

REBUILDING A MULTI-ETHNIC SARAJEVO:
The Need for Minority Returns

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Table of Contents

| | |
|---|-----------|
| EXECUTIVE SUMMARY..... | I |
| I. INTRODUCTION..... | 1 |
| II. STRUCTURE OF THE CANTON | 1 |
| III. DEMOGRAPHICS..... | 2 |
| IV. PROPERTY | 4 |
| A. Housing Density..... | 4 |
| B. Property Laws and Returns..... | 4 |
| C. OHR Amendments..... | 6 |
| D. Yugoslav National Army Apartments..... | 8 |
| V. ADMINISTRATION | 9 |
| A. Obstruction by Officials | 9 |
| B. Administrative Structures | 12 |
| VI. REGISTRATION HURDLES..... | 13 |
| VII. MULTI-RELIGIOUS AND MULTI-CULTURAL PRESENCE | 14 |
| A. Jewish Community..... | 14 |
| B. Religious Property..... | 14 |
| C. Violence Against Religious Structures | 15 |
| VIII. SECURITY..... | 15 |
| IX. DISCRIMINATION IN EMPLOYMENT..... | 16 |
| X. DISCRIMINATION IN EDUCATION..... | 17 |
| XI. RECOMMENDATIONS..... | 18 |
| ATTACHMENTS: | |
| About the International Crisis Group..... | 24 |
| Other ICG Bosnia Project Reports..... | 25 |
| International Crisis Group Board Members..... | 26 |

REBUILDING A MULTI-ETHNIC SARAJEVO: The Need for Minority Returns

EXECUTIVE SUMMARY

To many who followed the Bosnian war from abroad, Sarajevo symbolised Bosnia and Herzegovina's rich tradition of multi-culturalism and multi-ethnicity. While the Bosnian capital came under daily bombardment from Republika Srpska forces, its citizens of all faiths, Bosniacs, Serbs, Croats and others, suffered and survived together in the spirit of tolerance in which they had lived together for centuries. For multi-culturalism and multi-ethnicity to re-emerge in Bosnia after the war, this spirit must be rekindled in peace.

The Sarajevo Canton, which comprises nine municipalities, is one of the few areas in Bosnia in which a significant, albeit drastically reduced, proportion of minorities continue to live among the majority Bosniac population. Indeed, more than half of all minority returns which have taken place since the Dayton Peace Agreement (DPA) was signed have been to this canton. Sadly, however, this stresses the generally grim state of minority returns rather than Sarajevo Canton's good record. Though Bosniac political leaders have generally supported the DPA, their actions have fallen behind their words and the overall record is poor. Minority returnees face a variety of problems, including discriminatory property legislation; administrative obstacles; threats to personal security; discrimination in employment and a hostile school curriculum.

According to statistics from the Office of the United Nations High Commissioner for Refugees (UNHCR), Sarajevo's population has slumped from 500,000 in 1991 to 349,000 today. At the same time, the Bosniac population has jumped from 252,000, or 50 percent of the total, in 1991 to 303,000, or 87 percent, today; the Serb population has dwindled from 139,000, or 28 percent, in 1991, to 18,000, or 5 percent, today; and the Croat population has fallen back from 35,000, or 7 percent, in 1991, to 21,000, or 6 percent, today. Sarajevo is also home to a large number of internally displaced persons who make up about a quarter of the canton's population. Of these, some 89,000 are Bosniacs, 2,000 Croats and 1,000 Serbs. The UNHCR estimates that 13,200 Croats and 5,600 Serbs have returned to the canton since the end of the war. Meanwhile, 75,600 Bosniacs have either returned or resettled in the Bosnian capital in the same period.

While much of Sarajevo's housing stock was destroyed in the war, the principal obstacle to returns is not space. Indeed, the number of people per property, that is the housing crush, is actually less than before the war. In practice, much of Sarajevo's housing woes are the result of the often deliberate misallocation of property, and the fact that many politically-connected families have come to occupy several homes in the course of, and since, the war.

In the former Yugoslavia, housing was both privately and socially-owned. Socially-owned property belonged to the state or a state-owned company and the construction was financed out of a fund to which every working person was obliged to pay. The tenant of a socially-owned apartment paid minimal rent and the occupancy right could be inherited by a family member. The Sarajevo Canton had

80,400 socially-owned apartments before the war, comprising 56 percent of the total housing stock.

War-time legislation on abandoned apartments stipulating that occupancy-right holders must reclaim their apartments within seven days, or within 15 days if living abroad, of the end of the war prevent most displaced persons from returning home. Most occupancy-right holders did not even know of the existence of the legislation until after the deadlines expired. The Office of the High Representative has drafted amendments to both the war-time property legislation and a series of additional property-related laws which impede the right to return as specified in the DPA. Despite a 31 January 1998 deadline (set at December's Bonn meeting of the Peace Implementation Council), the Federation parliament is yet to adopt the amendments. The fate of the Jewish community is especially illustrative. Despite drawing up a legal agreement with the city authorities and applying to return to their homes by the draconian deadline set in the war-time laws, all but a handful have failed to get their homes back.

Aspiring returnees often find themselves in catch 22. In order to reclaim their homes, they must have a Federation identification card, to get such a card they must have a home address and without a home address they cannot register for basic food or medical assistance. There have also been a series of attacks on minority members and buildings owned by minority communities. The incidence of these attacks has been declining and the International Police Task Force (IPTF) feels that the cantonal police perform their tasks professionally. Nevertheless, minority representation on the police force is well below the ratios agreed in February 1996. Of certified officers, 1,358 are Bosniacs, 102 Croats and only 19 Serbs. Moreover, employment ratios are similar in other fields.

In order to revive multi-culturalism and multi-ethnicity in the Bosnian capital, the Office of the High Representative is hosting a conference on return to the Sarajevo Canton on 3 February. International Crisis Group (ICG) has a series of recommendations contained at the end of the report which, if implemented, could expedite the process. Above all, ICG recommends that, since the Federation parliament has failed to adopt amendments to the property laws by 31 January, the High Representative should invoke his power to impose them.

Sarajevo, 3 February 1998

REBUILDING A MULTI-ETHNIC SARAJEVO: The Need for Minority Returns

I. INTRODUCTION

This report examines minority returns to the Sarajevo area and the issues that threaten to render the City and its environs more mono-ethnic.¹ Minority returns have been disappointing throughout Bosnia and Herzegovina. As the capital of Bosnia, Sarajevo should symbolise the revival of multi-ethnicity and illustrate a commitment to welcome minority returns. The Sarajevo Canton is among the few areas in Bosnia where a significant, albeit drastically reduced, proportion of minorities coexist with the majority population. In fact, over half of the minority returns since the signing of the Dayton Peace Agreement (DPA) have been to this Canton.² However, this stresses the generally grim state of minority returns rather than Sarajevo Canton's good record.

Even though Bosniac leaders have been the greatest proponents of a multiethnic Bosnia, their leadership has largely failed to foster conditions that welcome minorities. The greatest problem minorities face in the Sarajevo Canton is that they cannot reclaim their pre-war homes. However, creating the conditions for successful minority returns goes beyond physically returning a family to its home. If minorities are not given the opportunity to practice their religion and culture without fear, compete for jobs without discrimination, enrol their children into unbiased school programmes and enjoy the security afforded to other citizens, they may return to Sarajevo, but not to stay.

The failure of minority returns to the Sarajevo Canton has prompted the Peace Implementation Council meeting in Bonn in December 1997 to call for a high-level conference on returns to the Canton. This Sarajevo Return Conference is to be hosted by the Office of the High Representative (OHR) and representatives from the United States Government and the European Commission on 3 February 1998.

The importance of successful minority returns to Sarajevo extends beyond regenerating multi-ethnicity in the Canton, as is evidenced by the participation of Bosnian President Alija Izetbegovic in the Sarajevo conference. Minority returns to Sarajevo will be instrumental to jump-start significant minority returns throughout Bosnia. Sarajevo is the logical place for large-scale minority returns to begin, the success of which will serve as a model and portend the success of minority returns in general and Bosnia's ability to defy the goals of ethnic cleansing.

II. STRUCTURE OF THE CANTON

¹ "Majority" and "minority returns" are used to indicate whether the homes of origin of returnees lie in territory where their ethnic group is in the majority, or whether they would be returning to territory controlled by another ethnic group.

² The Dayton Peace Agreement was negotiated in October-November 1995 in Dayton, Ohio, and signed in Paris on 14 December.

Before the war, the Sarajevo Canton was known as the City of Sarajevo and consisted of ten municipalities. After the war, the region was divided into one area administered by the Federation of Bosnia and Herzegovina (Federation) and another administered by Republika Srpska. Federation Sarajevo is 1,277 km² less than the pre-war Sarajevo; that is, it encompasses 61 percent of the territory and 71 percent of the population of the original City of Sarajevo.

There are three layers of authority in Sarajevo: the municipalities, the City and the Canton. There are nine municipalities within the Sarajevo Canton: Centar, Stari Grad, Novi Grad, Novo Sarajevo, Ilidza, Hadzici, Trnovo, Ilijas and Vogosca. The City of Sarajevo is composed of four municipalities: Stari Grad, Centar, Novo Sarajevo and Stari Grad. The City administration was created by the "Protocol on the Organisation of Sarajevo" signed in October 1996 and was intended to grant minorities in Sarajevo special status and representation. For example, of the 28 members of the City Council, a minimum of six must be Croats and at least 6 must be from other minorities. The minorities have the right to a veto on certain key issues and the Deputy Mayor of the City must be a member of a minority group.

In actuality, the City did not begin to function until January 1998, when the first Mayor and Deputy Mayor were elected. According to the Protocol, the City government should assume most of the duties of the municipalities such as the allocation of housing. In addition, since the Sarajevo Canton has assumed an expanded role during and after the war, the City will take over some of the executive functions currently performed by the Canton. On the municipal level, of the nine municipal councils elected in September 1997 one has been granted final certification so far and the others are expected to receive final certification before the end of February, within the time limits established at the Peace Implementation Conference held in Bonn in early December 1997.

III. DEMOGRAPHICS

For centuries Sarajevo was the predominant urban centre in Bosnia and enjoyed a mixture of cultures and ethnicities. Before the war, the City was a microcosm of Bosnia itself where the different ethnic groups were intertwined within municipalities, communities, neighbourhoods and households. Sarajevo underwent several dramatic demographic changes because of the war, as the following data illustrate.³

Pre-war and current population of Sarajevo Canton:⁴

³ The siege of Sarajevo that lasted from April 1992 until the signing of the DPA caused the population to drop by more than half. During the war, the Bosnian Army controlled the urban cores of Stari Grad, Centar, Novi Grad and Novo Sarajevo. The Bosnian Serb Army held most of the villages in the suburbs and the area of Grbavica in Novo Sarajevo, and drove out the Bosniacs and Croats. After the suburbs were transferred to the Federation of Bosnia and Herzegovina under the terms of the DPA in February and March 1996, over 60,000 Serbs fled.

⁴ *Population of Bosnia and Herzegovina*, Statistic Institute, Zagreb, 1995; *Statistics Package*, UNCHR Sarajevo OCM Repatriation Unit, 1 December 1997. The pre-war figures do not include the entire pre-war City of Sarajevo, but rather only those areas that are currently under Federation control. The figures for the current number of Serbs in the Canton differ significantly depending on the source used. For example, the Serb Civic Council estimates

| | 1991 | | 1997 | |
|----------|---------|------|---------|------|
| Bosniacs | 252,000 | 50% | 303,000 | 87% |
| Serbs | 139,000 | 28% | 18,000 | 5% |
| Croats | 35,000 | 7% | 21,000 | 6% |
| Others | 75,000 | 15% | 7,000 | 2% |
| TOTAL | 500,000 | 100% | 349,000 | 100% |

According to these statistics, the Bosniac population has almost doubled in percentage terms, from 49 percent to 87 percent, while the Serb population has dwindled from 30 percent to 5 percent and the Croat population has more or less remained the same at 6-7 percent. (One should, however, keep in mind that these figures may be deceptive in that after the break-up of Yugoslavia many "Others" declared themselves Bosniac, Serb or Croat.)

Sarajevo is also home to a large number of internally displaced persons who make up roughly one-fourth of the Canton's population:⁵ 89,000 Bosniacs, 2,000 Croats and 1,000 Serbs.⁶ Sarajevo's urban environment and the strong international presence that has uplifted the economy have drawn a great number of internally displaced persons and returning refugees and, in particular, minority returns. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), there has been an estimated 13,200 Croat and 5,600 Serb returns to the Canton since the DPA, and approximately 75,600 Bosniacs have returned or resettled in the area during this time.⁷ Total minority returns to the entire Federation was 14,800 Croats and 6,200 Serbs. In contrast, UNHCR has a record of only about 730 Bosniacs and 140 Croats who returned to Republika Srpska.⁸

There have been more minority returns to the Sarajevo Canton than anywhere else in the country, but not enough to herald the restoration of Sarajevo's pre-war multi-ethnic makeup. Total minority returns fall short of the Federation Refugee Ministry's assertion in May 1997 that 22,200 ethnic minority displaced persons should be able to return to post-war Sarajevo by the end of 1997 as part of a minority return plan and the Ministry having declared the Canton "Open". Minority returns in 1997 have been particularly disappointing.

Sarajevo Canton registered returns and relocations from January to October 1997:⁹

| Bosniac | Serb | Croat | Others | Total |
|---------|------|-------|--------|-------|
|---------|------|-------|--------|-------|

that there are 35,000-40,000 Serbs in the Sarajevo Canton and other sources have put it at 25,000-30,000.

⁵ "Internally displaced persons" (IDPs) are persons who have fled their homes but remained inside their country of origin; "refugees" are persons who have fled to other countries; and "displaced persons" (DPs) refers to both.

⁶ *Statistics Package*, UNCHR Sarajevo OCM Repatriation Unit, 1 December 1997.

⁷ Croat and Serb groups in Sarajevo claim that this number is much smaller, and that UNHCR counts as returnees those who have acquired identification cards, but much of the time these individuals do not remain in Sarajevo because they cannot return to their homes. The Serb Civic Council, for example, claims that approximately 3,000 Serbs have returned to live permanently in Sarajevo, while the others spend some of their time living with people they know in Federation Sarajevo, but also continue to retain a residence in Republika Srpska.

⁸ *Statistics Package*, UNCHR Sarajevo OCM Repatriation Unit, 1 December 1997.

⁹ Figures provided by UNHCR but garnered from Cantonal authorities. The term "returnees" refers to displaced persons returning to their place of origin, and "relocatees" refers to displaced persons relocating to a place they did not originate from.

| | | | | | |
|------------|--------|-----|-------|-----|--------|
| Returnees | 25,250 | 568 | 1,293 | 175 | 27,286 |
| Relocatees | 18,306 | 163 | 86 | 37 | 18,592 |
| Total | 43,556 | 731 | 1,379 | 212 | 45,878 |

Most of the Serbs returned to the municipalities of Novo Sarajevo (252) and Novi Grad (215),¹⁰ and the only significant number of relocatees has been to Ilidza (153). The greatest number of Croat returns has been to Ilijas (409), Ilidza (305), Novo Sarajevo (235) and Novi Grad (212), and relocatees have been in very small numbers. All ten municipalities in Bosnia that have received the most returnees are in the Federation, and four (totalling 28.8 percent of all minority returns) are in the Sarajevo Canton's municipalities of Novi Grad (10.5 percent), Stari Grad (9.3 percent), Novo Sarajevo (5.9 percent) and Ilidza (3.1 percent).

IV. PROPERTY

A. Housing Density

Due to Sarajevo's decline in population, the available housing appears to be sufficient to accommodate everyone at a density level comparable to the pre-war level.¹¹ Housing authorities often claim that the lack of available housing, largely due to the need to house displaced persons, prevents returns, especially minority returns. According to UNHCR, however, there are more housing units per household in the Sarajevo Canton now than before the war, and Sarajevo is capable of accommodating additional pre-war residents who wish to return.¹²

In effect, Sarajevo's housing woes are largely the result of misallocation and double and multiple occupancy, that is, families taking up more than one home by occupying those that have been abandoned. About 5,000 homes in the Sarajevo Canton have been occupied in this way. The municipalities, state-owned companies, Cantonal and Federal ministries that all have a role in determining how and to whom housing units are to be allocated have failed to work for minority returns. Instead, they complain that minority returns would exacerbate an already-stretched housing situation. This position is not surprising considering that many of these authorities not only tacitly condone, but also personally benefit from such misallocation. According to one Bosnian lawyer in Sarajevo involved in the protection of minority rights, most government officials in Bosnia have taken advantage of the war situation to move into someone else's home.

B. Property Laws and Returns

Reclaiming one's home is the first major obstacle most perspective returnees face. This is especially the case with socially-owned property, which comprises the bulk of the housing stock in the Sarajevo Canton. In the former Yugoslavia, housing could be privately or socially-owned. Most houses were privately-owned and most apartments were socially-owned. Socially-owned apartments belonged to the state or a state-owned company and were constructed with the Housing Contribution Fund

¹⁰ The urban settings of Novo Sarajevo and Novi Grad allow for greater anonymity.

¹¹ More than 200,000 people left the Sarajevo Canton during and after the war. A great number of Bosniacs left the suburbs during the war, as did a great many Serbs after the DPA, which turned these areas over to the Federation, was signed.

¹² *Analysis of the Housing Space (Shelter) in Canton Sarajevo*, UNHCR, 17 October 1997.

to which every working person was obliged to pay. The tenant of a socially-owned apartment paid rent and the occupancy right could be inherited by a family member. According to Article 47 of the pre-war *Law on Housing Relations*, an occupancy right holder could lose rights to an apartment only if it were left unused for more than six months. There were 80,400 socially-owned apartments in the Sarajevo Canton, amounting to 56 percent of all homes in the Canton, and 40 percent of the total number (191,566) of socially-owned apartments in the Federation. 20.3 percent of the Canton's socially-owned apartments were over 60 percent damaged during the war.¹³

Various laws govern the treatment of the different forms of property. For private property the Federation *Law on Temporarily Abandoned Real Property Owned by Citizens* states that it may be declared temporarily abandoned and used by displaced persons, who are given temporary occupancy rights. The owner, however, retains ownership and, if he or she wishes to return to the home, municipal authorities are required to allow for this within three days if the apartment is vacant, and within eight days if it is not.

In 1992 the Federation passed the *Law on Abandoned Apartments* for socially-owned **property**. Pursuant to this law, local authorities were authorised to declare an apartment abandoned after 30 April 1991 if:

the apartment has been deserted and is temporarily not being used by the holder of the occupancy right or members of his/her household who live permanently with him/her or a weapon or ammunition without an appropriate licence is found in the apartment or if the apartment is being used for illegal activities.

Authorities could not, however, declare apartments abandoned if the occupancy right holder left because of ethnic cleansing, immediate war danger or destruction.

The law was amended in 1995 to include Article 10 which states:

If the holder of an occupancy right, who is located within the territory of Bosnia and Herzegovina, does not commence to use the apartment within 7 days, or within 15 days if located abroad, after the proclamation of the Cessation of the State of War, it will be considered that he/she has abandoned the apartment permanently.

It was practically impossible for anyone to meet these requirements: the Cessation of the State of War was declared on 22 December 1995 and most occupancy right holders were not aware of the law's existence before the imposed deadline. Those who had left their apartments were not able to return within such a short period of time, and even if they were, most of their homes were already being occupied by someone else, so that it would have been impossible to move in immediately. As a result, these apartments were declared permanently abandoned and the municipalities or state-owned companies that owned them could assign new occupancy rights on a temporary or permanent basis. Many state-owned companies

¹³ Figures provided by the Federation Ministry for Physical Planning and Environment and the Sarajevo Canton Ministry for Spatial Planning.

sought verification of legal ownership of such apartments in the courts and allocated them on a permanent basis, effectively blocking the return of pre-war occupants. According to Federation authorities, 17,839 apartments have been declared abandoned in the Sarajevo Canton, and 53,936 in the entire Federation.¹⁴ The *Law on Abandoned Apartments* is discriminatory in that it appears to favour the rights of the temporary occupants, usually displaced Bosniacs, over the rights of the pre-war occupancy right holders, who were usually either minorities or Bosniacs who left the country because of the war.

The law also violates certain articles of the DPA and the Constitution of Bosnia. According to the DPA,¹⁵ displaced persons have the “right to freely return to their homes of origin... [and] to have restored to them property of which they were deprived during the course of the hostilities since 1991.” These rights are further guaranteed in the Constitution of Bosnia.¹⁶ The imposition of such an unreasonable time-frame within which displaced persons must return in order to reclaim their apartments violates this right of return.

In addition, the Constitution of Bosnia states that the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) “shall have priority over all other laws.”¹⁷ The ECHR states that every citizen has the right “to the peaceful enjoyment of his possessions.”¹⁸ Discriminating against individuals by denying them the right to their property may be interpreted as a violation. Moreover, ECHR states that “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal.” According to the *Law on Abandoned Property*, however, apartments are both determined to be abandoned and permanent loss of occupancy rights occurs without a public hearing.

C. OHR Amendments

In legal opinions issued in August 1996, the OHR concluded that the Federation *Law on Abandoned Apartments* violates the right to return and the right to property guaranteed in Annex 7 of the DPA. Similarly, in March 1997, the Human Rights Ombudsperson for Bosnia declared that the law violates “the right to respect for home” under Article 8 of the European Convention on Human Rights and in December 1997 invited people who had lost their apartments to file complaints with her office. As of the end of January, more than 23,000 have already applied.

At a Joint Civilian Commission held in July 1996, the Federation (along with Republika Srpska) acknowledged that its laws impeded the right to return and consented to the drafting of amendments that would bring them in line with the DPA.¹⁹ However, despite assistance from the OHR, such legislation was never finalised. Therefore, the OHR, along with various international organisations and local experts, prepared its own draft legislation and on 29 May 1997 presented three laws to Federation authorities. The Peace Implementation Council (PIC) called for

¹⁴ Ibid.

¹⁵ DPA, Annex 7, Article 1.

¹⁶ Constitution of Bosnia and Herzegovina, Article II (5).

¹⁷ Constitution of Bosnia and Herzegovina, Article II (2).

¹⁸ First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 1 (1).

¹⁹ The OHR has pressed Republika Srpska authorities to amend their property legislation as well. However, these efforts had to be suspended in July 1997 when President Biljana Plavsic disbanded the Republika Srpska National Assembly.

the adoption of the amendments at its 30 May 1997 meeting in Sintra, Portugal. On 20 August 1997 Bosnian President Alija Izetbegovic and then Federation Vice-President Ejup Ganic promised at the Federation Forum to secure passage of these laws by the Federation Parliament by 30 September 1997. This promise was not fulfilled and instead the Federation government amended the OHR draft laws.

The OHR amendments to the *Law on Abandoned Apartments* are set forth in the *Law on the Cessation of the Application of the Law on Abandoned Apartments*. These amendments would revoke all decisions under the *Law on Abandoned Apartments* whereby pre-war occupants lost their occupancy rights and permanent rights were granted to others. The amendments would require an occupancy right holder whose apartment has been declared abandoned to file a claim within a given period of time to return to the home. The municipality would be responsible for providing alternate accommodation for the temporary occupant, who would have to move out of the apartment when the pre-war occupant returns (but not before 60 days). If no claim for the home is filed, the temporary occupant may continue to live in it with the possibility of eventually becoming the permanent occupant. The Federation has not yet considered this draft law, nor has it given the OHR its own version of the draft.

The OHR amendments to the *Law on Temporarily Deserted Real Property Owned by Citizens* which deals with private property are set forth in the *Law Regulating the Application of the Law on Temporarily Abandoned Real Property by Citizens*. The amendments revise the law in favour of current occupants by extending the period in which they must vacate homes when the owners intend to return. According to the draft law, the current occupant would have 60 days to move out of the home and the municipality would be required to find alternate housing. Under the current law, the temporary occupant has eight days to move out and the municipality is not obliged to find alternate housing. The Federation draft, however, allows current occupants to remain in private homes for 90 days and up to a year in exceptional cases. Different versions of this law have been adopted by the two houses of the Federation Parliament, which will be harmonised by a Joint Commission of Parliament.

The third amended law is the 1974 *Law on Housing Relations*. According to this law, an occupancy right holder who does not use his or her apartment for more than six months loses occupancy right. A reasonable measure during peace time, state-owned companies have used this law to prevent the return of occupants who left their homes during the war. The OHR amendments set forth in the *Law on Amendments to the Law on Housing Relations* would restore occupancy rights denied under this law after 30 April 1991. The Federation government had presented a version of this law to the Parliament that conflicted with Annex 7 of the DPA because it only allowed for the restoration of occupancy rights to refugees and those displaced within the Federation, but excluded displaced persons living in Republika Srpska or those who served in the "enemy" army. The OHR legislation has been accepted by the House of Peoples but rejected by the House of Representatives.

Another legal act that can be used to restrict the right of return is the *Law on the Sale of Socially-owned Apartments*, part of a privatisation package adopted in late 1997 by the Federation Parliament to be effective as of 6 March 1998. It gives the right to all permanent occupancy right holders to purchase the apartments they occupy. Combined with the possibility for people who gained temporary occupancy rights to apartments declared abandoned to make this situation permanent under the *Law on Abandoned Apartments*, the *Law on the Sale of Socially-owned Apartments*

would effectively block for good the pre-war occupant's right to return home. The OHR called for an amendment that would exclude those who acquired occupancy rights after 6 April 1992 from purchasing their apartments under the *Law on the Sale of Socially-owned Apartments* and regulate those cases by another law. The Federation Parliament, however, already adopted the *Law on the Sale of Socially-owned Apartments* without the OHR amendment.

D. Yugoslav National Army Apartments

In the Sarajevo Canton there are about 7,000 apartments of the Yugoslav National Army (JNA) built from the JNA housing fund. Soldiers held occupancy rights to these apartments, and before the dissolution of the former Yugoslavia Belgrade allowed them to purchase the apartments, in many cases at prices far below the market rate. About half of the occupants of JNA apartments purchased their homes. Bosnian authorities viewed this as unfair, especially since occupancy right holders of other socially-owned apartments were not given the same opportunity, and adopted a law that disallowed the purchase of JNA apartments as of 18 February 1992. Many JNA soldiers who bought their flats before the law was passed sought to legally validate their purchases through the courts, but a 2 March 1995 law entitled the *Decree with Legal Power of a Law Amending the Law in Financial Resources and Funding of the Army of Bosnia and Herzegovina* suspended all legal and administrative proceedings concerning the validity of such contracts.

Furthermore, on 12 December 1995, the Bosnian government adopted the *Decree with the Power of Law Amending the Law on Assuming the Assets of the Socialist Federal Republic of Yugoslavia*, which retroactively annulled without compensation all contracts for the purchase of JNA apartments dated before February 1992. Former JNA apartments thus lost their status as private property and were considered socially-owned, allowing the commander of the general staff or his designate legally to grant temporary rights to army members. This move meant that in practice many people have been evicted by the Federation Army or otherwise denied the right to return to their homes.²⁰

On 7 November 1997, the Human Rights Chamber for Bosnia delivered two decisions on four cases regarding the annulment of contracts for the purchase of JNA apartments.²¹ The Chamber held that by annulling the contracts, the Federation violated the right to peaceful enjoyment of possessions as guaranteed in the European Convention on Human Rights (ECHR).²² The Chamber also found that by adjourning court proceedings the Federation violated the right to a fair hearing of civil claims within a reasonable time period as guaranteed in the ECHR.²³ The Chamber thus ordered the Federation to declare ineffective the annulment of the contracts and to discontinue the suspension of court proceedings.²⁴ According to international monitors, the Federation Army has not respected this decision.

²⁰ *Special Report: Musical Chairs, Property Problems in Bosnia and Herzegovina*, OSCE, July 1996.

²¹ The Chamber was established pursuant to Annex 6 of the DPA, and is comprised of 6 Bosnian judges and 8 judges from European countries (excluding countries of the former Yugoslavia). The Chamber's decisions are binding on the Bosnian authorities or institutions to whom they are addressed, however no enforcement mechanism is in place.

²² Protocol No. 1 of the European Convention on Human Rights, Article 1.

²³ European Convention on Human Rights, Article 6.

²⁴ *Chamber's Decision on the Merits of cases concerning former Yugoslav National Army Apartments*, Press Release by the Registrar, 10 November 1997. The two cases are: CH/22 Milivoj Bulatovic vs. Federation of Bosnia and Herzegovina; and CH/96/3 Branko Medan,

The international community may sometimes inadvertently confirm the results of ethnic cleansing. In 1998, City Links Amsterdam plans to undertake a 6 million DM project to refurbish the interior of apartments in the neighbourhood of Hrasno in Novo Sarajevo where there is a good number of JNA apartments with some 68 pre-war Serb occupants. The funder of the project, the European Commission, wants to ensure the pre-war owners' right to return, but this stipulation is not part of the current contract. The contract is being redrawn to secure this right, and the project should not be launched until this is done. The implementers of such projects often view their tasks as primarily technical: a housing unit must be repaired so that someone can live in it. This is not enough. The war shattered the texture of Bosnian society. In the long run, this is more challenging and crucial to rebuild than physical structures.

V. ADMINISTRATION

A. Obstruction by Officials

Although the law grants the right of private home owners to return to their homes, this process is not so simple. Most abandoned private homes still standing have been occupied by someone else. It usually takes months for the municipal courts to hand down a decision reaffirming the owner's right to return, and then several more months for the decision to be implemented. This does not mean that the owner can move back in, however. If the home was not declared abandoned but is being occupied, the courts will issue an eviction order. However, this is often ignored by the illegal occupant. If a displaced family is occupying a home that was declared abandoned, the municipality is not obliged to find them another place to live and the Canton does not have any collective centres in which to place them. In other words, the municipality does not involve itself in reinstating the owners in their homes.

Returning to an uninhabited privately-owned home that is being repaired is considerably easier given that the Commission on Real Property Claims of Displaced Persons and Refugees (CRPC) is available to verify ownership.²⁵ The CRPC has not yet begun to verify claims for socially-owned apartments, but expects to assume this function in February, and would have taken it on earlier if it had not been for the discriminatory property laws that render this task more difficult than verifying claims to private property.

Returning to a socially-owned apartment is more problematic than reclaiming a private home. In fact, of all the cases brought before the Federation Ombudsmen in the second half of 1997, over half deal with socially-owned apartments. Of these 676 cases, 229 involve Serbs, 213 Bosniacs, 208 Croats, 23 undeclared nationalities and 10 of various other nationalities.²⁶ This shows that Serbs and Croats are interested in returning to their homes and, given their proportion in the population, encounter more difficulties in doing so than do Bosniacs.

CH/96/8 Stjepan Bastijanovic and CH/96/9 Radoslav Markovic vs. Federation of Bosnia and Herzegovina.

²⁵ The CRPC was established under Annex 7 of the DPA. One of its functions is to decide on ownership without regard to domestic legislation that may contradict the DPA and international human rights standards. The CRPC estimates that it has received about 10,000 claims for privately-owned homes and 8,000 for socially-owned apartments in the Sarajevo Canton so far.

²⁶ Ombudsmen database, 12 January 1998.

The *Law on Abandoned Apartments* is discriminatory enough on its own, but to further compound the obstacles to the right to return, government and housing officials have abused their authority. There have been cases where apartments that were legitimately declared abandoned were not distributed in accordance with the determined priority list, but rather to individuals not on the list, or to individuals with occupancy rights to other homes. Housing officials have even evicted displaced persons from the homes they were legally inhabiting in order to give their apartments to municipality employees on a permanent basis.²⁷

In other cases, housing authorities have simply ignored the law altogether. In one particularly outrageous case, a pre-war occupant possessed a certificate proclaiming that her apartment was not to be declared abandoned, yet the apartment was declared abandoned and given to an employee of the Sarajevo City on a temporary basis.²⁸ Apartments have been declared abandoned even though the occupancy right holder or a member of the household was living in the apartment at the time, or had a valid reason for temporarily leaving the apartment (such as to receive medical treatment abroad). Apartments have also been inappropriately allocated on a permanent basis.²⁹

Minorities are especially susceptible to such machinations, and even if they do secure a legal eviction order to remove an illegal occupant from their home, international monitors note that the police and housing officials take no action to enforce the order if the occupant refuses to leave, and the Canton has no policy to deal with such situations.

In many cases, homes have been repaired for pre-war occupants who chose not to re-inhabit them. In a 1997 project, UNHCR in co-operation with the Sarajevo Canton erected 42 pre-fabricated houses in Gorazde on the site of damaged homes for their displaced owners living in Sarajevo. After the houses were completed, many families opted to remain in Sarajevo and their residences there were not freed up as a result of the effort. The Cantonal Minister for Labour, Social Policy, Refugees and Displaced Persons is now trying to redress this issue.

In August 1996 UNHCR financed a US \$6 million shelter project to reconstruct 1,156 homes in co-operation with the Sarajevo City Development Institute³⁰ in the municipalities of Ilidza, Novi Grad, and Novo Sarajevo under the condition that the pre-war occupants return to their rebuilt homes. The City authorities promised that the condition would be met, but then after the homes were completed in March 1997, the Ministry for Spatial Planning blocked 25 of the pre-war owners from returning. 20 of the cases involved Serbs, four involved Croats and one involved a Bosniac.

After these homes were repaired, individuals other than the pre-war occupants moved in, some of whom were even granted permanent occupancy rights. Eight months after pulling and pushing with UNHCR, Minister for Spatial Planning Munib Buljina expressed in an interview with a Sarajevo magazine his lack of understanding for why a fuss even erupted over the two-dozen some families, and argued that "We

²⁷ *Annual Report on the Situation of Human Rights for 1996*, Institution of the Ombudsmen of the Federation of Bosnia and Herzegovina, March 1997.

²⁸ Ibid.

²⁹ Ibid.

³⁰ The Sarajevo City Development Institute is a municipal public organ that deals with urban planning and construction.

didn't fulfil only 0.5 percent of the plan."³¹ Another housing official publicly reported that certain cases had been solved when in fact they had not been, and furthermore continue to remain problematic.³² In summer 1997 UNHCR made clear that it would not move forward with a US \$4 million project for reconstruction near the airport unless these 25 cases were settled before 20 December 1997. According to UNHCR, 21 of the cases have been closed whereby 17 have returned to their homes, two have entered into agreements with the current occupants, one cannot return for medical reasons and another resettled overseas and cannot be reached. Four cases remain pending, involving three Serbs and one Croat.

UNHCR has compiled a list of 106 people who have lodged requests to return to the Sarajevo Canton with their municipalities, which blocked their return. The cases were then sent to the Ministry for Refugees and the Ministry for Spatial Planning. 10 of the cases are part of the list of the 25 cases mentioned above, and UNHCR estimates that out of the remaining 96 cases, 76 involve Serbs, 14 Croats, five Bosniac returnees from Western Europe and one mixed Bosniac-Serb marriage. About half of the rest of the families are in Republika Srpska and the other half in the Federation. Most of these cases, 59, involve socially-owned apartments while the remaining 37 involve private homes. Only four cases dealing with private homes have been solved as of the end of January 1998, that of one Bosniac and three Serbs.

Despite obstruction by Sarajevo Canton officials, UNHCR is considering the Canton for inclusion in the UNHCR Open Cities Initiative programme which rewards international assistance to cities or municipalities that express a genuine commitment to accept minority returns. The municipality of Vogosca was granted Open City status on 3 July 1997 even though minority families have not been able to return, including the 6 families that have been waiting the longest to return.³³ The Mayor of Vogosca appears co-operative, but has failed to deliver concrete results.

There are over 7,000 displaced persons from Republika Srpska in Vogosca. Mostly from Srebrenica, they generally show more resistance to accepting minorities as neighbours than the minorities' pre-war neighbours do. For example, on 1 August 1997 a group made up of several dozen displaced women and children attacked a municipal building where minorities were meeting with local authorities on a UNHCR arranged assessment visit. A local non-governmental organisation has been assessing the psycho-social needs of the Srebrenica women who live in the municipality and have been preventing minority returns. Meanwhile, UNHCR has modified its implementation of the Initiative and one programme that was slated to begin in September has been delayed because of the lack of returns to that municipality.

³¹ *Dani*, 24 November 1997.

³² *Dnevni avaz*, 19 December 1997.

³³ Vogosca's ethnic make-up has changed drastically as a result of the war. Before the war, Vogosca had a population of 24,707: 50.8 percent Bosniac, 35.8 percent Serb, 4.3 percent Croat, 7.0 percent Yugoslav and 2.1 percent other. During the war, the Bosnian Serb Army controlled almost the whole municipality and drove out most of its Bosniac and Croat residents. Under the terms of the DPA, the municipality was handed over to the Federation on 23 February 1996. Before the transfer, most of the Serb inhabitants abandoned the area, and as of September 1997 the population was 16,795: 15,949 (95 percent) Bosniacs, almost half of them displaced persons from Republika Srpska, 471 (2.8 percent) Serbs, 301 (1.8 percent) Croats and 74 (.4 percent) others. Serbs left behind some 1,300 houses and 1,400 apartments after the area was transferred to the Federation.

B. Administrative Structures

The administration dealing with refugee returns is diffuse and this has allowed the various actors to escape responsibility. The various local bodies involved in the allocation of housing units have inconsistently applied current laws, officials have obstructed returns and manipulated donor aid. International agencies have also many times failed to co-ordinate their efforts to most prudently dispense assistance.

Most property issues fall within the jurisdiction of the municipalities where citizens are obliged to register. In order to better co-ordinate this process, the UNHCR established the Return and Repatriation Unit (RRU) within the Cantonal Ministry for Labour, Social Policy, Refugees and Displaced Person in mid-1997 to serve as the focal point for returns to Sarajevo. The RRU gathers data on those who wish to return (and has received over 13,000 such requests so far) and provides displaced persons who intend to return with information on the current status of their former homes (whether they are damaged, occupied, etc.) as well as information on shelter repair projects and alternative accommodation options. All this information from the Sarajevo Canton is being collected in a central database.

According to one NGO involved in the reconstruction of homes, roughly half of the beneficiaries chosen by the RRU for one of their programmes do not qualify. The UNHCR, which sponsors the programme, requires that preference in the selection of beneficiaries be given to households that are economically, socially or politically vulnerable.³⁴ Many of the beneficiaries selected by the RRU, however, are government workers or other individuals with connections who do not meet these criteria. For example, the brother of one high-level Federation official was selected as a beneficiary and designated a "high priority" case. Most of the time, however, such cases are not so overt. Establishing the necessary criteria for beneficiaries does not alone ensure that assistance reaches those who are most in need.

In early December 1997, the Governor of the Sarajevo Canton established a Sarajevo Return Commission for monitoring and co-ordinating the return of refugees and internally displaced persons. The commission was to be a central location for information relevant to returns. According to the Governor, the commission would create the necessary political climate, housing and employment conditions conducive to returns and try to raise the morale of returnees and their neighbours. The Commission includes the Minister of Labour, Social Policy, Refugees and Displaced Persons; the Minister of Spatial Planning; the Minister of Reconstruction and Development; the Minister of Soldiers' Affairs; the Deputy Prime Minister; a representative from the Cantonal Parliament; the Chief of Mission of the UNHCR Sarajevo office and a representative from the OHR. However, the commission will most likely be dissolved since it has a similar purpose as the already established Reconstruction and Return Task Force (RRTF).

In February 1997, UNHCR and OHR established the Reconstruction and Return Task Force "to co-ordinate reconstruction assistance and economic incentives in support of return; advise governments on return priorities and political, material and

³⁴ Economic vulnerability is defined as having a household income of less than 25 DM per month; social vulnerability is defined as a household with at least one mentally or physically disabled member, a single-headed household, a household with one or more members older than 65, or a household with at least three dependants per income earner; and political vulnerability is defined as minorities at risk.

legal issues affecting return; and co-ordinate return-related conditionality.”³⁵ There are three regional RRTF branches, one being in the Sarajevo/Gorazde area. The RRTF is now undergoing changes so that it can respond to return trends by targeting resources and guide donors in the allocation of resources.

The RRTF has recently formed the Sarajevo Housing Committee. Not yet operational, this committee is envisioned as a central body to manage the appropriate allocation of repaired apartments and reduce multiple occupancy. Its mandate is to “prepare and issue allocation decisions for socially-owned apartments in accordance with Annex 7 of the DPA and ensure their effective implementation ... [so as] to help restore pre-war tenants to their apartments and thus contribute to sustainable return.”³⁶ Both local and international organisations are members of the Sarajevo Housing Commission,³⁷ which aims to merge Cantonal and international bodies responsible for housing allocation under the umbrella of the OHR. The Sarajevo Return Commission will utilise three separate procedures to deal with returns to either vacant apartments to be reconstructed, apartments that are temporarily occupied but will be freed up by eliminating multiple occupancy or apartments temporarily occupied by displaced persons with no immediately available alternative accommodation.

VI. REGISTRATION HURDLES

Ethnic minorities are often prevented from returning to their homes as a result of registration hurdles: denial or obstruction by officials in issuing the necessary documents. In submitting a claim for ownership or occupancy right, a returnee may be told to collect various applications and documents that are not actually required by law and impossible to get. Inheritance of occupancy right within the household is also made more difficult for minorities, who are often forced to collect documents impossible to obtain. Administrative and judicial procedures for minorities are often long and drawn out so that the applicant abandons the effort.

Minorities from Republika Srpska are generally required to give up their Republika Srpska identification cards in order to obtain Federation documents. In addition, to repossess their homes, returnees must have already returned to the Canton. This is highly problematic for those whose homes are occupied or under repair and have nowhere else to stay.

Moreover, the High Court in Sarajevo has instructed the lower courts not to recognise documents originating from the self styled Herceg-Bosna, Republika

³⁵ *Bosnia and Herzegovina Repatriation and Return Operation 1998*, Humanitarian Issues Working Group, Geneva, 17 December 1997. The RRTF is chaired by the OHR and its members include UNHCR, the European Commission including the European Community Humanitarian Office, Federal Commissioner for Refugee Return and Related Reconstruction--Germany, Commission for Real Property Claims of Displaced Persons and Refugees, World Bank, International Management Group and the United States Government.

³⁶ *Outlook for 1998: Resources, repatriation and minority return*, Reconstruction and Return Task Force, December 1997.

³⁷ The Steering Board is composed of a Special Representative of President Izetbegovic and representatives of the following institutions: Cantonal Ministry for Refugees, Cantonal Ministry for Spatial Planning, CRPC, EC, OHR, UNHCR, and other donors. The Chair will be appointed by the OHR and the Coalition for Return and other organisations to be announced will be invited as observers. Members of the Secretariat will be: CRPC, OHR, Cantonal Ministry for Refugees (Repatriation and Return Unit), Cantonal Ministry for Spatial Planning and municipal housing authorities.

Srpska and the Federal Republic of Yugoslavia. This decision discriminates against citizens merely because they have lived in regions not under the control of the Bosnian Army. In two cases presented to the Federation Ombudsmen, widows were unable to begin inheritance procedures in courts in Sarajevo municipalities because of the stamps on their husbands' death certificates, one being from Yugoslavia in 1991 and the other from Ilidza in 1993 while the suburb was under Serb control.

VII. MULTI-RELIGIOUS AND MULTI-CULTURAL PRESENCE

A. Jewish Community

In the fifteenth century, Jews migrated from Spain to Sarajevo as a haven from persecution. Before the Second World War, Jews made up more than one-sixth of the city's population. Since then, their numbers have plummeted, and today less than 700 remain. The Jewish organisation *La Benevolencija* has greatly contributed to the well-being of all Sarajevo residents irrespective of ethnicity, both during and after the war, by establishing a soup kitchen and pharmacy to distribute free medicine.

Many members of the Jewish community have been unsuccessful in their efforts to regain their pre-war apartments. In 1992, in an effort to secure the possibility of return, *La Benevolencija* signed a contract with the Mayor of Sarajevo agreeing that 89 socially-owned apartments belonging to members of the Jewish community be protected and not declared abandoned for however long the legal occupant is away. The contract allowed the City to grant temporary occupancy to others during the pre-war occupant's absence. Nevertheless, the City Secretariat for Housing declared the apartments abandoned and most temporary occupants refuse to leave. Of the 89 Jewish apartments, only five have so far been returned. This obstruction threatens the very existence of the Jewish community in Sarajevo, which would be a severe loss to Sarajevo's historical identity, both demographically as well as symbolically.

B. Religious Property

After Socialist Yugoslavia was formed in the wake of the Second World War, the Communist regime confiscated the religious property of the various communities. Most of this property has not yet been returned. For the Sarajevo Canton the situation is as follows: the Catholic church estimates that the government has returned about a third of their religious property, the Islamic community claims that the government has returned less than a tenth of their property and the Jewish and Serb communities claim that the government has not returned any Jewish or Orthodox property.³⁸

The uprooting of religious elements has been the political aim of various groups to consolidate their presence in certain areas. The leadership of the Croatian ruling party HDZ (*Hrvatska demokratska zajednica*) invited the Cardinal Vinko Puljic to relocate to Mostar, but he declined. There is currently only one practising Orthodox priest in the Sarajevo Canton. He has been in the Canton for about two years, and is trying thus far unsuccessfully to return to his pre-war home, which was Orthodox church property. The traditionally strong link between church and state in Serbian Orthodoxy can to an extent explain the church's meagre presence in Sarajevo. In

³⁸ These figures are derived from interviews with representatives of the Catholic Archbishop in Sarajevo, the *Vakufska Direksija*, the Serb Civic Council and *La Benevolencija*.

recent months there have been some promising new developments, though. In early December 1997, Sarajevo authorities approved 560,000 DM for the repair of the Orthodox Metropolitan as a cultural and historical structure to draw back Metropolitan Nikolaj and Serb minorities. This decision was not brought about unanimously, however, illustrating that much animosity remains.

C. Violence Against Religious Structures

Many of Sarajevo's churches remain unused and in disrepair, and religious structures are targets for terrorism. During the past year, an explosive device was planted in the Catholic Saint Joseph Church in the Marin Dvor neighbourhood, bombs were thrown at the Saint Anthony Catholic Church and Monastery, the Catholic cemetery Brijesce was desecrated, the parish in Grbavica was damaged by explosives, explosive devices were planted on the Pope's automobile route before his two-day visit to Sarajevo, a bomb blew up in front of the Catholic school in Centar Sarajevo and an explosive device disabled by police in time was found near the Catholic Church in the settlement of Stup in Ilidza the week before Christmas. Orthodox churches have also been targeted since the end of hostilities: one Orthodox church in Ilijas was set on fire, another in Hadzici was damaged, tear gas was thrown into a church in Novo Sarajevo during Christmas mass and authorities in Ilidza began construction activities near an Orthodox cemetery, threatening many grave sites. Although the police have installed an around-the-clock presence guarding certain churches around Sarajevo, they have not apprehended anyone.

VIII. SECURITY

According to the Serb Civic Council, up to 3,000³⁹ Sarajevo Serbs died during the war as victims of the siege and targets of revenge, and none of the individuals found guilty for the murders were tried for war crimes. Since the signing of the DPA, three ethnically motivated murders of Serbs have been reported. There have also been numerous incidents of harassment. The Serb Civic Council claims that in 1996 there were more than 100 cases where Serbs were thrown out of their homes, or an attempt to throw them out was made, and most of the perpetrators were believed to be policemen or soldiers from the Bosnian Army. Sometimes displaced persons forcibly entered the homes of minority citizens and either lived with them or threw them out. Over a thousand minority-inhabited homes were burglarised or damaged.⁴⁰ Croat groups claim that over 100 Croats in the Sarajevo Canton were victims of ethnically motivated physical attacks in 1997, and that since the signing of the DPA 20 Croat families have been thrown out of their homes while 11,000 Croats who wish to return to Sarajevo are unable to reclaim some 3,000 pre-war homes.⁴¹

In 1997 many Sarajevo Serbs were illegally arrested or brought into police stations for "informative conversations" and questioned about their war-time activities. This intimidation often concerned displaced persons visiting family or gathering information with the intention of returning. In response to numerous complaints of

³⁹ This figure has been disputed in the Federation media.

⁴⁰ *Report on the State of Human Rights in the Federation of Bosnia and Herzegovina*, Serb Civic Council of Bosnia and Herzegovina, 1997.

⁴¹ *Information on Violent Incidents against Croats in Sarajevo since the Signing of the Dayton Peace Agreement*, HDZ Sarajevo, 12 September 1997.

abuse in Spring 1997, the United Nations International Police Task Force (IPTF) had to maintain an around-the-clock presence at several police stations in the city, such as the Novo Sarajevo and Stari Grad stations where the highest number of complaints originated.⁴²

According to one IPTF report focusing on January to June 1997, out of 29 complaints lodged against Sarajevo Canton Police, IPTF only found four cases, involving one Serb and four Bosniacs, to be substantiated. According to the IPTF report, about 12 percent of the prisoners in Sarajevo Canton police stations complained of human rights abuses, and most of the cases were similar to those that occur in democratic societies. IPTF deemed only 2 percent or 3 percent of these to be of particular concern and noted that most of the victims were Bosniacs, concluding that police abuse against prisoners was not targeted against any particular ethnic group.⁴³ The Cantonal police investigated the substantiated cases and determined that eight policemen had used excessive force against three Bosniacs involved in two of the cases. One officer was fired, three were transferred and the other four were docked 5 percent of three months' salary.⁴⁴ IPTF contends that the Sarajevo Canton police perform their tasks professionally and do not abuse their authority in relation to minority citizens.

The number of criminal incidents against Serbs has declined. This is possibly due in part to the majority community's willingness to accept and cohabit with a small and controlled number of Serbs. However, many Serbs now living in the Sarajevo Canton fear that if displaced Serbs were to attempt to return to the Canton in large numbers the local Bosniac population (especially in the suburbs where there is a significant number of Bosniac displaced persons who come from Eastern Republika Srpska) would take reprisals on all Serbs.⁴⁵

The lack of Serbs on the Sarajevo Police Force is one reason why there is not enough confidence in the police among Sarajevo Serbs. The 18 February 1996 Rome Statement of the Joint Civilian Commission on Sarajevo calls for the police force to represent the ratio of Bosniacs, Serbs and Croats in the 1991 census, and indeed a year later the Federation agreed that the Sarajevo Canton Police Force is to be composed of 70 percent Bosniacs, 15 percent Croats and 15 percent others, but these goals have yet to be achieved.⁴⁶ Of all the certified officers currently on the force, 1,358 are Bosniacs, 102 Croats and 19 Serbs.⁴⁷

IX. DISCRIMINATION IN EMPLOYMENT

The Sarajevo Police Force is just one example of the woeful under-representation of minorities in the work force. According to the Open Cities programme, local authorities are responsible for securing "equal rights and opportunities for employment, education and appointment to public office".

⁴² *Human Rights Report*, OHR, 20-23 April 1997.

⁴³ *Daily Press Briefing*, United Nations Mission in Bosnia and Herzegovina, 24 June 1997.

⁴⁴ *Human Rights Report*, OHR, 20 August 1997.

⁴⁵ Local organisations that facilitate the return of displaced persons (such as the Coalition for Return, the Serb Civic Council and the Democratic Initiative for Sarajevo Serbs) have fielded considerably more cases of Serbs wishing to return to the Sarajevo Canton in recent months than ever before.

⁴⁶ Federation Forum Agreed Measures, 3 February 1997.

⁴⁷ IPTF, 9 January 1998. Figures provided by Sarajevo Canton Police Force.

According to the Sarajevo Employment Institute, there are approximately 32,500 unemployed people in the Canton, 73,000 employed and approximately 20,000 on waiting lists.⁴⁸ Waiting lists were used during the war to put employees on hold, who are entitled to social assistance or a fraction of their salaries and have priority in job offers. However, these lists are misused and employers have often hired individuals who have never before worked for them instead of the minorities on the waiting lists. After the war erupted, many directors of enterprises posted notices announcing that employees who did not show up for work for seven days would be fired. Thus these employees were unable to enact legal proceedings against the decision.⁴⁹ In the second half of 1996, 42 cases brought to the Federation Ombudsmen dealt with the right to work in the Sarajevo Canton, half of which involved minorities.

Bosniacs disproportionately represent the vast majority of public enterprises and hold most government posts unless a quota dictates otherwise (for example, the Mayor of Sarajevo is Bosniac and his deputy is Croat). The medical field experienced a particularly blatant wave of dismissals. According to one medical professional who lost her job as a full professor in the Medical Faculty, most of the roughly 700 medical professors, specialists, assistants, nurses and other health care professionals who worked in the University Clinical Centre who lost their jobs at the start of the war were Serbs and Croats.

The selection of judges is another example of widely exercised employment discrimination. There are currently 36 judges on the Sarajevo Cantonal courts, and most were re-elected and given five year terms. In five years, the Canton will make life-time appointments. The courts are also supposed to represent the ethnic proportions of the pre-war population, but 12 percent of the judges are Croats and only 6 percent Serbs.

X. DISCRIMINATION IN EDUCATION

Along with employment, discrimination with regard to education is a major obstacle to the return of young minority families. Many Serbs and Croats are discouraged from returning to Sarajevo because they fear that their children will face discrimination in school or else will not receive proper education in their own language and about their own culture. No single school programme is acceptable to all nationalities. The Federation Minister of Education's answer to this was separate curricula or separate classes and schools for the children of different nationalities, with a dangerous segregating effect.

Last October, a grassroots campaign was launched to protest the segregation of children according to ethnicity and a petition drive was organised. This campaign prompted the ruling party SDA (*Stranka demokratske akcije*) to publicly denounce segregation in schools. Nonetheless, segregation continues.

Throughout the Federation, children in Croat-controlled areas use the curriculum of the Republic of Croatia (in the Croatian language), while those in Bosniac-controlled areas use the Federation curriculum (in the Bosnian language). The Constitution of the Federation stipulates that there are two languages in the Federation: Bosnian and Croatian, and the Constitution of Bosnia states that there are three official languages in the country: Bosnian, Croatian and Serbian. However, most schools do

⁴⁸ Federal Statistics Institute and *Dnevni avaz*, 13 December 1997.

⁴⁹ *Annual Report on the Situation of Human Rights for 1996*, Institution of the Ombudsmen of the Federation of Bosnia and Herzegovina, March 1997.

not comply by teaching the various languages. Moreover, the Cyrillic script used in the Serbian language is barely taught in the Federation curricula and not at all in the Croatian curriculum.

In many Federation schools, Serb children are taught that "Serbs" were the aggressors in the recent war, and one Federation fourth grade social science textbook (copyright 1994) calls Croats "Ustashi" and Serbs "Chetniks". History has also been rewritten; for example, the Serb nationalist Gavrilo Princip, who was once revered as a national hero, is now depicted as a murderer in most history lessons. Works by many formerly acclaimed Serb or Croat writers are barely treated and have been replaced by lesser known Bosniac authors. In one public school in Centar Sarajevo, the Director asserts that the history of religions other than Islam is not offered because the children must be aware of their identity and of the fact that they, the 98 percent Bosniac student body, are not Serbs or Croats. It is therefore not surprising that most Serb parents in the Sarajevo Canton send their children to school on UNHCR buses across the Inter-Entity Boundary Line into Republika Srpska, or that many Croat youngsters commute to Kiseljak. It should be pointed out, however, that these children are subjected to no less chauvinistic curricula.

The Catholic School in Centar Sarajevo takes a different approach. It is a private institution: roughly 40 percent of the students are Croat, 35 percent Bosniac and the rest Serbs or others. The school follows 70 percent of the official Federation curriculum and has free reign over the remaining 30 percent. Literature is chosen on the basis of how noteworthy it is and not the nationality of the author. A course on the history of religions is also offered because, as the school's Director asserts, "Children must know the basis of the religion of their neighbour. Here in Bosnia, hate is borne from not knowing one another." Children of all nationalities are intermingled in most of the classrooms, and are only divided when they attend courses specific to their respective religions. Unfortunately, the school currently lacks teachers of Islam and Orthodoxy. The professor of Islam left to pursue other responsibilities over a year ago, and the Islamic Community Rijased, which is supposed to nominate his successor, still has not done so.

In 1997 the World Bank gave the Federation about US \$7 million in soft loans for school reconstruction and textbook printing. However, more focus is now being placed on developing educational content. The Council of Europe has provided the Federation Minister of Education with descriptions of the educational systems in every European Union country, including the Netherlands where there are government-financed Protestant and Catholic schools and Switzerland where the various cantons respect linguistic and cultural diversity, and is assisting the Minister with translating and analysing these materials. The Council of Europe is also working to introduce democracy and human rights programmes in schools and UNESCO is involved in a project proposal for curricula analysis. This first requires an analysis of textbooks currently in use, and the World Bank and *Civitas*⁵⁰ are working on a project proposal to do so.

XI. RECOMMENDATIONS

Municipal and Cantonal authorities have not demonstrated the political will to overcome the enormous difficulties associated with minority returns, many of which they have themselves created. Under international pressure and as a result of the

⁵⁰ *Civitas* is an International Civic Education exchange program that closely co-operates with the Council of Europe.

threat of the United States government to revoke all economic assistance to Bosniac-controlled areas, the Sarajevo Canton has recently made some seemingly positive steps towards minority returns. However, it remains to be seen whether they are paying lip service to the idea or sincerely intend to back it up with concrete measures.

The Cantonal Minister of Labour, Social Policy, Refugees and Displaced Persons Beriz Belkic has publicly urged citizens to report incidents where families have taken up more than one residence. The "Sarajevo Cantonal leadership" briefly put advertisements in the local press that beseech "the citizens of Sarajevo who know of individuals or families using two or more homes in the Sarajevo Canton to report these cases to the Ministry for Spatial Planning for the Canton of Sarajevo". Since this same Ministry has been the office most willing to confirm unlawful property arrangements in the past, this measure may be no more than window-dressing.

Most promising, however, is a recent decision by Federation President Ejup Ganic to immediately suspend apartment reallocation decisions by companies made in the last three months, and a total freeze of reallocation until property legislation has been amended. It remains to be seen whether this decision will be respected and enforced.

With the necessary political will, the Sarajevo Canton can regain much of its pre-war multi-ethnicity. To this end ICG proposes the following:

A. Property

1. The Peace Implementation Conference held in Bonn in early December 1997 called for the OHR amendments to the property laws to be adopted before 31 January 1997. Since the deadline was not met, the High Representative should invoke his power to impose the OHR draft laws. Since the Federation Constitution allows each canton to determine its own property legislation, the Sarajevo Canton as well as the other cantons should also adopt the laws. Once the legislation has been adopted it must be implemented without delay and discrimination.
2. Companies must comply with Federation President Ejup Ganic's decision to freeze their allocation of apartments. Companies that do not comply should be denied international aid and contracts.
3. Federation authorities should reinstate under fair conditions the contracts by which former Yugoslav National Army soldiers purchased their apartments so that they can reclaim their private property and return home. Reconstruction of such apartments or the repair of buildings in which there are such apartments should not go forward until the pre-war owners have returned to the apartments or had their contracts reinstated. Given the preponderance of Serbs in the Yugoslav National Army officer corps, this measure would contribute to minority returns.
4. UNHCR should explain the criteria for selecting Vogosca an "open city". The terms of reference agreed between UNHCR and Vogosca municipal authorities, including the specific obligations undertaken by the municipality, should also be made public. UNHCR should explain

its monitoring procedures for “open cities”, and the objectives criteria for revoking the status.

5. Vogosca authorities must guarantee to the Srebrenica women that potential minority returns will not take place at the expense of losing their homes and that they will respect the 18 February 1996 Rome Statement on Sarajevo which reads: “No one, including refugees and displaced persons from other regions of Bosnia, will be required to leave their present accommodation without being offered alternatives.”
6. The Ministry for Spatial Planning should immediately reinstate the four pre-war occupants who have not been able to return to their UNHCR-reconstructed apartments, and act on the 96 other UNHCR priority cases.
7. Donors must insist that return enforcement conditionality be applied to all reconstruction programmes. The appropriate forum for this co-ordination is the Sarajevo Reconstruction and Return Task Force. If reconstruction projects continue without ensuring the first right to return, housing authorities will be able to block minority returns and the Canton will be quietly cleansed.
8. The Governor of the Canton should establish a mechanism to determine and curb multiple occupancy in accordance with the recommendations of RRTF. A uniform standard should be set for determining what constitutes a single family. The Cantonal organisation *Sarajevostan* manages the Sarajevo Canton’s property and has gathered vast information on the occupancy and extent of damage of the Canton’s housing units. Used effectively, this organisation can assist authorities in identifying misallocated housing and double occupancy.
9. International organisations with knowledge of obstruction to returns by Cantonal officials (especially those in the Ministry for Spatial Planning, Infrastructure and Housing) should submit their evidence to the Canton and OHR, which should then remove responsible officials from their posts.
10. The Sarajevo Housing Commission should begin operation as soon as possible. In the meantime, donors and reconstruction agents should use a draft mechanism adopted by the Reconstruction and Return Task Force for allocation of reconstructed socially-owned property. Also, a housing committee within the Sarajevo Return Commission should be established to deal with problems in returning to privately-owned homes.
11. Donors and reconstruction agencies must closely monitor the selection of beneficiaries to ensure that resources are not diverted from those who have no other means to those who are well connected.

B. Confidence-Building Measures

1. The RRTF and the Sarajevo Housing Committee should work to identify more Serb families in Republika Srpska who wish to return to Sarajevo as is being done for Sarajevo Serbs now in Brcko with the aid of members of the Brcko Reconstruction and Return Task Force.
2. UNHCR jointly with the Coalition for Return should increase confidence-building visits of minorities to Sarajevo. The Organisation for Security and Co-operation in Europe Democratisation section should organise town-hall meetings with potential returnees and present inhabitants to discuss their concerns.

C. Registration Hurdles

1. The Peace Implementation Conference held in Bonn in early December 1997 called for Bosnian authorities to remove administrative obstacles to return and for the OHR and UNHCR to chair a working group to deal with the issue. The working group should devise standard and simplified procedures for registration procedures and all of the municipalities in the Sarajevo Canton should adopt them. Registration requests should be processed promptly and without discrimination.
2. The Human Rights Co-ordination Centre chaired by the OHR has collected evidence of officials who have abused their positions by manipulating registration procedures. This evidence should be presented to the Cantonal government and responsible officials should be dismissed or otherwise penalised.

D. Multi-religious and multi-cultural Presence

1. The Mayor of Sarajevo should honour his predecessor's agreement with the Jewish community and arrange that the current occupants of Jewish homes are found alternate accommodation (provided they do not already have other homes) and the keys turned over to the pre-war Jewish occupants within 60 days after a request to return was submitted.
2. The Sarajevo Canton and religious communities should agree on religious property that is to be returned to each community.
3. High level officials should vehemently and publicly denounce violence against religious structures and efforts should be invested so that perpetrators of religious violence are apprehended, for past incidents to the extent possible and for any future ones.

E. Security

1. Penalties for police who committed human rights abuses have been paltry. The international community should call on authorities to ensure that appropriate discipline is carried out, including prosecutions of police who committed crimes.
2. The international community should condition aid to the police on the recruitment of more Serbs and Croats into the police force.

3. Although incidents against minorities and cases of minority targeted police abuse have declined, they still exist and should be thoroughly investigated by local police and IPTF.

F. Employment

1. A working group on employment should be established with Cantonal authorities and the international community. In co-operation with human rights institutions such as the Ombudsmen and Human Rights Commission it should work to resolve employment discrimination cases. In addition, stronger anti-discrimination legislation should be created and enforced.
2. In locating minorities in Republika Srpska who wish to return to their pre-war homes in the Sarajevo Canton, the OHR, UNHCR and Sarajevo Return Commission should strive to identify pre-war employees of government institutions, such as the police, judiciary, etc., and work with the sub-committee on employment to reinstate these individuals into their former functions.

G. Education

1. The Federation government must immediately comply with its Constitution and children must be taught in both languages: Bosnian and Croatian.
2. The proposed *Civitas* study on text book evaluation should identify texts currently used in the Canton that contribute to intolerance, and Sarajevo educational authorities should immediately discontinue the use of these texts.
3. The Federation must develop a textbook policy and standards for the production of books and the selection of authors which should be adopted by the Sarajevo Canton. Criteria must be developed for approving textbooks to be used in all Federation schools.
4. UNESCO, which will be involved in curriculum analysis in Federation schools, should sponsor a pilot project to help teachers deal with diversity and ethnic issues by providing incentives to schools and teachers on the basis of proposals they have designed to promote integration and human rights awareness.

H. High Level Commitment to Returns

1. Authorities should use the press to convey to the Sarajevo population that the Canton, as the home of the capital city and its suburbs, has a duty to uphold the multi-ethnic structure they propound regardless of whether other regions simultaneously respond in kind.
2. The Sarajevo Canton currently subsidises from its budget a cultural society for every ethnic group (such as the Serb organisation *Prosveta* and the Croatian National Council), and should form a working group with such organisations to launch a campaign to

publicly promote minority cultures throughout Sarajevo (with festivals, concerts, the airing of documentary films on public television, etc.).

3. Bosnian President Alija Izetbegovic can and should proclaim that Annex 4 of the DPA (Constitution of Bosnia) which states that "Bosniacs, Croats, Serbs are constituent peoples (along with others) of Bosnia," supersedes the Federation Constitution in which only Croats and Bosniacs are considered the constituent nations within the Federation.

Sarajevo, 3 February 1998

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We want to head off crises before they develop,
rather than react to crises after they happen.

Senator George Mitchell, ICG Board of Trustees Chair

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