

# **BOSNIA AND HERCEGOVINA**

## **UNFINISHED BUSINESS: THE RETURN OF REFUGEES AND DISPLACED PERSONS TO BIJELJINA**

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## SUMMARY

Bijeljina is a strategic city in the Republika Srpska (RS) in divided Bosnia and Hercegovina. The second-largest city in the RS, Bijeljina is at the juncture of the territory's two parts: the eastern part, which is considered to be politically more extreme, and the western part, which is considered to be politically more moderate. A large group of non-Serb Bijeljina residents were expelled during the war but would like to return to their homes. The return of displaced persons and refugees and the treatment of minorities in Bijeljina and similar cities such as Prijedor, Doboj, and Zvornik are crucial for the peace process. If the Dayton agreement cannot be implemented in these medium-sized cities, which traditionally had sizable Bosniak or Bosnian Croat communities, the chances are small that the agreement will be implemented in other areas in the RS.

Bijeljina was the first city in Bosnia and Hercegovina that came under attack by Serbian and Bosnian Serb forces and fell victim to the policy of "ethnic cleansing." On the night of April 1, 1992, paramilitaries belonging to Arkan's Serbian Volunteer Guard, a.k.a. the "Tigers," together with other paramilitary forces, attacked and occupied Bijeljina. In the four days that followed, many Bosniaks and other minorities lost their lives; their property was ransacked, looted, and burned and many Bosniaks decided to leave Bijeljina.

It was no coincidence that Bijeljina was the first city to be attacked. Located on one of the main roads leading to Serbia, it was crucial to the establishment of a "Greater Serbia," envisioned by its advocates as an ethnically homogenous, preferably contiguous, area inhabited by ethnic Serbs. Predominantly Serb areas in northwestern Bosnia and Hercegovina and Croatia could only be connected with Serbia if the Bijeljina area was under Serb control. Therefore, the Bosnian Serb authorities embarked on a brutal policy of "ethnic cleansing" to force citizens of other ethnicities, in particular Bosniaks, to leave the area.

During the first two years after the outbreak of the war, many Bosniaks in Bijeljina fell victim to ethnically motivated violence, and tens and maybe even hundreds of Bosniaks lost their lives. Moreover, many Bosniaks were physically abused by members of the police or special police, forced into the army or into forced labor at the front, dismissed from their work, and evicted from their houses. Many Bosniaks ended up in the Batkovič detention camp, one of the most notorious camps in Bosnian Serb territory.

Nevertheless, a relatively large group of Bosniaks remained in Bijeljina, and in particular in the village of Janja, until 1994. Janja was even used by the Bosnian Serb authorities as a "showcase" of peaceful coexistence between Bosnian Serbs and "loyal" Bosniaks, even though the Bosniaks were clearly second-class citizens and subject to harassment. In 1994, however, a renewed surge of "ethnic cleansing" took place. Many men were detained and forced to work at the front lines, where they had to work long hours under dangerous conditions. They were sometimes used as human shields, and permanently at the mercy of Bosnian Serb troops, who often vented their anger over military losses by physically mistreating them.

The harassment of minorities in Bijeljina ultimately served only one purpose: to compel them to leave for Bosnian government-controlled territory or Croatia. The authorities even set up a Commission for the Exchange of the Civilian Population, which facilitated the departure of minorities by "safe transport." Those who signed up to leave had to pay considerable fees for their transport, but were nevertheless stripped of all their belongings before being transported across the front line by Vojkan Đurkovič, the head of the commission, and his associates. Others who did not sign up to leave were also forced to leave by the commission, either by Đurkovič himself or by paramilitaries under the command of Ljubiša Savij, a.k.a. "Major Mauser."

At the end of the war, fewer than 2,700 of the original population of more than 30,000 Bosniaks remained in Bijeljina. The vast majority of them had been evicted from their homes during the war, and many of those who had managed to hold on to their homes were evicted just before the peace agreement was signed.

The Dayton Peace Agreement that ended the war in Bosnia and Hercegovina aimed to restore the multi-ethnic society that Bosnia and Hercegovina once was. Bijeljina, which despite the ruthless policy of “ethnic cleansing” had one of the largest post-war Bosniak communities, seemed to have better prospects than other cities for realizing this aim. However, the authorities in Bijeljina continue to obstruct the implementation of the Dayton agreement, providing neither protection nor equal rights to the Bosniak community of Bijeljina, while actively deterring the return of Bosniaks who were driven from the city during the war. Almost without exception, those Bosniaks and members of other non-Serb minorities who remained in Bijeljina still do not live in their own homes. Having been expelled from their homes, this “floating” population remained in their municipality of origin, often living in small outbuildings or moving between the homes of relatives and friends. For a considerable time, government institutions, including the courts and the commission dealing with housing issues, refused to accept requests for the return of Bosniak homes or having received such requests took no action on them. In those few cases in which a court or the commission restored Bosniaks' rights to reside in their own homes, the decisions were not implemented. Although there are approximately 2,000 to 3,000 minorities in Bijeljina who are seeking “reinstatement” in their homes, Human Rights Watch is aware of only a few cases in which these Bosniaks recovered their homes in 1999. The reinstatement of this floating population is crucial in implementing the Dayton agreement: displaced persons will base their decision whether or not to return in large part on the information they receive from the Bosniaks who still live in Bijeljina. If even those who have remained and were touted as “loyal” citizens of the Republika Srpska cannot exercise their basic rights, what are the prospects of return for those who left?

As may be expected, to date there has been only limited return of minorities to Bijeljina. The United Nations High Commission for Refugees (UNHCR) estimated that between the signing of the Dayton agreement in December 1995 and the end of 1998 only four members of minorities had returned to Bijeljina. While the real number is probably somewhat higher, return was largely obstructed until the end of 1998. The housing legislation itself created numerous legal hurdles that made it extremely difficult for Bosniaks and other minorities to return to their pre-war homes. However, in many instances the authorities in Bijeljina, including the courts and the Ministry for Refugees and Displaced Persons, simply refused to receive or review Bosniak' requests for the return of their property or took direct steps to obstruct their return. The police, many of whom are themselves occupying Bosniak houses, actively discouraged returnees by “warning” them that their safety could not be guaranteed, and “advising” them not to return. Moreover, leaders of the displaced Bosnian Serbs currently residing in Bijeljina have organized this community actively to oppose the return of Bosniaks and other minorities to Bijeljina.

In 1999, however, the atmosphere changed for the better. The RS National Assembly finally accepted the Law on Cessation of the Law on the Use of Abandoned Property, a long-overdue legal reform that facilitates the return of refugees and displaced persons. Moreover, the international community increased its presence in Bijeljina and improved the cooperation among the international agencies working there. The RS Ministry for Refugees and Displaced Persons also appointed a new head of its Bijeljina department who showed a genuine commitment to return. As a result of these improvements, the speed of return has picked up in Bijeljina. Compared to the number of Bosniaks waiting to return to Bijeljina, however, the number of returns is still marginal. To date, successful cases of return have tragically been ones in which forced evictions were not necessary, either because an agreement was reached between the temporary occupant—almost exclusively Bosnian Serbs displaced from areas now under Federation control—and the prewar occupant, or because alternative accommodation for the temporary occupant was available. It remains to be seen whether returns can also be achieved in more difficult cases such as multiple occupancy cases.

The municipality began several projects in 1998 to enable the return of displaced persons and refugees. The project was to provide Bosnian Serbs who had been displaced from elsewhere with free construction sites in Bijeljina, so

they could vacate the Bosniak homes they currently occupy in Bijeljina. However, these sites were to be on land that is state-owned and in many cases are claimed by Bosniak residents. The plans were put on hold by a decision of the High Representative, the highest international civilian administrator in Bosnia and Hercegovina tasked with the implementation of the Dayton Peace Agreement, blocking the reallocation and disposal of socially-owned land.

In cooperation with the municipality, the German development cooperation agency GTZ started a project to build housing for displaced Bosnian Serbs in Bijeljina, thereby freeing up housing for Bosniak refugees from Bijeljina now living in Germany. The project has met with severe criticism from the international community because it invested in relocation rather than return, in contravention of the Dayton agreement and the policies of the international community. GTZ never presented the accommodations as temporary buffer-accommodations to the Bosnian Serb displaced persons, most of whom do not want to return to the Federation, and consider the housing to be permanent. Despite the criticism of the international community, GTZ is now planning a second phase of the project, this time funded by the European Commission.

On a number of occasions in 1998, the police physically abused Bosniaks, and police officials often shielded their colleagues when these cases were investigated by the International Police Task Force (IPTF), the largest component of the United Nations Mission in Bosnia and Hercegovina (UNMIBH). The IPTF is empowered to issue “noncompliance reports” against police officers who fail to follow its orders or obstruct the implementation of the Dayton agreement: these reports can lead to an officer’s dismissal. However, the IPTF has frequently failed to issue noncompliance reports against officers who failed to cooperate with the IPTF. In other cases, the police failed to intervene when Bosniaks were abused by Bosnian Serbs. Fortunately, such cases apparently ceased in 1999. However, Bosniaks continue to have problems when they try to obtain an identity (I.D.) card, which is issued by the police. Despite a decision by the High Representative that they should receive I.D. cards within fifteen days, Bosniaks often have to wait much longer. Bosnian Serbs are issued a card within one or two weeks.

The case of the Zvomik Seven, a group of Bosniaks who were severely mistreated after their detention by Bosnian Serb police in 1996, has not been resolved. A Bijeljina court convicted four of them of murder on the basis of coerced self-incriminating statements, despite the absence of physical evidence. Moreover, one of the judges participated in improper discussions regarding the case with interested outsiders, thereby creating the impression of bias. The RS Supreme Court ultimately quashed the decision, and the case has been sent back to the first instance court for the third time.

Minorities continue to face other types of harassment and discrimination as well. For example, Bosniaks who have recovered their homes often have difficulty restoring their phone connections: all subscribers with Muslim names were disconnected during the war for “security reasons.” Despite an order of the High Representative, the phone company still has not restored phone service to most of those who were disconnected during the war, claiming technical problems. The municipality has also refused Bosniaks permission to rebuild even one of Bijeljina’s seven mosques, all of which were destroyed during the war, and for a long time refused to return one of the Islamic Community’s buildings.

Since the municipal elections in September 1997, the councillors for the Coalition for a Unified and Democratic Bosnia (KCDBiH), the main Bosniak party, have played only a marginal role in municipal politics. The municipal authorities have prevented them from playing a more meaningful role by refusing to reinstate the councillors in their houses and obstructing the work of the Bosniak deputy mayor of Bijeljina. However, the Organization for Security and Cooperation in Europe (OSCE) and the Office of the High Representative (OHR) have been unwilling to force the Bijeljina authorities to create the conditions for the effective participation of the Bosniak councillors, even though the election rules clearly stipulate that the municipality should fulfil some basic criteria for meaningful participation of minority representatives. One can only hope that the OSCE and OHR will press for a more speedy and effective implementation of the results of the April 2000 municipal elections.

Although the situation of minorities in Bijeljina has improved since early 1999, there continue to be significant human rights problems, and progress in the implementation of the Dayton Peace Agreement is slow. As already mentioned, the return of displaced persons remains limited and is often obstructed by the authorities; the police force still does not meet the minimum international policing standards; discrimination against minorities manifests itself in several fields; and political representatives of minorities are still not allowed to play their role in democratic government. These problems are not specific to Bijeljina: they are representative of the problems the international community encounters in many other places in Bosnia and Hercegovina. To date, local and RS authorities remain unwilling to address the concerns documented in this report. Sustained pressure by the international community is required to ensure implementation of the Dayton agreement. Under such circumstances—where human rights and the rule of law are not ensured by the authorities of Bosnia and Hercegovina—the country cannot be considered to have fulfilled its obligations to, nor lived up to the minimum standards of, international organizations such as the Council of Europe.

Strong pressure and decisive action by the international community is needed to ensure that the authorities respect and implement the Dayton Peace Agreement. Admitting Bosnia and Hercegovina to the Council of Europe prematurely would be counterproductive to this end and reward those who obstruct real progress toward peace in Bosnia.

## RECOMMENDATIONS

### **To the Bijeljina department of the Republika Srpska Ministry for Refugees and Displaced Persons:**

- C Support the return of displaced persons and refugees by fully and expeditiously implementing the Law on Cessation of the Law on the Use of Abandoned Property as amended by the High Representative;
- C Reinstatement in their original homes, as a matter of the highest priority, all Bosniaks and other minorities who have remained in their municipality of origin, but have been evicted from their houses by Bosnian Serbs who were displaced from elsewhere or by the authorities. The reinstatement of this “floating” population is crucial for the Dayton Peace Agreement to be successful. A substantial return of displaced persons and refugees to their homes is unlikely to take place if those who remained in their municipality throughout the war are unable to return to their homes. Decisions by displaced persons and refugees to return will be based largely on the accounts of those they trust most: their former neighbors, friends, and colleagues who have remained. By failing to facilitate the return of “floaters” to their original homes, the authorities not only violate the rights of these people but also negatively influence the decisions of other displaced persons and refugees on whether or not to return.
- C Reinstatement of all Bosniak municipal councillors to their homes;
- C Implement, with immediate effect, all decisions taken by the courts or responsible government bodies ordering the reinstatement of minorities;
- C Investigate all allegations that staff are obstructing the full implementation of the Dayton agreement and the return of refugees and displaced persons, and immediately dismiss staff against whom allegations have been proven; and
- C Continue to participate actively in the inter-agency Property Commission and implement its recommendations.

### **To the Bijeljina municipal authorities:**

- C Fully cooperate in the implementation of the Law on Cessation of the Law on the Use of Abandoned Property as amended by the High Representative;

- C Immediately provide the Bijeljina department of the Ministry for Refugees and Displaced Persons with all necessary documentation regarding abandoned property and other documentation needed for the implementation of the Law on Cessation of the Law on the Use of Abandoned Property as amended by the High Representative;
- C Continue to participate in the Property Commission, and cooperate fully in the implementation of its recommendations;
- C Stop the implementation of plans to provide displaced persons and refugees with building sites on socially-owned land, unless it is known who owned the land before it was nationalized, and an agreement is reached with the original owner or his or her heirs about the restitution of the land;
- C Fully cooperate in the implementation of the results of the April 2000 municipal elections, and ensure that the Bosniak and other minority representatives in municipal organs are provided with working conditions commensurate with their position;
- C Do not sign any agreements concerning humanitarian, (re-)construction, financial, or economic aid to Bijeljina without previous consultation with and approval of the mayor and both deputy mayors; and
- C Approve the reconstruction of the Atik Mosque in Bijeljina, and free up, as a matter of priority, all property of the Islamic religious community.

**To the Head of the Public Security Center Bijeljina and the Head of the Public Security Station Bijeljina:**

- C Immediately, and publicly, order all police under your command to refrain from any intimidation of potential returnees, including the provision of “friendly advice” about the security implications of return. The task of the police is to protect the rights, including the right to return, of all Bosnian citizens, rather than to discourage return;
- C Thoroughly investigate allegations of abuse at the hands of police officers, as well as the failure of police officers to intervene in cases of violence against ethnic minorities. Those found responsible for such abuse and inaction should be held accountable: disciplinary and, where applicable, criminal proceedings should be started against those responsible;
- C Thoroughly investigate all incidents of violence and other criminal acts against minorities residing in or visiting Bijeljina and bring all perpetrators to justice;
- C Fully implement the High Representative’s decision regarding the provision of identity cards, and avoid discrimination in the provision of these documents; and
- C Fully cooperate with the International Police Task Force in implementing its mandate. This includes, but is not limited to providing all information that the IPTF requests and disclosing all available information about allegations of abuse by police officers for the purpose of screening and vetting the police force by the IPTF.

**To the Republika Srpska Authorities:**

- C Support the return of refugees and displaced persons by fully and expeditiously implementing the Law on the Cessation of Application of the Law on the Use of Abandoned Property as amended by the High Representative;

- C Reinstatement, as a matter of the highest priority, all Bosniaks, Bosnian Croats, and other minorities who have been evicted from their houses by Bosnian Serb displaced persons or the authorities, but have remained in their municipality of origin;
- C Provide the local departments of the Ministry for Refugees and Displaced Persons with sufficient personnel and material resources for the full, speedy, and fair resolution of all claims regarding return of housing;
- C Fully cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY). In particular, the Republika Srpska authorities should immediately fulfill their obligation to arrest persons indicted by the ICTY. Any provisions in Republika Srpska law preventing the extradition of its citizens to the ICTY should be amended as soon as possible. Moreover, the authorities should fully cooperate with the ICTY during the course of its investigations;
- C Fully cooperate with the Human Rights Commission of Bosnia and Hercegovina. Recommendations of the Ombudsperson, as well as decisions and provisional measures of the Human Rights Chamber, should be implemented in good faith. Moreover, the authorities should respond in a timely manner to requests for information by the Ombudsperson or the Human Rights Chamber;
- C Fully cooperate with the IPTF in the full, speedy, and effective implementation of the Framework Agreement on Police Restructuring, Reform and Democratization in the Republika Srpska as well as the Principles on Police Restructuring in the Republika Srpska, and ensure that police officers in command positions are chosen only on the basis of their professional qualities, and not because of their political affiliation;
- C Develop plans in cooperation with the IPTF for speedy recruitment of minority police officers, in particular in areas where a substantial return of displaced persons and refugees is expected;
- C Ensure that no person indicted for or accused of violations of humanitarian law or human rights during and/or after the war will serve in a position of authority until that person has been cleared; and
- C Ensure that all minority political representatives, including municipal councillors and members of the Republika Srpska National Assembly, as well as those appointed in executive positions, will be reinstated in their homes as soon as possible.

**To the Republika Srpska Minister of Justice:**

- C Ensure that allegations of criminal acts committed by law enforcement and other government personnel are properly investigated, and effectively prosecuted where appropriate;
- C Ensure that internationally accepted standards for fair trials are met, and that judges and witnesses are not in any way subjected to political pressure;
- C Fully cooperate with the United Nations Judicial System Assessment Programme.

**To the International Community in General, and the Office of the High Representative in Particular:**

- C Place the highest priority on the return of those who have been evicted from their homes, but have remained in their municipality of origin;
- C Once this “floater” population has returned, the return of displaced persons should be the next highest priority. Since “ethnic cleansing” was at the core of the war in Bosnia and Hercegovina, the return of refugees and

displaced persons lies at the core of the peace process. Without the return of refugees and displaced persons the Dayton agreement will have failed and policies of “ethnic cleansing” will have succeeded;

- C Bring all political, diplomatic, financial, and economic leverage to bear to ensure that substantial minority returns will take place, minorities rendered homeless in their own communities are reinstated in their homes, and other legitimate demands of minorities are met;
- C Exert political and diplomatic pressure on the Republika Srpska authorities to ensure that the trial of the remaining members of the Zvornik Seven will meet internationally recognized standards for fair trials;
- C Ensure that persons credibly accused of having committed war crimes or human rights abuses will not be allowed to serve in any public capacity until they are cleared of these allegations; and
- C Ensure that public officials accused of obstructing the implementation of the Dayton agreement will be suspended from office pending investigation until they are cleared of these allegations. Those found to have obstructed the implementation of the Dayton agreement should be removed from office, and not be allowed to hold public office in the future.

**To the Reconstruction and Return Task Force (RRTF), and the United Nations High Commissioner for Refugees:**

- C Place the highest priority on the reinstatement of those who have been evicted from their homes, but have remained in their municipality of origin. Once this goal has been reached, work to ensure the return of displaced persons and refugees.
- C Donor funds should continue to be invested in the return of minority residents to their pre-war homes and the return of displaced persons rather than the relocation of displaced persons in the locale to which they fled. As long as the political, economic, and social conditions conducive to the voluntary return and harmonious integration of displaced persons and refugees have not been met, investment of donor funds in relocation projects would only serve to discourage displaced persons from returning.

**To countries hosting refugees from Bosnia and Hercegovina:**

- C Voluntary return should only be encouraged when refugees can return to their own homes without fear of harassment, intimidation, or persecution. Refugee return should be considered only if the authorities have created the social, political, and economic conditions conducive for return.

**To the European Union, the United States Agency for International Development, the World Bank, the European Bank for Reconstruction and Development, and other donor agencies and countries:**

- C Provide sufficient resources to ensure that the return of refugees and displaced persons will not be hindered by a lack of funds;
- C Provide the United Nations International Police Task Force with sufficient human and financial resources to implement fully its mandate regarding the restructuring of the police force and the investigation of human rights abuses;
- C Invest the scarce funds available for (re-)construction in Bosnia and Hercegovina in projects aimed at return to pre-war homes rather than relocation of displaced persons and refugees in the locale to which they fled;



- C Invest in temporary buffer housing only if it is clear, both to the authorities and the temporary occupants, that the housing is temporary, and only if clauses safeguarding the “buffer” character have been included in contracts on temporary use;
- C Demand active involvement and approval by minority municipal representatives in discussions about humanitarian, (re-)construction, financial, or economic aid projects;
- C Ensure that no bilateral or multilateral aid is given directly or indirectly to the Republika Srpska police force until the screening and restructuring of the police has been satisfactorily completed;
- C Ensure that persons indicted by the International Criminal Tribunal for the Former Yugoslavia, as well as those credibly alleged to be responsible for war crimes and/or human rights abuses, do not benefit economically or politically from bilateral or multilateral aid; and
- C Condition assistance to municipalities on their full cooperation with the ICTY, respect for human rights, full implementation of the results of municipal elections, and concrete actions to assist refugees and displaced persons who seek to return to their homes.

**To the International Police Task Force:**

- C Actively address all human rights abuses and obstruction of the implementation of the Dayton agreement committed by the police, and serve officers found guilty of such acts with a noncompliance report;
- C Ensure that the Federation and Republika Srpska Ministries of the Interior are informed of noncompliance cases and that all police officers guilty of noncompliance with the provisions of the Dayton agreement are automatically made ineligible for police posts and prohibited from serving in any capacity in law enforcement or government agencies. Acts of noncompliance should be understood to include, but not be limited to: failure to protect citizens’ rights to return to or remain in their pre-war homes; violation of the individual’s right to freedom of expression and association; failure to provide the IPTF with requested information and documentation; failure to provide immediate and unimpeded access to any facility with police functions, including places of detention; and violation of due process rights under international standards;
- C Publicly report and condemn human rights abuses and obstruction of the implementation of the Dayton agreement at the hands of the police;
- C Devote sufficient resources to the restructuring and screening of the police forces in the Republika Srpska. It is of utmost importance that the restructuring process in the Republika Srpska be implemented in a speedy and effective manner;
- C Ensure that applications for positions within the local police are submitted directly to the IPTF for purposes of facilitating more direct and thorough vetting/screening;
- C Ensure that all police officers responsible for wartime and post-Dayton human rights abuses will be automatically excluded from the police force in the process of restructuring and will not be allowed to serve in any capacity in law enforcement or government;
- C Publicize lists of provisional police officers in newspapers throughout Bosnia and Hercegovina in order to facilitate the gathering of information for purposes of screening and vetting. These lists should be publicized in

areas both where the officers will serve and areas where there are significant numbers of displaced persons from the area where the officer will serve.

**To the Organization for Security and Cooperation in Europe:**

- C Demand that all minority political representatives elected in the April 2000 municipal elections be reinstated in their homes immediately. The OSCE chief of mission should withhold final certification of election results from municipalities until they meet this condition;
- C Demand that all elected municipal executive officers be provided with adequate working conditions, including the provision of an office. The OSCE chief of mission should withhold final certification until this condition has been met, and withdraw certification if municipalities later fail to meet this condition;
- C Publicize and condemn all human rights abuses against minorities; and
- C Closely monitor the trial of the remaining members of the Zvornik Seven, and publicly report on and condemn all violations of fair trial standards.

**To the International Criminal Tribunal for the former Yugoslavia:**

- C Investigate allegations of war crimes, crimes against humanity, and violations of laws of war committed in the Bijeljina region. This should include investigations into the roles played by Vojislav ‘Vojkan’ Đurković, Ljubiša Savić (a.k.a. Major Mauser), Risto Marian, and Jovan A. imović.

**To the Council of Europe:**

- C Maintain all the conditions specified in May 1999 for further progress toward Bosnia’s accession to the Council of Europe. The Parliamentary Assembly’s rapporteurs should make no further recommendations with respect to action on the application until each and all of the May 1999 conditions are achieved;
- C On their next trip to Bosnia and Hercegovina, the Parliamentary Assembly’s rapporteurs should visit Bijeljina and raise the concerns identified in this report with the local authorities as well as with RS government representatives. Moreover, the rapporteurs should consider visiting areas other than the “ethnic capitals” —Sarajevo, Banja Luka, and Mostar— to assess progress toward meeting the conditions for accession of Bosnia and Hercegovina to the Council of Europe.

## INTRODUCTION

The municipality of Bijeljina, consisting of the town of Bijeljina, the village of Janja, and around forty smaller settlements, is located in the northeast corner of Bosnia and Hercegovina, in the Republika Srpska.<sup>1</sup> According to the 1991 census, Bijeljina had around 97,000 inhabitants, of which 59 percent were Bosnian Serbs, 31 percent were Bosniaks, and the rest were of other ethnicities.<sup>2</sup> The town of Bijeljina had around 37,200 inhabitants, the majority of whom were Bosniaks.<sup>3</sup> The village of Janja, some eleven kilometers (seven miles) south of Bijeljina town, had around 11,000 inhabitants, almost exclusively Bosniaks, while the other villages were almost exclusively Serb. Less than 2,700 Bosniaks are estimated to have remained in Bijeljina throughout the war, a number that has hardly grown since the end of the war.

Bijeljina has considerable strategic value: it is the second largest city in the Republika Srpska, located on the main road connecting its eastern and western parts. Moreover, it is also located on the main road to neighboring Serbia, which is separated from Bosnia by the rivers Sava and Drina to the north and east of Bijeljina. Due to its proximity to the Serbian border, Bijeljina is also one of the few areas in the RS with a reasonably functioning economy, although a substantial part of it is based on smuggling and black market activities. Moreover, the Semberija<sup>4</sup> region, of which Bijeljina is the center, is a flat, fertile area which is very suitable for agriculture.

## THE TAKE-OVER OF BIJELJINA AND JANJA

The town of Bijeljina was the first town in Bosnia and Hercegovina to come under attack by (Bosnian) Serb forces. On April 1, 1992, paramilitaries belonging to the Serbian Volunteer Guard (*Srpska Dobrovoljačka Garda*), known as “Arkan’s Tigers” after their leader Đelko “Arkan” Rašatović, took control of Bijeljina.<sup>5</sup> Other paramilitary groups

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<sup>1</sup>The Dayton agreement established the Republika Srpska, the predominantly Bosnian Serb part of Bosnia-Hercegovina, as one of two entities in Bosnia and Hercegovina. The other entity is the Federation of Bosnia and Hercegovina, which is predominantly Bosniak (Bosnian Muslim) and Bosnian Croat. Until the signing of the Dayton agreement on December 14, 1995, the Bosnian Serb leadership also referred to the area under their control as the Republika Srpska, although it had not been internationally recognized as such.

<sup>2</sup>The rest of the population was mainly Roma, Bosnian Croats (about 0.5 percent), and people who described themselves as Yugoslavs in the 1991 census. Since Human Rights Watch was not able to interview a significant number of representatives of other minorities from Bijeljina, this report will focus on the position of Bosniaks, who were by far the biggest pre-war minority in Bijeljina municipality.

<sup>3</sup> Joint Civil Commission Research Team, *Bijeljina Special Report*, July 18, 1996.

<sup>4</sup> The Semberija region is the triangle bordered by the Sava river to the north and the Drina river to the east.

<sup>5</sup> Helsinki Watch (now Human Rights Watch’s Europe and Central Asia Division), *War Crimes in Bosnia-Hercegovina* (New York: Human Rights Watch, August 1992), p. 38, 62. See also: Laura Silber and Alan Little, *The Death of Yugoslavia — Revised Edition* (Penguin Books: London, 1996) p. pp. 224-225; Chuck Sudetif, “Serbs attack Muslim Slavs and Croats in Bosnia,” *New York Times*, April 4, 1992; Andrej Gustincic, “Report says Serbs control most of Bosnian Town,” *Reuters*, April 3, 1992; Renate Frech, *Disappearances in Bosnia and Herzegovina* (Sarajevo/Tuzla/Vienna: Association for the Promotion of the Ludwig Boltzmann Institute of Human Rights, 1998), pp. 41; Peter Maass, *Love Thy Neighbour — A Story of War* (London: Knopf, 1996), pp. 21; State Commission for the Gathering of Facts about War Crimes—Municipal Commission of Ćivinice, *Criminals and Victims—About War Crimes committed in the Tuzla-Drina area in the war years 92-94*, Bosnia-Hercegovina, 1995, p. 107.

Rašatović’s Serbian Volunteer Guard was the most notorious paramilitary formation involved in the wars in former Yugoslavia. On January 15, 2000, Arkan was assassinated in Belgrade’s Intercontinental Hotel.

including the “Panthers” commanded by Ljubiša Savif “Mauser,” were also involved in the take over of Bijeljina, or arrived soon afterwards.<sup>6</sup>

There was considerable tension in Bijeljina even before April 1, 1992. In a referendum on independence for Bosnia and Hercegovina, which was boycotted by most Bosnian Serbs, over 99 percent of Bosniaks and Bosnian Croats voted for independence. After the referendum, violent incidents erupted in several parts of Bosnia. In the Bijeljina area, Bosnian Serbs announced the establishment of the Independent Autonomous Region of Semberija and Majejica (*Samostalna Autonomna Oblast Semberija i Majejica*). In reaction, the Bosniaks in Bijeljina established the Patriotic League to “defend” the city.

A series of violent incidents took place in Bijeljina during the last week of March 1992, that provided a pretext for Arkan’s forces to enter Bijeljina. F.M.,<sup>7</sup> a former inhabitant of Bijeljina, told Human Rights Watch:

A few days before March 31, 1992, there had already been several incidents. A [hand]grenade was thrown into Café Istanbul, a local pub where many Bosniaks came.<sup>8</sup> Then a Patriotic League was formed by the SDA (Party of Democratic Action)<sup>9</sup>...to defend the city....The Patriotic League set up four or five blockades in town, which were guarded by seventy to eighty armed Muslims, mostly local guys who were not very organized. On March 31, I saw a group of Serbs with beards and „etnik”<sup>10</sup> hats near Café Istanbul. [Later, I heard that] a group of Muslims who were standing in front of Café Istanbul put a retarded guy on a horse and told him to go tell the Serbs that, since a grenade had been thrown, they were now declaring war. The guy on the horse went and declared war on the Serbs. Most of the [Serbs] just laughed, but then [a man] pulled a gun and shot him. At around 8:15 p.m., I heard sustained shooting. Someone came to [the place where F.M. was] and told me that someone had been shot. I went to see the guy, who was under the influence of alcohol, and bleeding, so I took him to the hospital. When I came back from the hospital, the two groups were shooting at each other. This was the sign for Arkan to come in. That night, about 350 Arkanovci and 250 Beli Orlovi<sup>11</sup> came [into Bijeljina].<sup>12</sup>

Ron Haviv, a photo journalist from the United States, was in Bijeljina at the time the violence erupted, together with a Serb photographer from Associated Press:

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<sup>6</sup>Based on Human Rights Watch interviews with former and current residents of Bijeljina and Janja in April, May, July, and December 1998. See also: Helsinki Watch, *War Crimes*, pp. 62.

<sup>7</sup> The witness chose not to have his/her full name revealed. Instead, initials are used. Throughout the text, initials will be used where witnesses chose not to have their names revealed.

<sup>8</sup>See also: United Nations, *Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)*, (New York: United Nations Publications, 1994), S/1994/674/Annex III.A, pp. 157.

<sup>9</sup> The Party of Democratic Action (Stranka Demokratske Akcije—SDA) is the main Bosniak nationalist party.

<sup>10</sup> During the Second World War, the „etniks” called for the restoration of the Serbian monarchy and the creation of a Greater Serbia. They fought pro-Nazi Ustaše forces, Tito’s communist partisans and at times with and against the Axis powers. They were especially brutal in Bosnia and Hercegovina, where they carried out large-scale massacres against the Muslim and to some extent Croat populations. Bosniaks, Croats, and some Serbs opposed to their policies commonly refer to Bosnian Serb military and Serbian paramilitary forces, during the Bosnian war, as „etniks.” Some Serbs vehemently rejected the label “„etnik,”” claiming they were merely defenders of their people and their land and that they are not extremists. Others, such as paramilitary units loyal to Vojislav Šešelj, the leader of the Serbian Radical Party and deputy prime minister of Serbia, commonly and proudly refer to themselves as „etniks.”

<sup>11</sup>“Arkanovci” is yet another name for paramilitaries loyal to Arkan. “Beli Orlovi” (White Eagles) is the name of an other paramilitary group.

<sup>12</sup> Human Rights Watch interview, Tuzla, Bosnia and Hercegovina, December 11, 1998.

In Bijeljina, we were stopped at a checkpoint where we were told we couldn't go any further. This was the first day Arkan's guys came to town. A bus came, in a little convoy, and about sixty men came out of the bus. They were all in uniforms...heavily armed, with AK-47s, etc. They all lined up in formation. Arkan came out of a car and started talking to these men. I knew it was Arkan, because I had been working in Croatia before, and I knew him already from there. I didn't speak enough Serbian to follow what Arkan was saying, but my translator told me Arkan gave them a "Get prepared, get ready" type of speech.

The men got ready to deploy into the city. I went to Arkan and asked his permission to work [in Bijeljina]. He agreed and said: "We are going to liberate this city of Muslim fundamentalists." So I went with a group of ten to fifteen guys, including one Australian Serb who spoke English. I spent the day with them. The Serb photographer went off with another group of Arkan's men. We started moving through the streets on a "tactical mission."...The first place was the hospital, where we went from room to room, searching for soldiers, but we didn't find any, so we left again. We went back outside, and we reached a mosque....They went inside, and I followed them. One guy went to the minaret and pulled down the [Muslim] flag, and they posed for a photo. At about the same time, I heard shouting from another room in the mosque, so I went there, and they had a guy backed up against the wall. They took his I.D. card, and the Australian Serb said he was a Muslim fundamentalist from Kosovo....They said he had two pistols, which were proof he was a fundamentalist.

Then I heard screams outside, so I went out, and [saw that] they held a kid, about eighteen years old. They were joking and making fun of him. He either broke free or they let him go, I am not sure, and he ran to the back of the mosque. But apparently there was no way out, because he came back. That's when they shot him in the back. I don't know who killed him....

Within a few minutes, they went to the other side of the street, and they pulled a guy out of a house. His wife came out of the house as well, and he started screaming. They shot him, and she tried to help him, by putting her hand over his wound. Then they shot her as well. Then they told me not to watch, so I turned around. I saw another woman come out of the house, but I didn't see her go down. I just saw her later, lying on the ground, shot.

I went back into the mosque and kept a low profile, because I was scared. Maybe ten minutes had gone by when the soldiers inside the mosque said we were going. I went outside and waited in the middle of the street, because I wanted a picture of the dead people. Then I saw a guy with sunglasses kick the three people, while they were lying there, dead or dying.

They took the guy from the mosque, and took him to the house of the local command center. They went inside, and I was told to stay outside....We couldn't leave without Arkan's permission, so I was waiting for him outside with the Serb photographer. At some point, I heard a crash, and I looked up and saw the window shutters were open, and this guy [from Kosovo] came flying out of the window on the third floor. I jumped aside, and he landed at my feet. They started kicking him when he landed, then grabbed him and put him on his feet, doused him with a bottle of water, and dragged him back inside.

[The next day] we went to the hospital [to find the man from Kosovo], but we didn't find him. The town was pretty much under Serb control, although there was still a bit of shooting. Again, I saw Arkan

[in Bijeljina]. The Serb flag was in the minaret of the mosque, and an anti-aircraft gun was in front of the building on the square.<sup>13</sup>

Arkan established the headquarters of the Serbian Volunteer Guard in the center of town, together with Ljubiša Savijf, whose nom de guerre was “Major Mauser” or simply “Mauser,” a local commander of the Serbian Volunteer Guard.<sup>14</sup>

In the days that followed, the paramilitaries reigned with terror in Bijeljina. Houses, shops, and businesses owned by Bosniaks were ransacked and burned, and Bosniaks and members of other minorities were harassed, threatened, and sometimes killed.<sup>15</sup> A witness described one of the killings:

One evening during the first week of April, at approximately 10:00 p.m., I was in the town square, near the bus station. A group of about fifteen paramilitaries was roaming the streets. Two of the paramilitary soldiers had stockings over their heads and all were armed, primarily with AK-47s. A Muslim man who appeared to be drunk walked up to the group and said something to them. One of [the] paramilitaries shot him dead immediately. Thereafter, shots rang out from Serbian positions throughout the city center, and I started to run from the gun fire.<sup>16</sup>

Although it is clear that many people were killed in Bijeljina in the first days of April 1992, in particular political leaders, businessmen, and other prominent Bosniaks, the exact number remains unknown. Amnesty International claims that up to forty people were killed,<sup>17</sup> but other sources claim that the death toll may have been as high as several hundred or even a thousand.<sup>18</sup> A Bosniak who remained in Bijeljina throughout the war told Human Rights Watch:

On April 1, 1992, Arkan and his men came to Bijeljina. In the three nights that followed, they killed many people. The official figures say that fifty people were killed, but it must have been many more. One of the persons involved in the disposal of the bodies told me that they had been loading bodies on trucks, drove them to the Drina and dumped them there. There were no lists, nobody kept count of how many were killed. But there must have been hundreds.<sup>19</sup>

The violence against Bosniaks and other minorities continued for four days, days which many Bosniaks spent in the basements of their homes, afraid to go out of their houses, or even to be seen inside their homes. But S.A. told Human Rights Watch, “[o]n the fourth day Arkan had a broadcast on the local radio, where he had a Muslim guest, a

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<sup>13</sup> Human Rights Watch interview, New York, February 8, 2000.

<sup>14</sup> Human Rights Watch interview with S.D., a Bosniak who used to live in Bijeljina, Tuzla, April 23, 1998; Human Rights Watch interview with F.I., a Bosniak from Bijeljina, Tuzla, May 24, 1998; Human Rights Watch interview with F.M., a Bosniak who used to live in Bijeljina, Tuzla, December 11, 1998.

<sup>15</sup> See Helsinki Watch, *War Crimes in Bosnia-Herzegovina* (New York, Human Rights Watch, August 1992), pp. 133; Frech, *Disappearances*, p. 42; United Nations, *Final report*, p. 158.

<sup>16</sup> Interviewed in Ljubljana, Slovenia, on June 4, 1992. The man’s account was corroborated by five other persons. This statement was previously published in: Helsinki Watch, *War Crimes*, p. 62.

<sup>17</sup> Amnesty International, *Living for the Day — Forcible Expulsions from Bijeljina and Janja*, 1994.

<sup>18</sup> Among others: Keith Dovkants, Victor Sebestyen, “War Criminals who may be Charged with Balkan Atrocities,” *Evening Standard* (London), February 16, 1993; State Commission for the Gathering of Facts about War Crimes — Municipal Commission of Ćivinice, *Criminals and Victims — About War Crimes committed in the Tuzla-Drina area in the war years 92-94*, Bosnia-Herzegovina, 1995. Moreover, several persons interviewed by Human Rights Watch stated that the number of people killed ran into the hundreds.

<sup>19</sup> Human Rights Watch interview, Bijeljina, April 8, 1998.

professor with whom he would have lunch. Arkan said: ‘You see, you Muslims don’t have to fear anything, you will not be bothered, and the city is not destroyed. We just had to deal with some Muslim aggressors.’”<sup>20</sup> It was announced that there would be no further trouble if the Bosniaks would hand over their weapons, which they readily did.

Whereas the take-over of Bijeljina was accompanied by substantial violence against the minority population, the take-over of Janja, the almost exclusively Bosniak village eleven kilometers south of Bijeljina, took place peacefully. After the take-over of Bijeljina, Arkan’s paramilitary troops moved to Janja, which “was surrounded by thirty-nine tanks, fifty-one armored vehicles, and numerous other arms.”<sup>21</sup> There was “no fight, no struggle: the local Serbs told us that nothing would happen to us, that we should just keep on working, and the people believed that.”<sup>22</sup> The Bosniaks in Janja handed over their weapons when this was demanded.

A meeting was organized during which Arkan spoke personally. He demanded that the Muslims from Janja hand over all weapons....Immediately, a hundred to one hundred and five guns were handed over. They promised us that there wouldn’t be any sanctions toward us since we, by handing over the weapons, had shown our loyalty towards the so-called Serb authorities.<sup>23</sup>

Indeed, the almost exclusively Bosniak village of Janja was later often referred to by the Bosnian Serb forces as proof that “loyal” Bosniaks would not be bothered by the authorities and could remain in the Republika Srpska.<sup>24</sup>

The fact that Bijeljina was the first city to be captured by (Bosnian) Serb forces was not a coincidence. Bijeljina was of strategic importance for the Serb forces in Bosnia and Croatia, since it is located on the road connecting the predominantly Serb Posavina and Krajina areas to the “homeland” Serbia.<sup>25</sup> This allowed for easy transport of military personnel and goods, including weapons, to the Bosnian Serb forces in Posavina and Bosnian Krajina, as well as to Croatian Krajina, substantial parts of which were then already under the control of Croatian Serb forces. A week after Bijeljina had been “liberated,” the Yugoslav Army<sup>26</sup> and paramilitary troops<sup>27</sup> attacked and captured Zvornik, a city forty kilometers (twenty-five miles) south of Bijeljina, thereby securing a second crucial border crossing between Serbia and predominantly Serb areas in Bosnia.

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<sup>20</sup> Human Rights Watch interview, Tuzla, April 16, 1998.

<sup>21</sup> Human Rights Watch interview, Tuzla, December 16, 1998. Similar reports can be found in: Amnesty International, *Living for the Day*, 1994; and State Commission on the Gathering of Facts about War Crimes - Tuzla, *War Crimes in the Tuzla Area*, (Bosnia and Hercegovina, 1996), p. 60.

<sup>22</sup> Human Rights Watch interview with Bosniak, expelled from Janja, Tuzla, April 24, 1998.

<sup>23</sup> State Commission - Tuzla, *War Crimes*, p. 60. See also: Amnesty International, *Living for the Day*, 1994.

<sup>24</sup> BBC Monitoring Service, *Karadžić Says Bosnian Serbs Want to Live in Peace with Muslims*, April 24, 1993.

<sup>25</sup> Posavina is the northern part of Bosnia and Hercegovina south of the Sava river, and includes important cities like Derventa, Prijedor, and Banja Luka. The Krajina consists of two parts: the Bosnian Krajina in the (south)western part of Bosnia-Hercegovina, and the Croatian Krajina, which is the area immediately to the west and southwest of Bosnia. See also United Nations, *Final Report*, Part III, para. B.

<sup>26</sup> Prior to May 19, 1992, forces of the Yugoslav People’s Army (*Jugoslavenska Narodna Armija* — JNA) stationed in Bosnia-Hercegovina and the Serb-held parts of Croatia openly fought together with Bosnian and Croatian Serb paramilitaries. The nominal withdrawal of JNA troops from Bosnia and Hercegovina took place on May 19, 1992. However, the Belgrade authorities claimed that 80 percent of the JNA troops in Bosnia and Hercegovina were Bosnian Serbs who would be free to remain in Bosnia-Hercegovina and fight on behalf of Serb forces in Bosnia and Hercegovina after the JNA withdrew on May 19, 1992.

<sup>27</sup> Again, a major role was played by Arkan’s Tigers. See Frech, *Disappearances*, pp. 32-41; and Tretter, Müller, Schwanke, Angeli, and Richter, “*Ethnic Cleansing Operations*” in the northeast Bosnian City of Zvornik from April through June 1992 (Vienna: Ludwig Boltzmann Institute of Human Rights, 1994), pp. 10-15.

But the ultimate aim of the Bosnian Serb nationalist leaders was not just to ensure good connections between Serb-held territory in Croatia and Bosnia and Serbia; the aim, and the ideology that defined the Serb political and military agenda was the creation of a "Greater Serbia." The concept involved the creation of an ethnically homogenous, preferably contiguous, area inhabited by ethnic Serbs.<sup>28</sup> However, the demographics and geography of Bosnia and Hercegovina (and to a lesser extent Croatia) were such that the creation of such an area could only be achieved through massive population transfers and by conquering areas where ethnic Serbs did not constitute an ethnic majority. The policy of "ethnic cleansing" was devised to realize these aims. The *United Nations' Commission of Experts*, which defines "ethnic cleansing" as "rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area,"<sup>29</sup> described the pattern of attacks used in "ethnic cleansing:"

First, Bosnian Serb paramilitary forces, often with the assistance of the JNA, seize control of the area. In many cases, Serbian residents are told to leave the area before the violence begins. The homes of non-Serb residents are targeted for destruction and cultural and religious monuments, especially churches and mosques, are destroyed.

Second, the area falls under the control of paramilitary forces who terrorize the non-Serb residents with random killings, rapes, and looting. Third, the seized area is administered by local Serb authorities, often in conjunction with paramilitary groups. During this phase, non-Serb residents are detained, beaten, and sometimes transferred to prison camps where further abuse, including mass killings, have occurred. Non-Serb residents are often fired from their jobs and their property is confiscated. Many have been forced to sign documents relinquishing their rights to their homes before being deported to other areas of the country.<sup>30</sup>

In many respects, the take-over of Bijeljina and its aftermath fit the pattern described above.

## THE WAR YEARS IN BIJELJINA

The non-Serb inhabitants of Bijeljina and Janja hardly resisted the take-over of their towns by Bosnian Serb forces and handed over the few weapons they owned, hoping that by cooperating with the new authorities they would be allowed to stay and go on living their lives as Bosniaks under the new Bosnian Serb authorities. Many Bosniaks went as far as to change their names, assuming a Serb name in order to avoid being harassed, or even expelled, on account of their name.<sup>31</sup>

Radovan Karadžić, the nationalist Bosnian Serb leader, said that "loyal" Bosniaks would have the same rights as Bosnian Serbs in the Republika Srpska.<sup>32</sup> The reality, however, was quite different: Bosniaks and other minorities soon

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<sup>28</sup>For a description of the Serb position and an explanation of the idea of a "Greater Serbia," see: Human Rights Watch, *War Crimes* pp. 46-49; and U.N. Commission of Experts, *Final Report*, Annex IV, Part II, para. II.

<sup>29</sup> U.N. Commission of experts, *Final report*, Annex IV, Part II, para. I.

<sup>30</sup> U.N. Commission of Experts, *Final report*, Annex IV, Part II, par. III B.

<sup>31</sup> In an interview with the *Washington Post*, Filip Terzić, who was formerly known as Ferhat, explained why he had changed his name: "Anyway we've got to be loyal. And besides, every living being must do what it takes to live. Right? .... With a new name, I can go to Serbia, right next door, and do business. I can buy stuff there and sell it here. With my old name, I'm stuck." John Pomfret, "Muslims Try 'Name Cleansing' to Survive in Serb-held Bosnia," *Washington Post*, December 21, 1993.

<sup>32</sup> Human Rights Watch/Helsinki, "'Ethnic Cleansing' Continues in Northern Bosnia," *A Human Rights Watch Report*, Vol. 6, No. 16, November 1994, pp. 6, 20.



found out that they did not enjoy the same rights as Bosnian Serbs in the Republika Srpska. Immediately after the take-over, many Bosniaks were arrested, in particular those with prominent positions, such as businessmen and politicians, and many of them “disappeared” altogether. Bosniaks were at the mercy not only of the Bosnian Serb authorities, but of Bosnian Serbs in general. As one Bosniak from Bijeljina put it: “Every Serb with a gun could come [into your house] and take anything [he] liked.”<sup>33</sup> Bosniaks were harassed in many ways: most were fired from their jobs, forced into the army, or forced to perform work obligations (*radne obaveze*). Many families were either forced to accept Serb displaced persons in their houses, or were expelled from their houses altogether. Moreover, ethnically motivated violence was a regular occurrence in Bijeljina.

### **Ethnically motivated violence**

Soon after the war broke out, Bosnian Serbs who were expelled from, or had fled from, areas controlled by Bosniaks or Bosnian Croat authorities, started coming to Bijeljina. In the beginning, it was mainly Bosnian Serbs from the Tuzla region who came to the Bijeljina region. And while most Bosniaks from Bijeljina claim that they didn’t experience many difficulties at the hands of the “domestic” Bosnian Serbs, some did suffer from harassment by displaced Bosnian Serbs. L.L., a farmer from Janja, told Human Rights Watch that “when we surrendered our weapons at the beginning of the war, displaced Serbs from Potpef and Tinja—which are villages in the [Bosnian-government controlled] Tuzla municipality—started moving into Janjari and Akma..ifi near Janja. They would come to Janja to take our cars, trucks, shops....In the summer, displaced Serbs started moving into Janja.”<sup>34</sup>

Displaced Bosnian Serbs often settled themselves in the houses of Bosniaks in Bijeljina and Janja. In many cases, Bosniaks voluntarily took displaced Bosnian Serbs into their houses, hoping that they could provide some kind of protection against random attacks, and, as L.L. said: “Whoever complained got beaten, and the displaced Serbs moved in with you anyway.” However, the arrangement did not always work out the way it was planned, and arguments and incidents between the two families living in the house often occurred.<sup>35</sup>

Bosnian Serbs were often violent in Bijeljina, mainly displaced persons, but also domestic Serbs. A Bosniak man in his sixties from Janja told of his problems with his neighbors:

Altogether, eight grenades were thrown at our house. The first was thrown in May 1992 by our neighbor. When I went to my neighbor to ask why she was doing this, she told me I was lucky I survived it, and that she would do it again. The same night, two more grenades were thrown. When I called the police to complain about these grenades, they asked me whether the perpetrators were civilians or in uniform. I thought it was a strange question: since when do people in uniform throw bombs at civilians? They then asked me my name, and when they heard I was a Muslim, they just hung up the phone.<sup>36</sup>

The police not only failed to protect Bosniaks from harassment by displaced Serbs, but they and other authorities themselves harassed Bosniaks. Sead Gruhonjif explained how he was beaten by a member of the local police:

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<sup>33</sup> Human Rights Watch interview, Tuzla, December 16, 1998. The witness asked not to be identified.

<sup>34</sup> Human Rights Watch interview, Tuzla, September 1994. This statement was previously published in: Human Rights Watch/Helsinki, “Ethnic Cleansing’ Continues in Northern Bosnia,” *A Human Rights Watch report*, vol. 6, no.16, November 1994, p. 6.

<sup>35</sup> See also section on The rule on surplus living space and subsequent evictions.

<sup>36</sup> Human Rights Watch interview, Tuzla, April 16, 1998.

In May or June 1992, I was driving some goods for my shop from Bijeljina. Near the gas station just outside Janja, [a police officer] stopped me and threw all my stuff out of the car. He checked everything against the bills. I had invoices for everything, except for two kilos of sausage....I told him I had bought the sausage for myself, and then he started to beat and kick me. Then the commander, Mico Đokif, came, and [the police officer] asked him what to do. Đokif answered that he should go on doing what he was doing.

A second time, in the summer, I went in shorts for business. [The police officer] stopped me [again], took me to the police station, took everything from my pockets, and put me in jail. When I asked why he was locking me up, he told me to just shut up, and beat me a couple of times. I had to stay there all evening, and could only leave after midnight.<sup>37</sup>

Many Bosniaks lost their lives in the years following the takeover of Bijeljina. In its 1994 report on Bijeljina, Human Rights Watch stated that at least eleven people had died violent deaths in Janja since the beginning of the war. Several sources, however, claim that the death toll was much higher, with one former resident estimating twenty deaths, and another fifty-seven.<sup>38</sup> One of the best known cases is that of Izo and Suada Milkif, a wealthy Romany couple in their late thirties, who were found murdered in their house. Neighbors reported that they saw soldiers enter the Milkif's house around midnight. In the morning, Izo's brother went to see why the couple had not awakened only to find them both dead. Izo was found sitting on a chair with an accordion in his lap and his throat slit, while his wife, who apparently resisted the assailants, was lying on the floor in a pool of blood. According to witnesses, the Milkifs lived near the military command center and were known for their wealth. Izo was a blacksmith, and his shop was well equipped, resembling "a small factory" according to neighbors. The neighbors interviewed by Human Rights Watch reported that men in uniforms raided the entire neighborhood the night of the Milkifs' murder, looting homes and beating people. The following day, the women in Janja gathered in the streets to protest the murder of the couple. The police dispersed the demonstration by firing into the air. One stray bullet hit Duza Durgutovif in the head while she observed the demonstration from her window. She died instantly. According to witnesses, the police proceeded to beat the demonstrators.<sup>39</sup>

### **Dismissals from work and conscription into the army**

Soon after the war started, many Bosniaks in Bijeljina were dismissed from their jobs, either for allegedly failing to report to the Bosnian Serb army or without any reason at all. In reality, they were dismissed because of their ethnicity. Fahrudin Gruhonjif, a Bosniak from Janja, worked in the *Semberka* dried fruit factory before the war. When the war started, he immediately volunteered to go into the reserve police, but he was dismissed from the police in July 1992, after which he went back to work at the *Semberka* factory. However, Fahrudin told Human Rights Watch, "[i]n the beginning of 1993, a new director, Petar „a.anovif, came to the firm. Immediately after his arrival, they started moving people around. On May 3 or 4, 1993, a group of about forty Muslim employees was told in the courtyard of the factory that [they] were fired. We were not given any reason, [and] we never got any official decision or anything. Until today, I am still not able to get my worker's employment booklet, because [it is] still in the firm....How am I supposed to work [without this booklet]?"<sup>40</sup>

S.P., a Bosniak from Bijeljina, told Human Rights Watch a similar story about how he was fired:

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<sup>37</sup> Human Rights Watch interview, Janja, December 19, 1998.

<sup>38</sup> Human Rights Watch interviews with M.N., former resident of Janja, in Tuzla, April 23, 1998, and O.D., former resident of Janja, in Tuzla, April 24, 1998.

<sup>39</sup> Human Rights Watch/Helsinki, "Ethnic Cleansing," p. 11. See also: Amnesty International, *Living for the Day*, 1994.

<sup>40</sup> Human Rights Watch interview, Janja, December 15, 1998. A workers employment booklet (*radna knji ņica*) shows an employee's employment record and experience. The booklet is needed to obtain any kind of employment.

I was fired from my job because of my nationality. The official reason was that I didn't report to the army, but that's a lie. I have the papers to prove that I reported to the army on July 17, 1992. When I went there, I was given a piece of paper, where I had a choice of two options. The first read: "I am willing to actively participate in the Serb Army until the final annihilation of the enemy"; the second said: "I am not in favor of war." Since the Muslims were the enemy, I chose the second option.... When we had our regular meeting of [employees] of our [public institution], in August 1992, our director, said: "Now I will read to you a decision of the municipal organs, and this decision will not be discussed, but will be implemented immediately. From tomorrow on, the following persons will not be allowed to come to work anymore." Then he read out the names of all Muslim [employees].<sup>41</sup>

In the months following his dismissal from work, the army tried to draft S.P. several times. However, S.P. was able to avoid the army; with the help of friends, S.P. managed to obtain a job in civil defense.

But S.P. was an exception to the rule. The Bosnian Serb army aggressively pursued those who refused to be drafted. In May 1992, Sead Gruhonjif, a Bosniak in his early thirties from Janja, was also asked to fill out the form mentioned above. Sead, like most Bosniaks, chose the second option. About a month later, he was fired from his job. In 1993, the army detained Sead to question him:

The local police took me to the military police [station]. The military police took me to the basement of their building, and there I had to empty my pockets. In one pocket, I left DM 1,200, but when they performed a body search on me, they felt it, and asked me what it was. I told them it was cigarettes, but they found out that it was money. In the other pocket, I had documents for two cars and one truck. One car had been mobilized by the army, the truck was at my friend's place, and the other car was in my yard. They asked me where these cars were, what I wanted to do with the money, if I was trying to flee. Then, these three guys started to beat me. They beat me and kicked me for one and a half hours. Then they left me alone for an hour and a half, after which they came back, put the handcuffs on me, and took me to the first floor. Again, I was interrogated about the cars, but I didn't have a paper to prove that the army took my car. They then took me to the barracks in Bijeljina, where they interrogated me further until dawn. Again, one of these guys slapped me.<sup>42</sup>

## Forced labor

Although the army attempted to draft Bosniaks in 1992 and 1993, it wasn't until 1994 that Bosniaks in large numbers were forced to work for the army. Bosnian Serb forces detained many Bosniaks in Bijeljina and Janja, for forced labor<sup>43</sup> at the same time that the Bosnian Serb authorities were expelling large numbers of Bosniaks from Janja.<sup>44</sup> Many Bosniaks, mostly men, were forced to work at the front lines, carrying food and other materials for the soldiers in the trenches. In at least one instance (see below) the Bosniaks were used as human shields. The conditions were very bad: they had to work long hours and often did not get enough food. Moreover, they were at the mercy of Bosnian Serb soldiers who often, particularly after military losses, directed their frustration and anger at the Bosniaks, in the form of

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<sup>41</sup>Human Rights Watch interview, Bijeljina, July 11, 1998. Several details that S.P. provided have been omitted to protect the identity of the witness.

<sup>42</sup> Human Rights Watch interview, Janja, December 19, 1998.

<sup>43</sup>The United States Department of State reported that "non-Serb men and women in the Banja Luka and Bijeljina regions were routinely forced to labor, digging trenches, tilling fields, cleaning streets, etc. They received no compensation for this work." United States Department of State, *Bosnia and Herzegovina Human Rights Practices, 1994*, (Washington: Department of State, 1994).

<sup>44</sup> See section on "The Commission for Exchange and the expulsion of the civilian population."

physical abuse and degrading treatment. A Bosniak man from Janja told Human Rights Watch how he was detained and made to perform forced labor.

On July 14, 1994, at around 11 a.m., two men in military police uniforms driving a black Lada with Niški license plates picked me up from the field [where I was working], claiming I had to give a short statement. They also detained my cousin then. [In the car,] they called over the radio to say that they had picked up “number five,” “ten,” etc. They took me to a truck in front of Café Golman. It was a cattle truck with a nylon cover...it was very warm under the cover. There were three or four others in the truck, and others were coming as well, who were put in the truck one by one. Since they couldn’t find all the people on the list, they took some others to have twenty-nine. When they finished around 2 p.m. they took us to the school in Hase, [where] we found several other men from Bijeljina, who had been beaten: Uska Veltif, Ahmed Grosif, Amir Grosif, Rejfudin Ze.evif, and Alija Zvizdif. They put us in a circle, and Arkan’s guys were standing between us, so we couldn’t talk. [A man called] Risto was observing all of this. They took the people from Bijeljina, and beat them almost to death, just to scare us.

[After that,] we were sent to a small room where Risto and [another man] took all our documents, money, jewelry. From me, they took fifty German marks, my driver’s license, my ID and my working permit. We then went out of the room, and they waited at the door, where they beat us with their guns and hands. Then we went to a truck, where they beat us again with guns. It was difficult for old people to get on the truck, so they beat them again. I got beaten on the left leg, and the skin came off, it was all bloody. When we entered the truck...we were also beaten through the cover of the truck.<sup>45</sup>

The group was then taken to the sports stadium in Lopare, where they joined a group of about fifty people from Bijeljina who had been detained the day before. After they were told that they would be taken to the front line to work, they were taken to a house near an old school building in Jablanica, a village near the front line. The men were told they were not prisoners, but that they had to do various tasks such as cleaning the house and fixing roads.

We did this work for about one week. But meanwhile, the front line at Greda had fallen, and the Serbs started a new offensive. They then took us to the front line near Greda and Jablanica to carry food to the soldiers, and wounded soldiers, and ammunition...We had to work very hard, sometimes from 6 a.m. until 10 p.m. without food. We carried ammunition, mines, guns, food, etc. to the soldiers in the trenches. At the same time, we had to dig trenches. They tried many times to recapture Greda, but they didn’t succeed, and many of them died. Whenever a Serb was wounded or killed, we were beaten.

One day at the end of July, they tried to get the bunkers near Greda, and the Mandif Guard from Ugljevik came in. Before the attack, we brought them food and drinks, and all of them became half drunk. That day, one of their leaders, a guy from Ravno Polje, died, and we had to take the body away. They screamed: “Where are these Baliže, give them to us.” Five of us had to take this dead guy to a car some six kilometers away [while three men guarded us]. [A man] from Ugljevik...was the worst of them. I was carrying the stretcher and told two older guys just to hold on, I could carry it. If we would fall, they’d kill us. [The man from Ugljevik] and the others were beating us with big branches of trees. I was

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<sup>45</sup> Human Rights Watch interview, Tuzla, December 16, 1998. The witness asked not to be identified in any way. The witness’ account was confirmed by several others. Moreover, the witness’ account is corroborated by an account of the same incident in Human Rights Watch/Helsinki, “Ethnic Cleansing,” p. 24. However, some details, including the date, differ in the accounts.

the main target, [the man from Ugljevik] beat me with sticks some five to six centimeters thick, but they broke on me. My back was as black as coal.

At some point, we had to get up somewhere, so I carried all the weight. He then beat me in the back, and I started to fall, but thanks to the two older men, I stayed up. [The man from Ugljevik] then said: "Fuck this guy, this Balija won't go down," and he cursed me. I put the bed down, pretending to fix the dead guy's face a bit, to be able to see [Pero's] face. Then [the man from Ugljevik] asked me: "Did you do that to remember me? You won't, because you will not pass the next stream." He asked me if I had kids. I said I had one daughter. Then he asked the others, who all said they had daughters, and one said he didn't have any kids. They then started beating us with sticks again, and said we lied, that we all had sons in the army in Teo..ak who were killing them. Then they started beating us again, mainly Ibro and Alija from Bijeljina, and Alija from Janja.<sup>46</sup>

Fortunately, a Bosnian Serb doctor then took the witness and his colleagues under his protection and later, when the Mandif Guard returned from the front line after the failed attack, regular Bosnian Serb army soldiers let them hide in their bunkers.

Other witnesses told Human Rights Watch they were used as human shields. A Bosniak from Janja told Human Rights Watch how "[they] were used by the Serbs as human shields to retake the trenches [near Greda]. The Bosnian army was forced to shoot, because [the Bosnian Serbs] were shooting from behind us. Fortunately, nobody was wounded or killed."<sup>47</sup>

## The Batkovif camp

Those who were forced to perform labor at the front lines in Lopare, Jablanica, Greda, and other places,<sup>48</sup> were registered as inmates of the Batkovif camp near Bijeljina. One of the Bosniaks who worked at the front line told Human Rights Watch that he had been registered by the International Committee of the Red Cross because the place he worked at was part of the Batkovif camp. Moreover, several others who fell ill during the time they were forced to labor at the front line were taken to the Batkovif camp for treatment.

The Batkovif detention camp was located in Klis, a hamlet near Batkovif, a village about ten kilometers north of Bijeljina. The camp, which used to be a storage facility for a farm cooperative, was reportedly established in June 1992.<sup>49</sup> The prisoners were held in two large barns without windows and slept on bales of hay covered by tent canvas. Human Rights Watch representatives visited the Batkovif camp twice in late August 1992, at which time Major Mauser introduced himself as the commander of the camp.<sup>50</sup> Human Rights Watch was told that 1,200 men were being detained at the time

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<sup>46</sup> Human Rights Watch interview, Tuzla, December 16, 1998. The witness asked not to be identified. The witness' account was corroborated by several other witnesses who were in the same group. Balija (plural: Balije) is a derogatory term for Bosniaks. Teo..ak was a front line village in the Federation.

<sup>47</sup> Human Rights Watch interview, Tuzla, December 16, 1998. Similar stories about forced labor at the front line, including the use of prisoners as human shields, can be found in: Human Rights Watch/Helsinki, "Ethnic Cleansing," pp. 23-25; Brent Israelsen, "Heart of Darkness," *Salt Lake Tribune*, August 11, 1996; and Amnesty International, *Waiting*, 1994.

<sup>48</sup> Human Rights Watch also spoke to witnesses who were made to perform forced labor in Stolice, Ma..kovaf, Piperi, Crno Brdo, Pelagifevo, and Blaševaf.

<sup>49</sup> Helsinki Watch, *War Crimes*, pp. 210-214; United States Government, *Fourth Report on War Crimes in the Former Yugoslavia*, (Washington: United States Government, December 1992); United Nations, *Final Report*; Peter Maass, "Illusory Serb Prison Camp Materializes," *Washington Post*, August 27, 1992.

<sup>50</sup> At around the same time, the Batkovif camp was visited by several journalists. Peter Maass, a journalist for the *Washington Post* who visited the Batkovif camp on August 26, 1992, quotes a top camp official named Major Jovica Savif (see:

of the visit. Two thirds of the detainees were said to be former combatants, and the remaining prisoners were described as civilians who were being held in the camp “for their own protection.”<sup>51</sup> In an interview with the *Washington Post*,<sup>52</sup> a camp official claimed that Batkovif was not a detention camp, but a “collection center.” “It is necessary for humanitarian purposes to protect these people....Since they did not want to take part in fighting, they were in danger of being killed by their own people.” Furthermore, the official claimed that the detainees got three good meals a day, eating the same food as the Serb guards, that they were free to make visits to Bijeljina, and that they worked voluntarily in farming nearby fields because they wanted the exercise. He finished by saying: “Most of them are here as though they are on a picnic.”

Others, however, paint a significantly different picture of the conditions in the Batkovif detention camp, in numerous reports about inhuman conditions there. Frank R. Wolf, then a member of the U.S. House of Representatives, visited the Batkovif camp on September 1, 1992. He described Batkovif as follows:

The prison camp housed 1,280 prisoners, mostly Muslim, mostly civilian with some soldiers. The discipline was harsh and conditions were stark and barren....The prisoners sat silently on a thin layer of filthy straw with the silence punctuated from time to time by subdued coughing which may preview sickness and influenza as winter grips this terrible place. Hopelessness clouded the faces of the men in this camp. The longer this siege goes on the more difficult the healing process will be. These prisoners just must be released soon. Conditions are terrible and winter will bring on a spreading sickness that will be intolerable.<sup>53</sup>

The prisoners were living in overcrowded warehouses, and often there was not enough food. Some prisoners were regularly given severe beatings, sometimes resulting in death. Moreover, the prisoners had to perform forced labor, either at the front lines digging trenches and carrying materials, or in Bijeljina itself, working in the fields or performing other tasks for Serbs.

Omer, a man in his sixties who was detained in the Batkovif camp from around July 18, 1992, through August 20, 1992, told Human Rights Watch:

I was held in a warehouse about seventy by thirty meters, with about 1,200 men. The warehouse was filled with seven rows of military mattresses—one for two men—so we had to sleep on our sides. The pallets were about eighty centimeters wide.

We didn't have any problems with the guards, only from soldiers who would come now and then to beat prisoners. There was a period during which the soldiers would come and beat people every night. Usually after it got dark in the evening, these soldiers would separate the genuine POWs — there were

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Maass, “Illusory Serb,” *Washington Post*). In an article in the *Houston Chronicle* (“Serbs practice a shell game with inmates,” August 22, 1992), Nina Bernstein identifies a Jovi..ka Savif as the person running the Batkovif camp. However, Jonathan Landay, a reporter from the *Christian Science Monitor* who accompanied Bernstein and Maass to the camp, stated in an interview on March 17, 1999, that he was 100 percent positive that it was Ljubiša Savif who was in operational control of the camp, and ultimately led the journalists into the camp. Since Ljubiša Savif's nickname is Major Mauser, it seems probable that Maass and Bernstein misunderstood the first name of the commander. Furthermore, in United Nations, *Final report*, it is claimed that on July 13, 1992, JNA colonel Petar Dmitrovif was the Batkovif commander, while in a U.S. State Department document a former prisoner claims that in August or September a Lieutenant Colonel Vasiljevif became the commander of the camp.

<sup>51</sup> Human Rights Watch, *War Crimes*, p. 211.

<sup>52</sup> Maass, “Illusory Serb,” *Washington Post*, August 27, 1992.

<sup>53</sup> Frank. R. Wolf, *Statement by U.S. Rep. Frank R. Wolf Congressional Delegation to the Balkans, August 30 - September 4, 1992*, 1992.

about five or six of them. Then they would take them outside the enclosures, and from behind the warehouse we could hear cries and screams. The POWs were beaten every night, and the others were beaten from time to time, depending on the mood of the soldiers.<sup>54</sup>

Omer reported that no one was killed by gunfire, although some died from beatings. During his detention, Omer declared, thirteen people were beaten to death.

We would see them being separated and then we could hear shouts, shrieks, cries. These men would then come back, every part of them blackened, and they would lie down. After a few hours, they would be dead. Two of the POWs died. Two civilians whom I knew also were killed. Sead Delif was called to work in the barracks, where he was beaten. He fell gravely ill and died in the hospital. All the others died in the warehouse.

The United States government reported the story of two Bosniaks, aged twenty-five and thirty-three, who were held in several camps by Serb forces from May 30, 1992, through April 21, 1993. The account said that for most of August 1992 they were held in Batkovif:

The witnesses said Batkovif was the worst of the camps in which they had been held. There had been around 1,600 prisoners in Batkovif when they arrived, all of them from northeastern Bosnia. A number of children and elderly men were moved out of the camp in closed trucks after it was announced there would be an ICRC visit to the camp.

Beatings were common at Batkovif. Zulfo Saracevif, aged 55, died of beatings. A jeweler from Bijeljina died after three nights of beatings, the purpose of which was to get him to tell where he had hidden gold and jewelry. Several elderly men died from the bad conditions at the camp. One of the witness's cousins died of gangrene in a leg wound for which he had received no medical care.<sup>55</sup>

Numerous reports confirm the abuses in the Batkovif detention camp.<sup>56</sup> These abuses apparently decreased, and conditions improved, after local villagers protested the treatment of the detainees, demanding that they be treated as Serb detainees would want to be treated.<sup>57</sup> Human Rights Watch interviewed several witnesses who were detained in the Batkovif camp from November 1994 through February 1995. Most of the witnesses claimed that they didn't have enough food, sometimes receiving as little as one loaf of bread for sixteen detainees, and therefore lost weight in the camp. However, none of the witnesses detained during this later period indicated that they were beaten or harassed in the camp. While the Bosnian Serbs closed down several detention camps after a public outcry about the conditions in the camps (in particular camps in the Prijedor area), the Batkovif camp remained in use throughout the war and was closed only after the war was over.

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<sup>54</sup> Interviewed on October 18, 1992, in Đupanja (Croatia). Since the witness chose to withhold his real name, the name used here is a pseudonym. Omer's testimony was previously published in Human Rights Watch, *War Crimes, Vol. II*, April 1993, pp. 211-214. POW stands for prisoner of war.

<sup>55</sup> United States Department of State, *Supplemental United States Submission of Information to the United Nations Security Council in Accordance with Paragraph 5 of Resolution 771 (1992) and Paragraph 1 of Resolution 780 (1992)*, (Washington: Department of State, June 16, 1993).

<sup>56</sup> United States Department of State, *Fourth Report on War Crimes in the Former Yugoslavia*; United States Department of State, *Fifth Report on War Crimes in the Former Yugoslavia*; United Nations, *Final Report*, chapter 3, para. ii-xix; Frech, *Disappearances*, pp. 50-51; Brent Israelsen, "Heart of Darkness," *Salt Lake Tribune*, August 11, 1996; Uinsionn Mac Dubhghaill, "Bricklayer Weeps as He Recalls Detention," *Irish Times*, April 6, 1993.

<sup>57</sup> United Nations, *Final Report, S/1994/674/Annex VIII*, chapter 3, para. xiii-xvi.

The final report of the *United Nations Commission of Experts* identifies several other detention facilities operated by Bosnian Serb forces in the Bijeljina region: the agricultural school in Bijeljina, the old military barracks in Bijeljina, the Španac military barracks, a newly built detention facility near Popovi, and the slaughterhouse near Velika Obarska.<sup>58</sup> In addition, Human Rights Watch interviewed witnesses who were held as prisoners at a pheasant farm in Suho Polje, a village to the southeast of Bijeljina. A Bosniak from Janja, who was driven by truck from Lopare in the direction of Bijeljina, was hoping that they would be taken home. “But in Suho Polje, the truck turned off the main road. We went to the pheasant farm, where we saw the same guards as in Hase [where the witness had been held in detention before]. They had put blankets on the windows, and they said that there were mines all around us so we wouldn’t try to escape. There were twenty-three [prisoners] there. After three or four days, we got some bread, a can of food, and some water. We stayed in Suho Polje for five or six days.”<sup>59</sup> The camp in Suho Polje was also used in the process of expelling minorities from the Bijeljina area to the area under Bosnian government control.

### **The rule on “surplus living space” and subsequent evictions**

In some respects the Bijeljina area, and in particular the village of Janja, was different from other regions of Bosnian Serb controlled territory. In most other areas, if minorities were not killed outright or arrested and brought to a detention camp, they were brutally evicted from their houses and expelled to territory under the control of the Bosnian government or Bosnian Croat forces. In the Bijeljina area, however, another tactic was used during the first two years of the war. Rather than evicting Bosniaks from their homes and deporting them, living conditions were made very difficult for Bosniaks and other minorities, thereby forcing them to leave. Bosniaks and other minorities in Bijeljina often were not evicted from their homes, but were forced to accept displaced Bosnian Serb families in their homes.

Soon after the outbreak of hostilities, Bosnian Serbs from areas under the control of the Bosnian government, in particular the Tuzla municipality, started coming to Bijeljina. Initially, these displaced persons accommodated themselves, or were accommodated by the authorities, in the houses of Bosniaks who were working abroad when the war started, or who had fled Bijeljina immediately after the war broke out. However, most Bosniaks decided not to leave and tried to adjust to living under Bosnian Serb rule.<sup>60</sup> There was consequently not enough space available to accommodate all the Bosnian Serb displaced persons.<sup>61</sup> As soon as all the vacant living space was occupied, displaced Bosnian Serbs started to move in with, or were assigned to houses of, Bosniaks who were still living in Bijeljina.

The practice of accommodating displaced Bosnian Serbs in the houses and apartments of Bosniaks had its legal basis in the *Decree on the Allocation for Temporary Use of Housing Objects, Business and other Premises*, which entered into force on August 1, 1992. It states that:

Article 2:

Apartments which have not been abandoned may be used, i.e. allocated temporarily for accommodation [of displaced persons, refugees or persons who have remained without accommodation due to war activities] if the owner, i.e. current user has a surplus of living space as outlined in article 6 of this decree.

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<sup>58</sup>*Ibid.*, para. xx - xlvi. Several other detention facilities are mentioned, but their existence has not been corroborated by neutral sources.

<sup>59</sup> Human Rights Watch interview, Tuzla, December 16, 1998. The witness asked not to be identified.

<sup>60</sup> In Bosnia, building houses is a common way of investing wealth. Especially in rural areas such as Janja, the housing is almost exclusively private property. Most Bosniaks were not willing to give up the property they had worked for most of their lives.

<sup>61</sup> Amnesty International claims that by late July 1992, more than 30,000 displaced Serbs had arrived in Bijeljina. See Amnesty International, *Waiting*, 1994.



The accommodation referred to in paragraph 2 of this article can be allocated for temporary use only if there is no vacant accommodation in the territory of the municipality.

Article 6:

The criteria for assigning accommodation based on size are the following:

- one to two members - a studio or one-room apartment;
- three to four members - two-room apartment;
- five or six members - three-room apartment;
- seven or more members - house with two apartments or similar.<sup>62</sup>

In Bijeljina, a prosperous area, most houses were relatively large and had more space than the minimum set by the decree. In subsequent laws passed by the Bosnian Serb authorities, the stipulation concerning the use of “surplus living space” was further delineated. Article 3 of the Decree on the Accommodation of Refugees<sup>63</sup> stipulates that “all the owners and/or users of more than 15 square meters of housing space per household member shall be obliged to make that surplus of living space available for the accommodation of the expelled population.” In article 17 of the Law on the Use of Abandoned Property, which came into force in February 1996, the same criteria were used. Moreover, the law specified the way accommodations would be chosen.<sup>64</sup> Dr. Gret Haller, the Human Rights Ombudsperson for Bosnia and Hercegovina, in a special report on article 17 of the Law on the Use of Abandoned Property, found that both the law itself and its application violated the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols.<sup>65</sup> The commission responsible for accommodation of refugees and displaced persons issued formal decisions

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<sup>62</sup>The decree was published in the *Official Gazette of Serbian People in Bosnia-Hercegovina*, no. 12/92, July 31, 1992.

<sup>63</sup>The decree was published in the *Republika Srpska Official Gazette*, no. 19/95, and entered into force on October 1, 1995.

<sup>64</sup>The Law on the Use of Abandoned Property was published in *Republika Srpska Official Gazette*, year V, no. 3, February 27, 1996. Article 17 of the law reads as follows:

If the persons referred to in Article 1 of this Law [refugees and displaced persons] can not be accommodated in the apartments and housing facilities from Article 11 of this Law [abandoned property], they will be given temporary accommodation in the apartments or housing facilities in which there is a surplus of housing space over 15 m<sup>2</sup> for each member of the family household and according to the following order:

- C in apartments and housing facilities of the owners or holders of the right to occupy who have not regulated their work or military obligations;
- C in apartments and housing facilities of the owners or holders of the right to occupy whose members of the family household have left the Republic [Republika Srpska], but lived in the joint household;
- C in other facilities where there is surplus housing space.

Temporary accommodation in the facilities referred to in the previous paragraph will last as long as the users of that facility are not provided with some other adequate facilities.

<sup>65</sup> Human Rights Ombudsperson for Bosnia and Herzegovina, *Special Report No. 1543/98* (Human Rights Ombudsperson for Bosnia and Herzegovina: Sarajevo, April 9, 1998). The ombudsperson found that “the content and application of Article 17 of the Law on Abandoned Property constitute a violation of Article 8 [right to respect for his home] and Article 1 [the right to peaceful enjoyment of possessions] of Protocol No. 1 to the Convention ...” Therefore, she recommended that Article 17 of the Law on Abandoned Property cease to be applied with immediate effect, and before July 1, 1998, be amended in such a way as to be in compliance with the convention. However, only on December 2, 1998 did the National Assembly of the Republika Srpska pass the Law on the Cessation of Application of the Law on the Use of Abandoned Property, which came into effect on December 19 after the law was published in the *Republika Srpska Official Gazette* on December 11.

The Office of the Human Rights Ombudsperson was created in the Dayton Peace Agreement. The Office of the Ombudsperson can consider alleged or apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto. For the exact mandate of the Ombudsperson, please see: *General Framework Agreement for Peace in Bosnia and Herzegovina*, Annex VI, Chapter Two, Art. II-VI.

to displaced Bosnian Serbs giving them permission to reside in Bosniak homes. The commission also issued decisions authorizing displaced persons to live in Bosniak houses which they had already entered, often in a violent manner.

Many Bosniaks claim that the displaced Serbs living with them were friendly toward them and did not harass them in any way. For some it might even have served as a kind of protection measure. However, in general, the Serbs were in control of the house, and the Bosniaks were only tolerated, especially because the Bosniaks were afraid to file a complaint with the local police. There were often arguments and even violent incidents between the original inhabitants and the displaced persons living in their houses; often resulting in the Bosniak family moving out of the house, going either to an area controlled by the Bosnian government, or moving into old houses or outbuildings.

In many cases, those who moved in with Bosniak families were representatives of the local authorities themselves, in particular members of the special police and other law enforcement officials. P.A., a Bosniak from Janja, told Human Rights Watch about her experiences with a displaced Bosnian Serb member of the special police:

On April 7, 1994, Pero Mi..anovif from Visoko, and his wife Slobodanka and their child, moved into our house....We agreed with them living here, they said they would be good to us. They got the summer kitchen<sup>66</sup> and one room, but the whole house was open [to them]. The first half year, there were no problems. But when he saw that we wouldn't leave, he started making problems. They didn't allow us to use the milk of the cow any more, nor to lend our stuff to the neighbors. Slobodanka said: "It is all ours now, your house is now in Visoko." After two to three months, Pero beat me up. It was Ramadan, and I was fasting. Pero came to take milk, he threw me down and started to beat me on my head several times. [When] the police came...they said: "Don't beat her. If they need to leave, they'll leave, but don't beat her."<sup>67</sup>

P.A.'s husband continued:

Then nothing happened again until spring, but in March 1995, Pero brought three members of the special police to expel us from [our] house. I could see from the insignia on their clothes that they were special police, just like Pero. They came at 10 a.m., I was just drinking coffee. One of them, Mika from Tuzla, told me we had to leave the day after. I said: "I won't leave, I have kept my promise about the rooms, and I don't have any problem with Pero." Then [Mika] hit me once with his fist on my temple, and I fell unconscious. My wife tried to wake me with water, but then [he] kicked me in my kidneys, threatening: "If you say anything, you'll disappear." After that, they left. We called the local police, who came in the evening, [and] told us it would be better if we would move into the summer kitchen. But we moved into the smaller room in the house, where we slept for one month. But then A..im<sup>68</sup> came, and he was angry. He expelled us from our house by threatening us with a gun. Then we decided to leave to the summer kitchen, and we couldn't even use the toilet in the house anymore.<sup>69</sup>

The problems between Pero and P.A. continued far into peacetime, and P.A.'s family was forced to live in the summer kitchen, while Pero and his family lived in the main house. Ultimately, Pero and his family left around November 10, 1997, fearing a court hearing on the case that was scheduled a few days later.

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<sup>66</sup> Houses in rural areas in Bosnia often have one or more smaller outbuildings, including a so-called summer kitchen.

<sup>67</sup> Human Rights Watch interview, Janja, December 19, 1998.

<sup>68</sup> J.A. reports that Mika is currently a member of the local police force in Bijeljina. A..im, whose real name is Jovan A..imovif, was at that time a member of the RS special police, which has its headquarters in Motel Plašna at the Drina River near Janja. Currently, Jovan A..imovif is a member of the local police in Ugljevik.

<sup>69</sup> Human Rights Watch interview, Janja, December 19, 1998.

The case of P.A. and her husband is symptomatic of the situation of many Bosniaks who had to accommodate Bosnian Serbs in their homes. Understandably, the relations between the Bosniaks and their Bosnian Serb “guests” were often less than amicable. The houses were often too small to accommodate two families. Moreover, the displaced persons often had left their homes under the pressure of, or were forced to leave by, Bosniaks, and they resented the presence of Bosniaks in “their” replacement homes. The Bosniaks, on the other hand, could hardly count on any form of protection by the authorities, and were therefore at the mercy of their “guests.” It is therefore not surprising that in the vast majority of cases, this arrangement ultimately resulted in the departure of Bosniaks, often after a series of violent incidents. The Bosniaks then either moved into an outbuilding next to their house, or became displaced persons in territory controlled by the Bosnian government or Bosnian Croat forces.

In other cases, the displaced Serbs used more direct methods to drive Bosniaks from their own homes. O.K., a fragile Bosniak in his sixties, told Human Rights Watch how he was forced out of his house:

In July 1994, Mladen Stojanovič, a member of the special police from Perin Han, moved into the house. He lived with us, and protected us some....Mladen never had any decision [that allowed him to live in] the house. On September 8 or 9, we went to work in the field. [When we came back], he had changed all the locks to the house, and also to the summer kitchen. I went to the local police right away to complain, but they said they couldn't help me, because Mladen was special police....So I moved into the house of my mother-in-law, which was destroyed, and was [abandoned] already five years ago.<sup>70</sup>

However, even though O.K. and his wife left the house, Mladen Stojanovič continued to harass them. In May 1995, Mladen came to the shack, asking O.K.'s wife why she still hadn't moved to Tuzla.<sup>71</sup> He then continued to beat both O.K. and his wife, killed O.K.'s dog, and even fired several shots at O.K.'s wife.

Given the influx of Bosnian Serb displaced persons that the de facto Bosnian Serb authorities were faced with, it was understandable and reasonable for them to institute a policy through which citizens could be made to share their accommodation with displaced persons; it is only reasonable to require citizens to assist in case of an emergency. However, this policy in practice turned into a mechanism allowing displaced Bosnian Serbs to harass and abuse their Bosniak hosts, and ultimately drive them from their homes by making their life unbearable, or simply throwing them out. Moreover, the rule on surplus living space was applied in a discriminatory fashion. Both international and Bosnian sources claim that only minorities and those Bosnian Serbs who refused to take part in the war effort were forced to accommodate displaced Bosnian Serbs in their homes (although some Serbs voluntarily housed some of the displaced. This indicates that although the Bosnian Serb authorities indeed had difficulty accommodating Bosnian Serb displaced persons, the rule was also used as an instrument to force Bosniaks and other minorities to leave.

### **The Commission for Exchange and the expulsion of the civilian population**

The ultimate aim of the takeover of Bijeljina was to create an ethnically clean area, i.e., to force all, or at least the vast majority, of non-Serbs living in the Bijeljina area to leave. The municipal authorities in Bijeljina admitted as much when they told representatives of the Belgrade-based *Humanitarian Law Center* in September 1993 that they were

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<sup>70</sup> Human Rights Watch interview, Janja, December 16, 1998. Representatives of Human Rights Watch have seen the mother-in-law's “house” the family now lives in: a ramshackle cottage consisting of one six-by-eight-foot room less than six feet high.

<sup>71</sup> Tuzla is a city which during the war was in Bosnian government controlled territory, and is now part of the Federation.

implementing a decision of the Republika Srpska government to reduce the number of Bosniaks in Bijeljina to 5 percent of the original number.<sup>72</sup>

In 1992, the authorities set up a *Commission for Exchange of Civilian Population* to facilitate the “voluntary” departure of Bosniaks and other minorities, which was headed by Vojislav “Vojkan” Đurković.<sup>73</sup> Đurković was a major in Arkan’s Serbian Volunteer Guard and at some point leader of the Bijeljina branch of Arkan’s political party, the Party of Serbian Unity (*Stranka Srpskog Jedinstva*). Đurković and his assistant Risto Marian arranged transport for Bosniaks, Croats, and Roma who wanted to leave Bijeljina. Allegedly, the Commission for Exchange even put up a banner in Janja encouraging Bosniaks to sign up for exchange.<sup>74</sup>

Đurković and his associates charged large fees for “safe transport” to Bosnian government controlled areas or third countries. Fees ranged from DM 150 (U.S.\$ 75) to DM 250 (\$125) for women, children, and elderly men, while men of military age had to pay up to DM 2,500 (\$1,250).<sup>75</sup> Despite these huge fees, the transport was far from safe. Many men of military age were taken off the buses that were supposed to transport them to areas under Bosnian government control. Alija, a Bosniak from Janja, told Human Rights Watch about his experiences with the “safe transport” arranged by Đurković:

On September 3, 1994, I paid Risto to take me to Tuzla. I paid DM 2,000 [\$1,000] for me, and DM 200 [\$100] each for my wife and four children. We all slept in a truck in Priboj, near Livade. At 3 a.m., they separated ninety-seven men from their families. We waited for two hours in a truck, then drove for about twenty kilometers. Then, they put us in one line, counted us, and registered our names. Military trucks came, and they all took as many [men] as they needed. Twenty of us were brought to [the front line near] Jablanica, where we had to carry food and dig trenches.<sup>76</sup>

Alija was forced to work in Jablanica for almost three months, after which he was transported to the Batković camp, where he became very ill and was released. He again signed up for exchange, this time paying DM 3,200 (\$1,600) to be transported to Hungary.

Those who did not sign up to be exchanged “voluntarily” were often forced to leave anyway. Vojkan and his aides often went themselves to gather Bosniaks for “exchange,” but the Commission for Exchange also had its own paramilitary group to intimidate and expel Bosniaks. This paramilitary group was known among the population as “Mauser’s Guards” (after their leader Ljubiša “Mauser” Savić), “Panthers,” or “Vojkan’s men.”<sup>77</sup> The forced expulsions in most cases followed a very similar pattern: paramilitaries entered the houses of Bosniaks, often at night, but also during daytime. The inhabitants were told that they had a certain period (often not more than fifteen minutes) to gather some

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<sup>72</sup> Humanitarian Law Center, “The Case of Bijeljina,” *Spotlight Report No. 7*, September 15, 1993.

<sup>73</sup> See, among others, Human Rights Watch, “Ethnic Cleansing,” p. 6; Frech, *Disappearances*, pp. 42-43; Humanitarian Law Center, “The Case of Bijeljina,” *Spotlight Report No. 7*, Belgrade (Serbia), September 1993, p.1; Humanitarian Law Center, “Expulsions of National Minorities - Banja Luka and Bijeljina,” *Spotlight Report No. 14*, Belgrade (Serbia), August 1994, pp. 6; Jonathan S. Landay, “Bosnian Serbs Expel Non-Serbs from the North,” *Christian Science Monitor*, September 7, 1994. Amnesty International, its report on Bijeljina (Amnesty International, *Living for the Day*) identifies Vojislav “Vojkan” Đurković as the head of the commission. Most probably, this is just a misunderstanding or misspelling of Đurković’s name.

<sup>74</sup> Human Rights Watch/Helsinki, *Ethnic Cleansing*, p. 7.

<sup>75</sup> Human Rights Watch/Helsinki, *Ethnic Cleansing*, p. 32; Amnesty International, *Waiting*, 1994.

<sup>76</sup> Human Rights Watch interview, December 16, 1998. The witness asked not to be identified, and the name used here is a pseudonym.

<sup>77</sup> See also Amnesty International “*Living for the Day*.” Both Ljubiša Savić and Vojkan Đurković were named by many persons that Human Rights Watch interviewed as responsible for “ethnic cleansing” in Bijeljina.

belongings, after which they would be taken to the center of town, where a truck was waiting to transport them to Bosnian government-controlled territory. However, the truck never drove the Bosniaks straight to the area where they could cross the front line. The truck always first went to an outlying area, where Vojkan Đurkovič and/or his aides were waiting. The Bosniaks were then forced to hand over all their money, other valuables, and documents to Vojkan or his aides. Moreover, those who owned a house were almost without exception forced to sign a document stating that they had voluntarily given up their rights to all their property.<sup>78</sup> In many cases, men of military age were separated from the rest of the group, and taken to work at the front lines. After being strip-searched, the rest of the Bosniaks were then again put on a truck and driven to the front line, where they were sent across, often through a mine field, to Bosnian government positions.<sup>79</sup>

Although expulsions continued throughout the war, there were three major waves of expulsions from Bijeljina. The first wave took place at the beginning of the war, right after the take-over of Bijeljina. A second wave happened in August and September 1993, and the third wave was from July to September 1994. S.A., a Bosniak in his fifties from Bijeljina, was expelled by Vojkan Đurkovič during the second wave in 1993:

On September 9, 1993, we were expelled from Bijeljina. That day, I went to a meeting at work, where I was told I should call my wife, who had called crying. When I called her, I found out that she had locked herself in the house, because three men had come in a combi to gather "Baliže." When I arrived at my house, there were three uniformed men waiting for me: Vojkan Đurkovič and [two] of Vojkan's aides. They asked me whether I was the owner of the house. When I said I was, they told me to tell my wife to open the door, because we had to leave our house. I asked where I should go to. They told me I would be taken to Hungary. They gave me five minutes to gather some belongings. In these five minutes, we managed to put some of our belongings in two or three bags.

After we left our house, we went to the house of another family that was also ordered to leave. Then we were taken to jail, where we stayed for two days without food and they stole all our belongings. After that, we were put in a bus together with other people, and were transported to the front line. In our group, there were thirty-eight persons, all of whom had been collected by Vojkan Đurkovič and his aides. In the bus, they gathered all the money we had left. Then, we were dropped off in Šotoroviča and had to cross the front line by foot, while they were sending grenades after us. We walked six kilometers, after which we reached our [Bosnian army] soldiers.<sup>80</sup>

In September 1993, the local authorities arrested Vojkan Đurkovič, apparently because they did not agree with his practices.<sup>81</sup> However, Đurkovič was released soon after and played a major role in the last, and biggest, wave of expulsions, which took place from July through September 1994. This wave of expulsions from Bijeljina, in which more than 6,000 Bosniaks were expelled,<sup>82</sup> coincided with similar expulsions in the Banja Luka area.

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<sup>78</sup> Human Rights Watch/Helsinki, "Ethnic Cleansing," p. 32; Humanitarian Law Center, "Expulsion of National Minorities," *Spotlight No. 14*, August 1994; Amnesty International, "Living for the Day," 1994.

<sup>79</sup> See also United States Department of State, *Bosnia and Herzegovina Human Rights Practices 1994* (Washington: February 1995); Nicole Courtney, "Red Cross condemns Bosnian Serb Ethnic Cleansing," *Reuters*, September 19, 1994.

<sup>80</sup> Human Rights Watch interview, Tuzla, April 16, 1998

<sup>81</sup> Jonathan S. Landay, "Bosnian Serbs Expel non-Serbs from the North," *Christian Science Monitor*, September 7, 1994; State Commission - Tuzla, *Criminals and Victims*, 1995, p. 106.

<sup>82</sup> See: Human Rights Watch, *Ethnic Cleansing*, p. 7; Amnesty International, *Living*, 1994; United States Department of State, *Bosnia and Herzegovina Human Rights Practices 1994*, February 1995; Jonathan S. Landay, "Mrs. Hadzic is a Bosnian Muslim; Serbs came and took her away," *Christian Science Monitor*, September 23, 1994; United Nations, *Situation of Human Rights in the Former Yugoslavia*, November 4, 1994; United Nations, *Statement by Mrs. Sadako Ogata, United Nations High*

D.T., a grandmother in her seventies of mixed ethnicity, was in one of the first groups to be expelled in mid-July 1994. After she was taken from her home, she was driven by bus to a forest between Bijeljina and Br..ko. There, Vojkan Đurkovič and one of his aides were waiting:

Vojkan told us to open our bags, and give all our money and jewelry to him. Then, they went from one person to another, taking everything away from them: not only money and jewelry, but also documents, I.D. cards, visas, everything. Then, they started to curse us: “You Balije, we will take you to Alija’s country, or maybe we’ll make you swim in the Sava or the Drina.” Moreover, they threatened to kill everyone who still had money or jewelry hidden somewhere. People were so scared that, when they went around with a nylon bag, they threw everything in it, they gave them everything they had. This scene repeated itself at all of the buses. [Then,] we drove another couple of kilometers, then we had to get off the bus. They made us walk through a mine field, I could see the mines. They told us to walk in the middle, so we would get to our army safely.<sup>83</sup>

In August 1994, Fahrudin Gruhonjič was expelled from his house.

On August 27, 1994, at about 2:30 a.m., somebody knocked on my door, and there were four guys in military uniforms with white belts. They were Mauser’s Guards, I recognized them; they were the Potpefanska Garda. They said: “Get yourself ready, you’re going to Tuzla, and you won’t ever return here.” I had to hand over the keys to my house. A little truck was waiting in front of my house, which took us to the center of Janja. There, a bigger truck was waiting for us....They took us to the primary school in Suho Polje. There were about thirty people in the truck, and about seventy to eighty people in the school. After about two hours, they took us one by one to a small room, where Vojkan [Đurkovič] and another demanded money. They took about DM850 [U.S.\$425 ] from me. The day after, at twelve o’ clock, Vojkan came again, together with another man with a Colt. They took a piece of paper, and said that those whose names were read out would go to forced work. He then named nine people, but two of them couldn’t work [because they were invalids or too ill], so the seven of us went.<sup>84</sup>

Fahrudin then worked at the front line until October 10, 1994, when he was released. When he came home, however, he found that his house had been occupied by a displaced Bosnian Serb who, according to one of Fahrudin’s neighbors, had the key to the house.<sup>85</sup>

These expulsions were of such significance as to prompt the U.N. Security Council to adopt a resolution to:

2. *Strongly condemn* all violations of international humanitarian law, including in particular the unacceptable practice of “ethnic cleansing” perpetrated in Banja Luka, Bijeljina and other areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, and *reaffirm* that those who have committed or have ordered the commission of such acts will be held individually responsible in respect of such acts;

4. *Demand* that the Bosnian Serb authorities immediately cease their campaign of “ethnic cleansing.”<sup>86</sup>

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*Commissioner for Refugees to the Humanitarian Issues Working Group of the International Conference on Former Yugoslavia*, Geneva, November 25, 1994.

<sup>83</sup> Human Rights Watch interview, Sarajevo, May 27, 1998. The witness chose to remain anonymous.

<sup>84</sup> Human Rights Watch interview, Janja, December 15, 1998.

<sup>85</sup> Human Rights Watch interview, Janja, December 15, 1998.

<sup>86</sup> United Nations Security Council, “*Resolution 941 (1994)*,” September 23, 1994.

The expulsions from Bijeljina were a profitable enterprise for those involved. In particular Vojkan Đurković must have collected enormous sums of money during his activities. Expelling several thousand people from Bijeljina for fees ranging between DM 150 [\$75] and DM 2500 [\$1,250] could easily result in “earnings” of several million German marks. However, several people have claimed that Đurković was only executing orders from others. One witness stated that “Đurković was just a marionette, he was in someone else’s hands as well.”<sup>87</sup> This may explain why neither Vojkan Đurković nor Ljubiša Savić seem to have extraordinary possessions: the revenues most probably had to be handed over to Bosnian Serb authorities at a higher level.

Interestingly enough, neither Vojislav “Vojkan” Đurković nor Ljubiša Savić “Mauser” denies their role in the “ethnic cleansing” of Bijeljina, although they describe the events in a somewhat different manner than their victims. Đurković claims he was actually helping Bosniaks. In 1994, the *Sunday Telegraph (London)* reported:

Đurković calmly insists the “transfers” have been voluntary, the logical result of civil war and ethnic partition.... “I am a man of mercy, really,” insists Đurković... “Some want me for the Hague (war crimes tribunal), but what I really deserve is the Nobel Peace Prize.... I am one of the few people around here who is trying to help these people.... I am these people’s only hope.... I am everything to them... I am their god and their savior.”<sup>88</sup>

According to Dan DeLuce, a *Reuters* correspondent, Ljubiša Savić

describes himself as a pragmatist and reluctant ethnic cleanser who had the best interests of the Moslems at heart.... He says expulsions were inevitable once the war started. “If municipal or military authorities took advantage of the situation to rob them as they were being transported, at least they arrived safely,” said Savić.. Savić insists he is just an ordinary man, an unemployed social worker, who was chosen by his neighbors to defend Serb homes. “Somebody has to do it, somebody had to have the guts.”<sup>89</sup>

## Between war and peace

Most Bosniaks were expelled from their houses by the Bosnian Serb authorities and forcibly transported to territory under control of the Bosnian government, while others were forced out of their houses by their Bosnian Serb “guests.” However, a few people were evicted from their houses by the authorities or police forces without being transported to Bosnian government held territory.

While these evictions took place throughout the war, there seemed to be an increase in evictions at the end of the war, after the Dayton Peace Agreement had already been initialed, but had yet to be signed.<sup>90</sup> Throughout Bosnia and Hercegovina, the warring parties tried to solidify the gains they had made before the peace agreement officially entered into force. Between the initialing and the signing of the Dayton agreement, there was an attempt in Bijeljina to evict the few Bosniaks who still lived in their own houses as well.

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<sup>87</sup> Interview with M.N., a former Bosniak inhabitant of Janja, Tuzla, April 23, 1998. This belief was expressed by several other (former) inhabitants of Bijeljina as well.

<sup>88</sup> Michael Montgomery, “Town where Ethnic Cleansing Wears a Mask of Mercy,” *Sunday Telegraph (London)*, October 10, 1994.

<sup>89</sup> Dan de Luce, *Reuters*, September 9, 1996. See also: Tom Walker, “Danes Play Host to Suspected Bosnian War Criminal,” *Times (London)*, December 16, 1997.

<sup>90</sup> The Dayton Peace Agreement, which ended the war in Bosnia and Hercegovina, was initialed on November 21, 1995, after three weeks of intensive negotiations at Wright-Patterson Airbase in Dayton, Ohio. The official signing ceremony, however, took place in Paris, France, on December 14, 1995.

According to several witnesses, Jovan A.imovif, nicknamed A.im, then a member of the special police force, played a major role in these attempts. Amira Janjif, a Bosniak woman from Janja, told how A.imovif forced her out of her house:

At the end of November, maybe the beginning December 1995, a guy called A.imovif, whose nickname is A.im, and three other guys (among whom was A.imovif's brother-in-law) came to my house at about 4 p.m.. They didn't kick in the door, they just walked in. A.imovif said: "Fuck your mother, did you think that you could take care of the house while your husband is in Germany? Get out of here, you have five minutes to leave. And don't take anything, all of this is now ours."...A.imovif told me to get out of the house, then later to go inside again, which I refused, [after which] he slapped me a few times. He also hit my mother, who was then seventy-three years old, [who] now still has a problem with her eye. A.im said to me: "Don't you complain about me. If I ever hear you did, the dark will eat you because I'm God." Nevertheless, I went to the police eight times to complain, but they never even came to check..<sup>91</sup>

Since that day, Amira Janjif and her family of six live in a two-room shack in Janja, while an elderly displaced Bosnian Serb couple is living in their house.

Other witnesses told similar stories of Jovan A.imovif having evicted them from their houses, often using violent means and abusive language. Nedžad Husrefbegovif, a Bosniak man in his fifties, had such an experience:

On December 5, 1995, I was sitting here with a friend... At about 7 p.m., six men from the special police, including Jovan A.imovif [A.im], came in. A.im said: "You have two hours to leave your house and hand over the keys." I told him I didn't have any place to go, but A.im took a tablecloth and said: "You have to leave, and don't even think about taking anything with you, not even this tablecloth." Then they just left, and we waited for things to come.

At 11 p.m., the same six men and one girl came, and broke into the house. A.im said: "Haven't you heard the news: not one Muslim is allowed to be in Bijeljina or Janja anymore." I said that if that was the case, he should come with a bus the day after to take us away. But he said: "There are two cars outside, why don't you go to my Zenica?" But we refused, and he said we should then go in the streets. I said I'd rather be in the streets than go with him in a car at night.<sup>92</sup>

After A.imovif and his companions had also broken all the windows of his workshop, Nedžad's family fled to a neighboring house. Husrefbegovif continued:

One of the soldiers called me back into the house, and I went. They tried to force me to drink rakija, and when I refused A.im slapped me in my face. I wiped my face, but he slapped me again. One of the other

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<sup>91</sup> Human Rights Watch interview, Janja, December 16, 1998. The witness chose not to be identified, and a pseudonym is used to protect her identity. Amira Janjif's husband was in Germany as a refugee at the time of this incident. Being "eaten by the dark" is an expression used in Bosnia meaning that someone "disappears." Jovan A.imovif is now a member of the regular police in Ugljevik, a municipality to the southwest of Bijeljina.

<sup>92</sup> Human Rights Watch interview, December 17, 1998. The witness chose not to be identified, and a pseudonym is used to protect his identity.



men, a blond guy, told him not to do it, but Jovan took a gun, put it against my head, and said: "This way your blood will come out." I slapped the gun away, and ran away.<sup>93</sup>

These were the last steps in the policy of "ethnic cleansing." It was already known that the Dayton agreement aimed to preserve, or rather rebuild, the multi-ethnic society that Bosnia once was. To that effect, the Dayton agreement contained several provisions to ensure the return to a multi-ethnic Bosnia, in particular Annex VII, which deals with the return of refugees and displaced persons. The actions undertaken by the warring parties between the initialing and the signing of the Dayton agreement seemed to be aimed at making the results of "ethnic cleansing" as irreversible as possible. It may also be the case that the Bosnian Serb authorities were preparing for an influx of Bosnian Serb displaced persons, in particular from Bosnian Serb controlled territory around Sarajevo which, according to the Dayton agreement, was to be handed over to the Federation authorities; an influx indeed occurred in the first months of 1996. In any case, the result was that most Bosniaks left Bijeljina, while those who remained almost without exception were not living in their own homes.

## THE INDIVIDUALS INVOLVED IN THE ETHNIC CLEANSING OF BIJELJINA

While Human Rights Watch's sources have mentioned many names of persons who were allegedly involved in the takeover and subsequent "ethnic cleansing" of Bijeljina, there are some individuals who have been accused frequently of playing a major role.

### **Đeljko Rađnatovij, a.k.a. Arkan**

In the early hours of April 1, 1992, Arkan's *Srpska Dobrovoljačka Garda* (Serbian Volunteer Guard), also known as Arkan's Tigers, moved into Bijeljina, and embarked upon a campaign of terror against the minority population. Houses, shops, and businesses owned by Bosniaks were ransacked, looted, and burned, and many Bosniaks lost their lives during the first four days of April.

Arkan, a proponent of a "Greater Serbia," was one of the most notorious paramilitary leaders in the Balkans. Before he came to Bijeljina, Arkan's Tigers had already made their mark in the war in Croatia, where they were instrumental in the takeover of Vukovar, Osijek, and other cities.<sup>94</sup> After Bijeljina, Arkan and his Tigers continued their killing spree during similar "cleansing" operations in other areas in Bosnia and Hercegovina, including Zvornik, Bratunac, Pijedor, Bosanski Novi, Sanski Most, Bosanska Dubica, Brčko, and other cities. Moreover, Dutch UNPROFOR troops have positively identified Arkan as having been present during the fall of Srebrenica and the subsequent massacre of thousands of Bosniaks.

In the communist era, Arkan was known as a hit man for the regime, as well as a criminal accused of bank robberies, burglary, and murder in Sweden, Italy, Belgium, the Netherlands, and Germany. When the war started, Arkan was serving a sentence in a Croatian jail, but he was released pending an appeal. Arkan ran his criminal activities, as well as his paramilitary gang from behind the facade of a pastry and ice cream shop he ran in the center of Belgrade. He was

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<sup>93</sup>*Ibid.* Rakija is a kind of brandy. In this case, the attackers apparently thought Nedžad refused to drink because he was a Muslim.

<sup>94</sup>See, among others, Blaine Harden, "Serbia's Treacherous Gang of Three," *Washington Post*, February 7, 1993; Keith Dovkants, Victor Sebestyen, "War Criminals Who May be Charged with Balkan Atrocities," *Evening Standard*, February 16, 1993; David Firestone, "Serb Lawmaker is Called Vicious Killer," *St. Louis-Dispatch*, January 3, 1993; Chuck Sudetic, "A Shady Militia Chief Arouses Serbs," *New York Times*, December 12, 1993.

once president of the Belgrade's Red Star soccer team fan club, and many of Arkan's paramilitaries were recruited from its supporters. Moreover, Arkan at some point was a member of the Serbian parliament, representing his Party of Serb Unity (*Stranka Srpskog Jedinstva*) from a region in the predominantly ethnic Albanian Kosovo province.

On March 31, 1999, Louise Arbour, then-ICTY prosecutor, announced that since September 30, 1997, Rađnatoviđ had been indicted for crimes against humanity, violations of the laws and customs of war, and grave breaches of the 1949 Geneva Conventions. Because the indictment has not yet been made public, it is unclear whether Rađnatoviđ was indicted for crimes committed in Bijeljina. Rađnatoviđ was murdered on January 15, 2000 in the lobby of the Intercontinental Hotel in the center of Belgrade. It is so far not known by whom, and for what reasons, Arkan was killed.

### **Ljubiša Savij, a.k.a. Major Mauser**

Ljubiša Savij's paramilitary brigade, known as the "Panthers," "Mauser's Guard," or "Vojkan's men," were initially part of Arkan's Serbian Volunteer Guard, but later became a special unit of the Bosnian Serb Army. Mauser's paramilitary group, according to many witnesses, was responsible for much of the "ethnic cleansing" in the Bijeljina area. Moreover, Mauser introduced himself to Human Rights Watch as the commander of the notorious Batkoviđ detention camp north of Bijeljina. However, Mauser's activities were not limited to the Bijeljina area. There are several reports of Mauser's involvement in the Br..ko area as well, where a brutal campaign of "ethnic cleansing" and mass executions was carried out in May 1992.<sup>95</sup>

After the war, Ljubiša Savij established the Democratic Party (*Demokratska Stranka*), which had its main support base in Bijeljina as a result of Savij's "local hero" status. The Democratic Party was mainly meant as an alternative to the Serb Democratic Party (Srpska Demokratska Stranka, SDS) and the Serb Radical Party (Srpska Radikalna Stranka, SRS). Many sources claim that Mauser is strongly opposed to Radovan Karadžiđ, Ratko Mladiđ, and their supporters in the SDS and SRS, even though he helped them implement their policies. Allegedly, Savij feels disappointed that those who claimed to be fighting for the ideal of a "Greater Serbia" in the meantime amassed enormous riches at the expense of ordinary citizens. His opposition to hard-liners in Pale earned him a high-ranking position in the Republika Srpska authority: under former Prime Minister Milorad Dodik, Ljubiša Savij was appointed chief of Uniformed Police of the Republika Srpska, a position immediately under Minister of the Interior Stankoviđ.

During his tenure as chief of Uniformed Police, Savij undertook an all-out effort to rid the Republika Srpska of organized crime, which in large part is believed to be run by people loyal to Radovan Karadžiđ. These efforts, however, were not appreciated by those involved in organized crime. Three assassination attempts against Mauser are generally believed to have been attempts by criminals to stop his investigations. In the last attempt, which took place on July 9, 1998, two men tried to place a bomb under Savij's official car. However, the bomb went off early, and the two men were killed in the explosion.

On September 14, 1998, Ljubiša Savij was disqualified and removed from his post by then-IPTF Commissioner Richard Monk in the wake of the murder of Srđan Kneđeviđ. Kneđeviđ, the deputy chief of the Srpsko Sarajevo Public Security Center, was murdered in Pale on August 7, 1998. A team consisting of high ranking police officials was set up to investigate the murder, and Savij was appointed as the leader of the team. On August 9 and 10, the team arrested fourteen suspects in relation to the murder. All but one of the men were severely beaten by Savij and others at the time of their arrest. During the subsequent investigation, the men were illegally detained in a building in Pale, where they were

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<sup>95</sup>Frech, *Disappearances*, pp. 45-52; Helsinki Watch, *War Crimes...*, pp. 94-99; Human Rights Watch, "The Continuing Influence of Bosnia's Warlords," *A Human Rights Watch Report*, vol. 8, no. 17, p. 16; "Dossier: Br..ko," *Dani*, March 2, 1998; State Commission for Gathering of Facts about War Crimes — Tuzla, *War Crimes in the Tuzla Area*, Tuzla, 1996, pp. 83-96; State Commission for Gathering of Facts about War Crimes — đivinice, *Criminals and Victims*, đivinice, 1995, pp. 113-127.

at times handcuffed to radiators or furniture. An investigation by the U.N. Human Rights Office held Savij personally responsible for torture:

During the interviews, Mr. Savij personally, as well as other police officers under his command, severely tortured, both physically and mentally, eight of the fourteen detainees. The torture techniques included using a high-voltage “stun gun” on the tongue and other parts of the body; loosening teeth with a pair of pliers; pulling hair from the chest; and other sustained and violent physical abuse. Some detainees received threats that they and their families would be killed. Under pressure of torture and ill-treatment, some of the detainees did confess or make incriminating statements. The police officers tortured and re-interviewed several of the fourteen detained men numerous times until they signed statements prepared for them.<sup>96</sup>

After the extraction of confessions, seven of the fourteen suspects were transferred to a prison in Kula, but seven others were transported to the Famos factory, where they were illegally detained for three days. During this period, the men were again handcuffed to furniture and radiators, and mistreated by Savij and other police officers.

After then-IPTF Commissioner Monk had disqualified Ljubiša Savij from police service for supervising and directly engaging in the torture and ill-treatment of the illegally detained persons, Minister Stankovič ordered Savij’s removal from his post. On March 1, 2000, the public prosecutor filed criminal charges at the basic court in Sokolac against Savij and eight other persons involved in this case. Savij was charged with having conducted an illegal detention, extortion of a statement, mistreatment, and an illegal search.

The question is how the international community in Bosnia and Hercegovina, in particular the IPTF<sup>97</sup>, accepted that a person who is allegedly responsible for a brutal campaign of “ethnic cleansing,” and allegedly was a detention camp commander, be appointed to such a high-ranking position within the police force set up under the Dayton accords. The name “Major Mauser” instills fear in many Bosniaks from northeastern Bosnia, and stories about his activities abound. Admittedly, the IPTF only came to Bosnia and Hercegovina after the war was over, and does not necessarily have personnel with in-depth knowledge of wartime Bosnia. Moreover, the IPTF has not yet completed the process of restructuring and screening the police force in the Republika Srpska, and had not formally approved Savij’s appointment. However, one would expect the IPTF to keep close track of appointments of high police officials, do a thorough background check on these officials, and vehemently object to their appointment if there are serious, credible allegations about wartime or postwar abuses committed by them or under their command.

A comment by a staff member of an international organization working in the Bijeljina area, who knew about Savij’s past, may shed some light on this issue. When asked how it was possible that Savij, a person with a well-known wartime record, was appointed to such a high-ranking position, the staff member answered:

You have to realize the different interests of the international community. They want to drive a wedge between the Pale<sup>98</sup> and the Plavšić supporters, and Savij serves that purpose. He supports the

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<sup>96</sup> UNMIBH HRO, *Interrogation Techniques Employed by Republika Srpska Law Enforcement Officials in the Srdan Knezevic Investigation*, January 21, 1999, pp. 3-4.

<sup>97</sup> Human Rights Watch has published two reports on the functioning of the United Nations International Police Task Force: Human Rights Watch/Helsinki, “Beyond Restraint. Politics and the Policing Agenda of the United Nations International Police Task Force,” *A Human Rights Watch Report*, Vol. 10, No. 5 (D), June 1998; Human Rights Watch/Helsinki, “No Justice, No Peace,” *A Human Rights Watch Report*, vol. 8 no. 15 (D), 1996.

<sup>98</sup> Pale is the former seat of the Republika Srpska government, and seen as a stronghold of hard liners supporting Radovan Karadžić and Ratko Mladić.

government, and is ... most anti-Pale and anti-Belgrade of all of them. I don't think the international community will address his position.

While overlooking allegations of wartime atrocities may have a beneficial effect in the short term, one cannot expect that those who are allegedly responsible for atrocities will be able or willing to implement the Dayton Peace Agreement and to respect internationally recognized human rights and standards of democratic behavior. In the long run, the ongoing involvement of those responsible for war crimes or other serious abuses undermines the peace process and seriously impedes the efforts to encourage displaced persons to return to areas where they would now be a minority.

### **Vojislav "Vojkan" Đurkovič**

Vojislav Đurkovič, generally known as "Vojkan," was a major in Arkan's Tigers and at some point the leader of the Bijeljina branch of Arkan's Party for Serb Unity. As head of the *Commission for the Exchange of the Civilian Population*, Đurkovič and his associates were responsible for massive "ethnic cleansing" operations in the Bijeljina area. His commission arranged for the "voluntary" transport of Bosniaks, Roma, and other minorities to the Federation or abroad in exchange for considerable fees. In addition, those transported by Vojkan were almost without exception forced to hand over all their money, as well as valuables and documents. Moreover, those who owned a house were forced to sign a document stating that they had voluntarily given up all rights to their property. The transport was not as safe as promised. Many men of military age were taken off the transport and forced to work at the front lines.

Those who did not sign up for "voluntary" exchange were often forced to leave anyway by Vojkan and his men, or by Major Mauser's Panthers, who cooperated closely with Đurkovič. As discussed above, people were often given less than fifteen minutes to pack, after which they were forcibly taken to the front line, where they were forced to cross over to Bosnian government controlled territory. During the biggest wave of expulsions in 1994, Vojkan and his aides expelled more than 6,000 Bosniaks from Bijeljina and Janja in a period of less than three months.

Vojkan Đurkovič continues to live in Bijeljina, where he runs the "Jaguar" detective agency, which is allegedly involved in collecting debts. Moreover, Đurkovič established his own political party, the Serb Displaced Persons Party. The party was not very successful during the 1997 municipal elections, which led Đurkovič reportedly to complain that "voters in Janja failed my trust. If I had known by whom it would be inhabited, I would not have given them an ethnically cleansed Janja."<sup>99</sup> Despite numerous reports about Đurkovič's activities, he has not been (publicly) indicted by the ICTY.

Vojkan Đurkovič was assisted in his activities by Risto Marian, who now allegedly lives in Florida, United States, where he runs an immigration agency.

### **Jovan A. imovič, a.k.a. A. im**

In 1995, Jovan A. imovič was a member of the Republika Srpska Special Police based in Janja. After the Dayton agreement was initialed, but not yet signed, there was an effort to expel those Bosniaks who had managed to remain on their own property throughout the war, apparently to solidify the results of "ethnic cleansing." Jovan A. imovič, according to several witnesses, played a major role in these evictions, which were often accompanied by substantial violence. Human Rights Watch has also received reports that A. imovič during peace time continued to evict Bosniaks from their homes. Jovan A. imovič is now a member of the local police in Ugljevik.

## **ABUSES AGAINST MINORITIES AFTER THE WAR**

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<sup>99</sup> "How does Bijeljina breathe?," *Reporter Digest*, Banja Luka, August 27, 1997.

After the war ended in 1995, minorities in Bijeljina continued to be exposed to all kinds of abuses. Many of them were obstructed in their efforts to return to their homes; the police in many cases failed to intervene on their behalf, and in several cases themselves physically abused them; they were often unable to obtain an I.D. card, or have their phone lines reconnected; the authorities refused to let the Islamic community rebuild a mosque, and for a long time even refused to give the Islamic religious community a place to gather; and the representatives of the Bosniaks were prevented from playing a meaningful role in municipal politics and administration.

### **Abuses related to housing issues and return**

Fewer than 2,700 of the original population of over 30,000 Bosniaks remain in the Bijeljina municipality, less than 9 percent. The situation in the village of Janja is even worse: it is estimated that fewer than 200 out of an original population of 10,500 Bosniaks, or less than 2 percent, still live in the village. And of those who remained throughout the war, only a small number have been able to hold on to their homes or apartments: the vast majority live either with friends or relatives, or in outbuildings next to their houses.

Nevertheless, Bijeljina is different from most other cities in the Republika Srpska. Whereas in cities like Doboj, Prijedor, and Zvornik there were hardly any minorities left after the war, in Bijeljina there still is a substantial Bosniak community. One would expect that this “seed community” would be conducive both to the return of Bosniak displaced persons and refugees and to solving the problems of those who remain. However, those who stayed throughout the war have hardly ever managed to reoccupy their homes, and there have been hardly any returns by Bosniak displaced persons or refugees to Bijeljina.

Admittedly, Bijeljina has had to deal with an enormous influx of Bosnian Serb displaced persons from areas in the Federation, in particular from the Tuzla, Zenica, and Sarajevo cantons. Most international and local sources estimate the number of Bosnian Serb displaced persons and refugees in the Bijeljina area at around 50,000, although UNHCR<sup>100</sup> and the International Management Group (IMG)<sup>101</sup> both estimate the number of Bosnian Serb displaced persons and refugees at around 37,000. Given their direct involvement in the return issue, it is likely that these latter figures are the most accurate.

On the other hand, Bijeljina, as opposed to many other areas in the Republika Srpska, sustained hardly any physical damage to its housing stock as a result of war activities. IMG estimates that in the Republika Srpska in general, 4.9 percent of the dwellings were destroyed, and 23.3 percent sustained damage as a result of the war, whereas in Bijeljina these figures are 0.5 percent and 5.2 percent. As a result, the absorption capacity of the Bijeljina municipality is far higher than the average in the Republika Srpska: whereas in Bijeljina there are 3.5 persons per undamaged dwelling, the average for the Republika Srpska is 4.5 persons per dwelling.<sup>102</sup> Therefore, the influx of Serb displaced persons and refugees alone cannot explain the lack of progress in reinstating the “floating” population in their houses or the lack of minority returns to the Bijeljina municipality.

### **Reinstatement of the “floaters”**

The word “floaters” is used to describe those who have been evicted from their homes, but have nevertheless remained in the municipality, either “floating” between the homes of friends and relatives, or living in outbuildings near their houses. Although it is unclear exactly how many “floaters” there are in Bijeljina, both local and international sources

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<sup>100</sup> UNHCR, *Statistics for Displaced Persons in Northern Bosnia and Herzegovina UNHCR AOR*, April 1998.

<sup>101</sup> IMG, *Republika Srpska Assessment of War-Damaged Residential Buildings in Bosnia and Herzegovina*, January 1997, p. 17.

<sup>102</sup> IMG, *Republika Srpska*, pp. 6, 9, 17, 31.

have stated that the vast majority of the Bosniaks who have remained in Bijeljina are currently not living in their own houses or apartments: international organizations estimate that there are 2,000 to 3,000 “floaters” in Bijeljina.<sup>103</sup> Many “floaters” are Bosniaks who were violently evicted by displaced Bosnian Serbs that were accommodated in their homes, or who fled from the violent behavior of their Bosnian Serb “guests.” In other cases, the Bosnian Serb authorities declared a home “abandoned”<sup>104</sup> on the basis of abandoned property legislation.<sup>105</sup> It was not uncommon for a home to be declared abandoned even though the inhabitant had not abandoned it, for instance the houses of Bosniaks who temporarily were not in their houses only because they were performing forced labor at the front line. So far, most “floaters” have been unsuccessful in reclaiming their houses or apartments, even though most of the “floaters” were “loyal citizens” of the Republika Srpska throughout the war, and some even fought in the Bosnian Serb army.

Although the number of “floaters” in Bijeljina runs in the thousands, it is estimated that not even ten cases involving their housing claims were resolved by September 1999. Of these, only a few were resolved through eviction of the temporary occupant. Apart from the cases cited below, only one other case of reinstatement through eviction has come to the attention of Human Rights Watch.

Initially, the Bijeljina department of the Ministry for Refugees and Displaced Persons<sup>106</sup> denied that “floater” cases even existed. In an interview in July 1998, Snežana Ružić, then acting head of the Bijeljina department of the Ministry for Refugees, stated that “when the war started, only 1,500 Muslims stayed in Bijeljina, the rest of them left, mainly to Tuzla. Those who stayed are all living in their own houses, they were able to remain there.”<sup>107</sup> However, she was replaced soon afterward by Danilo „olaković, who seemed to be more aware of “floater” cases, and more willing to address them. In an interview in December 1998, he said that:

in those cases where the inhabitants never abandoned their accommodation, and where [displaced persons] are now living without an official decision, we will evict the current inhabitants, so the original inhabitants can go back....It is illegal occupation, so I can solve it very fast. But one part [of them] we cannot just throw on the streets, we have to look at the human side as well. There is a big problem with

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<sup>103</sup>Interview with Đurđica Zorić, UNHCR Brčko, September 27, 1999; interview with François Perez, Special Envoy, Office of the High Representative Bijeljina, September 28, 1999; interview with Guiseppe Lococo, Human Rights Officer, OSCE Bijeljina, August 6, 1999; interview with Pablo Badie, Human Rights Officer, IPTF Bijeljina, August 3, 1999.

<sup>104</sup>Although the abandoned property legislation does not provide criteria for establishing whether or not a property has been abandoned, it is generally accepted that an accommodation cannot be declared abandoned unless the inhabitant, being either the owner or holder of the tenancy right, has left the property for a period of at least thirty days without a legitimate reason, such as absence for medical treatment, military service, or working obligations.

<sup>105</sup> The Bosnian Serb authorities have issued several decrees relating to the use of abandoned property and the accommodation of displaced persons and refugees. The first decree issued was the “Decree on the Allocation for Temporary Use of Housing Objects, Business and Other Premises” (*Official Gazette of Serbian People in Bosnia and Hercegovina*, No. 12/92). This decree was replaced on January 1, 1994, by the “Decree on the Accommodation of Refugees and Other Persons in the Territory of the Republika Srpska” (*Republika Srpska Official Messenger*, No. 27/93). Some articles of this decree were replaced on October 1, 1995, by the “Decree on the Accommodation of Refugees” (*Republika Srpska Official Messenger*, no. 19/95). In February 1996, the Republika Srpska authorities issued the “Law on the Use of Abandoned Property” (*Republika Srpska Official Messenger*, No. 3/96), which replaced the previous laws. Ultimately, on December 2, 1998, the Republika Srpska National Assembly passed the “Law on the Cessation of Application of the Law on the Use of Abandoned Property” (*Republika Srpska Official Gazette*, No. 38/98), which repealed all previous, discriminatory legislation relating to housing.

<sup>106</sup> In the RS, the return of displaced persons and refugees is the responsibility of the Ministry for Refugees and Displaced Persons. The Ministry for Refugees and Displaced Persons has departments at the local level, but these departments fall directly under the ministry in Banja Luka, and are administratively not related to the municipalities.

<sup>107</sup> Human Rights Watch interview, Bijeljina, July 9, 1998.

families of fallen soldiers, with invalids, with people who are needed for the economy, with the refugees that are jeopardized.<sup>108</sup>

The four reinstatements known to Human Rights Watch took place while Mr. Danilo „olakovi**f** was the head of the Bijeljina department of the Ministry for Refugees and Displaced Persons. In June 1999, „olakovi**f** resigned, and Nenad Đoki**f** took over as head of the department. Đoki**f**, who is generally seen to be much more cooperative than any of his predecessors, admitted in an interview in September 1999 that no evictions had taken place during his tenure as the Bijeljina department chief of the Ministry for Refugees and Displaced Persons.

Until now, no evictions have taken place....We go to the field, we warn the temporary occupants, we talk to them, and so far, there was no need for assistance [by the police]....We have information that there are 124 floater families, but others say 106. It is hard to make them the priority, to explain this to other claimants.<sup>109</sup>

Since that time, there has been an increase in the number of evictions. Although no figures were available to Human Rights Watch, it is safe to assume that some members of this floating population have also benefitted from this increase in evictions.

The reinstatement of “floaters” is crucial for the Dayton Peace Agreement to be successful. A substantial return of displaced persons and refugees to their homes is unlikely to take place if even those who remained in their municipality throughout the war are unable to return to their homes. The decision of displaced persons and refugees to return will be based largely on the accounts of those they trust most: their former neighbors, friends, and colleagues who have remained. By failing to reinstate “floaters,” the authorities not only violate the rights of the “floaters,” they also strongly influence the decisions of displaced persons and refugees on whether or not to return.

#### *The case of Fahrudin Gruhonji**f***

On August 27, 1994, Fahrudin Gruhonji**f** was expelled from his house by members of Mauser’s Guards, who said he would be transported to Tuzla.<sup>110</sup> However, instead of being transported to the Federation, he was forced to perform labor at the front line, until October 10, 1994, when he was released. Upon his return in Janja, he found that his house had been occupied by a Bosnian Serb displaced person from Bugojno. Fahrudin went to the Commission for the Accommodation of Refugees of the Ministry for Refugees and Displaced Persons to request his house back on October 12, 1994. On October 19, 1994, the commission granted his request and denied the displaced person’s request to be granted temporary occupancy rights in Gruhonji**f**’s house. The legal basis for this decision was that the house had never officially been abandoned, and therefore no decision could be made that someone else could live there.

However, despite several requests by Gruhonji**f**, nobody ever acted upon the decision of the commission, and Gruhonji**f** was forced to live with his brother, and later in his weekend house. On January 31, 1996, he filed an official request at the commission to have the decision implemented, but the commission never responded. Several times, Gruhonji**f** intervened personally to arrange for the eviction of the displaced person. However, the reaction always was that there were more urgent cases, such as war widows and war invalids.

On November 25, 1996, Gruhonji**f** filed a complaint at the basic court (*Osnovni Sud*) in Bijeljina, again requesting the eviction of the illegal occupant. The court did not react to the request, claiming that there were not enough judges

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<sup>108</sup> Human Rights Watch interview, Bijeljina, December 18, 1998.

<sup>109</sup> Human Rights Watch interview, Bijeljina, September 30, 1999. It is unclear why the ministry’s figures on “floater” cases deviate so much from the figures used by international organizations active in Bijeljina.

<sup>110</sup> This account is based on a Human Rights Watch interview, Janja, December 15, 1998.

to handle all cases. Therefore, on July 31, 1997, Gruhonjif filed a complaint at the Office of the Human Rights Ombudsperson, an institution created by the Dayton agreement. After the Office of the Human Rights Ombudsperson intervened with the court in Bijeljina, the case finally did get the attention of the court. On April 9, 1998, Judge Ljiljana Rajkovic decided that the displaced person had to leave Gruhonjif's house immediately, and the house was to be returned to the owner within fifteen days. However, the displaced person filed an appeal of the decision on May 12, 1998. Although the *Law on the Use of Abandoned Property* states that an appeal must be filed within three days and that such an appeal does not delay the implementation of the decision, Gruhonjif was still not able to enter his house.

On August 28, 1998, Judge Miroljub Mitrovic of the District Court (*Okružni Sud*) in Bijeljina hearing the matter on appeal, annulled the decision of the basic court. Mitrovic based his decision on article 17 of the Law on the Use of Abandoned Property, claiming that Gruhonjif had a surplus of living space. However, the Human Rights Ombudsperson, on April 9, 1998, had issued a special report which found that article 17 violated the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocol 1, and recommended that article 17 cease to be applied with immediate effect. The case was sent back to the basic court again, which handed down a decision on November 17, 1998, again in Gruhonjif's favor, ordering the displaced person to leave within fifteen days. However, the displaced person appealed the decision again. According to Sead Gruhonjif, a relative, Fahrudin was ultimately reinstated in January 1999, four years and three months after the commission granted his first request.

The case of Fahrudin Gruhonjif clearly showed the unwillingness of the authorities to deal effectively with such cases. The commission that is supposed to address these issues proved unwilling to implement its own decision. The courts were at first unwilling to act upon Gruhonjif's complaint at all: only after an intervention by the ombudsperson did the court take up the case. Then, when a decision was finally taken after almost one-and-a-half years, the decision was not implemented, but delayed by an appeal of the defendant, even though the applicable law explicitly stated that such an appeal should not delay the execution of a decision. In its decision in the appeals procedure, the court based its ruling on an article that had been found in violation of human rights guaranteed under the Bosnian constitution. When the basic court, in a new procedure, ruled again in Gruhonjif's favor, implementation of the decision was again delayed by an appeal of the defendant.

Fahrudin Gruhonjif's case is representative of the situation of most of the "floaters," who have tried for years to be reinstated into their homes. However, Fahrudin Gruhonjif's case is an exception because he was ultimately reinstated: most others are still waiting.

#### *The case of Nurdin Hamdijif*

Nurdin Hamdijif was evicted from his house in December 1993 by a lawyer of the municipality and two policemen. In his attempts to regain possession of his private apartment, he also ran into uncooperative authorities. Nurdin told Human Rights Watch his story:

[After I was evicted from my house], I went to the [municipal] Department for Urbanism, but they threw me out right away. They didn't accept my claim, they told me to file suit against the new inhabitant, Svetozar Nikolic from Mostar. In April 1994, I filed an official complaint at the basic court. The court decided in my favor, because I could prove that the apartment had not been abandoned, as they had claimed. Nikolic had to leave with immediate effect, but he then appealed to the district court. But the court, in November 1995, confirmed the decision of the basic court. Nikolic did have a right to appeal, but without postponing the implementation; he had to leave immediately.

The first attempt to execute the decision took place in February 1996, but he didn't want to leave. Then the police came to execute the decision. The Ministry for Refugees and Displaced Persons sent an official who told the police that they shouldn't enforce the decision. Then, after several failed attempts



to execute the decision, in September 1997, the ministry said that I would get a part of the building, they allowed me to live in one room.

But Nikolif said he couldn't live with "Balije," he cursed my mother, and threatened to kill me. I was afraid, so I stayed with my nephew, even though I now formally had a room in my house. I only put some of my stuff in there. At some point, Nikolif changed the locks, so I couldn't get in anymore. I went to the police, and they called him and told him that he should give me a set of keys.

On September 24, 1997, Nikolif left, but he didn't give me the keys, he gave them to Velimir Bijelica, [who] moved into my house. But Velimir has got a place to live, he got a decision on June 11, 1996, to live in another house. And guess who lives in the other house: Svetozar Nikolif, while [Bijelica] lives in mine. I went to talk to him and told him it was my house, that I had a [court] decision, and even showed him the decision. But he said: "I don't care if you are the owner. Just don't bother me, don't even come to this street anymore, otherwise I'll kill you." So I went to the police, and they came, but when he showed his ID, the police didn't do anything.

Velimir claims that he has a decision for the whole apartment, but the ministry says they don't have anything to do with it, because it's my property. About one to two months ago, the ombudsperson sent a decision to the court, saying that they should let me in my house again, but there has been no reaction. Every time there is an attempt to execute the decision, Velimir is waiting outside with an official of the ministry and he doesn't allow me in, and changes the locks. The court said they cannot do anything, they have finished their part of the job.<sup>111</sup>

The trick reportedly used by Nikolif and Bijelica is not unusual in Bosnia and Hercegovina. When they switched homes, the court decision in favor of Hamdnif became useless, since the case involved the illegal occupation of Hamdnif's house by Nikolif. Once someone else lives in Hamdnif's house, Hamdnif will have to start a new court procedure against this person. Had the authorities implemented the decision immediately, Nikolif and Bijelica would not have been able to exchange accommodations, and Hamdnif might have been able to return to his home. Slow legal procedures and unwillingness to enforce court decisions in favor of Bosniaks, combined with some cunning moves by the illegal occupants, can slow down a reinstatement for a considerable time. As of this writing, almost six years after his eviction, Hamdnif, a quiet man in his seventies, had still not been reinstated to his home.<sup>112</sup>

#### *The case of Sead Gruhonjif*

"Floaters" face obstruction not only by the courts and the Ministry for Refugees, but also by police who are often unwilling to do their part of the job. In January 1994, Sead Gruhonjif was forced to accommodate Milan Todif and his family in his house, where he lived with his mother, aunt, and grandmother. On February 11, 1994, Todif got an official decision that he could live in one room of the house. The relations were far from friendly, and Sead and his family were threatened several times by Todif's son. Nevertheless, they continued to live together in the house, until just before the end of the war. Then, Todif's son died at the front, at which point Todif threw out Sead and his family. Sead then started a procedure to get his property back.

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<sup>111</sup> Human Rights Watch interview, Bijeljina, May 22, 1998. According to Nurdin Hamdnif, Velimir Bijelica is a member of the special police in Janja.

<sup>112</sup> The Bijeljina department of the Ministry for Refugees and Displaced Persons now seems to have taken a special interest in Hamdnif case. During an interview on September 30, 1999, Nenad Đokif, the head of the ministry department in Bijeljina, said: "If I could just solve the case of Nurdin Hamdnif, my work would be okay....If I could just get him reinstated, I wouldn't care what would happen to me after that."

On November 25, 1996, I filed a request at the commission...to get my house back, but I never got any answer from the commission. I also went several times to the local office of the Housing Commission of the Ministry for Refugees, to Đeljka Simić, where I filed official requests on March 27, 1997 and August 31, 1998.

About four months ago, I tried together with Hans Jürgen [a representative of the IPTF] to get back in the part of the house that is mine. The chief of police, Vlatko Knežević, promised to solve the problem, but when the day came, the deputy chief of police, Mico Đokić, came [instead of Knežević]. He said it was better to wait a little longer, until another house had been found for Todić, [because] there were about thirty people protesting [at my house], who were probably organized by Milan, who was informed by the police of the eviction. But everything remained just promises.

About one and a half months ago, the commission in Bijeljina told me that Todić had to leave, they had found alternative accommodation for him. But no one ever tried to actually evict him. Đeljka said: "It's not my job anymore, I found alternative accommodation, now it's up to the police." But the police never got an order to be present at an eviction.<sup>113</sup>

On or about January 13, 1999, Sead Gruhonjić and his mother were finally reinstated in their property. The previous occupant, however, "had taken all furniture, destroyed the windows, and broken the tiles. He even took the toilet bowl and the telephone. Moreover, he took the windows and doors from another house in the yard."<sup>114</sup>

#### *The Case of Husref Osmanović*

Gruhonjić is not the only "floater" whose house was destroyed by the previous inhabitant. Husref Osmanović, a Bosniak member of the Bijeljina municipal council, in March 1999 recovered the house from which he had been evicted during the war:

When I returned, the house was empty and destroyed: the bathroom, the tiles, the wooden floor. [The previous inhabitant] took out the whole kitchen, all furniture, etc. Moreover, there was graffiti on the wall: *Serbia till Tokyo, Gypsies, Bosniaks, This is Serb Land*. He took eleven trucks of goods, all was written on a list by the ministry...He even took the sockets, the lamps, and he broke the windows.<sup>115</sup>

#### **Return of refugees and displaced persons**

Given the difficulties faced by the "floaters" in reclaiming their property or homes, even when they have a formal occupancy right, it should not come as a surprise that few have returned from the Federation or abroad. The small number of people who have returned to Bijeljina are mostly refugees who were sent back by their host countries (in particular Germany). However, many of them have not been able to move back into their homes, unless they were willing and able to pay substantial amounts of money to reclaim them. Human Rights Watch has been told about several cases in which the original inhabitants had to pay significant amounts of money, often 2,000 German marks or more, to the current inhabitants to induce them to move out. But most refugees and displaced persons who want to return cannot afford to pay such sums, the equivalent of six months of salary or more in many parts of the country.

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<sup>113</sup> Human Rights Watch interview, Janja, December 15, 1998. Đeljka Simić is the head of the Janja department of the Commission for the Accommodation of Refugees, which falls under the Ministry for Refugees and Displaced Persons in Bijeljina. Hans Jürgen Münzel was an IPTF officer based in Janja.

<sup>114</sup> Human Rights Watch interview, Janja, September 21, 1999. Gruhonjić continued to experience problems in Janja. In February 2000, during a series of incidents aimed at returnees, a hand grenade was thrown into his house. Fortunately, no one sustained any physical injuries, although the house was significantly damaged.

<sup>115</sup> Human Rights Watch interview, Bijeljina, August 6, 1999.

The United Nations High Commissioner for Refugees, in figures published in October 1999, reported that in 1998 only four persons from minority groups had returned to Bijeljina, and none in 1996 and 1997. In general, minority returns to the Republika Srpska, reported at 8,586 persons in 1998, and a total of 1,125 for 1996 and 1997,<sup>116</sup> did not meet expectations or promises.<sup>117</sup> Bijeljina, however, did not even approach the far from impressive records of other municipalities in the Republika Srpska, even though the situation of physical infrastructure in Bijeljina, as outlined above, is much more conducive to returns. Although several sources claimed that the number of returns was somewhat higher than the four persons mentioned in the UNHCR report, most admitted that return to Bijeljina was very limited until the end of 1998.

The lack of significant return to Bijeljina through 1998 was first and foremost the result of a law that in practice blocked return by minorities to their properties. The Law on the Use of Abandoned Property, which was enacted in February 1996, presented insurmountable obstacles to return. Article 40, which lists the conditions under which a displaced person can return to his accommodation, reads in relevant part as follows:

If in the event referred to in the previous article [the return of the original inhabitant] the abandoned property or abandoned flat has been allocated for utilization to a person whose property or flat has remained within the Federation of Bosnia and Hercegovina or within the Republic of Croatia, such property or flat shall be returned to the owner:<sup>118</sup>

- C within thirty days from the day the person who is the [current occupant, i.e. a displaced person from the Federation or a refugee from Croatia] of the property returns to his property or flat [in the Federation or Croatia]; or
- C at the latest on the expiration of sixty days from the day the [current occupant] of the abandoned property [has been compensated] for the property he abandoned [in the Federation or Croatia] and for possible expenses (rehabilitation the user performed) or is provided with a suitable apartment or property [i.e. alternative accommodation].

In effect, this article resulted in almost foolproof protection against eviction for the current inhabitant of the accommodation. The first condition applied only if the current inhabitants *actually returned* to their own homes in the Federation or Croatia; if the inhabitant *did not want to return*, then the first condition was not fulfilled.

In cases where displaced Bosnian Serbs did not want to or could not return to their pre-war homes in the Federation or Croatia, compensation or alternative accommodations had to be provided to them. With regard to compensation, the Dayton agreement foresaw the creation of a Refugees and Displaced Persons Property Fund, from which, under the supervision of the Commission for Displaced Persons and Refugees, compensation would be paid for those who could not, or did not want to, return to their pre-war homes. However, although the commission was ultimately set up, the fund has never been created, thereby making compensation a purely theoretical option.<sup>119</sup>

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<sup>116</sup> UNHCR Sarajevo Operations Unit, *Statistics Package* (Sarajevo: UNHCR, October 1, 1999).

<sup>117</sup> Republika Srpska Prime Minister Milorad Dodik promised that the Republika Srpska would “allow” 70,000 minorities to return.

<sup>118</sup> The term owner in this case refers both to real owners of property, as well as to those who had a tenancy right to the accommodation.

<sup>119</sup> General Framework Agreement, Annex 7, art. VII-XIV. The commission is now known as the *Commission for Real Property Claims*.

With regard to the provision of suitable alternative accommodations, however, the Republika Srpska authorities have always claimed that, due to the influx of displaced persons and refugees,<sup>120</sup> all suitable accommodations were occupied, and therefore no alternative accommodations could be found for those now living in “abandoned” property. Therefore, article 40 of the Law on the Use of Abandoned Property in effect almost completely blocked the return of Bosniak displaced persons to their homes in Republika Srpska.

But the law was not the only obstacle to return. The Ministry for Refugees and Displaced Persons, the municipality, the police, and the local, often displaced, population, all at times acted against return as well. Up until 1998, it was hardly possible for displaced persons and refugees to file a claim to regain their accommodation. The courts claimed that they were not competent to deal with property cases, since these fell under the Ministry for Refugees and Displaced Persons. Therefore, the only recourse for those attempting to return was to go to the ministry of refugees, and more specifically to its Commission for the Accommodation of Refugees, to request their homes back. However, the commission either refused to accept their claims or to act upon those it accepted. Several individuals and interest groups indicated to Human Rights Watch that the ministry did not accept requests for return of property, or if it did, did not act upon the requests.<sup>121</sup> The ministry admitted as much when Snežana Ružić said in July 1998 that

so far, when people came to us to file a request to get their house or apartment back, we sent them to the Helsinki Committee of Branko Todorović, who was keeping a list of people who wanted to return. The reason we sent them to Branko was that we didn't have forms [to request return of accommodation], so we couldn't proceed with their requests. We only received these forms last week.

But anyway, we can't do anything for them, because we still cannot accommodate [all the] others. We still have 4,000 pending cases of [displaced] Serbs now living here, who don't have an acceptable solution so far. This pile here<sup>122</sup> only concerns cases of soldiers, and people who have lost someone in the war. Honestly, we are not doing anything to help any other group.<sup>123</sup>

When Human Rights Watch spoke to ministry representatives again in December, they had started accepting claims from those who want to return to their accommodation. However, Danilo „olaković, then-head of the Bijeljina department of the ministry, didn't have high expectations about what he could do for those who wanted to return. “In cases where Serb displaced persons live in an [abandoned] Bosniak house, the main problem is that [displaced Bosnian] Serbs just don't want to return, maybe 3 percent of them want to go back. We cannot do anything.”<sup>124</sup>

Moreover, those working at the Ministry for Refugees and Displaced Persons often were not genuinely committed to return. Snežana Ružić, a displaced person from Sarajevo, who then headed the Ministry for Refugees and Displaced Persons in Bijeljina, said in an interview in July 1998 that she would prefer Bosniaks not to come back to Bijeljina:

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<sup>120</sup>From formerly Serb-held areas in Croatia, in particular from the Croatian Krajina after Operation Storm in August 1995, and from Eastern Slavonia, after the hand-over to Croatian authorities in January 1998.

<sup>121</sup> See also Wubs, *The Way Back*, p. 50.

<sup>122</sup> Snežana Ružić pointed to a foot-high stack of papers on her desk.

<sup>123</sup> Human Rights Watch interview with Snežana Ružić, acting head of the Bijeljina Department of the Ministry for Refugees and Displaced persons, Bijeljina, July 9, 1998. The Helsinki Committee for Human Rights in the Republika Srpska (*Helsinški Odbor za Ljudska Prava u Republici Srpskoj*) is a human rights organization functioning under the umbrella of the International Helsinki Federation.

<sup>124</sup> Human Rights Watch interview with Danilo „olaković, head the Ministry for Displaced Persons and Refugees, Bijeljina department, Bijeljina, December 18, 1998.

Not many [Bosniaks] have come [to reclaim their homes], which is a good thing. Muslims have a bad attitude when they come here, they think they have a chance to get accommodation. They don't want to wait in line, they create a fuss....We Serbs are somewhat different from Muslims. Muslims are more persistent. We Serbs would give up all our property, just to be left alone. If that's the price for not having to live with [Bosniaks] anymore, I would give up everything I have.<sup>125</sup>

Many people interviewed by Human Rights Watch claimed that **Đeljka Simif**, head of the field office of the Ministry for Refugees and Displaced Persons in Janja, was actively obstructing return as well. Sead Gruhonjif, a Bosniak who remained in Janja throughout the war, said that Simif once asked him: "Why don't you go to the Federation? You don't belong here!"<sup>126</sup> Other Bosniaks claimed that Simif had asked them about their wartime activities. The IPTF also had several run-ins with Simif. According to Hans-Jürgen Münzel, a human rights officer of the Janja IPTF station,

**Đeljka Simif** doesn't cooperate... She has said there can be no return. We asked her to send us bi-weekly reports, but we never get them. Finally we got a list of twenty-five free houses, which we presented to her to have displaced persons reinstated, [but she] immediately filled up these houses with other [displaced Bosnian Serbs]. Therefore, a noncompliance report has been written against her.<sup>127</sup>

Despite the noncompliance report against her, as of this writing **Đeljka Simif** continues to work for the Ministry for Refugees and Displaced Persons in Janja. A staff member of an international organization who has worked in Bijeljina for a considerable period told Human Rights Watch that the authorities "put people like **Snežana Ružif** in positions like hers because they are hard-liners. They often put hard-liners in key positions, so they can pretend they are cooperating with Dayton, but in practice nothing much happens."<sup>128</sup> In October 1999, François Perez, the Office of the High Representative Special Envoy in Bijeljina, asked the RS Minister for Refugees **Dragi.ević** to remove **Snežana Ruzif**, who is now working on the implementation of decisions, from her position because she was obstructing return.<sup>129</sup> However, as of March 2000, she had not yet been removed.

The municipality, though not directly responsible for return issues, could nevertheless provide an important impetus for return. However, the municipality too has failed to live up to its obligations regarding return. The Chairman's Concluding Statement at the Banja Luka Regional Returns Conference "urgently call[s] upon the Republika Srpska Government to ensure that Eastern Republika Srpska municipalities develop opportunities for return and demonstrate their commitment to uphold and respect the principles of Annex 7 of the GFAP [General Framework Agreement for Peace—the Dayton agreement]. Immediate steps must be taken by the Republika Srpska Government to develop return plans in line with the relevant Bonn PIC Conclusions, at the latest by the end of May 1998." According to Soufiane Adjali, then protection officer of the UNHCR office in Brčko, "the mayor of Bijeljina claims that he has given UNHCR a municipal

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<sup>125</sup> Human Rights Watch interview with **Snežana Ružif**, acting head of the Bijeljina Department of the Ministry for Refugees and Displaced persons, Bijeljina, July 9, 1998.

<sup>126</sup> Human Rights Watch interview, Janja, December 15, 1998.

<sup>127</sup> Human Rights Watch interview, Bijeljina, October 4, 1998. The IPTF has the mandate to issue noncompliance reports for failure of law enforcement officials to comply with the orders of the IPTF or the implementation of the Dayton Peace Agreement. For an explanation about noncompliance reports, please refer to the section on "Abuses by the police."

<sup>128</sup> Human Rights Watch interview, July 11, 1998. The interviewee asked to remain anonymous.

<sup>129</sup> The position of the High Representative was created in the Dayton agreement that ended the war in Bosnia and Herzegovina: "... the Parties request the designation of a High Representative ... to facilitate the Parties' own efforts and to mobilize and, as appropriate, coordinate the activities of the organizations and agencies involved in the civilian aspects of the peace settlement..." (General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 10, Art. I, sub. 2).

return plan, but I haven't seen it."<sup>130</sup> Both international and local sources have confirmed that such a plan has never been presented.

Several international sources have confirmed that the municipal structures in Bijeljina try to avoid the issue of return if at all possible. For instance, a staff member of an international organization who has worked in Bijeljina for a considerable period told Human Rights Watch that "all political parties are afraid of return, even to touch upon the issue. All parties 'chicken out' of addressing this issue. Also the 'democratic' parties are intimidated by return issues, they say they don't want to raise issues that could cost them votes."<sup>131</sup>

In addition to the unwillingness of the authorities to facilitate return, those who want to return had to deal with Serb displaced persons living in Bijeljina who openly opposed the return of non-Serbs. Paul Hawkins, then commander of the IPTF sub-station in Janja, said in May 1998 that "the Serb displaced persons are hostile to any returnees. [They] tell [them] in no uncertain terms that there will be no trespassing here."<sup>132</sup> At the same time, some displaced Serbs have blocked efforts by others to return to their homes in the Federation and Croatia.

This became abundantly clear on March 21, 1998, when the Serb Civic Council of Zenica organized a meeting about the possibility of return to Zenica of Bosnian Serb displaced persons living in Janja. A group of displaced persons who had expressed an interest in returning to Zenica asked Mara Radovanovič of the Helsinki Committee in Bijeljina to set up a meeting with the Serb Civic Council to discuss return. Between sixty and one hundred persons interested in return came to the meeting, which was to take place in the community hall of the *mjesna zajednica* (local community). However, before the meeting could get started, a group of 150 to 200 displaced Bosnian Serbs opposing return had gathered as well. Several sources claimed it was an organized protest, that there were too many protesters for it to be a spontaneous demonstration.

According to several sources, the atmosphere was very hostile. Bruno Pennaneach, the United Nations Civil Affairs Officer in Bijeljina, described the meeting, at which he was present:

Before the meeting even started, [those opposing return] started to make problems. "Do you think we can go back there? We can never live with Muslims anymore! You are speaking with the Serb Civic Council, but they are not serious, they [stayed] with Muslims. How can you organize a meeting like that!" .... [T]he atmosphere was so threatening that we couldn't start the meeting.<sup>133</sup>

Several of the protesters were carrying weapons such as stones and sticks, and according to one source, the meeting ended with fighting in the streets and stones being thrown.<sup>134</sup>

Interestingly enough, two organizations were not present at the meeting: the IPTF and the local police. Paul Hawkins, at that time commander of the IPTF sub-station in Janja, claims that the IPTF had not been informed of the meeting. However, both the local organizer, Mara Radovanovič,<sup>135</sup> and Soufiane Adjali,<sup>136</sup> a UNHCR protection officer who was also present at the meeting, claim that the IPTF commander had been told of the meeting. Moreover, the IPTF refused to intervene even when the meeting started to get out of hand. Bruno Pennaneach continued that when things

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<sup>130</sup> Human Rights Watch interview, Br..ko, May 18, 1998.

<sup>131</sup> Human Rights Watch interview, Bijeljina, July 11, 1998. The source chose to remain anonymous.

<sup>132</sup> Human Rights Watch interview, Janja, May 15, 1998.

<sup>133</sup> Human Rights Watch interview, Bijeljina, May 13, 1998.

<sup>134</sup> Bruno Pennaneach, however, claims that although many people were carrying weapons there was no actual violence.

<sup>135</sup> Human Rights Watch interview, Bijeljina, May 19, 1998.

<sup>136</sup> Human Rights Watch interview, Br..ko, May 18, 1998.

started to get out of hand, “I went to the IPTF to tell them what was going on, but they were not interested. They said: ‘Let the local police solve this, it is not our job.’...IPTF only arrived when everybody was leaving, they didn’t see the crowd.”<sup>137</sup> It seems very improbable that the IPTF was unaware of what was going on: the IPTF office was located in the same local community building, on the other side of the corridor from the room where the meeting was to be held.

The local police were also not present at the meeting, even though the local organizers claim that they had informed the police beforehand. If the IPTF had indeed been informed about the meeting, it would have been its task to make sure that the local police were informed, so that they could plan to be present. But even though several international sources have said that they were not sure whether the local police had been officially informed of the meeting, all seem to agree that the police probably knew anyway, and had nevertheless decided not to be present. As Paul Hawkins said: “[T]he local police had not been informed, at least not by us. But most probably they knew about it anyway. The total absence of local police seems orchestrated. I am sure there was an intention on their part not to be there.”<sup>138</sup> Soufiane Adjali shared Hawkins’ opinion: “I am sure that it was an intentional absence on [the part of] the local police.”<sup>139</sup>

The absence of the local police was hardly surprising. Local authorities did not support the efforts of some Bosnian Serbs to return to the Federation because this would have set in motion a return process that would ultimately have led to the return of Bosniaks to RS. Rather than protecting the rights of those who want to return to Bijeljina, the police actively obstructed return. Many members of the police<sup>140</sup> or special police are themselves living in homes belonging to Bosniaks that left or were expelled. In such cases, the police are hardly ever willing to act on behalf of the Bosniaks, in particular if the occupants are members of the special police. Human Rights Watch received several reports of such cases. One of the most serious is that of Nedžad Husrefbegović, who was thrown out of his house in December 1995 by Jovan A. imović, then a member of the special police. Nedžad Husrefbegović told Human Rights Watch:

Two or three days after we were kicked out [of our house], I went to the police. They wrote everything down, but nothing ever happened with our case. After about two months, General Goran Sarić, the commander of the special police, brought his mother and father to live in my house, as well as a guard, Zvezda Tribunif. When A. im had to leave the house, he took two tv’s, the video, the furniture, and the cars.

At some point, after about five months, Zvezda said I was lucky, because Sarić’s parents were leaving, so I could come back to the house. But the commander [Sarić] left two soldiers in the house, who called me to come in. I went there, and screamed at them: “Shame on you, I’ve got a sick child, let me use the bathroom.” But they told me they couldn’t, the commander had told them to stay there. They also told me to come in and register exactly how much of my belongings were left, so they wouldn’t blame them later for taking it.

So I went to the police again. The commander said: ‘What is going on, this cannot be [happening] again,’ and he promised to send over a patrol to check it out. But then another local police officer came

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<sup>137</sup> Human Rights Watch interview, Bijeljina, May 13, 1998.

<sup>138</sup> Human Rights Watch interview, Janja, May 15, 1998.

<sup>139</sup> Human Rights Watch interview, Br..ko, May 18, 1998.

<sup>140</sup> Ziad Abu-Amer, the deputy station commander of IPTF in Bijeljina, reported that the Janja police told him that, as of March, forty-five officers working in the area of the Bijeljina Public Security Center were illegally occupying property in Janja. Human Rights Watch interview, Bijeljina, March 24, 2000.

up and said: “What do you want? You think that you can go back to your house? No way, Bosnia is divided now, you don’t have anything here anymore!”<sup>141</sup>

Ultimately, Nedžad Husrefbegović and his family were allowed to move back to their house, in December 1996.

Several others suffered the same experience as Nedžad: a (special) police officer moved into a Bosniak’s house, and the local police refused to take action. Jusuf Mustafić, a Bosniak from Janja, had accommodated several Bosnian Serbs in his house since September 1994. In July 1996, a Bosnian Serb displaced person settled himself in Mustafić’s house. But Mustafić and the displaced person had relatively good relations, and Mustafić continued to live in his house together with the Bosnian Serb displaced person and his family. However:

around August 1997...I was kicked out of my house. When I was [away from my] house, some guys broke into my floor of the house, with the help of a guy named A.imović. When I came back home, they didn’t let me back into my house. When I said I would go to the police, A.im (which is the nickname of A.imović) took me in his own car to the local police station. We came into the hall there, and Pero Đerajić, the commander, came out and asked what was happening. A.im said to him: “This is the case I was telling you about,” and the commander said: “Just go on, do whatever you want to do.” Then I said [to A.im]: “I’ll walk home, you just go on with your job,” but A.im forced me to go with him. In the car, he hit me a few times and said: “You tried to complain about me at the police.” He then drove me to the center [of Janja], and I got out of the car, and that’s how the situation is up until today.<sup>142</sup>

Since that time, Jusuf Mustafić, together with his mother and wife, has been living in the basement of his father’s house, most of which is also inhabited by Bosnian Serb displaced persons. The Bosnian Serb displaced person still lives in Mustafić’s house. In August or September 1998, Jusuf Mustafić went to Đeljka Simić, then the head of the Janja Department of the Commission for Accommodation of Refugees, to ask about his house. However, Simić told him that the Bosnian Serb displaced person living in his house had the right papers for the house, and that Mustafić had lost all his rights to the building.

The police also actively tried to discourage Bosniaks from returning. In the first months of 1998, the IPTF received several complaints from Bosniaks considering return who were given “friendly advice” by local police officers:

All of them were “warned” by the police that their security could not be guaranteed, and “advised” not to come back to Janja. We discussed these cases with the police, explaining that it was harassment in our eyes, and that the police’s role is not to warn citizens, but to protect them. After that, we didn’t receive any complaints anymore. However, whenever we send returnees to the ministry of displaced persons and refugees...then half an hour later the police visit their house to check their I.D.s, and tell all of them that they cannot guarantee their safety, and that they have to leave....<sup>143</sup>

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<sup>141</sup> Human Rights Watch interview, Janja, December 17, 1998. A pseudonym is used to protect the witness’s identity. Part of Nedžad Husrefbegović’s story has already been related above, in the section “Between War and Peace.”

<sup>142</sup> Human Rights Watch interview, Janja, December 16, 1998. The witness chose not to be identified, and a pseudonym is used to protect his identity. A.imović, who is now a member of the regular police, was at that time a member of the special police.

<sup>143</sup> Human Rights Watch interview with Paul Hawkins, IPTF Station Commander in Janja, May 15, 1998.



Despite the intervention by the IPTF, the police continued to warn off potential returnees, according to the IPTF human rights officer in Janja, and the chief of police failed to take disciplinary measures against the police officers involved in this practice.<sup>144</sup>

### A New Atmosphere

According to representatives of international organizations the climate for return improved significantly in 1999. As Nenad Đokif said: “We have changed the climate in Bijeljina. Until the beginning of this year, most couldn’t even imagine that there would be return. Now the atmosphere is much better, an atmosphere where temporary occupants are willing to cooperate with us.”<sup>145</sup> As far as Human Rights Watch has been able to establish, there were no large-scale protests against the return of displaced persons and refugees in 1999, and the police no longer “warned” potential returnees of the dangers involved in return.

Three reasons are given for the improved climate: the Republika Srpska National Assembly passed the Law on the Cessation of Application of the Law on the Use of Abandoned Property; the international community increased its presence in Bijeljina and improved its coordination; and a new, much more cooperative head of the Bijeljina department of the Ministry for Refugees and Displaced Persons was appointed.

#### *The Law on the Cessation of Application of the Law on the Use of Abandoned Property*

The international community on many occasions asked the Republika Srpska authorities to repeal the Law on the Use of Abandoned Property, not only because it inhibited the return of refugees and was therefore not in accordance with the Dayton Peace Agreement, but also because of the problems related to article 17, which deals with the allocation of “surplus living space,” which was discriminatory.<sup>146</sup> The Chairman’s Concluding Statement of the Regional Returns Conference, which was held in Banja Luka on April 28, 1998, stated that “the Republika Srpska Government must pass, by the end of June 1998, as announced at the conference, new property legislation and accompanying regulations in compliance with Annex 7 of the GFAP.” When it turned out that the Republika Srpska authorities had failed to meet this deadline, the Steering Board of the Peace Implementation Council extended the deadline to August 31, 1998.<sup>147</sup>

However, despite repeated promises by Republika Srpska Prime Minister Milorad Dodik, the law was not repealed until December 2, 1998, when the Republika Srpska National Assembly passed the Law on the Cessation of Application of the Law on the Use of Abandoned Property. Whereas the old law prevented displaced persons and refugees from returning if the temporary occupant of their property could not or did not want to return to his or her original home, the new law states that the ministry should decide upon a claim within thirty days,<sup>148</sup> and that the original inhabitant should be allowed to return ninety days after a decision in his or her favor has been taken.<sup>149</sup> Under certain conditions, the temporary occupant is entitled to alternative accommodation, to be provided by the Ministry for Refugees and Displaced Persons. However,

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<sup>144</sup> Human Rights Watch interview with Hans Jürgen Münzel, Janja, July 11, 1998.

<sup>145</sup> Human Rights Watch interview, Bijeljina, September 30, 1999.

<sup>146</sup> See section above on “The rule on ‘surplus living space’ and subsequent evictions.”

<sup>147</sup> *Declaration of the Ministerial Meeting of the Steering Board of the Peace Implementation Council*, Luxembourg, June 9, 1998. The Peace Implementation Council (PIC) is a body overseeing the peace process in Bosnia and Hercegovina on behalf of the Contact Group, which consists of the United States, Russia, France, the United Kingdom, Germany and Italy.

<sup>148</sup> Art. 9 and art. 17 of the Law on the Cessation of Application of the Law on the Use of Abandoned Property.

<sup>149</sup> Art. 11 and art. 18 of the Law on the Cessation of Application of the Law on the Use of Abandoned Property. In exceptional circumstances, this deadline may be extended by a period of up to one year.

in no event shall failure of the responsible body to meet its obligations [to provide alternative accommodation to the temporary occupant] operate to delay the ability of the owner, possessor or user to enter into possession of his/her property.<sup>150</sup>

Although the new law still has some weaknesses, in particular regarding the implementation of decisions<sup>151</sup> the law is generally considered to be a major step forward in the returns process and has had a significant impact. Since the new law came into force, the Bijeljina department of the Ministry for Refugees and Displaced Persons has been receiving many claims for the return of property. According to figures of the RS Ministry for Refugees and Displaced Persons, as of March 13, 2000 the Bijeljina department of the ministry had received 5,605 claims for return of private property and 576 claims for return of socially-owned property for which the claimants had an occupancy right.<sup>152</sup>

#### *The increased presence and improved coordination of the international community in Bijeljina*

Since the beginning of 1999, the Office of the High Representative has had a presence in Bijeljina, in line with OHR's decision to appoint special envoys to municipalities that were considered not to be implementing the Dayton Peace Agreement. François Perez was appointed to be special envoy in Bijeljina to coordinate the efforts of international organizations working in the Bijeljina region. One of Perez's initiatives was to organize a Property Commission to deal with the more difficult return cases. This consists of representatives of the OSCE, the UNHCR, the OHR, the municipality, and the Bijeljina department of the Ministry for Refugees and Displaced Persons.<sup>153</sup> On an occasional basis the local police and the IPTF participate in the meetings as well. The international organizations, as well as the representative of the Ministry for Refugees and Displaced Persons, all present cases they receive to the Property Commission. The commission at its weekly meetings selects some of these cases, which will then be investigated by a field team before the next meeting. The field team presents its findings and recommendations at the commission's next session. The commission then reviews the cases and make recommendations to the Ministry for Refugees and Displaced Persons.

Although the commission's recommendations have no legal force, it is expected that the ministry will be willing to implement the recommendations, since a representative of the ministry takes part in the work of the commission. The commission, which was set up in May 1999,<sup>154</sup> has had limited success. A reliable international source estimated that of the more than one hundred cases the commission has dealt with, only 20 to 25 percent have been implemented. However, the commission's functioning also supported the Ministry for Refugees and Displaced Persons in doing its work on other cases.

#### *The new head of the Bijeljina department of the Ministry for Refugees and Displaced Persons*

The Bijeljina department of the Ministry for Refugees and Displaced Persons has seen several different heads during the last three years. According to Bruno Pennaneach, the United Nations civilian affairs officer in Bijeljina, the

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<sup>150</sup> Art. 6 of the Law on the Cessation of Application of the Law on the Use of Abandoned Property. Unfortunately, a similar stipulation was not foreseen for those wanting to return to an accommodation to which they have an occupancy right. This omission was rectified by an amendment imposed by High Representative Wolfgang Petritsch on October 27, 1999.

<sup>151</sup> Some of the weaknesses and inconsistencies have been addressed by decisions of High Representative Wolfgang Petritsch amending the law, which were announced on October 27, 1999.

<sup>152</sup> RS Ministry for Refugees and Displaced Persons, *Report on the Number of Filed Claims for Repossession of Private Property and Occupancy Rights in Ministry Departments*, March 13, 2000.

<sup>153</sup> The municipality initially refused to participate in the meetings, claiming that the Ministry for Refugees and Displaced Persons was in charge of return, and that a municipal presence therefore was not needed. Only after repeated requests by François Perez and representatives of other international organizations did Mayor Savijf decide to appoint someone to represent the municipality on the Property Commission.

<sup>154</sup> Interview with Guisepe Lococo, Human Rights Officer, OSCE, Bijeljina, August 6, 1999.

department had nine different heads over the last three years, of which three were interviewed by Human Rights Watch. Not all of them seemed to be overly concerned with the return of refugees.

Nenad Đokif, appointed June 1, 1999 as head of the Bijeljina department, seems to be genuinely committed to return. Both his international interlocutors<sup>155</sup> and his counterpart in the Tuzla municipality, Amir Omer..ehajif,<sup>156</sup> contend that Đokif is far more cooperative and committed to return than his predecessors. Đokif is the first head of the Ministry for Refugees and Displaced Persons in the RS that has sought to cooperate with his Federation counterparts on return, and Đokif and Omer..ehajif now meet on a regular basis. By exchanging information on who regained possession of, sold, or exchanged their housing in Bijeljina and Tuzla, the two offices have increased the possibility of identifying cases of double occupancy and of determining in which cases alternative housing is required.<sup>157</sup> The cooperation between Bijeljina and Tuzla is satisfactory for both sides, and Đokif now wants to establish similar cooperation with municipalities in the Sarajevo Canton. During an interview in September 1999, Đokif said: "I don't see any real solution [for return], except for two-way return. If more Serbs would want to return, it would be easier."<sup>158</sup>

Since Đokif took over as head of the Bijeljina department of the Ministry for Refugees and Displaced Persons in June 1999, return to Bijeljina has improved significantly. No decisions were taken on claims under the new housing legislation by Đokif's predecessor, Danilo „olakovif. However, according to international sources in Bijeljina, around 300 decisions have been implemented, and about 240 families have been reinstated since June 1999.<sup>159</sup> According to figures provided by UNHCR, some 500 minorities returned to Bijeljina in 1999, and return appears to have continued throughout the first months of 2000.<sup>160</sup>

Compared to the four reported minority returns between 1996 and 1998, this is a substantial increase. However, when one takes into account that around 30,000 Bosniaks and other minorities were evicted from their houses in Bijeljina during the war, the number of returns is hardly more than symbolic. At this rate, it will take another twenty-one years before all claims will have been decided upon and implemented.

The number of returns is even less impressive because the Ministry for Refugees and Displaced Persons in Bijeljina has so far focused on the easiest cases, or, as one international source put it: "Đokif prioritizes decisions that can actually be implemented."<sup>161</sup> Almost all cases that have been resolved involved private property, and so far forcible evictions have been necessary in only a few cases in order to reinstate returnees. In most cases, an agreement was

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<sup>155</sup> Interview with Đurđica Zorif, UNHCR Br..ko, Br..ko, September 27, 1999; interview with François Perez, Special Envoy, OHR Bijeljina, Bijeljina, September 28, 1999.

<sup>156</sup> Human Rights Watch interview, Tuzla, September 23, 1999.

<sup>157</sup> The Office of the High Representative recognized the importance of increased cooperation between the agencies tasked with return issues in both entities. On October 27, High Representative Wolfgang Petritsch issued an instruction ordering the offices of the Ministry for Refugees and Displaced Persons to provide statistical information on reinstatements, including names of the reinstated persons and the addresses of the accommodation that has been vacated and the accommodation the reinstated person returned to. *Instruction on the application of the Law on Further [sic] Amendments to the Law on Cessation of Application of the Law on the Use of Abandoned Property and the Law on the Cessation of Application of the Law on the Use of Abandoned Property in its amended form*, October 27, 1999.

<sup>158</sup> Human Rights Watch interview, Bijeljina, September 30, 1999.

<sup>159</sup> Other decisions concerned business or agricultural property. These figures are largely corroborated by the ministry's own figures, which say that on March 13, 2000, there were 282 realized decisions on private property, and six realized decisions on socially-owned property.

<sup>160</sup> Figures based on *UNHCR Statistics Package: Minority returns from 01/01/99 to 31/12/99 in Bosnia and Hercegovina*. As of this writing, no official figures were available for the first months of 2000.

<sup>161</sup> Human Rights Watch interview, Bijeljina, March 24, 2000. The source chose to remain anonymous.

reached between the temporary occupant and the prewar occupant, for example because the temporary occupant had regained possession of his/her property in the Federation, or decided to emigrate. The resolution of cases regarding socially-owned apartments is much more difficult, and provides a real test for the ability and willingness of the ministry to implement the new housing legislation. Like elsewhere in Bosnia, many socially-owned apartments that were abandoned during the war were given to local Bosnian Serbs as a reward for their party loyalty or war time activities, or were given to people who wanted to move out of their parents houses to start a family of their own, or to move from an outlying village to the city. These so-called “multiple occupancy” cases, however, have hardly been addressed in Bijeljina: only six cases regarding socially-owned property have been resolved.<sup>162</sup> International sources confirmed that there are “still difficulties in dealing with double occupancy cases.”

Furthermore, thirty-six of cases that were resolved occurred within the framework of a construction program of the Gesellschaft für Technische Zusammenarbeit (Technical Cooperation Agency, GTZ), a German governmental development agency. GTZ initiated a project in which thirty-six apartments were built for Bosnian Serb displaced persons in Bijeljina who were occupying the houses of Bosniak refugees from Bijeljina who were living in Germany.<sup>163</sup> These were easy cases, as the Bosnian Serb displaced persons were offered newly built apartments from which they would not be evicted in due time, as alternatives to temporary occupancy of homes which ultimately would have to be returned to the rightful owners. The Ministry for Refugees and Displaced Persons had only to sign decisions regarding the return of the original inhabitant, without having to go through the procedures that other returns require.

This is not to say that the Ministry for Refugees and Displaced Persons in Bijeljina is to blame for the relatively small number of returns. Since Nenad Đokif took charge, the atmosphere regarding return has changed for the better, the number of returns has increased, and the ministry has started issuing decisions in favor of returnees. However, the office is seriously understaffed and under equipped, and does not receive enough support from the Ministry for Refugees and Displaced Persons in Banja Luka. By the end of September 1999, it had received almost 5,000 claims for return of accommodation, and expected to receive another 2,000 to 3,000 claims. Đokif’s office has only two lawyers to deal with all the cases, as well as two field staff (one of whom may be removed, at the request of the OHR Special Envoy) and two administrative staff. According to Đokif, it takes a lawyer at least one day to deal with a single case. In June, Đokif asked the ministry for an extra lawyer for his department. However, in March 2000, the ministry was still working with only two lawyers.<sup>164</sup>

Nor does the Ministry for Refugees and Displaced Persons in Bijeljina receive the material support it needs. According to Đurđica Zorif, responsible for the Bijeljina area on behalf of the UNHCR, the office does not have petty cash to pay for postage, nor does it have a vehicle to do field work.<sup>165</sup> Đokif complained as well: “So far, we didn’t get much at all from the ministry. We just got paper, pens, stuff like that. But we didn’t even get gasoline to do [field work]. But the situation is the same in all departments.”<sup>166</sup> At the end of September the staff of the Bijeljina department still hadn’t received their salaries for August or September, despite the fact that USAID had provided the ministry with money to pay the salaries for June through September.

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<sup>162</sup>RS Ministry for Refugees and Displaced Persons, *Report on the Number of Filed Claims for Repossession of Private Property and Occupancy Rights in Ministry Departments*, March 13, 2000. These cases are called “double” or “multiple” occupancy cases because the inhabitants still have their previous accommodation available to them (their former house or apartment, their parents’ house, or their house in the village).

<sup>163</sup> For a detailed discussion of the GTZ project see below.

<sup>164</sup> Actually, one of the ministry’s lawyers left, after which the ministry was allowed to hire a replacement for him.

<sup>165</sup> Human Rights Watch interview, Brčko, September 27, 1999.

<sup>166</sup> Human Rights Watch interview, Bijeljina, September 30, 1999.

The biggest problem confronting the Ministry for Refugees and Displaced Persons in Bijeljina is finding alternative accommodation for those to be evicted from returnees' apartments. According to Đokif, the Bijeljina municipality is not very cooperative in finding alternative accommodation: "So far, we can only offer abandoned property which hasn't been claimed yet. The municipality doesn't need to give us anything. The municipality never gave us a list of abandoned property. Now, the only way we have to prove [an accommodation] is empty is through the firms. So what we do is that when the name is Muslim, we just assume it is abandoned."<sup>167</sup> UNHCR confirmed that the municipality is not very cooperative, and that it is very difficult to obtain information on double occupancy cases from the municipality.<sup>168</sup>

Already before return to Janja started, the displaced Bosnian Serbs now living in Janja protested the possible return of Muslims.<sup>169</sup> The displaced persons in Janja have a reputation for being strongly opposed to return. Ziad Abu-Amer, the deputy station commander of IPTF in Bijeljina, told Human Rights Watch that the president of the local community board in Janja had said that he would do everything in his power to stop return to Janja.<sup>170</sup>

After return to Janja and Bijeljina increased, a series of incidents aimed at returnees took place. Between January 1 and March 11, 2000, six explosions, at least two cases of arson, one shooting incident, and numerous cases of harassment of returnees took place. The house of one Bosniak municipal councillor who had recently returned was severely damaged. Stones were thrown through the windows of another Bosniak municipal councillor. Most of the incidents took place after the local tv-station in Bijeljina reported for several days in a row about a case in which two Roma abducted and mistreated a displaced Bosnian Serb residing in Janja.

Both local and international sources strongly suspect that this series of incidents was an organized attempt to disrupt the returns process to Bijeljina and Janja. However, although the local police have started an investigation, no suspects have yet been arrested. The incidents stopped after the local police, in cooperation with the IPTF, increased their presence in Janja. Moreover, SFOR has increased its presence, and is now patrolling Janja twenty-four hours a day. Currently, the situation is "calm, but not peaceful."

### **Projects to accommodate displaced persons and promote return**

According to those representing Bosniaks from Bijeljina, the vast majority of those who were expelled or fled from Bijeljina would like to return.<sup>171</sup> Yet according to Bosnian Serb sources, the vast majority of displaced Bosnian Serbs do not want to return to their houses in the Federation or Croatia. Danilo „olakovif, when he was the head of the Bijeljina department of the Ministry for Refugees and Displaced Persons, was convinced that Bijeljina municipality can not handle the problem by itself: "We cannot do anything; the international community should do this, we are too weak to do it....

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<sup>167</sup> Human Rights Watch interview, Bijeljina, September 30, 1999. The socially-owned housing stock was controlled by the authorities through state-owned companies, who distributed the apartments among their employees. Therefore, the companies have records of who used to live in which apartments. Through state-owned firms, municipalities often control large stocks of socially-owned property, which could be used for the accommodation of displaced persons and refugees. In Bijeljina, the European Community Monitoring Mission (ECMM) estimates that there are some 1,300 socially-owned apartments, of which some 600 officially have been declared abandoned. It is unknown how many other apartments have been abandoned, but not declared as such.

<sup>168</sup> Interview with Đurđica Zorif, UNHCR Br..ko, Br..ko, September 17, 1999.

<sup>169</sup> See the incident described in the paragraph on the return of refugees and displaced persons.

<sup>170</sup> Human Rights Watch interview, Bijeljina, March 24, 2000.

<sup>171</sup> Human Rights Watch interviews with Osman Đilovif, President of the *Mjesna Zajednica* (local community) Janja in Tuzla, Tuzla, April 24, 1998, and December 11, 1998; Human Rights Watch with Mahmud Nurkif, Chairperson of the *Mjesna Zajednica's* Commission for Return, Tuzla, April 23, 1998; Vehid Šehif, President of the Forum of Tuzla Citizens, April 3, 1998.

The only solution I see is that some humanitarian organizations finance housing units on building sites [provided by] the municipality.”<sup>172</sup>

In 1998, the municipality began several projects to provide accommodation for a part of the displaced Bosnian Serbs in Bijeljina. According to Jezdimir Spasojević, the head of the Department for Urban Planning of Bijeljina municipality, the municipality prepared a plan for 1,800 building sites of 400 square meters each, complete with infrastructure.<sup>173</sup> These building sites were to be given free of charge to displaced persons from the Federation who do not have a place to return to, i.e., whose homes have been damaged beyond repair by the war. The Bijeljina authorities contacted the authorities in Sarajevo and Tuzla to establish which displaced persons indeed do not have a place to return to because of war-time destruction. Spasojević estimated that 20 to 25 percent of the displaced persons in Bijeljina fall within this category. Only these persons were to be eligible for one of the 1,800 building sites. By providing displaced persons with a lot to build a new house, the municipality hopes to free up the housing of Bosniaks now occupied by displaced Bosnian Serbs.

Even though the project would free up housing, and provide an opportunity for Bosniaks to return to Bijeljina, those representing Bosniaks in the municipal council in Bijeljina, the councillors of the KCDBiH, opposed the plan. Their main objection was that, in their view, the land assigned for distribution among displaced Bosnian Serbs was

land expropriated from Bosniaks or belonging to Poljuprivredna Dobra Semberija (Agricultural Property Semberija, PPD),<sup>174</sup> which PPD acquired by means of agricultural reforms and expropriation mainly from Bosniaks after World War Two. Thus, property that on the basis of the restitution should be returned to its original owners ... is divided among one ethnic group only, thereby prejudging the question of restitution and privatization, because there will be nothing left to return or privatize.<sup>175</sup>

The councillors consider the plan to be part of the “politics of ethnic consolidation in the Republika Srpska, that is the politics of legalizing [the results of] ethnic cleansing [that was] carried out during the war.”

The Bijeljina municipality is involved in several other, smaller projects of a similar nature. For instance, the municipality provided land for about one hundred building sites in Velika Obarska, a village some five kilometers northwest of Bijeljina. These lots were given to employees of two firms in Velika Obarska, Zlatibor and Orao, who paid for the infrastructure for this area. And in Pet Jezera, the municipality is preparing fifty-five buildings sites which will be sold for 14,000 German marks each.

All these projects have one thing in common according to Bosniaks in Bijeljina: a substantial part of the land used for these projects originally belonged to Bosniaks and other minorities. The Bijeljina authorities, on the other hand, claim that most of the land involved had been owned by Bosnian Serbs. However, Jezdimir Spasojević admitted that the municipality does not know exactly who owned the land that now will be used for the housing of displaced persons before

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<sup>172</sup> Human Rights Watch interview, Bijeljina, December 18, 1998.

<sup>173</sup> Human Rights Watch interview, Bijeljina, December 18, 1998.

<sup>174</sup> Poljuprivredna Dobra Semberija is a state-owned agricultural firm. In the Socialist Federal Republic of Yugoslavia (SFRY) much of the housing stock and land was owned by the state or state-owned companies. This property was called socially-owned property. Much of the socially-owned property was nationalized by the authorities after World War II. Socially-owned property will now be privatized or returned to (the heirs of) the original owners, who had their property taken away by way of nationalization.

<sup>175</sup> Letter from the Club of Councillors of the Coalition for a Whole and Democratic Bosnia and Hercegovina from Bijeljina to the Organization for Security and Cooperation in Europe (OSCE), October 1998. The Coalition for a Whole and Democratic Bosnia and Hercegovina is a coalition of Bosniak political parties, led by the SDA.

it was nationalized.<sup>176</sup> The councillors of the KCDBiH officially requested clarification of this issue, but never received an answer. In a letter dated December 18, 1998, to Vlatko Sekulif, the director of the Republika Geodetska Uprava (Republican Geodetic Department), Human Rights Watch requested specific data concerning the ownership of the land that is to be distributed. Jezdimir Spasojević had suggested that the Geodetic Department would have data concerning previous ownership of this land, but at the writing of this report, Human Rights Watch still had not received an answer from Vlatko Sekulif.

Jezdimir Spasojević, however, maintained that it was not relevant who owned the land before it was privatized.

It's not relevant, since all had a lawyer appointed to represent them. When [the original owners] come, they can go to him. Then, there are several possibilities: they can have their land returned to them if nothing has happened to it. However, if the [newly built] buildings on the land are more valuable than the land itself, then they will be compensated for their damages, or they will be offered a piece of land of the same quality.<sup>177</sup>

There are certainly reasons to be doubtful of the intentions of the Bijeljina authorities. It is unclear why the municipality itself did not ascertain the owners of the land were before it was nationalized, especially if such data, as Spasojević claimed, is readily available at the Geodetic Department. If the land largely belonged to Bosnian Serbs, the authorities could have avoided the appearance that they were attempting to obstruct the return of Bosniaks by using land that was slated to be returned to them. If, on the other hand, the land in large part belonged to Bosniaks and other minorities, the authorities could have tried to contact the original owners of the land, to inform them about the plans to use this land for settling Bosnian Serb displaced persons, and given them a reasonable time to come to an agreement with the Bijeljina authorities to sell the property. By not clarifying who owned these parcels of land, the municipal authorities have neglected the legitimate concerns of Bosniaks, which, given the current conditions in Bosnia and Hercegovina, can only lead to more skepticism among Bosniaks regarding the willingness of the Bijeljina authorities to allow returns of Bosniaks.

According to Bijeljina authorities, the plans are intended to allow for the return of Bosniaks. However, the land slated for distribution used to be agricultural land, and many inhabitants of Bijeljina depended on agriculture for their livelihood. Using this land to settle displaced Bosnian Serbs makes it even harder for returning Bosniaks to provide for themselves, even if they are reinstated in their homes. The chances for alternative employment are extremely limited given the high unemployment rate in the Republika Srpska and the unwillingness of Bosnian Serb firms to employ Bosniaks.

The plans to provide displaced persons with construction sites were put on hold following a decision by High Representative Carlos Westendorp in May 1999 to suspend the power of authorities to reallocate and dispose of socially-owned land. Westendorp explained his decision as follows:

This decision addresses the widespread misuse, re-allocation, and sale of socially-owned land that was previously used by people who are now refugees and displaced persons and may wish to return. In many return areas, municipalities have re-allocated former agricultural land, or have demolished war-damaged housing in order to use the land differently. They have also re-allocated land that used to accommodate cultural and religious sites and private business premises.

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<sup>176</sup> Human Rights Watch interview, Bijeljina, December 18, 1998.

<sup>177</sup> Ibid.

Conducive conditions are necessary for the sustainable return of refugees and displaced persons. In many cases, the current land re-allocation practice amounts to taking away their livelihood and cultural and religious heritage. The re-allocation and, in many instances, unlawful sale of socially-owned land also threatens to undermine the processes of restitution and privatization.

Following the Decision of the High Representative, municipalities are no longer allowed to re-allocate or dispose in any way of socially-owned property, if on 6 April 1992 it was used for residential, religious, or cultural purposes, or for private agricultural and business activities.<sup>178</sup>

Nevertheless, the Bijeljina municipality is in the process of allocating 300 construction sites to Bosnian Serb displaced persons. The land where the construction sites are planned is owned by Poljuprivredu Zavoda and Poljuprivredna Dobra Semberija, two state-owned agricultural firms. According to Miodrag Stojanović, a lawyer and member of the Executive Board of the Bijeljina municipality, this land was never supposed to be returned in the restitution process, as it has always been municipal property.<sup>179</sup> Human Rights Watch has been unable to ascertain whether this is indeed the case, but even if socially-owned land, it should not be distributed among displaced Bosnian Serbs before the municipality has clearly proven that this plan will not affect the rights of displaced persons and refugees.

### *The GTZ Project*

The Technical Cooperation Association (Gesellschaft für Technische Zusammenarbeit—GTZ), the development cooperation agency of the German government, is involved in a project to enhance return to Bijeljina by providing Bosnian Serb displaced persons with new housing in Bijeljina. In cooperation with the Bijeljina authorities, GTZ built thirty-six apartments for Bosnian Serb displaced persons currently occupying homes in Bijeljina that originally belonged to Bosniaks. The Bijeljina municipality provided the land on which the apartments were built and prepared documentation for the infrastructure. The German government, through GTZ, paid for the expenses of the project, some 1.5 million German marks. After its completion, GTZ officially handed over the apartments, which are supposedly temporary accommodations, to the Bijeljina authorities.

The beneficiaries were chosen through a selection process in which, according to Joachim Neunfinger, the head of GTZ's office in Tuzla, social indicators were one of the main criteria.<sup>180</sup> However, the principal criterion was that the Bosniak beneficiaries—those whose homes would be returned to them when the Serb occupants were moved to the new apartments—should be refugees now living in Germany. In other words, the process was aimed at enabling Bosniak refugees in Germany to return home, thereby relieving Germany's massive caseload of Bosnian refugees.

The GTZ project met with considerable international resistance, which concerned both technical and policy aspects of the project. The concerns of the international community were voiced several times to GTZ representatives but, according to an international source in Bijeljina “GTZ and Germany didn't care about the objections.”<sup>181</sup> International organizations therefore decided not to be present during the official handover ceremony of the apartments. After the completion of the project, the UNHCR conducted an analysis of the project, and the Tuzla Reconstruction and Return Task Force (RRTF) Core Group, sent a letter to GTZ outlining the main criticisms of the project. The letter criticized several technical matters:

- C The project did not manage to prevent the departing Bosnian Serb displaced persons from stripping the Bosniaks' homes and stealing their furniture. According to GTZ director Neunfinger: “Most of the houses were stripped.

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<sup>178</sup> “Decision on Socially-Owned Land,” *OHR Press Release*, Sarajevo, May 27, 1999.

<sup>179</sup> Human Rights Watch interview, Bijeljina, September 28, 1999.

<sup>180</sup> Human Rights Watch interview, Tuzla, September 30, 1999.

<sup>181</sup> Human Rights Watch interview, Bijeljina, August 6, 1999. The source chose to withhold his name.



The Bosniaks were not reimbursed for these damages. We had money for it, but we decided not to spend it. We just helped four families who didn't have anything at all. We wanted to be careful not to spoil their integration process, they shouldn't have too much."<sup>182</sup> According to GTZ, the municipality prepared lists of furniture in the Bosniak's houses, and municipal officials were present when the displaced Bosnian Serbs moved out. Even so, Neunfinger said he doubted that it would be possible to prevent theft from happening.

- C The project allegedly did not assure that all the houses involved were freed. The RRTF claims that in three cases, Bosnian Serb displaced persons are still living in (a part of) the Bosniaks' property. However, Neunfinger categorically denied that this was the case. Human Rights Watch has been unable to establish whether the houses were indeed freed completely.

The main points of critique, however, were not of a technical but a policy nature. The letter stated as follows:

First, from a conceptual point of view, provision of new housing in the Republika Srpska to Bosnian Serb DPs from the Federation legitimated re-location, a practice which the International Community does not support (reference is made to the 1998 Madrid Peace Implementation Council's conclusions, recommending the donors not to fund relocation projects in 1999).

Second, from the operational angle, the provision of housing for DPs in one location in Bosnia and Herzegovina was likely to strengthen the tendency among Bosnian Serb displaced persons to resist return home to the Federation, making implementation of Annex 7 accordingly more difficult.<sup>183</sup>

Indeed, the Madrid Peace Implementation Council (PIC) endorsed the RRTF Action Plan for 1999, which clearly stated the following:

The continuing policy of the RRTF is that ... scarce donor funds should be invested in return rather than relocation. Therefore, international investments in new housing and/or repair of existing dwellings for relocation are not specifically included in this plan as an acceptable means of generating housing space, except in the form of buffer accommodation...<sup>184</sup>

The Sarajevo Office of the German Federal Government Commissioner for the Return of Refugees, Reintegration and Return-related Construction, in a response to the RRTF-letter, pointed out that the Madrid PIC also welcomed the strategy of the Humanitarian Issues Working Group of the PIC "which outlines four sustainable solutions, namely return to pre-conflict homes as the preferred solution, as well as local integration, resettlement and relocation." However, this does not fully answer the criticism. Although other solutions including relocation are mentioned, return to pre-conflict homes is named as the preferred solution. Furthermore, Germany is a member of the RRTF, whose policy it is not to fund relocation projects. It is unclear why the German government decided to act against a return strategy which it itself helped define.

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<sup>182</sup> Human Rights Watch interview with Joachim Neunfinger, Director of GTZ Tuzla, September 30, 1999.

<sup>183</sup> Letter by the Tuzla RRTF Core Group, July 12, 1999. The Reconstruction and Return Task Force is an inter-agency body that coordinates international efforts to promote reconstruction and return, which is headed by the OHR. Other agencies and organizations that are members of the RRTF are UNHCR, the Commission on Real Property Claims (CRPC), the European Commission (EC), the European Community Humanitarian Office (ECHO), the International Management Group (IMG), the International Organization for Migration (IOM), OSCE, SFOR, the United Nations Development Programme (UNDP), the United Nations Mission in Bosnia and Herzegovina (UNMIBH) and the World Bank, as well as the U.S. and German governments. Annex 7 of the Dayton Peace Agreement deals with refugees and displaced persons.

<sup>184</sup> 1999 RRTF Action Plan, para 3.5, p. 9.

The Dayton Peace Agreement is clearly based on the assumption that refugees and displaced persons have the right freely to return to their homes of origin: "The early return of refugees and displaced persons is an important objective of the settlement of the conflict in Bosnia and Herzegovina."<sup>185</sup> By facilitating the relocation of large groups of displaced persons in the entity governed by their ethnic group, the results of "ethnic cleansing" achieved in the war will be solidified in the post-war period, contrary to the intentions of the Dayton agreement.

Admittedly, the Dayton agreement states that the "choice of destination shall be up to the individual or family,"<sup>186</sup> a right which has also been recognized by international refugee conventions. However, the parties to the Dayton agreement undertook to "create in their territories the political, economic, and social conditions conducive to the voluntary return and harmonious integration of refugees and displaced persons"<sup>187</sup> and to "facilitate the flow of information necessary for refugees and displaced persons to make informed judgments about local conditions for return."<sup>188</sup> However, the parties have never fulfilled these obligations. As the Reconstruction and Return Task Force (RRTF) stated in its *1999 RRTF Action Plan*:

Despite the promises enshrined in Dayton, conditions for minority return do not exist in most parts of the country. The primary reason is an appalling lack of political will on the part of the authorities at all levels. This lack of political will manifests itself in a number of ways, from obstructionism in the passage and implementation of new property laws, to a failure to provide security for returnees and properly investigate crimes against minorities, to clear discrimination in the judicial and public administrative systems. Lack of and unequal access to employment, scarcity of resources and politicization in education policy further undermine minority return. Returns to Croatia remain hampered by continued constraints. Key obstacles outlined in the UNHCR Regional Strategy include the use of media to incite opposition to return or intimidate the displaced not to return; denial of access to public services and fundamental human rights; and the deliberate relocation of returnees or the internally displaced in order to consolidate control and further ethnically-motivated political objectives.<sup>189</sup>

Because the conditions for return have not yet been met, and displaced persons and refugees do not have access to objective information regarding the possibility of returning to their homes of origin, displaced persons and refugees can not freely make an informed decision on whether or not to return. By providing displaced persons with what is in effect permanent housing, the GTZ project discouraged Bosnian Serb displaced persons from returning to their pre-war homes.

The RRTF-letter continued:

Third, though the project was presented as providing "temporary buffer accommodation" with the assumption that the beneficiaries would eventually return home, it was considered likely that the provided accommodation would be considered permanent.<sup>190</sup>

GTZ labeled the accommodation as "temporary accommodation," and according to Neunfinger, the contract with the municipality states that the apartments are supposed to be temporary accommodation. However, the municipality, in

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<sup>185</sup> General Framework Agreement, Annex 7 (Agreement on Refugees and Displaced persons ), art. I, para. 1.

<sup>186</sup> Ibid., para. 4.

<sup>187</sup> Ibid., para. 1.

<sup>188</sup> Ibid., para. 4.

<sup>189</sup> *1999 RRTF Action Plan*, para 2.3, p. 5.

<sup>190</sup> Letter by the Tuzla RRTF Core Group, July 12, 1999. Buffer accommodation is housing built to bridge the time period between the moment displaced persons have to leave their temporary accommodation because the original inhabitant returned, and the moment they can return to their own home.

its contracts with the Bosnian Serb displaced persons, did not specify a duration for the contract, or include a clause stipulating the terms under which the displaced persons would move out. The survey and analysis that UNHCR performed showed that all of the fifteen Serb families interviewed had decided to remain in Bijeljina and not to return to the Federation. Most of them asked whether they would, in the end, be able to buy the apartment. In these cases, one cannot speak of buffer accommodation, because those who are using the accommodation have no intention to return to their original property.

The German government argued that “in a modern western marke[t]-oriented society people will not stay permanently at one location.” This argument, however, is beside the point. Temporary buffer accommodation is intended to accommodate displaced persons who are evicted from their temporary homes because the original inhabitant returned, until such time as they have resolved their outstanding housing problems. One would assume that in case of buffer accommodation, the contract with the temporary occupants would contain provisions that would ensure that the “buffer” character remains intact. For instance, the contract could specify a time limit for displaced persons to use the accommodation, which could be extended if return is blocked. Alternatively, the contract could include a clause stating that the temporary occupant is obliged to start proceedings to resolve his/her outstanding housing problems, and to vacate the buffer accommodation as soon as these problems have been resolved.

Despite the criticism of the international community, GTZ is now preparing a second phase of the project in Bijeljina. The project foresees the construction of 104 apartments in Bijeljina, which will be inhabited by Bosnian Serb displaced persons. The project, which will cost around 4.5 million German marks, most likely will be funded by Directorate General 1A (External Relations with Europe and the New Independent States) of the European Commission.<sup>191</sup> The international community, in particular the RRTF, has reluctantly agreed to cooperate with GTZ in the realization of the project, and will be involved in the selection procedures for determining the beneficiaries. It has been agreed that 50 percent of the Bosniak beneficiaries—those whose homes would be returned to them when the Serb occupants moved into the new apartments—shall be members of the “floating” population, while the other 50 percent will be refugees now living in European Union countries. Moreover, GTZ said that several other changes would be made from the first project. Among others, GTZ would demand that the contracts with the Bosnian Serb displaced persons would include a clause on when and under which conditions they were obliged to vacate the temporary accommodation.

Germany has had to deal with an enormous influx of refugees from Bosnia and Hercegovina, including almost 14,000 refugees from Bijeljina,<sup>192</sup> and has spent billions of German marks to accommodate and support the refugees. Given this burden it is understandable that the German authorities want to return Bosnian refugees to Bosnia as soon as possible. However, Germany has signed the Dayton Peace Agreement as a witness, thereby signaling its support for the peace agreement, including Annex 7 on Return of Refugees and Displaced Persons. Supporting the Bijeljina authorities in their plan to provide permanent accommodation for displaced Bosnian Serbs in Bijeljina undercuts the stated aim to allow for the return of displaced persons and refugees, and solidifies the ethnic division of Bosnia and Hercegovina.

The resources used to provide displaced persons with new apartments could also be used to repair the original homes of the displaced persons in the Federation. In that way, using the same resources, displaced persons would have a permanent place to live, and accommodations in Bijeljina would be vacated so Bosniaks could return to their own homes. But, there is an additional advantage: the results of “ethnic cleansing” would not be solidified but reversed. However,

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<sup>191</sup> The contract with DG1A had not yet been signed at the time of the interview. However, according to Joachim Neunfinger, this was not a result of disagreements on policy issues but rather a technical matter.

<sup>192</sup> According to a fax sent by the German Ministry of Foreign Affairs to OHR Br..ko, dated March 2, 1998.

according to Neunfinger “reconstructing the houses of Bosnian Serb displaced persons takes too long, there are too many steps [in the process].”

### **Abuses by the police**

During the first years after the war, Bosniaks and other minorities faced regular harassment and ill-treatment. Although theoretically Bosniaks, Bosnian Croats, and Bosnian Serbs were equal before the law, in Bijeljina they could not count on the police to protect their rights, and most didn't dare to report incidents to the police. In 1996 and 1997, abuses against minorities were commonplace. In 1998, the frequency of these abuses appeared to have decreased, but Bosniaks still suffered from abuses by police forces. Especially in the first six months of 1998, there were several incidents in which members of the police or special police physically abused Bosniaks living in Bijeljina or harassed them in other ways. In particular members of the special police in Janja have a long record of abuse, and they have been able to engage in these abuses with almost complete impunity. The problems created by members of the special police in Bijeljina in May 1998 prompted Elodie Cantier Aristide, then human rights coordinator of the United Nations' Human Rights Office in the Br..ko region, to describe “the presence of the special police in Janja [as] the biggest problem when we talk about human rights. There have been several instances of arbitrary violence, and no progress along the lines of Dayton due to their presence.... There are never any normal solutions concerning the special police, their cases never go to court. In cases involving the special police, we try to force the local police to investigate. So far, they have never done this.”<sup>193</sup>

Paul Hawkins, then station commander of the IPTF station in Janja, when asked what the special police in Janja actually do, answered that “they do whatever they want, the local police will never undertake any action against them.” Hawkins provided Human Rights Watch with an example of the behavior of the special police, and the position the local police take:

[A member] of the fourth brigade [of the special police, which is based in Janja] was involved in an accident with a coal truck in December [1997]. It was clearly the officer's fault, even though the police reports say otherwise. However, [the officer] pulled a gun, and took the truck from the driver. He told him he could get it back after the driver would pay 3,000 German marks to cover the damages. Only after ten days, when the driver managed to scramble together the DM 3,000, he got his truck back.<sup>194</sup>

Although the IPTF wrote a noncompliance report against the officer, he remained a member of the Fourth Brigade until the summer of 1998, when he was removed from the special police for reasons unrelated to the incident above.<sup>195</sup>

Unfortunately, there are many more instances of abuses of minorities at the hands of the police. Hans-Jürgen Münzel, a human rights officer for the IPTF in Janja, stated in July 1998 that “more than 80, maybe even 90 percent of our cases concern complaints against the police.”<sup>196</sup>

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<sup>193</sup> Human Rights Watch interview, Br..ko, May 15, 1998.

<sup>194</sup> Human Rights Watch interview, Janja, May 15, 1998.

<sup>195</sup> Noncompliance reports can be issued against law enforcement personnel that refuse to cooperate with the IPTF, have obstructed the implementation of the DPA, have been involved in violations of the Bosnian constitution, or have violated internationally recognized human rights. In theory, officers who have been served with a noncompliance report cannot be part of any law enforcement agency.

<sup>196</sup> Human Rights Watch interview, Janja, July 11, 1998. Since it is the IPTF's task, among others, to monitor the activities of the local police, it is not surprising that the IPTF receives many complaints about the police. However, since the IPTF has a larger field presence than any other international office, and many Bosnians are not aware of the division of tasks among international actors, Bosnians approach the IPTF with all kind of complaints and issues, ranging from housing issues and complaints about judicial procedure to issues that should be reported to the local police, such as theft and burglary.

## The Case of Jusuf Alihodžić

One of the most serious cases reported to Human Rights Watch is that of Jusuf Alihodžić, who was severely beaten by an apparently off-duty member of the local police. Jusuf related his experience:

On June 12, 1998...at 4:15 a.m., Rajko Pjevaljić and another man came to our house. Pjevaljić, who was a local police officer...was a little drunk, and he said he came for coffee and rakija. I told him: "Not now, you should come later, my wife and daughters are asleep," and closed the door. But Rajko opened the door again, and hit me with his elbow in my stomach, then with his fist in my face, and I fell down. I got up again, and asked him what's the matter. He then hit me again, and I fell down, losing consciousness after I hit a kitchen cupboard.<sup>197</sup>

Jusuf's wife was awakened by the noise, and saw what happened after Jusuf fell and lost consciousness:

I saw one of them picking him up, and then the other kicked him down again. They repeated this several times. My youngest daughter tried to stand between them, and asked Rajko not to do that, but Rajko grabbed her and threw her on the floor.

The other guy then went outside to clean his shoes, but Rajko stayed and tried to rape me. I said: "Rajko, please don't do that, my kids will get scared." But Rajko replied that they would only get scared if I screamed. He grabbed me, and tried to take me into the bathroom. I begged Rajko to call an ambulance, because I thought that my husband would die. But Rajko took the head of my husband, twisted it and said: "Do you want me to slaughter him right now?".... I asked Rajko again to allow me to call an ambulance, but Rajko ripped my husband's shirt, beat him in his stomach, and [when my husband moved] said: "See, he's still alive." He then hit my husband's head against the doorstep, asking: "Do you want me to kill him?" Then Rajko approached me again, and harassed me sexually. The other guy then said: "Rajko, don't do that, it's enough." .... They left around 6 a.m., after they had kicked in the windows.

....The police [came, and] asked me where they went, but I didn't know. But my son saw Rajko and the other man, and said : "There they are." The police then went after them, so they should know who the other one is, but they never told us who it was. The day after, Rajko was arrested. He confessed to everything, but he didn't reveal the name of the other. Rajko was fired from the police, and the IPTF took away his gun and his badge. The IPTF says that Rajko is now in Serbia.<sup>198</sup>

According to Pablo Badie, human rights officer of IPTF in Bijeljina, Pjevaljić was arrested in March 1999 and spent one month in prison in connection with the attack on Jusuf Alihodžić.

In the Alihodžić case, the police ultimately arrested the perpetrator, who was fired from his job, and served a prison term. In other cases, however, the police have protected the identity of police officers who physically abused detainees while on duty. Rather than protecting minorities from abuses, they were themselves involved in abuses and also shielded those who committed the abuses from any repercussions.

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<sup>197</sup> Human Rights Watch interview, December 19, 1998.

<sup>198</sup> *Ibid.* According to an IPTF report on the incident, obtained by Human Rights Watch, the police officers talked to the perpetrators after they had been pointed out to them. They let them go again, but reassured the family that the perpetrators would not return. Nevertheless, the police claim they do not know the identity of the second man.

## The Case of Fadil Ganif

The IPTF told Human Rights Watch about the case of Fadil Ganif, a Bosniak who was a suspect in a murder case.<sup>199</sup> In February 1998, Fadil Ganif was severely beaten with a rubber truncheon during investigation by one of the police officers handling the case who, according to the IPTF, was under pressure to produce quick results. A Human Rights Watch representative saw pictures of Ganif taken soon after the beating, showing severe bruises on his torso, and a large dark blue bruise on his upper back measuring about fourteen by eight inches. He also had smaller bruises on his lower back and his arm. Soon after, it turned out that Fadil Ganif had nothing to do with the murder.

Branko Stević, then chief of police in Bijeljina, admitted that an officer had beaten Fadil Ganif and advised Ganif to take the case to court.<sup>200</sup> However, Fadil Ganif refused to file an official complaint because he was afraid. Although he no longer lived in Bijeljina, he feared repercussions for his parents who continued to live there. He was too afraid even to have a medical examination performed after he was beaten.

Branko Stević said he would start internal disciplinary proceedings against the officer, which would probably lead to the officer's dismissal from the force. Despite repeated requests by the IPTF human rights officer to be informed of the identity of the police officer involved in the beating, the police refused to divulge his name or to inform the IPTF about the internal proceedings he said were initiated against the officer involved. Then deputy chief of criminal police in Bijeljina, Dušan Spasojević, told the IPTF that he was under orders not to discuss the case with the IPTF, explaining that "[since] the officer involved has already offered his apologies...there is no point in punishing him."

Since the local police refused to reveal the name of the officer involved, the IPTF could not ascertain whether disciplinary or criminal action had been undertaken in the case. It seems unlikely that the police have undertaken action, given the unwillingness of the police to talk about the case, and the remarks of the deputy chief of criminal police that the officer had offered his apologies and so further steps were unnecessary. Faced with the fact that Fadil also refused to pursue the matter further, the IPTF ultimately closed the case.

Ultimately, however, the police inspector who mistreated Fadil Ganif was identified by IPTF and served with a noncompliance report by the IPTF. Pablo Badie, an Argentinian IPTF officer who had been stationed in Bijeljina when Fadil Ganif was mistreated, returned to Bijeljina in 1999 for another mission with the IPTF. When he realized that the case had been closed, he started to investigate the case again, and eventually managed to obtain the name of the officer involved. On September 23, 1999, the officer was served with a noncompliance report.

However, as far as Human Rights Watch has been able to establish, no action was taken against the police commander or his deputies. The IPTF has a clear mandate, and even an obligation, to report instances of noncompliance by law enforcement officials. Former IPTF Commissioner Manfred Seitner, in a bulletin about noncompliance reporting procedures, stated that when an IPTF monitor encounters local law enforcement officers who "are actively involved in blocking or interfering with the application of the mandate of the United Nations Mission in Bosnia and Hercegovina, the IPTF monitor has a duty and obligation to document and report this situation."<sup>201</sup> Moreover, the Dayton agreement states that "any obstruction of or interference with IPTF activities, failure or refusal to comply with an IPTF request, or other

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<sup>199</sup>The name used is a pseudonym, in order to protect the identity of the victim. The reconstruction of the case is based on six interviews with IPTF officers involved in the case, held between April and October 1998.

<sup>200</sup> Stević's official position was Chief of the Public Security Station Bijeljina, which then fell under the Public Security Center in Br..ko.

<sup>201</sup> IPTF Commissioner Manfred Seitner, "Operational Bulletin 0007: Non-Compliance Reporting Procedures," September 11, 1997, pp. 1. The IPTF is the biggest component of the United Nations Mission in Bosnia and Hercegovina.

failure to meet the Parties' responsibilities or other obligations in this Agreement, shall constitute a failure to cooperate with the IPTF."<sup>202</sup>

Despite this obligation, the IPTF never filed a noncompliance report against the chief of police or his deputies for refusing to release the name, thereby missing the opportunity to hold senior police officers responsible for trying to protect the perpetrator of a severe violation of a detainee's rights. By serving a noncompliance report, the IPTF would have sent a very clear signal that such behavior is unacceptable in a police force that abides by democratic standards and respects human rights. It would also have led to their disqualification for future functions within the law enforcement apparatus. Instead, Spasojević is now commander of the Public Security Station in Bijeljina.

### Other Cases

The cases mentioned above are the most serious, but certainly not the only cases of abuse at the hands of local or special police officers. Altogether, Human Rights Watch received at least ten credible accounts of post-war police abuse, most of which took place during the first six months of 1998. The majority, though not all, of these cases involved victims of Bosniak descent.

In other cases, the police were not involved directly in the abuse, but failed to intervene or to prevent violence or harassment by others. For instance, on May 5, 1998, a Bosniak named Refik Husiċ went to a cemetery in Janja to repair the grave of his father, which had been damaged.<sup>203</sup> About fifteen minutes later, four policemen who claimed they were from Bijeljina came and asked him to identify himself. After the police had checked his identity over the radio, they warned him that it could be dangerous for him in Janja, after which they left. In the meantime, a group of Bosnian Serb villagers, some of them with pitchforks and sticks, had gathered and proceeded to beat Refik Husiċ and to damage his car. According to a witness, the policemen had seen that Refik Husiċ was being attacked, but didn't intervene. When Refik Husiċ later addressed the same four policemen, they did nothing, but told him: "You were lucky, it could have been much worse. Clear away from this site, we don't want to see you anymore."

Refik Husiċ filed an official complaint with the IPTF, claiming he would recognize the officers if he saw their pictures. The IPTF requested the police stations in Janja and Bijeljina to provide them with pictures of all officers that were on duty that day. Ultimately, the police in Bijeljina did provide the IPTF with photographs, but the police station in Janja refused to do so. As far as Human Rights Watch is aware, the IPTF has never been able to obtain the photographs, and the perpetrators have not been found. Nevertheless, the IPTF did not file a noncompliance report against the chief of police in Janja for refusing to hand over pictures of the officers on duty on that date.

H.D., a grandmother in her seventies from Janja, told Human Rights Watch about a similar incident in October 1998:

I went from my neighbor's house to my house. A man with a handcart who walked behind me started yelling: "Baliċa, Baliċa," but I didn't react. I just started to walk a little bit faster. Then the man hit me with the cart in my back. When he hit me a second time, I asked him: "Why do you do that, I haven't done anything to you." Then he hit me several times against my head, saying: "You mother of a Baliċa, your place is not here!" I ran away, but he chased me into a corner, and started to kick me in my back, my head, everywhere. He beat me very badly ... and I had to stay in bed for fifteen days.<sup>204</sup>

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<sup>202</sup> General Framework Agreement for Peace in Bosnia and Hercegovina, Annex 11, Article IV (1).

<sup>203</sup> Refik Husiċ is a pseudonym used to protect the victim's identity. The reconstruction of this incident is based on several interviews with IPTF officers who had knowledge of the case, as well as one witness who chose to remain anonymous.

<sup>204</sup> Human Rights Watch interview, December 16, 1998.

The daughter of H.D. observed part of the incident and told Human Rights Watch what she saw:

I heard my mother screaming, so I went outside and picked up my mother from the ground. I saw three policemen down the street, so I went to them and told them my mother was beaten. They said they didn't hear anything, so I told them to come and see. But in the meantime, the perpetrator had gone into his yard. When I came with the policemen, he came out of the yard and said: "Do you think I am afraid? I'm not, here I am. I didn't kill your mother, but I will kill you." But the police just told me to go home, and that they'd deal with him.... But I don't know if they ever did something to him, they never told me.<sup>205</sup>

After H.D. complained to the IPTF, the local police went to talk to the perpetrator, and later promised H.D. that he wouldn't bother her again, which so far has indeed been the case.

The number of cases of police abuse decreased significantly in the second half of 1998 and, according to the IPTF, OSCE, and other international organizations, no more cases of abuse at the hands of police were recorded in 1999. Bosniaks still living in Bijeljina or Janja confirmed that physical abuse by the police has stopped: "There are no more beatings by the police, that has passed."<sup>206</sup>

### The issuing of I.D. cards

All citizens of the Republika Srpska need to have a *li.na karta*, an I.D. card showing the person's name, parents' names, date of birth, and personal identification number. The card is issued by the local police. Under the old housing legislation, those who wanted to reclaim their homes needed an RS I.D. card. However, in order to obtain an I.D. card, a person needed to have a permanent address in the Republika Srpska. This created a classic "Catch 22": in order to reclaim one's house, one needed an I.D. card, but in order to obtain an I.D. card, one needed a permanent address in the RS.<sup>207</sup> Most Bosniaks, however, managed to circumvent this dilemma by registering themselves at the address of a relative or friend.

Even if Bosniaks managed to prove that they lived in Bijeljina, it was very difficult to obtain an I.D. card. Especially in the first few months of 1998, the police seemed unwilling to issue I.D. cards to Bosniaks, and the IPTF received many complaints regarding this issue. Gert Buist, then station commander of the IPTF in Bijeljina, said on May 15, 1998:

Normally, it takes four to five days to get an I.D. card, but for Muslims, this period ranges from one month up to three or even four months. It seems like yet another act of discrimination against Muslims, especially since their requests didn't appear in the books of the police. And if I send a monitor with them, it can always be arranged in two days.<sup>208</sup>

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<sup>205</sup> Human Rights Watch interview, December 16, 1998.

<sup>206</sup> Human Rights Watch with Sead Gruhonjif, Janja, September 21, 1999.

<sup>207</sup>In the Law on the Cessation of Application of the Law on the Use of Abandoned Property, this is no longer required. Republika Srpska authorities dealing with return issues are now required to "accept any identification document issued by the state of Bosnia and Hercegovina or any administrative body in either Entity, and any other document which shows the claimant's identity..." (Article 8).

<sup>208</sup> Human Rights Watch interview, Bijeljina, May 15, 1998.



The IPTF compiled a list of around twenty-five complaints and confronted Branko Stević, then-chief of police, with this list on May 14, 1998. Stević claimed there were several reasons for the delay: there was a lack of blank cards and there was no person in charge of issuing I.D. cards. The IPTF gave Stević one month to improve the situation.

However, in July 1998, an IPTF monitor stated that I.D. cards were still a big problem.<sup>209</sup> Only twelve people on the list had received their I.D. cards. However, the police claimed there were 1,700 requests for I.D. cards pending, of which around 5 percent were Bosniaks. When OSCE checked with the Ministry of the Interior, they confirmed that there was a problem in supplying blank I.D. card forms, but that 30,000 blank I.D. card forms would be supplied soon. Nevertheless, on October 10, 1998, the problems were still not resolved, according to the IPTF:<sup>210</sup> it still took three to four weeks to get an I.D. card, although the period allegedly was the same for every applicant, Bosnian Serb and Bosniak alike.

The IPTF ultimately was satisfied that the delay in issuing I.D. cards to Bosniaks was not a matter of ethnic discrimination, but rather one of logistical and organizational inefficiency. However, it was a fact that the applications of some Bosniaks did not even appear in the books, that cards were issued almost immediately if the IPTF personally intervened on behalf of a Bosniak, and that Bosniaks often had to wait three months or longer while it normally took less than a week for Bosnian Serbs, strongly indicating that Bosniaks were discriminated against.

The problems regarding I.D. cards decreased somewhat in 1999, but did not disappear. In August 1999, Pablo Badie, IPTF's human rights officer in Bijeljina, stated: "The local police refuse to issue I.D. cards. For Serbs it takes around fifteen days, [but] for Bosniaks it takes one-and-a-half to two months. The problem is in checking the address..."<sup>211</sup> When a Bosniak requests an I.D. card, police officers come and check whether the person requesting the card indeed lives at the claimed address. For Serbs, I.D. cards are issued without an address check. Sadik Pazarac, a journalist and employee of the Helsinki Committee, said that "the Serbs get [an I.D. card] in seven days. But [for] Bosniaks, Croats, or Roma, the police will come and check the address, which can take one to two months. My mother gave her request [for an I.D. card] on July 12 or 13, and they only came to check her address two days ago [on August 1], and told her to come and get [her I.D. card] in two weeks."<sup>212</sup>

As the problems with issuing I.D. cards were not specific to Bijeljina but occurred under Federation as well as RS authorities throughout Bosnia and Hercegovina, High Representative Carlos Westendorp, on July 30, 1999, issued a decision ordering all public officials to accept all public documents that were valid on April 6, 1992.

[A]ny person identified in a personal identity card...which was valid on 6 April 1992, shall be entitled to apply...for direct exchange with any new personal identity card....If the receiving official questions the authenticity of the [old] card or its validity on 6 April 1992, the official shall nevertheless issue the new personal identity card [while the authenticity is investigated]....In all cases, the competent administration shall issue the new personal identity card not later than 15 days from submission of the request. The newly issued personal identity card shall be accepted as providing official evidence of identity and residence....

It remains to be seen whether the police will respect this decision. As of late September 1999, "there [was] still no real improvement regarding I.D. cards, they still check the addresses first," according to Pablo Badie.<sup>213</sup>

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<sup>209</sup> Human Rights Watch interview with IPTF monitor, July 9, 1998.

<sup>210</sup> Human Rights Watch interview, Bijeljina, October 10, 1998.

<sup>211</sup> Human Rights Watch interview, Bijeljina, August 3, 1999.

<sup>212</sup> Human Rights Watch interview, Bijeljina, August 3, 1999.

<sup>213</sup> Human Rights Watch interview, Bijeljina, September 29, 1999.

## The Zvornik Seven trial

The “Zvornik Seven” are a group of seven Bosniaks who fled from Srebrenica after its fall in July 1995 and remained in hiding for almost one year. In May 1996, the men handed themselves over to a patrol of U.S. soldiers belonging to the Implementation Force (IFOR). Since the men were carrying weapons, the U.S. soldiers handed them over to the Republika Srpska police in Zvornik. During the men’s detention, they were tortured by the police in Zvornik and forced to put their signatures on prepared confessions. Moreover, two of the men did not have access to a lawyer during the initial interrogation. When the IPTF visited the men a couple of days after their detention, the IPTF monitors observed bruises and other marks on the men, which were consistent with the allegations of ill-treatment.

In July 1996, four of the men were charged with murdering four Bosnian Serb woodcutters on May 2, 1996, as well as one Bosniak companion. Moreover, they were charged with illegal possession of weapons, as were the other three men. During the trial, the court refused to grant the defendants the legal representation of their choice, as the men’s lawyers were from the Federation. Moreover, their Bosnian Serb lawyers were only allowed to speak in court for five minutes during the two-day trial. Their conviction was largely based on self-incriminating statements of the defendants, which were obtained under duress.

As a result of this seriously flawed court proceeding, the court in Zvornik on April 22, 1997 convicted the men and sentenced three men—Nedžad Hasif, Ahmo Harbaš, and Behudin Husif—to twenty years of imprisonment for the murder of the four Serbs. In addition, all seven men were sentenced to one year of imprisonment for illegal possession of weapons. However, by the time of the court’s decision, the men had been in detention for almost one year, and the four convicted solely on weapons charges were released for time served. The charges relating to the murder of a Bosniak companion were not proven, and the defendants were acquitted of this murder.

The trial of the Zvornik Seven created outrage as well as considerable embarrassment among the international community, in particular IFOR, which had handed the defendants over to the Republika Srpska police. After intense pressure by the international community and Bosnian and international nongovernmental human rights groups, the Bijeljina District Court in December 1997 quashed the decision of the Zvornik court, and ordered a retrial by the Bijeljina District Court, which started in May 1998.

Again, the trial did not meet the minimum standards of a fair trial. Nevertheless, the suspects were all convicted of murdering the four Serbs. Mr. Nedžad Hasif was also found guilty of murdering a Bosniak companion, an accusation he was acquitted of in the first trial, but by that time he had already been released after having served his sentence for illegal weapons possession. (He was later tried in absentia on the murder charge.) In the written verdict, the court admitted that the convictions were based in large part upon the defendants’ self-incriminating statements, which the defendants claim were signed under duress during the initial interrogation in Zvornik.

There was hardly any material evidence to support the charge that the men had murdered the four Bosnian Serbs. The Human Rights Ombudsperson for Bosnia and Hercegovina, who issued a special report about the trial,<sup>214</sup> stated:

[T]he four victims’ corpses could not be located for sure. The results of the expert opinions on the human remains and other items found on the crime scene were very doubtful: the experts considered that they belonged to only two bodies, and could not establish the age, sex, height, nor the cause of death. The blood found on the other items could not help establish any clear link between the alleged

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<sup>214</sup> Human Rights Ombudsperson for Bosnia and Hercegovina, *Special Report on the Right to a Fair Hearing by an Independent and Impartial Tribunal, and the Prohibition of Discrimination in the Enjoyment of the Above Right with Respect to the Criminal Proceedings against Nedžad Hasif, Ahmo Harbaš and Behudin Husif*, Sarajevo, January 18, 1999.

attackers and the victims. Nor could it be established, in these conditions, whether the victims had been killed by the defendants' arms.

Furthermore, the conviction of Hasif for killing a Bosniak companion was based almost exclusively on the initial, coerced statement of Avdif,<sup>215</sup> a defendant who was tried in absentia, thereby depriving Hasif of the opportunity to challenge the statement through questioning.

Moreover, one of the judges in the case, Miodrag Zeljif, took part in improper discussions with interested outside parties. According to the ombudsperson's report, Judge Zeljif had attended a meeting of Republika Srpska judges in Banja Luka four days before the announcement of the verdict. At the meeting, the Republika Srpska minister of justice announced that there were ongoing negotiations with Federation officials concerning a possible prisoner exchange involving the Zvornik Seven, and asked Zeljif about the stage of the proceedings. Zeljif then informed the minister about the case, suggested that the negotiations on exchange await the outcome of the proceedings, and addressed the impact of the verdict on the "exchange value" of the defendants.

Furthermore, on December 12, the day the verdict was handed down, Slobodan Cvijetif, an adviser to Republika Srpska President Nikola Poplašen, was present in the Bijeljina district court, where he was seen entering the courtroom where two of the lay judges were. Moreover, Cvijetif admitted he had tried to locate judge Zeljif, and that he had spoken to Judge Zeljif later that day. Although it is not clear whether they discussed the case, it at least casts a doubt over the impartiality of the judges.

The ombudsperson, in her *Special Report*

conclude[d] that in the present case...Hasif, Husif and Harbaš may entertain legitimate misgivings about the independence and impartiality of the Panel of the Bijeljina District Court which tried their case....The Ombudsperson therefore considers that there has been a breach of Article 6 para. 1 of the Convention in this respect.

Moreover, "the Ombudsperson [found] that the proceedings taken as a whole did not satisfy the requirement of a fair hearing. Accordingly, there has been a violation of Article 6 para. 1 of the Convention in this respect too."<sup>216</sup>

On December 12, 1998, the court in Bijeljina announced its verdict. Despite the lack of evidence apart from the coerced statements of the defendants, the defendants were convicted and given long sentences. Two of the defendants were found guilty of murder and sentenced to twenty years; one defendant was found guilty of attempted murder and sentenced to eleven years; the fourth defendant, who was tried in absentia, was found guilty of murder, and sentenced to ten years. Moreover, one of the defendants, Nedžad Hasif, was convicted of killing a Bosniak companion. On January 11, 1999, the defendants appealed the verdict to the Republika Srpska Supreme Court.

On January 20, 1999, the three defendants who were still in custody were transferred to a prison in Tuzla, in exchange for three Bosnian Serbs who were imprisoned in Zenica prison. This transaction took place on the basis of a protocol signed on January 19, 1999, between the authorities in the Republika Srpska and those in the Federation, which obliged the parties not to release the prisoners unless so ordered by the court dealing with their respective cases.

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<sup>215</sup> Avdif changed his initial statement during the proceedings before the Zvornik court.

<sup>216</sup> Ombudsperson, *Special Report*.

Nevertheless, then-RS President Nikola Poplašen granted amnesty to the three Bosnian Serbs that were transferred from Zenica prison, in contravention of the exchange agreement.<sup>217</sup>

On April 26, 1999, the RS Supreme Court decided to annul the verdict in the case of the four Bosniaks, and ordered a retrial at the first-instance court in Bijeljina. The explanation of the Supreme Court, however, did not address the human rights abuses, including the mistreatment of the defendants; the court's judgment was based on inconsistencies and irregularities in the reasoning of the first instance court. On June 11, the three remaining prisoners were released awaiting the new trial after the Federation authorities received authorization to do so from the RS.

The first hearing in the new trial was held on June 24, but the defendants did not show up, so the session was postponed until September. However, the session in September was again postponed, as was the session in October, this time because the judge was ill. Rule of law in Bosnia, and mutual trust between the two legal systems in Bosnia, would be enhanced if this case could be resolved by a fair and impartial trial. Moreover, many Bosniaks see it as a test case of the intentions of the Republika Srpska to award equal treatment to all its citizens, regardless of their ethnicity, as required by international human rights documents, the Dayton Peace Agreement, and the Republika Srpska constitution. If the case is not resolved fairly, many Bosniaks and other minorities will take this into consideration when deciding whether to return to the RS.

### **Implementation of election results**

In September 1997, municipal elections were held in the RS and the Federation. Voters were allowed to vote in the municipality they lived in at the time of the 1991 census, so displaced persons and refugees were allowed to vote in their municipality of origin, either in person or by absentee ballot. The OSCE prepared and organized these elections, and was also responsible for implementing the election results. In Bijeljina, the elections had the following results.

Serb Democratic Party (SDS):	19 seats
Serb radical Party (SRS):	14 seats
Coalition for a Whole and Democratic Bosnia (KCDBiH):	12 seats
Socialist Party of the Republika Srpska (SPRS):	8 seats
Democratic Party (DS):	7 seats

Soon after the elections, however, six councillors defected from the Serb Democratic Party and joined the Serb People's Alliance (SNS), even though they are officially independent.<sup>218</sup> Then one of the defectors died, and another left and returned his mandate to the SDS, which left the SNS with four seats, while the SDS then had fifteen seats.

It proved very hard to form a municipal government. The SDS and SRS did not have an absolute majority, while the other Bosnian Serb parties needed the support of the Bosniak members of the council, most of whom were still living in the Federation because they were unable to return to Bijeljina, to form a majority. As one staff member of an international organization put it, "the multi-party system here doesn't work....The SDS and SRS are blocking as much as they can, and other parties are intimidated by them."<sup>219</sup> In particular, the SRS agitated against the participation of

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<sup>217</sup> President Poplašen was dismissed by High Representative Carlos Westendorp in March 1999.

<sup>218</sup> The Serb People's Alliance was established in 1997 by Biljana Plavšić in the wake of a power struggle between hard line and more moderate members of the SDS. However, the SNS did not register in time for the municipal elections in 1997 and was therefore not able to participate.

<sup>219</sup> Human Rights Watch interview, Bijeljina, July 11, 1998.

Bosniaks in municipal bodies. Radislav Kanjeri**f**, a representative of SRS in Bijeljina, stated at a news conference that “the Serb Radicals do not wish to take part in institutions that also include Muslim Representatives.”<sup>220</sup>

Ultimately, a municipal government was formed in April 1998, when Dragomir Savij**f** from the Democratic Party was elected mayor. Selim Durakovij**f** from the KCDBiH was appointed deputy mayor. However, despite the fact that the municipal statute does not foresee such a position, a second deputy mayor was appointed: Dragomir Ljubojevij**f** from the SDS. In March 1999, the coalition was expanded, when the SDS gave up two of its seats in the executive board to the SRS, leading to a “grand coalition” of all parties in the Bijeljina municipal council.

Bijeljina ultimately received final certification from the OSCE on April 27, 1998. This was supposed to take place only after several criteria were met, aimed to ensure the meaningful participation of minority representatives in the municipality. The Rules and Regulations for the 1997 municipal election stated that

the OSCE Head of Mission...retains the discretion to reject the Final Certification for a Municipality if it is in violation of acceptable conditions. This may include, but is not limited to, the following:

3) elected councillors or deputies who have been prevented by local authorities from establishing a place of residence in the municipality, if so desired;<sup>221</sup>

Out of seventeen KCDBiH representatives (twelve municipal councillors and five members of the executive board), only four or five have been able to return to their homes in Bijeljina so far. Certainly, Bijeljina has had to deal with a large influx of displaced persons, but it is hardly likely that in over two years the authorities could not have found alternative accommodation for seventeen displaced families, in order to have the homes of councillors restored to them. The fact that more than two years after the elections the vast majority of minority representatives still has not been able to return is clearly a violation of “acceptable conditions.”

According to Special Envoy François Perez, UNHCR conducted interviews with all municipal councillors, and only a few of them really wanted to return to Bijeljina.<sup>222</sup> This is beside the point. If the councillors have officially reclaimed or sought to reclaim their homes, the authorities in Bijeljina should ensure that they can return. If the councillors then prefer not to take up residence in Bijeljina, in cases of a socially-owned apartment the responsible body may then start a procedure to cancel the occupancy right under article 21 of the Law on Cessation of Application of the Law on the Use of Abandoned Property. In cases of privately owned property (the vast majority of accommodations in Bijeljina), it is up to the owner to decide what he or she will do with the property: sell it, exchange it, rent it out, etc.<sup>223</sup>

The KCDBiH representatives face other problems as well, for they are not able to play a relevant role within the municipality. Bruno Pennaneach, the U.N. civil affairs officer in Bijeljina, thought that “the election of Durakovij**f** is just symbolic.... He doesn't have any real power,” an opinion that was shared by most international sources.<sup>224</sup> Even Dora Plavetij**f**, the head of the OSCE office in Bijeljina, shared this opinion: “Probably, Durakovij**f** is treated like garbage, he is certainly not involved in the day-to-day business of the municipality.”<sup>225</sup> Durakovij**f** complained: “In the municipal council

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<sup>220</sup> Beta News Agency, February 9, 1998.

<sup>221</sup> *Rules and Regulations*, Chapter 15, art. 15.30 (b).

<sup>222</sup> Human Rights Watch interview, Bijeljina, September 28, 1999.

<sup>223</sup> If the councillor prefers not to take up residence in Bijeljina, but conditions for return exist, the councillor would have to give up his seat on the council, as he apparently does not intend to live in Bijeljina.

<sup>224</sup> Human Rights Watch interview, Bijeljina, April 28, 1998.

<sup>225</sup> Human Rights Watch interview, Bijeljina, July 11, 1998.

meetings, we don't have seats at the table, but along the wall."<sup>226</sup> François Perez admitted that this is the case: "In the municipal assembly sessions, Duraković should sit at the table with mayor Savij, secretary Vujif, and deputy mayor Ljubojević, but he is sitting in the back of the room with the others. It would be a symbol for Serbs to have Bosniaks at the table."<sup>227</sup> The election rules and regulations were designed to ensure that minority representatives would play an equal role in municipal politics. By accepting the fact that Duraković is not allowed to sit at the table together with the other high municipal representatives, Perez is undermining the whole idea behind the certification.

Duraković still does not have an office in the municipality. Despite prolonged discussions regarding this issue, no resolution has been found. According to François Perez, Mayor Savij, has agreed in principal that Duraković should have an office. However, according to Savij, there is simply no space available, although Duraković "can sit wherever he likes."<sup>228</sup>

The Rules and Regulations provide that final certification may be rejected if "the elected executive officers, council or assembly officers or councillors or deputies have been denied access to municipal funds or municipal material or other municipal assets."<sup>229</sup> It is clear that denying a deputy mayor office space falls within this provision, especially since the Rules and Regulations were geared toward effective and meaningful participation of minority representatives.

Special Envoy Perez, however, favors a slow, step-by-step approach: "Nothing has moved in Bijeljina in four years, and now we try to look calmly into the problems, decide on a strategy, then start to work. So far, there has been no dialogue, only demands.... If you are reasonable, the Serbs will understand. We should not impose decisions upon them."<sup>230</sup> Given this approach, it is understandable that the KCDBiH representatives are dissatisfied with the actions of the international community in Bijeljina. It is beyond comprehension that OHR and OSCE accept the fact that these issues remain unresolved, more than two years after the elections. Effective representation of minorities and participation of minority representatives is not only crucial to the implementation of the Dayton agreement; it is also at the core of the concept of democracy. Since the elections in 1997, the Bosniak councillors have been obstructed in playing their role in local institutions in Bijeljina, and have been prevented from participating in municipal politics in an effective, meaningful way.

New municipal elections were held on April 8, 2000, in which the municipal councils were elected for the next four years. The final results of these elections are unknown at this writing, but one can safely assume that similar problems with the implementation of election results will occur, not only in Bijeljina, but throughout Bosnia and Hercegovina. One can only hope that the OSCE and OHR will ensure that this time the election results are implemented in a speedy and effective manner. It will only be possible for the Dayton agreement to be implemented and democracy to begin to take root once minority representatives are able to participate effectively in municipal structures.

## Other abuses

While the above-mentioned abuses were the ones most widely reported, there are several other issues that deserve attention. As in many other cities in the Republika Srpska, all symbols of minority history or culture were brutally erased in Bijeljina during the war. There used to be five mosques in Bijeljina and two in Janja, but all of them were destroyed in 1993 and all remnants removed. Nowadays, the sites of the mosques are used for other purposes: two of the sites now have flea markets on them, two others have shops and kiosks, one of them is a parking space, and two sites are empty.

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<sup>226</sup> Ibid.

<sup>227</sup> Human Rights Watch interview, Bijeljina, September 28, 1999.

<sup>228</sup> Human Rights Watch interview with François Perez, Bijeljina, September 28, 1999.

<sup>229</sup> *Rules and Regulations*, Chapter 15, art. 15.30 (b).

<sup>230</sup> Human Rights Watch interview, Bijeljina, September 28, 1999.

For a long time after the war the religious Bosniaks had no place to worship and hold services. All other property was taken away from the Islamic Religious Community as well and is now occupied by others. What used to be the main office of the Islamic Community is now the office of the „etnik Association of Veterans *Dražen Mihajlović*, which greatly disturbs the Bosniaks from Bijeljina.<sup>231</sup> The Islamic Community has requested all its property back, but without much results. According to a staff member of an international organization, the then-head of the Bijeljina department of the Ministry for Refugees and Displaced Persons, *Snežana Ružić*, when asked about this issue, replied as follows: “Do you really expect me to evict a [Bosnian Serb] refugee so the Muslims can come back?”<sup>232</sup> Nevertheless, the Bijeljina authorities ultimately returned one office building to the Islamic Community, which is now used for gatherings and serves as the office of the Islamic humanitarian organization *Merhamet*. On May 14, 1999, the Islamic community held its first religious service (apart from funerals) in Bijeljina since the war. Since then, the Islamic religious community has held regular religious services without problems.

The KCDBiH has requested permission from the municipality to rebuild the *Atik* mosque in the center of town. However, in a letter dated July 7, 1999, the municipality refused permission to rebuild the mosque. The reason cited was that the urban plan for that part of town had changed and that now a theater is planned for that site. The KCDBiH then addressed the Human Rights Chamber, which on July 10, 1999, issued a provisional measure ordering the municipality to refrain from any building or construction activities at the site of the *Atik* mosque. It remains to be seen whether the Bosniaks of Bijeljina will ever be able to rebuild their mosque. In an interview in September 1999, *François Perez* said that “the KCDBiH is too extreme in its demands. For example, the request to rebuild the mosque is too extreme. Maybe in time, a mosque could be built in the periphery of town.”<sup>233</sup>

During 1998, several incidents took place with overtones of religious intolerance. One incident involved *Hasan Okanović*, a retired *hodža* who still lives in Bijeljina and occasionally performs funerals for Bosniaks in the absence of another Islamic leader. On April 30, 1998, at around 10:15 p.m., a grenade was hurled at a garage in *Okanović*'s yard from an adjacent lot. Fortunately, *Okanović*'s son, who runs a small car repair shop in the garage, had stopped working just before the grenade was thrown. No one was injured, and although the grenade fell on paper, and there were flammable items in the building, the building did not catch fire, and the damage was limited. However, it did instill further fear in Bosniaks in Bijeljina. As one Bosniak from Bijeljina said: “Maybe it was a warning, someone trying to tell us that there is no place for us here, that we will not have a life here. I cannot sleep at night, I cannot eat, I never know what to expect.”<sup>234</sup> The police investigation into the incident never identified the perpetrator or established the motivation for the attack.

On November 23, 1998, the tombstones on thirteen graves in an Islamic cemetery were damaged, and some were pushed over. A few days later, another seven tombstones were damaged at another Islamic cemetery. Moreover, garbage was burned there, and goats were left to graze at the cemetery. After this incident, the municipality placed lights at the Bosniak graveyard to ensure that such incidents would not happen again.

Another issue that continues to plague the Bosniaks of Bijeljina concerns the reconnection of phone lines. During the war, the phone lines of everyone with a Bosniak name were disconnected, allegedly for “security reasons.” When the war was over, many Bosniaks tried to have their phone lines reconnected, but found that the phone company refused to do so, or demanded high fees.

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<sup>231</sup> „*etni.ke Udruženje Veterane Dražen Mihajlović*. *Dražen Mihajlović* was a leader of the „*etniks* in the Second World War and is now a Serb national hero.

<sup>232</sup> Human Rights Watch interview with a staff member of an international organization, Bijeljina, July 11, 1998.

<sup>233</sup> Human Rights Watch interview, Bijeljina, September 28, 1999.

<sup>234</sup> Human Rights Watch interview, Bijeljina, May 13, 1998. The interviewee chose to remain anonymous.

After he had received several complaints, the OSCE human rights officer arranged a meeting with Đuro Stanojević, the director of the phone company in Bijeljina, who claimed that there were technical difficulties in reconnecting the Bosniaks. After providing more details for each case to Stanojević, the phone company reconnected the phone lines of eighteen complainants. However, OSCE has a list of over 200 persons who were disconnected during the war and want their phones to be reconnected. Since OSCE was not satisfied with this response, it took up the case at the phone company's headquarters in Banja Luka. They also claimed there were technical difficulties in reconnecting the Bosniaks, in particular the limited capacity of the network. While this certainly may be a problem, the phone company also illegally charged Bosniaks who were disconnected during the war considerable fees.

As this problem was not specific to Bijeljina, but occurred both under RS and Federation authorities throughout Bosnia and Hercegovina, the High Representative on July 30, 1999, issued a decision regarding the reconnection of phone lines. According to the decision, those who never left their homes of origin should be reconnected free of charge, while others can only be charged DM 50 for the administrative costs of reconnection. Moreover, it said disconnected prewar subscribers should have priority over new applicants once lines become available. In August 1999, Guiseppa Lococo, then OSCE human rights officer in Bijeljina, said the PTT claimed that the system had no capacity to reconnect all prewar subscribers.<sup>235</sup> Moreover, the PTT did not give receipts to those requesting this, making it hard for them to prove that they requested reconnection. However, François Perez, on September 28, claimed that there was "good will to solve the problem. Now it is mainly a technical issue. As per July 7, 1999, seventy-one persons had been reconnected, forty-four reconnections are possible with additional materials, and in 127 cases there is no technical possibility to reconnect people."<sup>236</sup> While Human Rights Watch is unable to assess the technical problems involved in reconnecting phone lines, it seems unlikely that in more than half of the cases it is technically impossible to connect a phone line, especially since all these persons used to have a phone line, where phone service was available.

### **Violence against members of the international community**

Although the international community is generally well accepted in Bijeljina, there have been moments when the population turned against representatives of international organizations, especially at times of heightened political tensions.

In August 1997, there was an ongoing power struggle in the Republika Srpska between supporters of Biljana Plavšić, then president of the Republika Srpska, and hard line supporters of Radovan Karadžić, mainly from the SDS and SRS, which divided the Republika Srpska in two parts. In the eastern Republika Srpska, hard-liners refused to give up control or to implement orders from the Republika Srpska president. Even within police stations, loyalties were divided. On August 28, police forces loyal to President Plavšić attempted to take over the police station in Bijeljina, which was still loyal to the hard-liners.

According to a staff member of an international organization who was present during these events, the SDS and SRS used the local radio stations to call people to the streets to expel the foreigners. Crowds started to gather in Bijeljina, and demonstrations were held in the center of town. In the evening, the IPTF, with the support of SFOR, tried to perform a weapons inspection in the Bijeljina police station. However, the IPTF and SFOR were met by a crowd of at least a thousand angry Bosnian Serbs in front of the police station. The crowd stopped the IPTF vehicles, smashed its windows, and attacked IPTF monitors, after which the IPTF and SFOR were forced to abandon their plan to inspect the police station.

The demonstrations continued on August 29, 1997. According to Bruno Pennaneach, a U.N. civil affairs officer in Bijeljina, the SRS was the driving force behind the demonstrations: "The most active group against the international

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<sup>235</sup> Human Rights Watch interview, Bijeljina, August 6, 1999.

<sup>236</sup> Human Rights Watch interview, Bijeljina, September 28, 1999.



presence was the SRS people. They were driving around, playing war songs, and provoking the [representatives] of the international community. All leaders of the SRS, including Mirko Blagojević...spoke to the masses, and incited them.”<sup>237</sup> The tense situation continued for a week, during which all roads leading out of Bijeljina were blocked, and the police station remained under the control of hard-liners.

After this incident, the IPTF station was guarded round the clock by a uniformed local police officer. While Human Rights Watch understands the need to ensure the safety of IPTF officers and other international personnel, having a uniformed local police officer on guard twenty-four hours a day defeats one of the purposes of the IPTF. One of the IPTF’s main tasks is to monitor the activities of the local police and to act upon complaints regarding the local police. Those who want to complain about the police often go to the IPTF because they are afraid of retaliation if they complain at the police station. However, the police officer guarding the IPTF premises can register exactly who comes to the IPTF and pass on this information to the local police. The police could use this information to retaliate against complainants, although there is no evidence to date they have done so. The police officer’s presence can, however, discourage people from filing complaints, as a person is less likely to recur to the IPTF office if a uniformed police officer is standing near the entrance. It would be better either to have SFOR personnel guard the premises in times of heightened tensions or to hire an independent, international security company to guard the premises around the clock.<sup>238</sup>

The status of the Br..ko area was left undecided in the Dayton Peace Agreement, because the peace negotiations almost broke down over this issue. Bosnian Serbs, Bosnian Croats, and Bosniaks all considered Br..ko crucial for their survival. Therefore, it was agreed that the status of Br..ko would be decided by an arbitration panel. The president of the International Court of Justice appointed Roberts Owen, an American lawyer, as the presiding arbitrator. On March 5, 1999, Roberts Owen announced the panel’s decision not to award Br..ko to any entity, but to make Br..ko a special district under the joint control of all three ethnic groups. In the RS, which had controlled Br..ko, this decision was considered a great loss.

On the same day, High Representative Carlos Westendorp removed Nikola Poplašen from the office of president of the Republika Srpska. According to Westendorp’s decision, Poplašen, by refusing to nominate Milorad Dodik as a candidate for prime minister, had abused his power and blocked the will of the people. Moreover, Poplašen had obstructed the implementation of the Dayton agreement.

The decisions on Br..ko and Poplašen created public outrage in the Republika Srpska, and politicians across the board rejected them. Demonstrations were held throughout the RS to protest the decisions and to show national unity. In Bijeljina, three demonstrations were held, and again the SRS played a crucial role. During a demonstration on March 6, which was organized by SRS and SDS, two jeeps with personnel from SFOR’s Joint Commission of Observers (JCO) were attacked with stones, and a shot was fired. The JCO personnel managed to escape unharmed. The organizers then announced an ultimatum for personnel of international organizations to leave the territory of the RS, saying their security could no longer be guaranteed.

On March 14, 1999 in a special edition of *Velika Srbija* (Greater Serbia), a newspaper published by the Serb Radical Party, the following statement was published:

Serb people!

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<sup>237</sup> Human Rights Watch interview, Bijeljina, May 13, 1998.

<sup>238</sup> Local security companies are often owned and run by former members of the police, special police, or military, which also tends not to instill trust in visitors.

For now, attack the occupiers with sticks, rocks and molotov cocktails. But if they don't change their decision about Br..ko and the decision to replace the legally elected President Dr. Nikola Poplašen, be ready to take up guns.

The gun shall correct where the pencil fails!

We demand the immediate replacement of Carlos Westendorp!

Br..ko must stay in the Republika Srpska by all means!

Nikola Poplašen must remain President of the Republika Srpska, because that is the will of the people! All those who work for the Americans and their vassals should immediately quit their jobs and break their connections with the occupying troops.... So what if they pay well? Your people have been starving for years, but they didn't run to sell their souls to the devils. If you do not listen to the voice of your people, it means you are not Serbs. In that case the same people no longer has any responsibility toward you. You yourselves are guilty if sticks hit your head....<sup>239</sup>

These threats were repeated on March 15, when another demonstration organized by the SRS was held.

During the night of March 22-23, an anti-tank mine was thrown at the JCO's headquarters in Bijeljina. It exploded and destroyed the windows of two JCO vehicles. An IPTF vehicle was also set on fire.

The threats against the international community and the incidents of violence forced most international organizations to withdraw their international personnel from the RS. Although some organizations started to return to the RS during daytime to resume their work in April, most international organizations did not fully resume their work until June 1999. This forced absence of international organizations was a major setback for the implementation of the Dayton agreement, especially since it was the period when the return process should have finally begun at full speed.

In a demonstration on March 27, Mirko Blagojević announced that "the „etnik Martial Court has condemned RS Minister [of Information] Rajko Vasić to death" because he had banned the rebroadcasting of programs of Serbian Radio and Television in the RS. Death threats were also issued against Co-chair of the Bosnian Council of Ministers Mihajlović and RS Minister of Transport and Communications Pavić. The RS public prosecutor has started a criminal case against Blagojević for his statements.

High Representative Carlos Westendorp on April 10 sent a letter to the executive board of the SRS demanding the immediate removal of Blagojević from the office of president of the executive board of the SRS and any other party office. The SRS refused to comply with this demand. When the SRS tried to register as a political party for the April 2000 elections, the SRS listed Blagojević, as well as Poplašen and one other banned SRS official, as party officials. The OSCE and OHR ordered the SRS to remove these officials from their positions and submit a new list of candidates. As the SRS refused to do so, OSCE's Provisional Election Commission refused to register the SRS for the April 2000 elections.

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<sup>239</sup> Greater Serbia, Special Edition, no. 620, p. 4, Belgrade, March 14, 1999.

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