

@Bosnian Refugees: A continuing need for protection in European countries

Amnesty International is calling on European Governments to take effective steps to protect refugees fleeing Bosnia-Herzegovina into Croatia and to allow more of these refugees to enter their countries. On 16 July, the latest in a series of inter-governmental meetings¹ organized by the United Nations High Commissioner for Refugees (UNHCR) to discuss refugee issues associated with the conflict in the former Yugoslavia will be held in Geneva. This meeting provides an opportunity for European Governments to agree on a common approach towards the effective protection of those fleeing Bosnia-Herzegovina – such an approach must, in Amnesty International's view, include a commitment to open borders to these refugees. At previous meetings, the UNHCR has appealed to states to apply visa requirements with the utmost flexibility. However, this appeal has received an inadequate response from most European Governments.

The need for action is now more acute as the situation of the estimated 270,000 Bosnian refugees in Croatia, the overwhelming majority of them Muslims, could rapidly deteriorate unless positive steps are taken by European Governments. The fighting between the largely Muslim Bosnian Government army and Bosnian Croat forces in central Bosnia-Herzegovina, and the lack of effective legal protection for the refugees in Croatia, suggest that Croatia can no longer be considered a safe country of asylum for these people. There is a real risk that in the near future they could face restrictions of their rights in Croatia and that they might be forced to return to areas of Bosnia-Herzegovina where their lives or freedom are threatened.

Moreover, tens of thousands of non-Serbs remain trapped inside areas of Bosnia-Herzegovina under the control of Bosnian Serb authorities amid a climate of fear and intimidation, and they face numerous obstacles to exercising their right to seek asylum by crossing into Croatia.

European Governments, led by member states of the European Community (EC), have taken the position that people fleeing Bosnia-Herzegovina should remain in safe areas as close to their homes as possible. As a means of implementing this policy most European Governments have imposed visa requirements on people from former Yugoslavia, including

¹ The official title is the *Meeting of the Humanitarian Issues Working Group of the International Conference on the Former Yugoslavia*, which is under the chairmanship of David Owen and Thorvald Stoltenberg.

nationals of Bosnia-Herzegovina, which in practice make it extremely difficult for most Bosnian Muslim refugees to leave Croatia for other European countries. This policy was confirmed at a recent meeting of EC immigration ministers held in Copenhagen at the beginning of June.

Moreover, Denmark and Sweden, among the few European countries which had not imposed visas on nationals of Bosnia-Herzegovina and which thus continued to provide a lifeline out of former Yugoslavia, imposed visas in late June 1993. It is reported that the reason behind these countries' decision to impose visas was the fear that, because most other European Governments had already imposed visas, they would receive a disproportionate number of asylum-seekers from Bosnia-Herzegovina. Pressure will now inevitably fall on the last few European states without a visa requirement for Bosnians such as Norway, Italy and Spain to follow suit. Amnesty International believes that this downward spiral of protection is an inevitable consequence of the absence of a real willingness on the part of European Governments to adopt a truly international response to the problem. Such a response would recognize the protection needs of those fleeing Bosnia-Herzegovina and would seek to ensure they were met and would not, as is currently the case, sanction the use of visas by European Governments in an attempt to keep the refugees in places where their protection cannot be assured.

Since July 1992 the Croatian Government has imposed its own restrictions on access to its territory for people fleeing Bosnia-Herzegovina. At that time Croatia claimed that this action was undertaken because Croatia was unable to host an ever-increasing refugee population, and pointed to the reluctance of other European Governments to share the responsibility. Even before the conflict erupted in Bosnia-Herzegovina, Croatia was already trying to accommodate and care for over 200,000 Croatian citizens displaced by the fighting in Croatia.

Obstacles to seeking asylum in Croatia

Amnesty International continues to receive reports that non-Serbs living in Serbian-controlled territory in Bosnia-Herzegovina face harassment, intimidation and physical attacks. The remaining non-Serbs are largely concentrated in towns in the north such as Banja Luka, Bijeljina, Janja, Prijedor, Kozarac, Sanski Most, Doboj, Bosanski Novi and others. It is impossible to say precisely how many remain, although the number is probably at least 100,000. The organization has received information about gross abuses of basic human rights including deliberate and arbitrary killings, arbitrary arrest and torture and ill-treatment, including rape. These abuses, together with the blowing up of houses, robbery, forced mobilizations or forced labour, and restrictions on movement and freedom of association, have created an atmosphere of immense fear and insecurity that the victims seek

to flee whenever possible. However, people face numerous obstacles when they try to flee northern Bosnia-Herzegovina for Croatia.

These obstacles are imposed both by the local Bosnian Serb authorities in the form of bureaucratic formalities which amount in many cases to outright blackmail, and by the Croatian authorities in the form of entry or transit visas which in turn are dependent on being "sponsored" by people abroad. Entry to Croatia is limited to people who have letters of guarantee which show that either in Croatia or some third country they have relatives or friends who undertake to "sponsor" them, ensuring that they will be provided with accommodation and means of support. With such letters, which must be endorsed by the local authorities in Croatia or the third country, people are able to obtain either an entry visa to Croatia or a transit visa to a third country as the case may be.

In the past few months approximately 3,000 people have fled Bosnia-Herzegovina each month in this way, but even this restricted means of getting out of Bosnia-Herzegovina is at risk of being curtailed as the fighting between Croats and Muslims continues. In contrast to the treatment of Bosnian Muslims, approximately 4,000 Bosnian Croats who fled the area around Travnik after an offensive by the largely Muslim Bosnian Government army in early June entered Croatia without being required to obtain entry or transit visas in advance.

People at risk of serious human rights violations have an internationally-recognized right to seek asylum in other countries. Furthermore, international standards clearly provide that even in situations of a large-scale influx the fundamental principle of *non-refoulement*, including non-rejection at the frontier, must be scrupulously observed. The restrictions placed on access to Croatian territory are an unacceptable infringement of this right, as are the visa policies of European Governments which the Croatians cite to justify their own border restrictions.

Inadequate protection in Croatia

The Croatian Government Office for Displaced Persons and Refugees (ODPR) undertook a registration exercise of all Bosnian refugees in Croatia in March 1993. According to preliminary estimates resulting from this registration, there are some 240,000 registered Bosnian refugees in Croatia of whom the vast majority are Muslim. Those who have registered are issued with a refugee identification document which should protect them against being returned during the validity period of their document.

However, a significant number of Bosnian Muslim refugees – conservative estimates suggest at least 30,000 – are not registered. These include men of military age who were afraid to come forward to register because they feared being forcibly returned to Bosnia-Herzegovina. Also, in many cases, people have been issued transit visas on the basis

of letters of guarantee which were not genuine and so have not been able to move on to a third country; their transit visas specifically state that the holder may not apply for refugee status in Croatia. In a few other cases, people who have arrived after the 31 March registration deadline have done so without entry or transit visas and are "illegally" present in Croatia. On 24 June, Ivan Jarnjak, the Croatian Minister of Interior, was reported to announce that all non-registered refugees would be returned to their countries of origin.

Even for those who are registered, the refugee identification document is issued only for a three-month period. The ODPB announced in June 1993 that documents issued in the March registration exercise would be extended for another three months, but Amnesty International was told of cases where people had difficulties in renewing their documents at local ODPB offices. While there is no solid evidence to suggest that the refugee status of the Bosnian refugees is about to be imminently withdrawn, Amnesty International is nevertheless concerned that to grant them protection for only three months, and without any assurance that their identification documents will be renewed at the end of this period, is inadequate. This is because there is no immediate prospect that the situation in Bosnia-Herzegovina will allow for their genuinely safe and voluntary return in the near future.

The recent outbreak of fighting in Bosnia-Herzegovina between the largely Muslim Bosnian Government army and Bosnian Croat (HVO) forces could make the situation much worse. This fighting, which intensified in early June, led several thousand Bosnian Croat refugees to flee to Croatia and prompted public speculation about the likelihood of an increasingly insecure position for the Bosnian Muslim refugees in Croatia.

On 9 June the Croatian Deputy Prime Minister Vladimir Šeks stated to the press that the government would review its treatment of the Muslim refugees in Croatia as a result of the offensive by the largely Muslim Bosnian Government army against Croats. He reportedly said "It is unthinkable that while we take care of their families here, their brothers, fathers or husbands in Bosnia are committing crimes against our people". In a later statement, the Croatian Minister of Foreign Affairs, Mate Granic, denied that there had been any change in the government's policy: "Croatia will continue to accommodate refugees from Bosnia-Herzegovina and it will not change its policy, which means that it will adhere strictly to international conventions, as it has done so far...". However, on 5 July the Croatian President, Franjo Tuđman, was reported to have said, in response to a question about whether Bosnian Muslim refugees would be expelled from Croatia, that if the largely Muslim Bosnian Government army continued to pursue certain war aims, the Croatian Government would be "...forced to take other measures". The Muslim refugees themselves are increasingly anxious about their security in Croatia as a result of the fighting, fearing that the Croatian public will turn against them and that the police and government authorities will take measures to force them back to Bosnia-Herzegovina. On 2 July the Croatian Minister of Interior was reported to have said that Bosnian refugees in Croatia who celebrated victories gained by the largely Muslim Bosnian Government army against the HVO forces would not

be allowed to stay in Croatia. Government officials have on several occasions warned about possible tensions in Croatia between Muslim and Croat refugees from Bosnia-Herzegovina.

While there is no evidence at this stage to suggest that the Croatian Government has plans for the wholesale return of large numbers of Muslim refugees, Amnesty International fears that such a policy could well develop over the coming months. Already, Amnesty International has learned that in at least one recent instance government officials have been pointing to the fighting in central Bosnia-Herzegovina as justification for detaining unregistered Bosnian men in Croatia with a view to their expulsion. Also, if the fighting continues the Croatian Government is likely to feel pressure to undertake measures to restrict the movement of Bosnian Muslim refugees, particularly men of military age, so as to enable the government to control the flow of supplies and personnel to the largely Muslim Bosnian Government army in central Bosnia-Herzegovina.

Forcible returns

Croatia is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Article 33 of the 1951 Convention obliges Croatia not to forcibly return any person to a country where they risk serious human rights violations.

Despite this obligation, the Croatian authorities have continued to forcibly return Bosnian Muslim men to Bosnia-Herzegovina. These returns were widely publicized in September and October 1992 when, pursuant to an agreement with the Government of Bosnia-Herzegovina, the Croatian authorities returned men of military age to Bosnia-Herzegovina despite the protests and intervention of the United Nations High Commissioner for Refugees (UNHCR).

Apparently, the government made undertakings to UNHCR not to continue with this policy. However, Amnesty International received reports that as recently as the week of 7 June Bosnian Muslim men in Croatia had been ordered expelled to Bosnia-Herzegovina. With the recent hostilities between the largely Muslim Bosnian Government army and HVO forces in central and southern Bosnia-Herzegovina, it is not clear what may happen in the future. However, Amnesty International has received reports that Bosnian Muslim men expelled from Croatia have been handed over to the HVO in southern Bosnia-Herzegovina.

There have been numerous instances over the past few months where Bosnian Muslim men have been detained by Croatian police and, after an examination before a magistrate, ordered expelled to Bosnia-Herzegovina. Usually, those detained are arrested after random identity checks on the street or at workplaces or hostels where Bosnians are known to work or reside. In other cases, their detention arises from alleged offences – for example, cases known to Amnesty International include allegedly insulting members of the

Croatian army and petty criminal offences or even traffic violations. The men in question are usually not registered as refugees and so have not been issued with refugee identification cards. Some of them arrived in Croatia before the fighting began in Bosnia-Herzegovina or while both Croatia and Bosnia-Herzegovina were still constituent republics of the Socialist Federal Republic of Yugoslavia, on documents which have now expired, and are considered "illegally" present in Croatia and are unable to register as refugees. Others have been afraid to register for fear of being sent back. They have been detained at detention centres in Rijeka and Zagreb. The UNHCR has been able to obtain access to these detention centres and in most of the recent cases has intervened successfully to prevent the return of the men to Bosnia-Herzegovina. However, there have been other cases where detained Bosnians were forcibly returned from Croatia to Bosnia-Herzegovina.

Possibility of a safe return to Bosnia-Herzegovina

The temporary nature of the refugee status granted to refugees from Bosnia-Herzegovina in Croatia (and indeed in other European countries – see below), is a clear indication that it is hoped that in the near future the refugees will return to Bosnia-Herzegovina. However, as discussions to secure a peace settlement continue between the warring parties, it is not at all clear what provisions, if any, will be made in any settlement to make it safe for refugees to return to their homes. Although a number of UN decisions and resolutions on the former Yugoslavia assert the right of all refugees and displaced persons to return to their homes², hundreds of thousands of those affected have fled from areas which are likely to remain under the control of authorities dominated by other nationalities. For example, most of the Bosnian Muslim refugees have fled from areas of eastern and northern Bosnia-Herzegovina that are now virtually entirely under the control of Serbian authorities. Without adequate measures to ensure that the right of individuals to return to their homes in safety is implemented, it is doubtful whether most of these people will be either willing, or indeed allowed, to return to their homes.

If indeed the peace negotiations lead to an agreement on a territory to be under the control of the Bosnian Government, that in itself cannot assure the safety of the refugees once they return. It is not yet clear whether there will be any firm guarantees concerning the protection of fundamental human rights in a post-conflict settlement, or any measures to ensure international monitoring of human rights. Given the instability which is likely to

² For example, UN Security Council Resolution 787 (1992), adopted by the Security Council on 16 November 1992, reaffirmed that the practice of "ethnic cleansing" was unlawful and unacceptable and insisted "...that all displaced persons be enabled to return in peace to their former homes". Similarly, at the second special session of the UN Commission on Human Rights in November 1992, the Commission demanded an immediate end to the practice of "ethnic cleansing" and re-emphasized "...the rights of refugees, displaced persons and other victims of ethnic cleansing to return to their homes and the invalidity of acts made under duress".

continue even if the conflict ceases, such guarantees and measures will be a prerequisite to a truly safe return. Many of those who will be expected to return will find themselves joining the ranks of the hundreds of thousands of internally displaced who are already in these areas, thus creating further instability.

Moreover, as a general point, it cannot be assumed that just because an individual is of the same nationality as the controlling authorities of a particular territory it will be safe for him or her to return. Many people are of mixed nationality or in mixed marriages and may be subject to particular risks. Other refugees – from all nationalities – may have expressed opposition to the authorities in the territory they are expected to return to, or may be perceived as political opponents by those authorities. Thousands of men of military age have evaded the draft or deserted from all three of the major armed forces in Bosnia-Herzegovina and fled the country and it cannot be ruled out that they will risk serious human rights violations if they return regardless of whether hostilities have ceased.

For these reasons, Amnesty International believes that organized returns should only proceed once the strongest possible guarantees have been elaborated, implemented and proved to be effective to ensure that returnees are not subjected to human rights violations after their return. We are further concerned that for the reasons cited above the Croatian authorities may feel compelled to proceed with such returns before such guarantees exist.

It has also been suggested that the most appropriate protection for those fleeing Bosnia-Herzegovina is by the establishment of some form of so-called safe zones in or adjacent to the areas of conflict. (For example, the UN Security Council recently established so-called "safe areas" within Bosnia-Herzegovina.) Amnesty International believes that, with any such proposal, steps must be taken to ensure that the protection in those zones is effective. In any case, the existence of any so-called safe zones must not preclude opportunities to flee abroad, nor must it be used by potential asylum countries as a reason to refuse protection to those who ask for it. The individual right to seek asylum abroad, set out in Article 14 of the Universal Declaration of Human Rights, must not be undermined.

Temporary protection in European countries

Conclusions adopted by the member states of the EC stress the temporary nature of the protection which states have agreed to extend to those fleeing the conflict in former Yugoslavia. In line with EC policy, most European states have not granted refugee status to the refugees from former Yugoslavia, including those fleeing Bosnia-Herzegovina, but rather have granted some form of temporary permission to remain (the duration of which varies from country to country); in some countries, applications for refugee status are accepted but

not acted upon and in other countries provisions have been made to deal with people fleeing former Yugoslavia wholly outside of the normal asylum procedures.

Amnesty International stresses that the protection of asylum-seekers from former Yugoslavia should be effective and durable – that is, it should last as long as there remains a risk of serious human rights violations if people are returned. Amnesty International believes European Governments should abide by the following points with regard to policies on temporary protection for persons fleeing former Yugoslavia:

- ◆ Individual asylum-seekers from former Yugoslavia should be given the choice of either pursuing an asylum claim through the normal procedures or accepting temporary protection. If they choose the latter, and this status is later withdrawn, they must still be allowed an opportunity to claim asylum and to receive a consideration of their claim through a full and fair asylum procedure.
- ◆ A decision to cease temporary protection should be made only after the most careful review of the human rights situation in former Yugoslavia, and in Bosnia-Herzegovina in particular, taking into account assessments of that situation made by UN and other human rights bodies and non-governmental agencies.
- ◆ Before temporary protection ceases, countries hosting refugees must ensure that effective guarantees have been elaborated, implemented and proved to be effective to ensure people returning will not be subjected to human rights violations. In addition to ensuring adequate national institutions are in place, such guarantees should also provide for an effective international human rights monitoring presence in Bosnia-Herzegovina.

Finally, as the conflict continues in Bosnia-Herzegovina, and as it becomes more likely that tens of thousands of those refugees granted temporary protection will not be able to return home because of the continuing risks to their lives or freedom in Bosnia-Herzegovina, European Governments must be prepared to provide these refugees with a durable status. Amnesty International believes that temporary protection cannot continue indefinitely; those who cannot safely return are entitled to durable protection.

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Because of the lack of effective legal protection for Bosnian Muslim refugees in Croatia, and the restrictive measures taken by the Croatian authorities which obstruct Bosnian Muslims who try to flee to Croatia, Amnesty International believes it is inappropriate for European governments to regard Croatia as a safe country of asylum for Bosnian Muslim refugees. Its concern on this point is heightened in view of the recent fighting between the largely Muslim Bosnian Government army and Croat forces in central and southern Bosnia-Herzegovina.

Amnesty International calls on European governments to take positive steps, including removal of their visa requirements on people fleeing Bosnia-Herzegovina, to enable the refugees to find effective protection, as part of a truly regional response to the refugee crisis arising from the situation in the former Yugoslavia.