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the Federal Republic of Yugoslavia**

... Croatia

Note by the Secretary-General

Addendum

The present addendum updates, as of 25 October 1998, the report submitted by Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Federal Republic of Yugoslavia (A/53/322), in accordance with General Assembly resolution 1997 and Economic and Social Council decision 1997/12, in response to requests of the Commission on Human Rights and the Human Rights Council, and made available to the members of the Security Council and the Commission on Cooperation in Europe.

contained in the report
Human Rights on the
Federal Republic of
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1998. Pursuant to the
Commission will also be made
available to the Security and
Cooperation in Europe.

Annex

Addendum to the report prepared by the Special Rapporteur on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Federal Republic of Yugoslavia

Commission on Human Rights
the Republic of Croatia

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Fifty-third session
Agenda item 110 (c)
Human rights questions: human rights situations and
reports of special rapporteurs and representatives

**Situation of human rights in Bosnia and Herzegovina, Croatia
and the Federal Republic of Yugoslavia**

Note by the Secretary-General

Addendum

The present addendum updates, as of 25 October 1998, the information contained in the report submitted by Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and

Herzegovina, Croatia and the Federal Republic of Yugoslavia (A/53/322), in accordance with General Assembly resolution 52/147 of 12 December 1997 and Economic and Social Council decision 1998/272 of 30 July 1998. Pursuant to the requests of the Commission on Human Rights and the Council, the report will also be made available to the members of the Security Council and the Organization for Security and Cooperation in Europe.

Annex

Addendum to the report prepared by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

I. Bosnia and Herzegovina

A. Return of refugees and displaced persons

1. As of early October, an estimated 81,500 refugees and displaced persons had returned to their homes in Bosnia and Herzegovina. Despite the willingness of an increasing number of refugees and displaced persons to return home, pockets of entrenched political opposition to the right to return continue to block larger-scale returns. Minority return figures are particularly low, and the need for temporary housing for them, because their houses continue to be occupied, creates additional tension. The arrival of almost 9,000 refugees from Kosovo has placed an additional burden on the State, which must find places for them to live, and may have a negative impact on the minority return process.

2. Serious return-related incidents continue to be reported throughout the country. In Capljina, Federation of Bosnia and Herzegovina (Bosnian Croat-controlled), several explosions occurred on 1 October as a group of Bosniak displaced persons tried to return, killing one Bosniak returnee and seriously wounding two others. The local police failed to provide security for the returnees, necessitating the intervention of the Multinational Specialized Unit of the Stabilization Force, a new specialized riot-control unit.

3. Explosions and fires targeting the property of returnees have occurred recently in Bosanska Gradiska, Republika Srpska (RS), Kotor Varos (RS), Dvar (Federation) and Stolac (Federation), creating an overall climate of insecurity. Returnees have expressed their lack of confidence in the local police: in many cases, the police have been responsible for obstructing returns or for failing to investigate such abuses.

B. Property rights and legislation

4. Implementation of the new Federation property laws (under which claims for repossession of apartments must be lodged with housing authorities in the municipality where the apartment is located) has revealed the inadequacies of the municipalities in processing the claims. Continuous obstruction and improper practices by municipal officials in the Federation have led the High Representative to extend by six months the 4 October 1998 deadline for submitting claims. Also, despite a massive public information campaign on the property legislation undertaken by the international community, there is still confusion about the process, particularly in the Republika Srpska and the Federal Republic of Yugoslavia, where many refugees and displaced persons currently reside.

5. The Republika Srpska government still has failed to adopt property laws comparable to those adopted in the Federation. The previous government had claimed that it was politically difficult to press ahead with this issue before the September 1998 elections. RS housing authorities continue to apply the wartime legislation on abandoned property, which is detrimental to the rights of original owners as well as to holders of occupancy rights and constitutes a serious impediment to return.

6. Some progress in Banja Luka (RS) has been made with respect to the reinstatement of ethnic minorities to their property. In the past three weeks, 15 court-ordered evictions were successfully carried out, which resulted in the reinstatement of several "floaters" (i.e., Bosniaks and Croats forcibly evicted from their homes in 1995 who never left Banja Luka). However, this positive development has required repeated interventions and pressure by the international community, and thus cannot be said to necessarily reflect a change of policy of the RS government with respect to minority returns.

C. Police reform

7. The establishment of multi-ethnic police forces throughout Bosnia and Herzegovina is fundamental to the sustainability of large-scale returns. According to the United Nations Mission in Bosnia and Herzegovina (UNMIBH), the level of minority police representation is still unsatisfactory. As of October 1998, Bosnian Serb police officers constitute only 1.17 per cent of the Federation police forces. In the Republika Srpska, Bosniaks and Bosnian Croats constitute 2.77 per cent of the total RS police forces. UNMIBH has stated that recruitment and return of minority police will be one of its primary goals for 1998 and 1999.

D. Judicial reform

8. In a joint press statement, the Office of the High Representative, the Office of the United Nations High Commissioner for Human Rights and the Organization for Security and Cooperation in Europe (OSCE) expressed their serious concern about the fairness of the trial of Ibrahim Djedovic, convicted on charges of war crimes against the civilian population and sentenced to 10 years' imprisonment by the Sarajevo Cantonal Court on 6 October 1998. Among the irregularities observed was the violation of the right to legal counsel, as provided in article 6, paragraph 3 (b) and (c), of the European Convention on Human Rights, which is directly applicable under Bosnian law. Proceedings in the main trial were also fundamentally flawed, with the court summarily rejecting 30 defence witnesses, also a violation of the European Convention. The failure to adhere to basic fair trial standards set forth in the European Convention seriously calls into question the impartiality of the court, the statement read.

9. Progress in the implementation of the memorandum of understanding on legal assistance between the entities, signed on 20 May 1998, was made in connection with two ongoing war crimes trials taking place in the Federation. In the *Andric* case, a re-enactment of the crime was conducted in the RS by the Sarajevo Cantonal Court. In the *Vasic* case, the Sarajevo Cantonal Court agreed to examine the witnesses for the defence - all of whom reside in the Republika Srpska and refuse to testify in Sarajevo - in the Srpsko Sarajevo District Court in the Republika Srpska.

10. A survey of the judicial personnel structure in the Republika Srpska conducted by the Office of the United Nations High Commissioner for Human Rights found that 67 per cent of juridical positions in the RS court system were currently filled, as were 74 per cent in the primary courts and 47 per cent in the district courts. With respect to the ethnic composition of the judicial staff, the survey found that 4.6 per cent of the positions at the primary court level and 2.1 per cent at the district court level were occupied by non-Bosnian Serbs.

E. Missing persons

11. The joint exhumation process is continuing, with the local commissions (made up of Bosniaks, Serbs and Croats) working well. As of October 1998, over 1,000 bodies had been exhumed, which is almost twice the number in the previous two years combined. In October, the largest mass grave to date in Bosnia and Herzegovina was discovered in Glumina, Zvornik municipality (RS). The remains of 274 Bosniaks were exhumed and are now undergoing identification. The victims were allegedly killed by Serbs on 21 May 1992. Exhumations of mass graves in the Prijedor area (RS) are also continuing. Over the past two months, the remains of 375 Bosniaks and Croats have been exhumed in the villages of Kosarac, Kamicani, Carakovo, Hambarine, Brisevo, Biscane, Zecovi and Ljubija.

F. National elections of 12-13 September

12. On 25 September, OSCE announced the results of the 12-13 September elections for the Joint Presidency of Bosnia and Herzegovina, the RS National Assembly, the Bosnia and Herzegovina House of Representatives, 10 cantonal assemblies and 11 municipal elections. The High Representative, Carlos Westendorp, told the press that, overall, the elections marked a positive trend towards moderation and political pluralism. The elections took place peacefully, with very few security-related incidents.

13. Elections to the Joint Presidency of Bosnia and Herzegovina confirmed the incumbent, Alija Izetbegovic, as the Bosniak member, and Croatian Democratic Union (HDZ) President (and outgoing Federation Minister of Defence) Ante Jelavic as the Croat member (defeating the more moderate Kresimir Zubak of the New Croatian Initiative). In the election for the Serb member of the Bosnia and Herzegovina Presidency, Sloga candidate Zivko Radisic defeated the incumbent, Momcilo Krajisnik. According to international observers, the election of Mr. Radisic is likely to facilitate the working of the joint institutions and will constitute a dramatic change from his predecessor, Mr. Krajisnik, who was a hardliner and an uncompromising obstructionist.

14. For the RS presidency, the incumbent, Biljana Plavsic, lost to the President of the Serb Radical Party, Nikola Poplasen, by less than 40,000 votes. While some observers believe that Mr. Poplasen's victory may constitute a rejection of "multi-ethnicity" and a return to the past, Mr. Poplasen declared in a public interview with the Bosnian newspaper *Dani* that he "insists on the implementation of Dayton" and that he "will defend Serb national interests without harming those of the Bosniak Muslims or Croats and without harming the other entity". The composition of a new RS government will have an influence on the ability of Mr. Poplasen to carry out his own agenda. The choice

of Prime Minister has to be confirmed by a majority of the RS National Assembly, where no single party or coalition of parties obtained sufficient votes to form a majority. It is therefore to be expected that the Sloga coalition parties will have a key role in the designation of the new RS Prime Minister.

15. In the Federation House of Representatives, the main Bosniak party, the Party for Democratic Action (SDA) won 47.9 per cent of the seats and will no longer hold an absolute majority. Similarly, the HDZ lost 8 of its 36 seats and now holds 19.7 per cent, down from 25.3 per cent. In the cantons, the New Croat Initiative party (led by Kresimir Zubak) made some progress in a number of areas as did the Social Democratic opposition, which considerably increased its presence in some areas.

G. Kosovo refugees

16. Since early March, after the first police operation conducted by the Serb Special Police forces in Kosovo, refugees from Kosovo started arriving in Bosnia and Herzegovina. As of early October, the Office of the United Nations High Commissioner for Refugees (UNHCR) had registered 9,000 refugees (almost exclusively in the Federation). While most of the refugees are either staying with relatives or friends or occupying empty houses, a growing number are being accommodated by UNHCR in collective centres.

17. On 1 October, the Council of Ministers of Bosnia and Herzegovina signed instructions on the temporary admission of refugees from Kosovo, which provide for temporary protection. The instructions regulate, in accordance with international refugee and human rights law, *inter alia*, their admission in safety and protection against refoulement without discrimination, as long as the crisis in the Federal Republic of Yugoslavia continues.

II. Republic of Croatia

A. Right to life and personal security

18. On 3 September, an Italian tourist died as a result of police brutality that caused contusions and haemorrhaging in the brain. According to the Croatian information agency HINA, on 1 September, the police inflicted serious physical injury on the tourist while arresting him. HINA later reported that "on September 2, seven police officers beat up [the Italian tourist] who died from injuries the following day in Split hospital". It remains unclear when exactly the person was subjected to ill-treatment. It is also doubtful whether the victim was given prompt medical treatment, which might have saved his life. The case resulted in the dismissal of three senior police officials from the county where the incident occurred.

B. Right to return

19. Although progress in the implementation of the Government's programme for the return and accommodation of displaced persons, refugees and resettled persons has been generally uneven, there have been some positive recent developments. In regard to the existing discriminatory legal provisions that impede return and repossession of property, the Government, in a meeting on 21 October with international representatives, provided assurances that it would work with experts of the international community to amend current laws, such as the Law on Areas of Special State Concern, to ensure equal treatment of all those accorded returned status. Secondly, the Government has begun issuing temporary green cards, valid for one month, to all those returning through the auspices of the Joint Working Group. This temporary returned status will make it easier for assisted returnees to have access to rights and benefits while they wait for their identification and other documents. Meanwhile, the housing commissions in municipalities are still not implementing the return programme in a satisfactory manner, with the problem appearing to be a lack of clear instructions from national authorities.

20. Since the endorsement by the Croatian Parliament on 26 June 1998 of the return programme, a total of 2,238 persons have returned to Croatia. Of this number, 1,331 returned under the Joint Working Group, and the rest "spontaneously".