconstruction agencies, including all of those agencies financed by EC DG1A and

ECHO funds. With the passage of the *Law on the Implementation of Decisions of the CRPC*, the Commission has noted some progress with the enforcement of its decisions by competent administrative bodies in line with their obligations under Annex 7, enabling more decision holders to return into possession of their property. However, much work remains to be done. *(More information about the work of the CRPC is available at http://www.crpc.org.ba.)*

Future of the Institutions:

102. The Republika Srpska National Assembly adopted on February 8, the *Law on Onbudsmen*, which establishes a multi-ethnic Ombudsman institution in the RS. The new permanent Ombudsman Institution will investigate violations of human rights and mal-administration in the RS, and make recommendations for positive changes. The first three Ombudsmen will be appointed by the Ombudsperson of BiH, following consultation with RS officials, OHR and OSCE. The law will enter into force once published in the official gazette, which is expected to take about a month.
103. The Federation legislature is debating a similar draft law on the *Federation Ombudsman*. The draft law has passed the first reading (of two) in the House of Representatives, with only minor changes. This law will clarify and expand the present provisions in the Federation Constitution, providing a legislative basis for the institution. The Law is currently before the House of Peoples in first reading.
104. The *Law on the State Ombudsperson* has been presented to the BiH Ministry of Civil Affairs and Communications. Broad support was expressed for the legislation. The legislation will be presented to the Parliament of BiH through appropriate channels, although the status of the Council of Ministers may delay the adoption of the legislation.

NGOs and Civil Society

104. ***Human Rights House and Helsinki Committee for Human Rights in BiH Coalition of NGOs in BiH "Elections 2000":*** The Human Rights House and the Helsinki Committee for Human Rights in BiH have established an NGO coalition to be formalised on February 25, 2000. The coalition is open to all NGOs which deal with elections, human rights, democratisation, youth and women organisations, as well as others that have an interest in actively joining the coalition activities. The coalition focus and work on the education and motivation of voters, public discussion concerning the draft election law, as well as monitoring elections and implementation of the election results.

Policy Developments

105. On January 25, 2000, the **Human Rights Task Force (HRTF)** met to review and endorse priorities for the year 2000 with respect to human rights in Bosnia and Herzegovina. The HRTF, which is chaired by the High Representative, is comprised of the principals of the main international organizations present in BiH as well as the domestic human rights institutions. In its annual meeting, the HRTF endorsed a program of priorities addressing issues such as property, education, employment, pensions; rule of law and transparency in administration; and strengthening of domestic human rights capacity. The HRTF notes that a major obstacle for the full realization of human rights in BiH remains official obstruction. It also said that all citizens of BiH, regardless of their ethnicity, gender or political opinion, must be able to expect equal treatment by the authorities, be it the police, the judiciary or the administrative bodies. (A full copy of the HRTF Document "Human Rights Priorities for 2000" is available from the HRCC).

Human Rights Documents: November 1999 – January 2000

Council of Europe for the World Bank, “Education in Bosnia and Herzegovina – Governance, Finance and Administration”, 10 November 1999.

CRPC and UNHCR, ” Return, Local Integration & Property Rights”, November 1999.

Helsinki Committee for Human Rights in Bosnia and Herzegovina, “Report about Human Rights Situation in Bosnia and Herzegovina, January – December 1999”, 31 December 1999.

Helsinki Committee for Human Rights in Bosnia and Herzegovina, “Position of Media in BH within Context of Human Rights, January – December 1999”, December 1999.

HRCC, “Guidelines to the Field. #4: Guidelines on the Prosecution of Authorities for Failing to Properly Execute their Duties,” December 16, 1999.

HRCC, ” Accession of Bosnia and Herzegovina to the Council of Europe: Progress Review # 5″, January 16, 2000.

Judicial System Assessment Programme (JSAP) of UNMIBH, “Arrest Warrants, Amnesty and Trial in Absentia.”, December 1999.

Judicial System Assessment Programme (JSASP) of UNMIBH, “Interim report on Delays in Detention”, February 2000.

Ombudsmen of the Federation of Bosnia and Herzegovina, ” Special Report on the Freedom of Information and Legal Regulation of Slander and Libel on the Federation of Bosnia and Herzegovina”, 22 December 1999.

UNHCR, “Extremely Vulnerable Individuals: the need for Continuing International Support in Light of the Difficulties to Reintegration Upon Return”, November 1999.

UNMIBH, “Arrest and Police Custody Procedures in the Federation of Bosnia and Herzegovina; Results of an IPTF Micro-audit”, 4 November 1999.

UN Report on Srebrenica – Report of the Secretary General Pursuant to General Assembly Resolution 53/35 (1998), November 1999

HRCC Member Organizations

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

Office of the High Representative
Emerika Bluma 1
Sarajevo, Bosnia
tel: 387-71-447-275
fax: 387-71-447-420
web: https://www.ohr.int

OSCE: The OSCE mandate derives 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 Centers allow the OSCE to ensure the full coverage of the territory of BiH and makes the organisation a direct actor in addressing human rights-related issues.

OSCE Human Rights Department

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

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

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

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

UNMIBH

Mese Selimovica 69
Sarajevo
tel: 387-71-496-265
fax: 387-71-496-539

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

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