

The national human rights institutions and mechanisms for redress are reviewed, with commentary on both the Human Rights Ombudsperson and the Human Rights Chamber — together forming the Commission on Human Rights — that considers alleged or apparent violations of human rights by the authorities that occurred after 14 December 1995 and the Commission for Real Property Claims, which adjudicates claims for real property where the property has not voluntarily been sold or otherwise transferred since 1 April 1992, and where the claimant does not presently enjoy possession of that property. Most cases taken up by the Human Rights Ombudsperson concerned property issues, with others related to independence of the judiciary, freedom of movement, effective domestic remedies, access to court, the rights of detainees, and the rights to liberty and security. The Ombudsperson issued ten special reports dealing with such issues as freedom of expression, the death penalty, the right to return and the right to a fair hearing. The Human Rights Chamber, an independent judicial body whose decisions are final and binding, and the Commission for Real Property Claims (CRPC) are responsible for determining who is the lawful owner and value of the property on receipt of a claim. It was noted that most claimants were refugees or displaced persons, and victims of “ethnic cleansing” who lost homes and property during the war. The Office of the Federation Ombudsmen has offices in Sarajevo, Tuzla, Bihac, Zenica, Livno and Mostar and additional offices are planned for Travnik and Capljina.

The obstacles to the effective functioning of these institutions are identified as the low level of cooperation accorded by authorities, the absence of an effective mechanism to force authorities to comply with decisions and recommendations, the fact that discriminatory legislation remains in place, the failure of the authorities to adopt new laws that conform with the Dayton Agreement, the lack of implementing legislation to ensure judicial enforcement of decisions, insufficient financial resources — partly as a result of a lack of stable and substantial international financial support, and the fact that the authorities in Bosnia and Herzegovina have made little effort to incorporate these institutions into their legal systems. The report notes that the Constitution also provides for a Federation Human Rights Court, comprised of three judges from Bosnia and Herzegovina and four appointed by the Council of Europe. At the time the report was prepared, this Court had not begun to function because the four international judges had not yet been appointed.

On civil society and non-governmental organizations, the report draws attention to the exceptional work carried out by local NGOs in the fields of humanitarian relief, reconstruction, development, human rights and education. The SR stated that this “grass-roots” power has enormous potential for the reconstruction of the country and for reconciliation. Many NGOs insist on promoting and preserving Bosnia and Herzegovina’s multi-ethnic identity. The SR asserted that the synthesis of these NGO efforts is a vital part of the peace process. The problems

encountered by NGOs, and the factors contributing to a crisis among them, are outlined and include, *inter alia*; the difficulties inherent in the transition from emergency assistance to other activities, the delicate process of conversion of international projects into national organizations, acute questions related to the need for financial sustainability and the absence of a comprehensive legal framework for NGOs, which endangers their viability and makes them vulnerable to arbitrary treatment. There is also often a distrustful attitude by authorities towards NGOs and particularly those involved in human rights which often monitor the authorities’ behaviour.

Concerning other fundamental rights, the SR notes that violations of the freedom of movement throughout the territory through such practices as illegal checkpoints, the imposition of illegal visa fees and road taxes, demand for documents not legally required, confiscation of documents and goods, and arrests of individuals are common. The absence of a uniform car registration system further increases the likelihood of violations of freedom of movement on ethnic grounds. Other points that were raised include: creation of obstacles to freedom of movement, particularly between the entities, that impair the work of certain professionals such as journalists and lawyers; the fear that prevents nationals from visiting areas controlled by the authorities of other national groups, combined with the atmosphere of intolerance dominating many areas exacerbating this problem; continuing serious problems related to voluntary return, arising from illegal requests for visas, customs duties and road taxes; discrimination in the handling of civil registration applications at the municipal level and excessive retroactive taxation of people, “war taxes”, who left their municipalities during the war; the failure of both entities in Bosnia and Herzegovina to amend legislation to bring property laws into compliance with the Dayton Agreement; the continuing application, in a discriminatory manner, of wartime legislation on abandoned property, blocking the return of refugees and displaced persons; media coverage on proposed legislation related to the question of property that is likely to inflame public opinion; continuing destruction of housing that, in many cases, clearly targeted houses with the intent to deter the return of refugees and displaced persons belonging to local minorities. Other issues concerned the fact that landmines laid during the war continue to kill and maim people throughout the country and the prospect of an increase in the number of incidents with the process of return is likely. The report also noted that administrative and financial constraints have led to a very slow demining process and the fact that some people with information on the placement of landmines are unwilling to provide maps without financial compensation. Criminal provisions permitting courts to pronounce and apply the death sentence continue to exist, and rulings in both entities have imposed capital punishment. There is also continuing concern over police involvement in human rights violations, as well as during detention. Confessions are alleged to be extorted from suspects by detaining them for the permissible three days before bringing them before an investigating judge. The