



Nb - 2011.7.  
PC.DEL/65/97  
9 October 1997

ENGLISH only

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| PC.DEL/65/97  | Blag |
| - 9 OKT. 1997 |      |
| 5862/10.2     |      |

UN Special Rapporteur for Human Rights  
in Bosnia and Herzegovina, the Republic of Croatia  
and the Federal Republic of Yugoslavia

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| UDENRISMINISTERIET | BLAG |
| Nb                 |      |
| 20 OKT. 1997       |      |
| 313.D.1            |      |

Remarks to the OSCE Permanent Council

9 October 1997  
Fremsendes uden følgeskrivelse

til N.b.  
til underretning / foranstaltning  
OSCE-delegationen Wien, den 13/10-97

Excellencies,

I am pleased for the opportunity to speak with you here in Vienna today. I would like to share with you some of my most recent observations and conclusions regarding the situation of human rights in the countries in my mandate as Special Rapporteur of the Commission on Human Rights.

As you are well aware, nation-wide municipal elections supervised by the OSCE were held in Bosnia and Herzegovina in September and, from all accounts, the voting took place in a generally peaceful climate, with only a few serious incidents reported.

More generally, however, the implementation of the human rights provisions of the Dayton Agreement, has been far from satisfying. In fact, in recent months, the overall human rights situation in Bosnia and Herzegovina has in some ways deteriorated. Among the main issues that I would like to address are (1) the returns of displaced ethnic minorities, and (2) freedom of movement.

The rights of refugees and displaced persons to return to their homes lies at the heart of the Dayton Agreement. However, the right to return has been implemented by the parties only slowly, and returns have been principally to areas where returnees are of the same national group as the local majority. The security of returnees, especially those returning to areas where they would be in the minority, continues to be threatened. In recent weeks, there has been an increase in bomb and grenade attacks which apparently reflect attempts to impede the return of ethnic minorities. For example, in Mostar, on 18 September, a car bomb exploded near a police station

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on the west side of the city, wounding around 50 people and causing extensive damage to nearby buildings. On 24 September, a mosque in Tomislavgrad was severely damaged by an explosion.

There are many elements which are essential in guaranteeing the security of returnees. In particular, the role of the local police cannot be over-estimated. Although the international community can provide some security through its presence, in the long-term, only the vigilance of local law enforcement authorities, combined with proper functioning of the judicial system, can ensure favorable conditions for returns. Much progress remains to be made, however, in establishing professional local police forces.

Moreover, many administrative obstacles, which may appear small at first, also obstruct returns due to their cumulative effect. Illegal requests for visas, customs duties and road taxes prevent freedom of movement and, indirectly, returns. Another obstacle appears to be extreme retroactive taxation of people who left their municipalities during the war. Both Republika Srpska and Federation authorities reportedly have levied taxes to the harm of returnees.

The lack of respect for property rights has also proven to be a major impediment to returns, since one of the critical factors in deciding whether to return is whether one will have a place to live. Unfortunately, property-related human rights violations continue to occur, including in the form of evictions, where local police, sometimes illegally occupying flats themselves, have failed to cooperate. There has also been a continuing trend of the destruction of housing, in which the houses involved clearly are targeted with the intent to deter minority returns. I have visited many of the areas in which houses have been blown up with explosives, and I have condemned in the strongest terms these acts, and demanded that local authorities take all necessary action to arrest and prosecute those responsible.

Further on the issue of property, in the report I have just submitted to the General Assembly, I recommended that the relevant authorities in both entities amend their property laws, to make it easier for pre-war occupants to reclaim their properties.

During my recent visits to the country, I have visited areas where returns have been

<sup>1</sup> especially difficult, including Brcko and Banja Luka (in the RS), and Stolic, Drvar and Jajce (in the Federation). I have continued to follow the situation in Bugojno, where local Bosniak authorities have not allowed Croats to return. On the positive side, I am pleased to note that the pilot project in Stolic has progressed, with the return of almost 50 families. In addition, I was struck by the determination of some of the returnees to stay in their villages. I was particularly impressed when I visited Jajce in August, where Bosniak returnees were forced from town during an incident in early August, but where they have since returned.

Finally, I would like to mention those municipalities participating in the Open City initiative of UNHCR, which is the right approach, in which towns receive financial and material assistance on the basis of respect for human rights. Vogosca and Konjic, for example, should be commended. Despite the successful implementation of this initiative in these areas, there has been a nearly-total lack of minority returns to the territory of the Republika Srpska. We must take steps to try to resolve this problem.

One of the effects of the signing of the Dayton Agreement was supposed to be the creation of an environment of freedom of movement, where all travelers could move freely from one region to another. Unfortunately, I still receive a great deal of information showing that freedom of movement continues to be violated throughout the territory. Abuses by law enforcement officials both of the Federation and the RS are commonly perpetrated near the Inter-Entity Boundary Line by illegal checkpoints, illegal visa fees and road taxes, demand of legal documents not legally required, confiscation of documents and goods, and even arrests. For example, there have been numerous complaints alleging that RS authorities have requested visa fees from travelers, especially in the Brcko area. Although I, along with other international observers, have stressed that only Bosnian State authorities -- and not those of the entities -- are competent in such matters, abuses of this type have continued to occur.

In May of this year, in response to the increasing violations of the rules for police checkpoints, the Commissioner of the IPTF introduced a stricter policy designed to reduce the number of illegal checkpoints. One aspect of this new policy is that all checkpoints not specifically authorized by IPTF are considered to be illegal. The new policy is generally respected

in the Federation, although some violations do occur. There is much more resistance in RS, however, where the authorities have clearly stated that the RS police will not cooperate with the checkpoint policy.

A major impediment to ensuring freedom of movement throughout the territory is the lack of a uniform car registration system. Unfortunately, the absence of such a system increases the likelihood of violations of freedom of movement on ethnic grounds. Cases are often reported of police officers stopping vehicles displaying a registration plate from elsewhere in the country. As you may know, the Steering Board of the Peace Implementation Council called in May for the introduction of a uniform car-registration system by January 1998. I will be following developments on this issue closely.

A positive development in Bosnia and Herzegovina is the growing prominence of the human rights institutions, including the Ombudsperson and the Ombudsmen of the Federation. Although they are becoming better known, however, the compliance which their decisions receive from local authorities continues to be completely inadequate. The future role of these organisations is one of my primary concerns, since they will become responsible over the long term for the protection of human rights in Bosnia and Herzegovina.

In Croatia, the right to return of refugees and displaced persons continues to be a contentious issue. The ongoing unstable security situation, with acts of looting, harassment, discrimination and even killings still being reported in the former Sectors, remains one of the main impediments to returns, especially of Croatian Serbs. However, there have recently been some encouraging signs.

In the former Sectors, although the Croatian police presence appears to have increased, its effectiveness varies considerably, with units in some districts reacting promptly to criminal activity while others do not. Killings in these areas have decreased significantly, although I was recently informed of the death of a Croatian Serb returnee in Doljani village, former Sector South, on 10 September. On 13 September, two ethnic Croats were murdered in Korana, near

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the Plitvice Lakes, former Sector South, allegedly by their Serb neighbors. These incidents justify ongoing security concerns in these areas.

The unstable security situation is just one of the obstacles to the return of refugees and DPs. The issue of the Government's confiscation of property belonging of the Croatian Serbs on the basis of the *Law on Temporary Takeover of Specified Property* continues to concern me. Despite increasing property claims filed by Croatian Serbs, residences continue to be handed over under the law to newly-arrived Croat settlers. Notwithstanding recommendations by me, the Ombudsman and many others that the law should be suspended, the Constitutional Court decided on 25 September against annulling the law in its entirety, only cancelling certain provisions.

Another barrier to returns is the restrictive conditions sometimes imposed on Croatian Serb refugees outside of the country who possess valid Croatian citizenship certificates, the *domovnica*. Many refugees who intend to repatriate to Croatia from Belgrade with the help of UNHCR, or who spontaneously return on the basis of a *domovnica*, are no longer able to cross the border without first obtaining additional travel documents from the Croatian embassy abroad. There is, however, no established procedure for Croatian citizens to obtain valid passports or travel documents from Croatian embassies in neighboring countries.

Nevertheless, despite these obstacles, some refugees and displaced persons are beginning to return. Recent returns organized by the Joint Working Group composed of representatives of the Government, UNTAES, and UNHCR have occurred without serious incident. For example, on 27 August, the biggest convoy yet of Serb families (203 persons altogether) left Eastern Slavonia for Daruvar, Karlovac and Knin in the former Sectors. As of last month, a total of some 1,400 Croatian Serb Dps had returned with the help of the Joint Working Group, while another 6 - 7,000 are estimated to have returned spontaneously. Meanwhile, the return of Croat DPs to the Region of Eastern Slavonia is slower than anticipated by the Government, but this rate is expected to increase in the near future.

In the Region of Eastern Slavonia, the personal security of displaced Serbs and their

<sup>1</sup> reintegration into Croatian society remain of concern. Despite the admirable work of UNTAES and repeated declarations of good will, the Government of Croatia has not undertaken sufficient action to provide all of the Region's residents with a strong sense of security and membership in Croatian society. I continue to receive reports of harassment against displaced Serbs. The violence often occurs with the collusion or active participation of the Croatian members of the Transitional Police Force, although the Government has taken some corrective action, including dismissals of officers. Despite this disciplinary action, however, the continued harassment appears to have had an impact on the confidence of displaced Serbs.

In terms of the Region's reintegration into Croatia, some progress has been made, for example, the reintegration of electricity, post and telecommunications systems, the rebuilding communal buildings such as schools and health centres, and the Government's issuance of some 150,000 citizenship certificates. However, problems remain. Discrimination against ethnic Serbs by Croatian officials continues. Furthermore, a number of displaced persons continue to have difficulties obtaining Croatian documents, and denials of citizenship have raised concerns as to arbitrariness. Finally, legislation regarding the reintegration of the local judiciary, although enacted, has yet to be implemented.

Concerning the Federal Republic of Yugoslavia, I am deeply concerned about the police reaction to demonstrations which took place in the country during the past ten days. The first, in Belgrade, was a reaction to the dismissal of the Mayor of Belgrade and the closing of independent media outlets. The second, in Pristina, Kosovo, was a protest by students to demand access to Pristina University and for classes to be taught in Albanian instead of Serbian. The protest was triggered by the failure of the Serbian and ethnic Albanian political leaderships to implement the year-old agreement on education. In Pristina, riot police armed with truncheons and pistols dispersed the crowd of more than 20,000 persons, beating some of the students at the front of the march. Shortly afterwards, the police fired teargas into the crowd. According to a field officer of the High Commissioner for Human Rights who was monitoring the demonstration, there was no provocation or resistance from the students, and some police actions appeared to involve excessive force.

I shall send a letter to the Minister of the Interior of Serbia requesting that an investigation of the police responses to the demonstrations in Pristina and Belgrade be conducted immediately. I am not optimistic; however, that the Government will respond, since I have rarely received replies to the many detailed questions about reported violations of human rights which I have raised during the last year, whether in person or in writing. In fact, my detailed communications to the Ministry of the Interior about alleged police misconduct during last winter's demonstrations in Belgrade have so far failed to receive a response. Most recently, I have not received a response to my latest special report, finding major breaches of due-process standards in two trials of Kosovo Albanians this past summer.

The Government's treatment of minorities in both Kosovo and Sandzak remains a major concern for me. In Kosovo, the police continue to abuse and mistreat ethnic Albanians. In addition, discrimination against ethnic Albanians in the fields of education and employment is prevalent. As I just mentioned, more than a full year has passed since the Memorandum of Understanding on normalizing education in Kosovo was signed by President Milosevic and Dr. Rugova on 1 September 1996, and I am concerned that no concrete steps have been taken to implement the agreement.

The situation in the Sandzak region remains problematic as well. On 10 July 1997, the situation in Novi Pazar turned tense when heavy police units entered the town hall with an order from the Serbian Government to dissolve the town administration and assembly. At previous municipal assembly elections, the Muslims had secured two-thirds of the seats. These drastic measures, which amounted to *de facto* nullification of those local elections, are certainly not conducive to fostering the fragile democracy trying to take root in Serbia.

Although the security situation in the Sandzak area has improved in recent years, with no systematic abuses being reported, I have learned of some violent attacks against Muslims which occurred in the first months of this year. I have also been informed that the police have so far failed to investigate these crimes, which were apparently ethnically motivated.

One of my main concerns in the Federal Republic of Yugoslavia continues to be the

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question of media freedom. The recent decision of Belgrade's city council to replace the management and governing council of independent Studio B is of great concern to me. Independent media generally in the country is in a highly vulnerable position. In this regard, I have paid special attention to proposed new media legislation, which continues to favor the interests of political leaders over journalists, for example, by allowing sanctions against journalists who criticize politicians.

For all three of the countries which I have discussed, let me add a word about their cooperation with the International Criminal Tribunal for the former Yugoslavia. As I have mentioned on innumerable occasions, I consider the just and impartial prosecution of war crimes to be one of the key factors required for social reconciliation. In this regard, the recent surrender of 10 Croats to the Tribunal for prosecution certainly deserves positive recognition. In Bosnia and Herzegovina, however, especially on the Republika Srpska side, cooperation by local authorities has obviously been completely unsatisfactory. I hope this question will remain at the top of the international agenda for the region during the weeks to come.

Finally, allow me to mention just a few words about the former Yugoslav Republic of Macedonia. In my final report dated 30 September 1997 on the country, I recommended to the Commission on Human Rights that it be removed from my mandate, since I believe the Government has made considerable progress in the protection of human rights since the establishment of the Special Rapporteur's mandate in 1992. In particular, I have been pleased by the establishment of the Office of the Ombudsman, and the passage of the new Law on Criminal Procedure, clarifying that court orders are required before the police can detain citizens for so-called "informative talks."

Concerning the Gostivar incident of 9 July 1997, in which three ethnic Albanian demonstrators were killed and more than 100 others injured in a clash with police over the use of minority flags, I concluded that the episode involved an excessive use of force by the police. I called on the Government urgently to arrange a human rights training programme for police

which will include international agencies and experts in the field, and also recommended that police officers implicated in the use of excessive force at Gostivar be suspended from duty, pending the final results of the official inquiries.

On the issue of minority rights, some problems certainly still exist, including the under-representation of minorities in public administration, and the need for respect for minority wishes to receive higher education in their mother tongue. However, I believe that the Government of the former Yugoslav Republic of Macedonia generally has implemented policies which protect and advance minority rights, while at the same time preserving the rights of all citizens of the Republic. I have urged the Government to maintain its close cooperation with international offices concerned with minority rights, including the OSCE High Commissioner for National Minorities, Mr. Max van der Stoep.

#### CONCLUSION.