Human Rights Report October1998

SUMMARY

- Series of violent incidents targeting Bosniak minority returns in Herzegovina-Neretva Canton, including death of Bosniak returnee and ill-treatment of Bosniak official and police officers by Capljina police
- Failure to meet minimum standards of fair trial in Ibrahim Djedovic case
- Sentences in Subotic case do not reflect severity and brutality of crime
- Suspension of Article 3(6) Criteria of the Federation Law on Cessation of Application of the Law on Abandoned Apartments
- Inter-entity conference on judicial cooperation held in Tuzla
- Conference on Constitutional Courts of BiH held in Banja Luka

RETURN-RELATED INCIDENTS

Violent Return-Related Incidents in Herzegovina-Neretva Canton:

1. October was marked by a series of violent incidents targeting Bosniak minority returns in Herzegovina-Neretva Canton. IPTF reports a total **127 return-related incidents** in the area, including explosions, arsons and stoning incidents, during the period from 1 January to 9 November. Of the 127 incidents, **68 occurred in Stolac** municipality, **23 in Capljina** municipality, **17 in Mostar** municipality, **11 in Jablanica** municipality and **eight in**

Prozor municipality.

2. On 1 October, a group of 50 to 70 Bosnian Croats, mainly women and children, set up a **roadblock** on the M-17 highway, **Capljina municipality**, aimed at preventing the return of a group of 50 Bosniak displaced persons to their homes in **Tasovcici**, near Capljina. The barricade was lifted following the intervention of the Multi-National Support Unit of SFOR. During the evening of 2 October, a crowd of 70 to 100 Bosnian Croats assembled alongside the M-17 highway threatening to block the highway in protest against the return of Bosniak displaced persons to the area. The crowd was addressed by the Mayor of Capljina. The demonstration was followed by a series of explosions in which **one Bosniak returnee died** and three others were injured as a result of a grenade thrown at his house from a passing car. Two Bosniak-owned houses were damaged by fires caused by explosions.
3. In the early hours of 3 October, a member of the Federal Assembly and President of the Cantonal Board of the SDA and two Bosniak police officers, who were visiting the area to assess the situation, were **detained and ill-treated** by the **Capljina Police Administration**, in the presence of the Chief of the **Capljina Police Administration**. An IPTF monitor was physically removed from the Capljina police station when inquiring about the detention of the Bosniak officials. The three men were released several hours later and reported to IPTF that they had been seriously beaten during detention. At the time of their release, IPTF reports that one of the Bosniak police officers had a bruise under his eye, the other was limping, and the President of the Cantonal Board of the SDA had bruises on his face. On 8 October, the IPTF Commissioner, in consultation with the Special Representative of the Secretary General, **decertified the Chief of the Capljina Police Administration**, Stanislav Buntic, following IPTF findings of serious police

misconduct at the Capljina Police Administration.

4. On 4 October, two rocket propelled grenades were fired by unknown individuals at a house in **Aladinici village, Stolac** municipality where recent Bosniak returnees were staying. No one was injured during the incident. IPTF reports that stones and a hand grenade had previously been thrown at the house. An arson attack on a nearby Bosniak-owned house occurred a few days before. On 5 October, another **roadblock** was erected on a small road leading to **Tasovcici village, Capljina**. The roadblock was removed by local police. On 7 October, an **explosion** occurred in a Bosniak-owned house in the return area of **Borojevici, Stolac**. No injuries were reported. On 9 October, a petrol bomb was thrown into the entrance of a Bosniak returnee's house in **Batavaci, near Stolac**. On 13 October, two Bosniak-owned houses were destroyed in **Sveti Nikola** and in **Pjesivac Kula** villages, both in **Stolac** municipality. No injuries were reported. One of the houses was in the process of being repaired for return.
5. A Joint Federal-Cantonal Investigation Team was formed to investigate the series of incidents in the area and the response of the Capljina police. To date, **no arrests** have been made in connection with the incidents. IPTF is continuing its investigations into the failure of law enforcement officials to provide a safe and secure environment for minority returnees, in particular in Capljina and Stolac.

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:

6. On 1 October, 15 Bosniak families returned to **Hotanj, Capljina** municipality and a further 50 Bosniaks returned to **Tasovcici**, with approximately 20 staying over-night. Following the violent incidents in the area at the beginning of October, a number of scheduled minority return movements were postponed until 12 October. On 12 and 13 October, 40 Bosniak families returned to **Stanojevici, Capljina** municipality and 21 Bosnian Serb families returned to **Oplicici, Capljina** municipality. On 14 October, 11 Bosnian Serb families returned to **Pijesci, Mostar South** municipality. On 17 October, 10 Bosnian Serb families returned to **Lokve, Capljina** municipality. On 29 October, 100 Bosniak families returned to settlements in **Prenj, Stolac**. On 31 October, approximately 60 Bosnian Croat displaced persons from Stolac, Capljina, and Mostar carried out a second assessment visit to **Radesine settlement, Konjic**, where they were welcomed by the local authorities.
7. On 6 October, 28 Bosnian Serb displaced persons currently in Bijeljina and Vlasenica visited **Olovo** where they met with local authorities. On 26 October, 54 Bosnian Serb displaced persons currently in Zvornik visited **Kladanj** where they met with the Mayor and other municipal officials to discuss returns.

Visits/Returns to Republika Srpska:

8. On 10 and 17 October, UNHCR facilitated assessment visits of 50 Bosniaks to **Rijecica in Doboj**. UNHCR reports the first spontaneous return of one Bosniak family to **Kozarac, Prijedor**, at the end of October. The return was followed by an official hand-over of keys of apartments for elected Bosniak councilors from Kozarac.
9. International and local efforts to seek progress for Bosniak displaced persons attempting to return to the **Klisa settlement in Zvornik** municipality resulted in a

programme for small-scale house cleaning which started on 19 October. A group of ten residents have since visited the village daily to clear and prepare damaged houses for reconstruction. Local RS police provided security, monitored by IPTF and with an SFOR presence. At the end of October, nine house cleaning visits had been carried out without incident.

10. UNHCR reports the return on 19 October of the first nine Bosniak families to houses repaired in the village of **Zivojevici, Srpsko Gorazde**. While the return is a significant step forward, the returnees rely principally on resources available in Federation Gorazde, due to better access than to the nearest town in the RS. ECHO, GOAL, IMG, UNHCR, IPTF and SFOR have provided material assistance and assisted in house reconstruction to prepare for return. First assessment visits to **Foca** were made by 18 Bosniak displaced persons, following lengthy negotiations with local authorities. A long overdue graveyard visit by 100 Bosniak displaced persons was made in **Visegrad**. A group of Bosniak displaced persons, currently living in Sarajevo, carried out four assessment visits to **Rudo**. On 31 October, 43 Bosniak displaced persons made an assessment visit to **Gacko** town and another group visited **Sopilja, Nevesinje**.
11. In cooperation with displaced persons associations in Ugljevik (RS) and Teocak (Fed), UNHCR reports two assessment visits by 50 Bosniak displaced persons to **Glinja and Srednja Trnova, both in Ugljevik**. The visits were the first assessment visits to the area by large groups of Bosniak displaced persons. Successful visits to Glamoc and Ilijas (Fed) were also made by 17 displaced persons currently in Ugljevik and 30 from Modrica.

RULE OF LAW

13. **Ibrahim Djedovic Case:** On 6 October, the Sarajevo

Cantonal Court issued its decision in the case of Ibrahim Djedovic. While acquitting Mr. Djedovic of war crimes against prisoners of war, the Court convicted him on charges of war crimes against the civilian population. In a press release issued after the decision, the OHR, the OHCHR, and the OSCE expressed their serious concerns as to the fairness of the trial. International observers expressed significant concerns throughout the pre-trial and trial phases. The observers explicitly objected to fundamental violations of Mr. Djedovic's right to legal counsel during the pre-trial period. In spite of repeated interventions by the international community, Mr. Djedovic's two lawyers were prevented from meeting privately with their client and were forbidden from discussing substantive issues related to Mr. Djedovic's case with him for five months following his arrest. Proceedings in the main trial were also fundamentally flawed. The Defence's motions regarding the hearing of witnesses were consistently denied by the Court as being irrelevant and in one of the last hearings, over thirty proposed defence witnesses were summarily rejected by the Court, constituting a violation of Article 6(3)(d) of the European Convention on Human Rights. The Prosecutor substantially amended the indictment and submitted it to Mr. Djedovic on the afternoon before closing speeches were due to be heard by the Court. The amendment was made without any further indication as to a change in the factual situation or legal assessment of the case. This failure to adhere to basic fair trial standards set forth in the ECHR seriously calls into question the impartiality of the Court.

14. Furthermore, the international organisations monitoring the trial expressed their serious concern that the evidentiary basis for the conviction fell far short of establishing guilt beyond a reasonable doubt. The organisations also note that the proceedings against Mr.

Djedovic began illegally, with his arrest in the Federation Parliament on 7 May 1997, in violation of provisions of the Federation Constitution on immunity of Members of Parliament. **The international community calls upon the Federation Supreme Court to thoroughly review the proceedings in this case, and to specifically address the violations and concerns noted above.**

15. **Zvornik 7 Retrial Update:** The retrial of the Zvornik 7 resumed in Bijeljina (RS) on 13 October. The court dismissed a defence motion asking for all previous statements of the defendants, including their confessions, be excluded and ruled the decision could not be appealed. On 23 October, only one witness was heard but no evidence tying the defendants to the crime was presented. Statements made by the defendants soon after their arrest were read into the court record. However, defendants claim these statements were made under duress, and are supported by corroborating statements and IPTF reports. The judge confirmed forced confessions can not be used as a basis for conviction and that the IPTF documents may be used as evidence of ill-treatment. OSCE continues to press for the admission of the IPTF documents.
16. **Subotic Case:** On 23 October, the Visoko Municipal Court announced the verdict in the Subotic case. On 1 March 1997, Slavko Subotic, an elderly Bosnian Serb man, was beaten while returning from a graveyard visit near Visoko. He later died from his injuries. Eighteen women and two men, all displaced persons from Srebrenica, were accused of participating in the attack. The Court found five of the women guilty of the offence and found the two men guilty of complicity in the same crime, sentencing them to nine and six months imprisonment respectively. All sentences were suspended contingent on two years good behaviour. In a press release issued on 17 November, OSCE, OHR, UNMIBH expressed their serious concern that the sentences handed down in this case do

not reflect the severity and brutality of the crime. The international organisations called on the prosecutor to carefully examine the written decision in this case and to seriously consider an appeal of the final verdict.

PROPERTY RIGHTS AND PROPERTY LEGISLATION

Federation Property Legislation

17. Since the **decision to extend the deadline for reclaiming socially owned apartments by a further six months** [see HRCC Bi-Monthly Report, August-September 1998], the registration of claims in most municipalities has improved significantly. However the deadlines in the law for decision-making are usually not complied with, and in most locations the progress on deciding claims is inadequate. The overwhelming majority of claimants have neither regained possession of their properties, nor gained any benefit by participating in the claims process. The Property Sub-Committee will complete a second review of the claims process at the end of the year, and communicate the results to the RRTF and the donor community. The Property Sub-Committee is the principal policy-setting body on human rights issues connected with property and consists of property experts from various organisations.
18. **Article 3(6) Criteria of the Federation Law on Cessation of Application of the Law on Abandoned Apartments:** Article 3(6) of the Law on Cessation allows the Cantonal authorities to reallocate returnees to an alternative apartment, if a new permanent occupancy right has been created on behalf of the current occupant of the apartments. The decision on reallocation should be taken in accordance with Criteria adopted by the Federation Ministry of Urban Planning and Environment, which must comply with Annex 7 of GFAP and the ECHR. On 22 October, the Federation Government passed and published Criteria

while negotiations with the OHR were still underway, and despite reservations expressed by senior members of the Government and the Government Legislation Office. The adopted Criteria are clearly contrary to Annex 7 and open the possibility that returning families may both lose their pre-war apartment and be denied an alternative apartment. That could affect pre-war tenants of some 12,000 apartments in Sarajevo and of large numbers of apartments in other Federation towns. On 6 November, the High Representative took a decision under his Bonn powers to **suspend the application of Article 3(6) of the Law and the sale of apartments to persons who acquired an occupancy right to an apartment after 30 April 1991**. The Decision will remain in place until further notice.

19. These measures do not amend the law, nor permanently alter the rights of any person. They are designed to prevent any deterioration of the legal status of refugees and displaced persons, until various injustices in the Federation laws on property and housing are addressed. The High Representative has asked the Federation Government to undertake a comprehensive review of all laws, regulations and administrative practices relating to property and housing, in consultation with OHR and other interested international organisations.

Evictions in Republika Srpska

20. While there have been reinstatements over the reporting period, legal evictions of illegal occupants, necessary for the reinstatement of returnees to their pre-war homes in Republika Srpska, have been repeatedly delayed. The Ministry of the Interior issued Orders in July and August which effectively meant that the local police did not have to be present at every eviction. These Orders are no longer applied following an intervention by the

IPTF Commissioner. However support by local police in enforcing evictions remains weak. IPTF made several strong interventions during October, threatening to issue non-compliance reports to officers who fail to enforce or attend court ordered evictions. There were five reinstatements of Banja Luka “floaters” during August, none during the elections period in September, and a further four in October. There are ten court ordered evictions scheduled for November. Five were scheduled for between 1 and 11 November, but were not carried out.

INSTITUTIONAL AND POLICY DEVELOPMENTS

21. **Inter-Entity Conference on Judicial Cooperation:** The OSCE and the ABA/CEELI organised a second inter-entity conference on judicial cooperation on 1 October in Tuzla, with over 30 judges and court presidents from Maglaj, Tuzla, Zenica and Zavidovici (Fed) and Bijeljina, Brcko, Doboj, Gracanica/Petrovo and Teslic (RS). The agenda included a range of inter-entity legal issues and focused on the need to encourage inter-entity communication between judges.
22. **Conference on Constitutional Courts:** On 23 and 24 October, a Conference on the Constitutional Courts of Bosnia and Herzegovina was held in Banja Luka, hosted by the RS Constitutional Court and co-sponsored by the ABA/CEELI, EU Phare and the Council of Europe. Discussions focused on the implementation of decisions, the relationship between the three Courts and their links with other bodies, including the proposed new RS ombudsmen institution.
23. A training seminar on the **European Convention on Human Rights**, co-organised by the Council of Europe and the OSCE, took place in **Trebinje** on 6 and 7 October. The seminar was the first training of its kind to be held in eastern Republika Srpska. Around 35 judges, prosecutors

and lawyers participated in discussions on the right to liberty and security of the person, the right to fair trial and access to independent courts and the right to property. A legal expert from the Ombudsperson's Office in Banja Luka explained principles of domestic implementation.

24. The Council of Europe organised a two-week **training programme for middle management police officers** from both entities in Spain from 27 September to 10 October. The Council of Europe and IPTF had previously organised a workshop on human rights for local RS police trainers and IPTF training staff in Lukavica from 29 June to 2 July. A training manual focusing on the ECHR and other international standards was successfully tested during a previous training session in Sarajevo in March. The manual was adapted in light of comments received from local police officers who participated in the training.
25. **Sarajevo Education Working Group:** Sarajevo Educational Authorities have continued to work successfully with the Sarajevo Education Working Group on discrimination projects and democracy projects, although implementation of the textbook review guidelines has been halted. The **Sub-Group on Textbooks** worked through August and September to finalise its analysis of outstanding textbooks still to be analysed. In the meantime, the Implementation Task Force set up by the Minister of Education in agreement with the Education Working Group worked to produce guidelines for the Ministry's endorsement as to how the recommendations of the Education Working Group were to be implemented. These were presented to the Ministry for this purpose but a subsequent leakage to the press of one of the guideline documents, and subsequent mis-reporting of the issue by the media led the Minister to refer the matter to the Cantonal Government. This has now rejected the work of the Implementation Task Force, stating that the Education Work Group has no legal force and that its

recommendations could therefore not be implemented by Sarajevo schools. This decision calls into question the validity of the Sarajevo Declaration itself; and ignores the fact that the Education Working Group was established by agreement with the Minister of Education, has proceeded throughout on the basis of agreements reached with the Ministry, and that the recommendations for schools were developed by the Implementation Task Force set up by the Ministry itself in agreement with the Education Working. The Cantonal Government has called for the Minister to review the textbooks and to make changes to them. OHR is clarifying the legal situation and endeavours to ensure that the recommendations produced by the Implementation Task Force are implemented. The **Sub-Group on Discrimination** finalised posters and leaflets on the issue of discrimination and completed distribution to Sarajevo schools and select NGOs at the beginning of the school year. Follow-up visits to schools to discuss the work of the sub-group have taken place.

HUMAN RIGHTS INSTITUTIONS

26. **Human Rights Chamber:** The Human Rights Chamber met in Sarajevo for its Twenty-Ninth Session from 12 to 16 October. During the session, the Chamber considered 63 cases – 16 cases were considered by the Plenary, 24 cases by Panel I, and 23 cases by Panel II. Thirty-four cases were transmitted to the parties for information or observations. The Chamber also discussed the Chamber's general policy in respect of deadlines and considered guidelines for the ordering of provisional measures. As of 31 October, the Chamber had over 1,200 registered cases. The Chamber has issued a total of 19 decisions on the merits, involving 36 cases. In addition, over 20 other cases have been resolved by a decision to strike, by a decision of inadmissibility or by amicable

resolution. [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.*

Office of the High Representative