

Human Rights Report August and September 1998

SUMMARY

- Election-related incidents
- Torture and ill-treatment of illegally detained persons in Pale
- War crimes arrest in Ljubinje in violation of Rules of the Road
- Extension of deadline until 4 April 1999 for claiming socially owned apartments
- RS Government failure to adopt property and housing laws by 31 August deadline
- Bosnian Serb indictee apprehended by SFOR

ELECTION-RELATED INCIDENTS

1. General elections were held in Bosnia and Herzegovina on 12 and 13 September 1998 for the following offices: (1) BiH Presidency, (2) BiH House of Representatives, (3) RS Presidency and Vice Presidency, (4) RS National Assembly, (5) Federation House of Representatives, (6) Cantonal assemblies of 10 Federation cantons, and (7) municipal assemblies in 12 Federation and RS municipalities. As in previous years, and pursuant to its mandate, the **OSCE Human Rights Department** established a framework to monitor the campaign environment to ensure respect for basic rights and freedoms pertinent to the electoral process. So-called "**Monitoring Coordination Groups**" (MCGs) were established in each OSCE Regional Centre and Field Office to coordinate the international community's efforts during the election period. The MCGs were chaired by OSCE Human Rights Officers and included representatives of OHR,

UNHCR, ECMM, SFOR, UNMIBH and other organizations. The MCGs monitored and reported on campaign events, attempted through mediation or negotiation to resolve claims of campaign violations, and documented and forwarded cases of serious human rights violations to the Election Appeals Sub-commission (EASC) for decision. In total, the MCGs monitored almost 900 events and handled more than 250 complaints. In an effort to promote human rights monitoring by BiH nationals, OSCE also trained and deployed 37 national human rights monitors throughout the country. These national monitors covered the vast majority of campaign events on behalf of the MCGs during the election period.

2. Although the election period was for the most part peaceful, pre- and post-election campaign violence was reported from Velika Kladusa (Fed). In that area, attacks on DNZ supporters by SDA supporters were reported both before and after two DNZ rallies; there were also several attacks on the DNZ headquarters among other incidents. A strong response from the international community and two decisions by the EASC led to a lull in the violence during the remainder of the election campaign. Violence broke out again, however, in the days following release of the election results and during a three day period beginning 25 September, the local police registered 18 complaints of violence. This pattern of violence was similar to what had occurred during the 1997 elections in Velika Kladusa. Other incidents of violence were reported from Banja Luka, Bijeljina, Foca, Srebrenica, Zvornik (RS) and Bugojno, Drvar, Travnik (Fed); these tended, however, to be isolated incidents and not all were election-related.
3. Throughout the campaign, political parties (in particular HDZ and NHI) traded allegations of intimidation of their candidates and supporters. Although many complaints could not be substantiated, the

EASC did find that HDZ members had threatened NHI sympathizers in Ravne Brcko (Fed) and Orasje (Fed) with job or pension loss and loss of other financial benefits. Also, as a result of EASC and OHR recommendations, the Orasje Mayor, Marko Benkovic, resigned from office. OSCE national and international monitors were threatened in six separate incidents during the campaign, leading to an EASC decision to remove an SDS candidate and censuring SRS and HDZ.

4. In several municipalities equal access to public spaces to hold campaign events proved troublesome. In Zvornik (RS), SDS and SRS officials were found responsible for preventing SDP access to public facilities. Similar cases occurred in Milici (RS) where SNS was held responsible for denying SDS and SRS equal access to public space and in Jajce (Fed) where HDZ was found to have denied access space to SDP. The EASC issued decisions in all three cases ranging from imposition of a fine to the striking off of party candidates. The MCGs also reported several cases of HVO participation in the campaign, in violation of the Federation Defense Law. Some of these complaints led to the removal of candidates by the EASC. Other violations reported during the campaign period included inflammatory or hate speech, display of images of indicted war criminals Radovan Karadzic, Dario Kordic, and Tihomil Blaskic, and numerous cases of interference with posters or other campaign material.
5. On the election days, the MCGs reported few incidents. The major issues were coaching of illiterate and elderly voters, tensions at polling stations due to delays in the polling, campaigning during the election silence, and complaints of house-bound voters who missed advanced polling.

RETURN-RELATED INCIDENTS

Federation

6. On 6 August, 45 Bosniak displaced persons returned to the village of **Gacice, Vitez** municipality. The next day, a Bosnian Croat roadblock blocked access to the village. SFOR, IPTF, OHR, ECMM and UNHCR, together with the Mayor of Vitez and other municipal authorities, went to the scene. UNHCR reports that a group of 50 Bosnian Croats, apparently organised by accompanying members of the Croat War Veterans Association (HVIDR), aggressively demanded the immediate departure of the Bosniak displaced persons and stated that previous agreements were no longer valid. As the situation deteriorated, the displaced persons left the village under escort. The Bosniak returns of early August followed protracted negotiations and the signing on 31 July of the Vitez Agreement. This agreement, brokered by Federation Mediator Christian Schwarz-Schilling, gave the go-ahead to plans for Bosniak returns to the villages of Gacice and Donja Vecerska. On 21 September, Bosnian Croat residents of Gacice blocked the entrance to the village as they had first done on 7 August after the initial return movement.
7. On 26 August, explosives were placed at the house of the former vice-president of HDZ in **Bugojno** municipality. OSCE reports that this incident followed four other attacks against Bosnian Croat returnees' homes in the area during the period from 17 to 23 August.
8. OSCE reports the stoning of a bus used to transport Bosniaks returning to **Stolac** on 2 August. Also on 2 August, a Bosniak-owned house was damaged by fire in **Doljani, Jablanica** municipality. On 23 August, the home of a returning Bosniak was damaged by arson near **Capljina**. On 18 September, following the return of Bosniak displaced persons, a Bosniak-owned house which

was being prepared for return was destroyed by an explosion in **Hodbina, Mostar South** municipality. On 23 September, an explosion in **Rodoc, Mostar** municipality, damaged a Bosniak-owned house. On 28 September, an explosive device detonated in front of a Bosniak returnee's house in **Crnici, Stolac** municipality, following the return of Bosniak displaced persons to Crnici on 26 September.

9. On 26 September, a planned return of a group of Bosnian Serb displaced persons to **Rastani, Mostar West** municipality, was obstructed by roadblocks set up by a group of Bosnian Croats (mostly displaced persons from Polje and Bijelo Polje). After an unsuccessful attempt to remove the roadblocks, the group of Bosnian Serbs returned to the RS. As of mid-November, there have been no further return movements by Bosnian Serbs to Rastani.

Republika Srpska

10. In early August, OSCE reports that the car of a recent Bosniak returnee from Germany was damaged in an explosion in **Gradiska**. On 1 September, two further explosions were reported at the homes of recently returned Bosniaks in **Gradiska**. The incident was reportedly the tenth in a period of nine weeks. In **Brcko**, the house of a Bosniak returnee was damaged by explosives on 24 August. OSCE reports that this was the second attack aimed at the returnee during the month.
11. In **Zvornik**, the vice-president of the executive board of the municipality, a Bosniak, was verbally and physically attacked by three unidentified men at his office in the municipal building on 27 August, causing him to leave town. He had been the victim of harassment on previous occasions. In a press release issued the following day, the OHR and OSCE strongly condemned the incident and called on the local police to perform their duties relating to public security and to immediately

investigate the incident.

RIGHT TO RETURN/FREEDOM OF MOVEMENT

Assessment Visits and Returns

[This section is primarily based on UNHCR and RRTF reports and focuses on visits and returns which are particularly significant from a human rights perspective]

Visits>Returns to Federation:

13. On 8 August, approximately 200 Bosniaks returned to **Doljani** and **Sovici** villages, **Jablanica** municipality. During the evening, shots were fired on two occasions by unidentified person(s) at German, French and Ukrainian SFOR personnel in Doljani and Sovici. No casualties or injuries were reported.
14. On 15 August, approximately 100 Bosnian Serbs returned from Nevesinje (RS) to **Bacevici**, **Mostar South** municipality. OSCE reports the return was one of the largest returns of Bosnian Serbs to southern Herzegovina and was notable for the assistance provided by local authorities. On 20 August, approximately 90 Bosniaks returned to **Gubavica**, also in Mostar South municipality. RRTF reports the return on 29 August of 115 Bosnian Serb displaced persons to **Hodbina** and the return of 50 Bosnian Serb displaced persons to **Malo Polje**, both in **Mostar South** municipality. On 17 September, approximately 150 Bosniak displaced persons returned to **Hodbina**, with 50 staying overnight. On 19 September, 16 Bosnian Serb displaced persons returned to **Zitomislici**, **Mostar South** municipality.
15. On 21 August, approximately 200 Bosniaks returned to the village of **Oplacici**, **Capljina** municipality, reportedly the largest return movement to Canton 7 according to UNHCR. On 1 September, a group of 300 Bosniak displaced

persons returned to **Domanovici, Capljina** municipality and on 3 September 60 Bosniak displaced persons returned to **Prenj, Stolac** municipality. On 26 September, around 70 Bosniak displaced persons returned to **Crnici, Stolac** municipality, of which 18 remained overnight. On 30 September, around 300 Bosniak displaced persons returned to **Aladinici, Stolac** municipality, including 70 remaining overnight.

16. RRTF reports the first return of Bosniak displaced persons to **Neum** municipality (**Rabrani, Mahala, Crnoglav, Cerevo** and **Kolojanj**) on 18 September, including 26 staying overnight.

Visits>Returns to Republika Srpska:

17. UNHCR reports the first substantial movement of Bosniaks from Travnik to Kotor Varos during the month of August. Some 200 to 300 heads of Bosniak families started to establish a half-way presence in **Siprage** and **Kotor Varos**.
18. On 9 and 15 August, a group of Bosniak displaced persons visited their pre-war homes in Nevesinje municipality. On 23 August, a graveyard and assessment visit took place by approximately 100 Bosniak displaced persons to **Zijemlja, Nevesinje** municipality, under IPTF and local police escort. RRTF reports the first assessment visit of 20 Bosniak displaced persons to **Ljubinja** on 8 September.

RIGHT TO PHYSICAL INTEGRITY

19. **Torture and Ill-treatment of Illegally Detained Persons in Pale:** On 7 August, **Srdjan Knezevic**, Deputy Chief of the Srpsko Sarajevo Public Security Centre in Pale (Pale PSC), was shot and killed in the centre of Pale by two unidentified men. Following the murder, the RS Minister of Interior set up a crisis cell consisting of high-ranking police officials from the RS Ministry of the

Interior in Banja Luka as well as from the Pale PSC to coordinate their investigation. The crisis cell was tasked with directing and supervising all investigations into the Knezevic murder. On 9 August, the IPTF Commissioner established an **Investigation Support Team** to monitor the police investigation and to carry out independent investigations into the Knezevic murder. On 18 August, in the course of its investigations, IPTF found and then released several men who had been held in illegal detention in connection with the murder. The following summarises the findings of extensive independent investigations carried out by the IPTF team, who discovered serious irregularities in the conduct of the police and judicial investigations.

20. On 9 and 10 August, an RS investigation team under the command of **Ljubisa Savic**, Chief of RS Uniformed Police, arrested 14 members of an RS special police unit and detained them at a building known as "Tron" in Pale. The Tron building serves as a police residence and operations centre. Several of the men were tortured and interviewed numerous times until they signed statements admitting to their involvement in the murder. On the evening of 14 August, seven of the 14 men were transferred to Kula Prison. The police submitted a criminal report to the Office of the Public Prosecutor charging the seven men with the murder of Mr. Knezevic. The Investigating Judge began his interviews in the morning of 15 August. The remaining seven men were transported from the Tron building to the Famos Factory on 16 August, where they were handcuffed to radiators and furniture and remained illegally detained until the IPTF visit on 18 August.
21. **The IPTF team found compelling evidence that Mr. Savic had directly engaged in, and had direct supervision over, the torture and ill-treatment of the illegally detained persons in Pale.** On 14 September, the IPTF Commissioner, in consultation with the Special

Representative of the Secretary General, disqualified Mr. Savic with immediate effect from participating in any aspect of police work anywhere in BiH and demanded the opening of a criminal investigation against Mr. Savic and the police officers involved in the 7 August murder investigation. Following the request of the IPTF Commissioner, the RS Ministry of Interior carried out an internal investigation into the conduct of the investigations into the Knezevic murder. The Office of Internal Control prepared a report confirming the IPTF findings and recommending criminal investigations against four police officials and disciplinary proceedings against 13 police officials. The report and the records of statements taken by the Office of Internal Control have been handed over to the Office of the Public Prosecutor. As of mid-November, the seven men were still held at Kula Prison and a decision on an indictment had not been made.

RULE OF LAW

22. **War Crimes Arrest in Ljubinje:** On 14 August, Robert Rebac from Capljina was detained by Republika Srpska police in Ljubinje on war crimes charges. Under the Rome Agreement of 18 February 1996 (the Rules of the Road), the Republika Srpska has agreed that persons “may be arrested and detained for serious violations of international humanitarian law only pursuant to a previously issued order, warrant, or indictment that has been reviewed and deemed consistent with international legal standards by the International Criminal Tribunal for former Yugoslavia.” The ICTY Prosecutor had not reviewed Mr. Rebac’s file prior to his arrest and detention on war crimes charges. Mr. Rebac’s arrest was in clear **violation of the Rules of the Road**. Despite interventions by the OHR, as well as the subsequent decision of the ICTY Deputy Prosecutor at the beginning

of September that the evidence submitted by the RS authorities in this case was insufficient, Mr. Rebac remained in detention for one month in Foca prison. RS authorities released Mr. Rebac only following a decision by the EASC that he must be released as the arrest was in violation of the Rules and Regulations of the Provisional Election Commission, which require judicial authorities to abide by the Rules of the Road.

23. **Bosnian Serb Indictee Apprehended:** On 27 September, SFOR detained a Bosnian Serb indicted for war crimes by the ICTY and subsequently transferred him to the Hague. **Stevan Todorovic** was indicted on 21 July 1995, together with five other individuals, for their alleged involvement in the "campaign of terror" undertaken in April 1992 against the Bosnian Croat and Bosniak population of the municipality of Bosanski Samac.
24. **Inter-Entity Judicial Cooperation:** On 25 September, the first out-of-court session of a Federation court in the RS took place on the basis of the Memorandum of Understanding on Legal Assistance between Institutions of the Federation and Republika Srpska [see HRCC Human Rights Monthly Report, May 1998]. The session, facilitated and monitored by OHR, included a reenactment at the scene in a war crimes trial currently before a Federation Court and is an important step towards more effective inter-entity legal cooperation. The reenactment was the first one of its kind where Federation authorities (court, prosecutor, police investigators) could work alongside RS authorities (Court president of Rogatica, police), as well as lawyers and witnesses from both Entities in order to facilitate due process.

PROPERTY RIGHTS AND PROPERTY LEGISLATION

Federation Property Legislation

25. **Extension of the Deadline for Reclaiming Socially Owned Apartments:** In August, a monitoring programme conducted by a number of international organisations revealed major problems with the implementation of the Federation property laws which came into force in April of this year. The process for claiming repossession of private and socially owned property took some months to be established. In many municipalities, illegal and unfair practices have been used to prevent refugees and displaced persons from submitting their claims. These illegal practices have included the charging of fees; requiring claimants to provide documents which they cannot obtain; refusing to accept claims from people without Federation identity cards; refusing to accept claims lodged by personal representatives or through the mail; and harassment and intimidation of claimants.
26. **As a result of the obstacles in the claims process, the High Representative extended the six-month deadline (originally 4 October 1998) for claiming socially owned apartments by a further six months, until 4 April 1999.** The six-month extension was necessary to ensure that individuals have the opportunity to reclaim their apartments, as the first step in the process of returning home. This deadline applies only to socially-owned apartments in the Federation. There is no deadline to claim private property.

Republika Srpska Property Legislation Update

27. The Republika Srpska Government failed to adopt property and housing laws consistent with the Peace Agreement by the deadline of 31 August set in the Luxembourg Declaration. Because of the current uncertainty over the formation of the new Republika Srpska Government, the High Representative agreed to allow the National Assembly a further brief period in which to adopt the

legislation. However, the High Representative has stated that if the property law is not adopted as the first order of business, he will have no alternative but to impose the law under his Bonn powers, for subsequent adoption by the National Assembly.

A Property Legislation Home Page is available on the OHR Web Site and includes recent Federation Property and Housing Laws as well as Information Sheets on the Laws. These are available in English and in Bosnian (<https://www.ohr.int/property.htm>). Hard copies in English, Bosnian, Croatian and Cyrillic are also available from OHR, UNMIBH, CRPC, OSCE and UNHCR.

INSTITUTIONAL AND POLICY DEVELOPMENTS

28. **Prison Report:** A report of a Council of Europe expert assessment visit of 12 to 26 February 1998 to prisons in the Federation was submitted in August to the Federation Ministry of Justice. The purpose of the visit was to prepare an assessment of the prison system operating in the Federation and specifically to describe the organisation of the prison administration and of the penal institutions, to examine the possibility of introducing appropriate reforms in line with the European Prison Rules, and to make proposals for change and improvements in both a short-term and longer-term perspective. The experts provide accounts of their visits to individual prisons and an analysis of prison conditions, including accommodation, health services and prison work. The experts' general impression was that the prison system had largely recovered from the effects of the war in respect of the management of prisons, the handling of pre-trial detainees and the treatment of sentenced prisoners. However, the report notes a number of matters where there is scope for improvement in accordance with the European Prison Rules which was used as a benchmark. The report makes a number of

suggestions, including in the field of staff training, social treatment programmes for prisoners and recommends that the prison system be given the necessary resources to deal with the main resource-related deficiencies pointed out in the report.

29. **BiH Textbook Review Agreement:** This agreement reached an important stage of its work with a meeting of experts held in Neum on 12 and 13 August. According to its terms, each entity was to exchange all textbooks of national subjects; these being history, geography, literature, arts and music, in use in public primary and secondary schools, under the various curricula throughout the country. Pedagogical experts appointed by both entities, numbering one or two per subject, have been reviewing these textbooks with the limited objective of identifying offensive material to be removed, and making recommendations as to what material should be substituted for it when its replacement is required. Any differences between experts remaining unresolved are to be submitted to an Independent Commission for Textbook Review to be formed by the OHR. At the Neum meeting, experts met to discuss their reports and came to limited agreements on issues found to be offensive as per their reports. Overall, many experts called for new textbooks for BiH altogether, indicating that those in current use in schools had been produced during the war and were outdated in their approach.

HUMAN RIGHTS INSTITUTIONS

30. **Human Rights Chamber:** The Human Rights Chamber took a summer recess during August. At its September session, the Human Rights Chamber delivered two decisions on the merits. In the case of **Sljivo v. Republika Srpska**, the applicant, a citizen of BiH of Bosniak origin, was arrested in the RS while in possession of a landmine and

some wire. Sljivo was tried, found guilty and imprisoned. He was later released temporarily for medical treatment. The Chamber found violations of the applicant's right to liberty and security of person and right to a fair hearing. The Chamber concluded that its decision was sufficient remedy for the violations. In the case of **Kevesevic v. Federation of Bosnia and Herzegovina**, the apartment in which the applicant had an occupancy right was declared abandoned and he and his family were evicted. The Chamber found violations of the applicant's right to respect for his home and his right to peaceful enjoyment of his possessions. The Chamber ordered the Federation to take all necessary steps to annul the decision declaring the apartment abandoned and to reinstate the applicant to his apartment. [Chamber decisions and reports are available from the Secretariat or on the Internet at www.gwdg.de/~ujvr/hrch/hrch.htm].

NOTE: *The HRCC Human Rights Monthly Report is based on the regular and special reporting of inter-governmental and non-governmental organisations. The aim of the Report is to provide a concise overview of human rights issues, cases and trends affecting the overall human rights situation in Bosnia and Herzegovina during the reporting period. Questions on specific items should be directed to the reporting organisation or to the HRCC. Please send information for inclusion in the report to 387-71-447-420 to the attention of Michelle Morris or by e-mail to michelle.morris@ohr.int.*

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