

Human Rights Report July 1999

SUMMARY

- Stability Pact promises regional approach to issues including human rights
- Difficulties continue for Serb returnees to Drvar
- Livno Bus Case sets precedent for employment discrimination cases in BiH
- Military authorities in the RS intervene in evictions process
- Education authorities in BiH blocking important reforms

REFUGEES, DISPLACED PERSONS, and the RIGHT TO RETURN

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

General Overview on Visits>Returns:

1. The overall trend in July has been an increase of minority return movements and assessment visits, both organised and spontaneous, in all directions. Two new bus lines across the IEBL (Inter Entity Boundary Line) were opened (**Tuzla-Srebrenica** and **Zepce-Teslic**) to enhance the freedom of movement, and to support minority returns. An increasing number of Serb displaced persons and refugees are returning to the Federation, mainly due to economic conditions in the RS and FRY. Another trend is the increasing returns of Bosnian Croat refugees from Croatia to BiH; a push factor may be the closing of the collective centres on the Croatian coast.

2. There appear to be serious funding gaps for reconstruction projects, which are causing delays for returns, as well as frustrations and tensions amongst the potential returnees.

This has clear implications for the sustainability of returns.

Visits/Returns to Republika Srpska:

3. The 13th of July, approximately 300 displaced persons from **Srebrenica** marked the 4th anniversary of the fall of the town. For the first time, they were able to commemorate the anniversary in the municipality itself. Despite some fears, the visit went smoothly and no security incidents were reported. Importantly, the local RS police provided security.

4. Assessment visits to municipalities in **Eastern RS** continued. Three assessment visits were organised in July to **Sokolac** and involved 347 displaced persons. The first assessment visit to **Visegrad**, an area where freedom of movement has to date been quite limited, took place on 24 July, when more than 100 displaced persons visited their pre-war homes. Regular weekend visits to **Rogatica** continued during the reporting period; on 3 July, for example more than 400 displaced persons travelled from Sarajevo to Rogatica. Visits were also organised to **Foca/Srbinja**, where the minority returns have so far been obstructed by the local authorities. More than 1000 displaced persons visited their homes, most of which are destroyed, in various locations around Foca. Minority returns continued to **Zvornik** municipality, where in Krizevici some 200 families have been cleaning their houses and staying over night. Generally, the municipal authorities and local police continue to show good co-operation in assisting the visits and no incidents have been reported.

5. The first assessment visit of Bosniak displaced persons to **RS Ilidza** (in the vicinity of Sarajevo) took place without incident on the 4th of July. In total 24 visitors visited their pre-war homes in Gornji Kotorac, with local police providing escort. House cleaning visits started in **Glinje (Ugljevik municipality)** on the 5th of July; despite the occasional disruptions by the local Serb displaced persons opposing the return, the cleaning visits have proceeded.

6. There has been a growing trend towards spontaneous returns in the **Western RS**. Large numbers of Bosniak displaced persons (at different phases of return process) have been returning to **Prijedor** and **Novi**. At the same time, there has been a shift from returns to remote, empty villages to more populated areas (areas often populated by Serb displaced persons). This has created tense situations in some locations. "Spontaneous gatherings," apparently designed to obstruct return have been occurring throughout the Western RS. For example, on the 8th July, approximately 100 persons surrounded the office of the Ministry of Refugees and Displaced Persons in **Bosanski Novi/Novi Grad** preventing the work of the office. In **Bosanska Dubica**, a group of Serb displaced persons and refugees blocked the return of Bosniak displaced persons in two occasions. The Bosniaks decided they would not return unless there was an increased SFOR presence.

7. In **Modrica**, where a serious security incident took place on 24 June [see [HRCC June Report](#) at para 4], local police action to date has been inadequate as no action against the perpetrators has been taken. The setback to the return process has been significant; none of the minority families who had returned now stay overnight in Modrica.

8. The obstruction of a Bosniak return to Vecici in **Kotor Varos**, which took place in June [see [HRCC June Report](#) at para 6], appears to have been partially removed due to pressure and interventions of various international actors. An assessment visit was carried out on 9 July, and occurred without incident.

9. Large numbers of Bosniak displaced persons have visited, without incident, **South Eastern RS**, in particular the municipalities **Nevesinje** and **Gacko**. This is a poor and very hardline area of the RS. Returns to date have been very low, in part due to these factors, and also due to the very difficult housing situation, as there are many Serb DP's from the Mostar area in the town.

Visits>Returns to Federation:

10. Spontaneous returns of Serb displaced persons and refugees to the Federation are increasing. The main destinations have been **Bosanski Petrovac, Sanski Most, Bosanska Krupa, Bihac** (Martin Brod), **Drvar, Bosanska Grahovo, Glamoc** and **Bugojno**. The reason behind this return movement appears to be the deterioration of living conditions in the RS and FRY. The first assessment visit of Serb displaced persons from Doboï to the **Ozren area**, where many displaced persons from Srebrenica currently reside, took place on July and passed without incidents.

11. In early July, a series of violent incidents occurred in **Drvar**. Allegations of an attack/rape by a Serb man on a Croat woman led to "spontaneous" protests by the Croat population, and demands for an end to returns to the area. A series of attacks against the Serb returnees followed. Responding to the danger of a potentially deteriorating security environment, SFOR has increased its presence in the area. Also in Drvar, where in June the Cantonal Minister of the Interior issued instructions requiring returnees to register with the municipality or face expulsion [see HRCC June Report, at para 9], local police authorities have been refusing to implement the July 30 Decision of the High Representative requiring them to issue new ID Cards to returnees, in exchange for pre-war ID cards. Without ID cards, returnees are not entitled to any social benefits, including health benefits, and freedom of movement may be restricted [see para 27, below].

Returns to the Federal Republic of Yugoslavia:

12. Large numbers of persons who had sought protection in Bosnia and Herzegovina (Kosovo Albanians, Muslims from Sandzak and Montenegro as well as Serbs from FRY) have been returning to FRY/Kosovo. It is estimated that a third of the Kosovo Albanians in BiH have already returned home, many of them spontaneously. A small number of Serbs from Kosovo have been

arriving in the RS. The arrivals consist of three categories; Croatian Serb refugees who had settled in Kosovo, Serbs from Kosovo, and Kosovo Roma.

PROPERTY

Legislative Developments:

13. *Military Apartments in the Federation:* Pursuant to the new provisions for repossession of military apartments introduced in recent amendments, the *Federation Ministry for Defence* on July 9th issued an instruction on repossession and purchase of military apartments. The civilian authorities are responsible for administering military apartments which were abandoned, and for dealing with claims for military apartments. The military housing authorities will have the possibility to present evidence relating to the eligibility of a claimant to repossess the apartment, based on the *Law on Amendments to the Law on Cessation of Application of the Law on Abandoned Apartments* [see [HRCC June](#) at para 18 & 19]. The Instruction also addresses the purchase of military apartments. Applications for military apartments must be made to the Federation Military Public Attorney.

Implementation of Property Laws throughout BiH:

14. *Double Occupancy Commissions:* Local authorities in many parts of Bosnia have been co-operating with the international community to address the issue of double and multiple occupancy (when individuals occupying someone else's property have access to alternative accommodation). "*Double Occupancy Commissions*," comprised of local housing and other municipal officials, in co-operation with representatives of international organisations, have been identifying those who have access to alternative accommodation, with a view to their eviction from the housing which they occupy. The strategy is being used throughout BiH, but has proved particularly successful in Cantons 3 and 4 (Fed), where upwards of 120

reinstatements of original owners have taken place since the double occupancy commissions were established. This is significant as other efforts to resolve this issue have been largely unsuccessful.

Implementation of Property Laws in the RS:

15. *Interference by the military in evictions in the RS:*

Military authorities have been interfering in the process of reinstatements of returnees in the Republika Srpska. Interference has been particularly egregious in **Teslic** and **Banja Luka** in cases where the current occupant is a member of the military and has received an eviction order. The military authorities intervened directly with the competent civilian authorities to stop evictions and in some cases uniformed military personnel attended to physically prevent the eviction. The international community intervened, resulting in the issuance of a letter which states that: interference by military authorities in the civilian process of rule of law during peacetime is not acceptable; that the military authorities must respect the authority of the civilian police in the execution of decisions taken by civilian bodies; and that uniformed military personnel must not be present at evictions. This was followed up by an complementary instruction from the Ministry of Defence, but it is as yet unclear whether this will prevent further interference.

Implementation of Property Laws in the Federation:

16. In **Mostar**, where throughout 1996 and after the *Liska Street Incident* in February 1997, Bosniaks in West Mostar were illegally and forcibly evicted from their homes, the process of reinstatements of rightful owners is very slowing beginning. After considerable pressure upon local authorities in West Mostar, two positive decisions have been issued by the housing authorities. Once these decisions are enforced the owners will be entitled to repossess their property. In 1997, 119 expulsion cases (after the signing of the Dayton Peace

Agreement) were documented by UNHCR, IPTF and the Federation Ombudsman's Office. Those evicted after the Liska Street Incident in February 1997 were reinstated; however, those evicted before this time were not. The Peace Implementation Council established a deadline of January 1998 for reinstatements of the original owners, but the cases remain unresolved. Political agreement on the issue was once again reached pursuant to the Schwartz-Schilling Mostar agreement of April 1998. It has now been agreed with the Heads of Municipalities and the Municipal Housing Office that cases verified by the Federation Ombudsman will be presented to the housing authorities and resolved in accordance with the Federation Property Laws. To date 38 cases have been presented and 2 positive decisions issued. Decisions, however, have yet to be enforced.

POLICING

17. *Inspection of the Konjic Police Department:* The UNMIBH Human Rights Office completed a two-week inspection of the Konjic Police Administration in Canton 7 (FBiH) in July. The inspection is part of the *UNMIBH 100 Day Agenda for Action* submitted to the Ministry of Interior of Canton 7 in May 1999, which outlines an effective program to integrate and professionalise the police in Canton 7 [see [HRCC Monthly Report, May 1999](#), at paras 25-29]. A preliminary assessment of the findings revealed that the Konjic Police Administration is generally functioning professionally, in particular the office of the Chief of Police and the Crime Department. The inspection identified however a number of shortcomings in the structure and functioning of the Uniformed Police Department and the Administrative Department: the Uniformed Police Department is not fully integrated and there is no unified chain of command; the Administrative Department is internally divided, has too many staff and is managed ineffectively; the number and locations of police stations throughout the municipality do not appear to correspond to the needs of the

community; and there are an insufficient number of uniformed Bosnian Croat officers in positions of authority. A detailed report with the findings of the inspection and proposed changes will be presented to the Cantonal Minister of Interior at the next UNMIBH Supervisory Committee chaired by the SRSG.

18. *Police Custody Issues:* The UNMIBH Human Rights Office completed a four-day *Study on Arrest and Police Custody Procedures in the Federation*. A total of 97 police stations were inspected to assess compliance with national law and international human rights standards. Three key problems were identified in the present system, including: lack of understanding of the term “arrest” by the Federation police in a way which ensures consistency with human rights protections provided under the European Convention on Human Rights; lack of uniformity in record keeping; and, a lack of understanding of the importance of using appropriate record keeping systems to prevent human rights violations.

19. *Trafficking of Women:* There have been a number of raids by local police in both entities targeting café bars and night clubs suspected of being sites of prostitution activities. Police operations have been conducted in a number of localities during the reporting period; e.g. in **Central Bosnia** (FBiH) and **Brcko** (Special District). As a result many women have been detained and prosecuted. For example, in Central Bosnia Canton (FBiH), two separate raids were conducted in July. More than 30 women (including a minor) were detained, and some prosecuted and sentenced to imprisonment. Some were subsequently deported from the Canton. The running of a brothel in BiH is illegal and, accordingly, the police are entitled to inspect and investigate suspected premises, arresting those against whom there is prima facie evidence of being engaged in illegal activities. Several human rights concerns have been raised with regard to the response of the police and judiciary: the main focus of the local police has been on the women and not of the criminal offenses,

particularly those committed against the women by the pimps and procurers; women have been detained/arrested with scant or no evidence of any illegal activity; and there have been a number of serious procedural errors (including lack of interpreters), which have resulted in women being fined or imprisoned without access to a fair hearing. Additionally, the deportations from the territory of the Canton raises serious concerns for the safety of the women deported, as well as the legality of the decisions.

20. An exception to the general tendency, described above, of not investigating or prosecuting the trafficker, took place in **Brcko** in July. The male owner of a bar at the Arizona Market was convicted in **Maoca** Municipal Court for trafficking in women, and sentenced to three years imprisonment.

21. The official inauguration of the RS Police Academy took place on 5 July 1999 and classes began on the 19th of July. The establishment of the academy in Banja Luka, though encouraging, has fallen short of expectations. The number of students for the first class, including non-Serbs, was only one third of the 200 (170 non-Serb) committed by the Ministry of Interior of RS.

RULE OF LAW

22. *Legislative Developments:* In the Federation, the High Representative on the 30th of July imposed two laws: *Amendments to the Law on the Supreme Court* and *Amendments to the Law on the Federation Prosecutor's Office*. These laws now provide for a first instance court in the Supreme Court to deal with particular classes of crimes within the exclusive jurisdiction of the Federation. Specifically, the classes of crime are terrorism, drug trafficking, inter-cantonal crime and organized crime. The *Law on the Federation Prosecutor's Office* also provides effective support to the Federation Prosecutor by providing the authority to issue mandatory instructions to cantonal prosecutors. These laws,

collectively, will contribute to ensuring that political influence will be minimized in decisions related to criminal investigations and prosecutions.

23. *Cantonal Court in Mostar:* After over three years of ethnically divided courts in **Mostar (Fed)**, the establishment of an inter-ethnic cantonal court is underway. The process of judicial appointments commenced in July, when, at the July 23 July Cantonal Assembly session, 18 judges were appointed to the Court: 7 Bosniak, 7 Croat and 4 “others.” The first session of the Court of convened on the 27th of July and the first President of the Court was elected.

RIGHT TO A FAIR TRIAL

24. *Ibrahim Djedovic:* The retrial, as ordered by the Federation Supreme Court, of Ibrahim Djedovic, a prominent figure in Fikret Abdic’s DNZ party during the war, commenced on 15 July [see [HRCC June Report](#) at para 30]. The issue of witnesses has proven controversial, as some are currently residing in Croatia and fear coming to Sarajevo to present their testimony. The Court has yet to decide whether these 8 individuals can testify in Croatia rather than in Sarajevo. The continuation of the trial is scheduled for August 16 – 18.

ECONOMIC AND SOCIAL RIGHTS

25. *The Livno Bus Case:* On July 8, 1999, the *Human Rights Chamber* set a precedent by issuing its very first decision regarding discrimination in employment. The decision in *Zahirovic v. BiH and FBiH* [described further in para 33, below] contains analyses which may lead the way in other discrimination cases. The Chamber stressed that “the prohibition of discrimination is a central objective of the General Framework Peace Agreement.” The Chamber considered, inter alia, that maintaining the applicant on a waiting list after the cessation of the state of war and the immediate threat of war, and the hiring of new employees, showed the

differential treatment inflicted on the applicant as compared to employees of another ethnic origin. The placement of the plaintiff on a waiting list may not be considered as a discriminatory act in itself but the fact that the situation persisted after the war is discriminatory. This argument could be used in a vast number of similar cases of employment discrimination throughout Bosnia and Herzegovina. It was also noted that “the Chamber cannot accept as a valid ground for differential treatment that the composition of the workforce should reflect the ratio of the different ethnic groups within the population of Livno and Canton 10.”

26. *Legislative Developments:* On the 26th of July, after more than two years of heated debates, the House of Peoples approved of the *Federation Labour Law*. The *Federation Labour Law* contains quite a comprehensive anti-discrimination provision (Article 5) which provides that “a person seeking employment as well as an employed person, shall not be discriminated against on the basis of race, colour, sex, language, religion, political or other opinion, national or social affiliation, financial situation, birth or any other circumstances, membership or non membership to a trade union, and physical or mental disability.” The law preserves the strict deadlines imposed on workers to file claims before administrative and legal bodies in case of violation of their rights. Before entering into force, the law must now be passed by the Federation House of Representatives.¹

27. *High Representative’s decision on identity cards:* On 30 July, the High Representative issued a decision on identity cards based on obstruction experienced by many returnees and displaced persons in obtaining basic documentation. As the possession of an ID card is compulsory from the age of 18, and as it is a pre-requisite for access to essential services and rights, the decision is quite significant. An international supervisor may be appointed by the High Representative in order to monitor compliance with the decision. The decision

provides that ID cards issued by competent SFRY or SRBiH bodies, valid on 6 April 1992, may be exchanged with new cards until 5 April 2002.

28. *High Representative's decision on the reconnection of pre-conflict subscribers to the telephone network:* On 30 July, the High Representative issued a decision aimed at enabling the reconnection of pre-war subscribers to the telephone network. This measure should end abusive practices conducted against returnees and minority groups in particular, such as imposition of illegal fees, of abusive administrative costs, and arbitrary disconnection.

EDUCATION

29. With the beginning of the school year approaching, education-related issues in Bosnia are ever more visible and acute. The Bosnian education system faces a number of serious obstacles, including lack of material resources; lack of access for disabled students; and a shortage of women in senior education posts. Perhaps the most serious and pervasive issue however, concerns the effective division of the education system along ethnic lines. This acts to inhibit sustainable minority return and ethnic re-integration; further, it encourages future destabilisation through radicalising and polarising, another generation of citizens.

30. To address these issues, the international community is supporting a number of key efforts: the removal of materials which would be offensive to one or more of the ethnic groups from textbooks, coupled with efforts to ensure that all textbooks meet European standards, within a modernized curriculum; curricular reforms which would move the system towards a student-centred curriculum; modernization and reform of the structures of higher education; and, human rights education for teachers, through which, to date, over 1500 teachers and teacher trainers have been trained, and materials developed for integrated use in the classroom. These efforts

should help to address the concerns discussed above, and this will be essential in order to meet accession requirements of the Council of Europe.

31. Progress to date has been halting and slow. Education Ministries in both entities have appointed experts to work on the issue of textbook review in particular. This has proved to be an extremely difficult area, as politicians on each side perceive the power of education to further political goals, and hence are not committed to the review process. Obstruction by the local authorities has been very evident on education issues.

HUMAN RIGHTS INSTITUTIONS

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

	Ombudsperson	Human Rights Chamber	CRPC
Cases registered	3146 (+59)	2517 (+119)	206,551(+6,551)
Cases completed	1227 (+27)	242 (+30)	55,000 (+7,000)*

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

Human Rights Chamber:

33. Livno Bus Case: On July 8th, the Human Rights Chamber delivered its decision in *Zahirovic v. BiH and the Federation of BiH*. The case is significant as it is the first judicial case of employment discrimination based on ethnicity to come before the *Human Rights Chamber*, and thus provides an important precedent for other cases of employment discrimination [see para 25 above for more information]. The case involved 51 Bosniac bus drivers who were prevented by the Bosnian Croat authorities from coming to work after the conflict began, and instead were placed on a "waiting list".

In 1996 the company offered labour contracts to persons of Croat origin who had “temporarily” taken over the duties of the applicant and his Bosniak colleagues during the hostilities. In July 1997, the Chamber applicant, together with other employees filed a request with the Livno municipal court. The Chamber ruled that discrimination on the basis of ethnicity had been a factor, and found violation of Articles 6 and 7 of the *Covenant on Economic, Social and Cultural Rights*. The Chamber also ruled that the right of the applicant to a fair and impartial trial had been violated under article 6 (1) of the *European Convention on Human Rights*. For failing to meet its obligations, the Chamber ordered the Federation to pay financial compensation and to reinstate the applicant.

(Chamber decisions and reports are available from the Secretariat or on the Internet at <http://www.gwdg.de/~ujvr/hrch/hrch.htm>.)

BiH Ombudsperson:

34. In July the Ombudsperson did not achieve any new amicable solutions nor made public any final reports, but provided some updated information about JNA cases. The Ombudsperson reported that from the very beginning of its functioning the Office has been faced with numerous applicants complaining that their human rights have been violated by annulments of the contracts and adjournments of the proceedings. Up to date the Office of the Ombudsperson registered 1308 JNA cases. In July 1996 the Ombudsperson referred the first group of decisions in JNA cases to the Human Rights Chamber. These decisions gave a comprehensive review of relevant domestic laws and practice and applicable human rights international principles and the HR Chamber found violations of the rights guaranteed by Article 6 (“right to a fair trial”) and Article 1 of Protocol No.1 (“protection of property”) to the European Convention on Human Rights.

35. Following the HR Chamber case law as well as the

amendments in housing laws of the Federation of Bosnia and Herzegovina, the Ombudsperson adopted 395 final reports in the individual cases concerning the JNA apartments finding violations of the human rights guaranteed by the ECHR. However the Government of the Federation did not comply with the Ombudsperson's recommendations within envisaged time limit. Consequently the Ombudsperson referred the reports in 151 cases to the High Representative and forwarded them to the FBiH President for further action. Decisions of the High Representative of the 2nd of July 1999 (published in the Official Gazette of the FBiH No. 27/99, July 5th 1999) on this matter should resolve almost all legal issues concerning the JNA cases. Although the Office of the Ombudsperson in this moment will not continue with examination of the cases concerning the above mentioned annulments of the contracts and adjournments of the proceedings, it will monitor the implementation of relevant provisions imposed by the High Representative Decisions to the already registered and possible new cases.

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

Commission for Real Property Claims (CRPC):

36. In July 1999, the CRPC adopted over 7,000 decisions, bringing the total to approximately 55,000 rendered to date. Difficulties continue regarding re-instatement on the basis of these decisions, although there has been some progress on this front. Entity legislation regarding enforcement of CRPC decisions has been submitted to the Ministries of Justice in both the RS and Federation. This is seen as a critical priority to ensure effective implementation of Annex 7 of the Dayton Peace Agreement.

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

INSTITUTIONS AND POLICY DEVELOPMENTS

37. Participating states and international organizations gathered in Sarajevo on the 30th of July 1999 to endorse the purposes and principles of the ***Stability Pact for South Eastern Europe***, initiated by the European Union, adopted in Cologne on 10 June 1999, and subsequently placed under the auspices of the OSCE. The Stability Pact outlines a comprehensive and coherent approach to the region, promising the states of South Eastern Europe international assistance and eventual integration into European political and economic structures in return for ongoing progress towards democracy, respect for human rights, and regional cooperation. Mr Hombach, the Special Coordinator, is preparing the first meeting of the "Regional Table" which has been scheduled for September. A subsequent regional table, and three thematic "working sub-tables" are scheduled for a later stage, and will address the issues of democracy and human rights; economic reconstruction, development and co-operation; and security issues.

38. The women and civil society actors from South East Europe used the opportunity presented by the Stability Pact to demand an active role in its implementation, in particular with respect to democratization and human rights. Over one hundred prominent women from the region signed an appeal demanding equal and active role for women in development and implementation of the Stability Pact, and put forward their demand to appoint a woman to chair the first Working Table on Democracy and Human Rights. Also, in relation to the Summit, three regional civil society conferences were held in July and the representatives from the conferences presented their priorities and proposals to the Summit. The main points were: the need to include civil society actors in solving problems; and, to include them in all activities regarding the implementation of the Pact. They also suggested a number of topics as priorities for regional cooperation, including:

local governance; education; media; legal reforms; combating organized crime; economic development; and return and reintegration of refugees. There was wide support, including on the part of the Coordinator of the Stability Pact, for making women's issues a priority concern for the working table on democratization and human rights, and for including opposition parties and civil society in the process.

1. There are serious concerns regarding the provision of the law, which states that companies should provide cash compensation for all workers who were put on waiting lists during the war and who cannot be re-employed. This provision may burden enterprises slated for privatization, with financial obligations which could thus deter privatization of those companies.

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

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