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Country/ entity	Bosnia and Herzegovina Yugoslavia (former)
Region	Europe and Eurasia Europe and Eurasia
Agreement name	Agreement on the release and transfer of prisoners
Date	1 Oct 1992
Agreement status	Multiparty signed/agreed
Interim arrangement	Yes
Agreement/ conflict level	Intrastate/intrastate conflict (Balkan Conflicts (1991 - 1995) (1998 - 2001))
Stage	Pre-negotiation/process
Conflict nature	Government/territory
Peace process	Bosnia peace process
Parties	Mr. K. Trnka, Representative of Mr. Alija Izetbegovic, President of the Republic of Bosnia-Herzegovina Mr. D. Kalinic, Representative of Mr. Radovan Karadzic, President of the Serbian Democratic Party Mr. S. Sito Coric, Representative of Mr. Mate Boban, President of the Croatian Democratic Community Mr. A. Kurjak, Representative of the Party of Democratic Action Mr. M. Popadic, Liaison Officer of the Serbian Democratic Party Mr. M. Mujic, Liaison Officer of the Presidency of the Republic of Bosnia-Herzegovina
Third parties	Meeting chaired by Mr. Thierry Germond, ICRC Delegate General for Europe, in the presence of the following observers: For the Federal Republic of Yugoslavia: Ms. Olga Lazic-Djerdj For the Republic of Croatia: Mr. Ranko Vilovic For the United Nations High Commissioner for Refugees: Mrs. A.-M. Demmer, Director, Regional Bureau for Europe
Description	This agreement provides for the release and transfer of prisoners and detained persons, subject to International Humanitarian Law and organised under the auspices of the ICRC and UNHCR. Includes annexes listing sites of detention and possible transfer routes, and a joint signed 'Recommendation on the tragic situation of civilians in Bosnia-Herzegovina'.

Agreement
document

[BA_921001_Agreement on the Release and Transfer of Prisoners.pdf](#) | [Download PDF](#)

Groups

Children/
youth No specific mention.

Disabled
persons No specific mention.

Elderly/age No specific mention.

Migrant
workers No specific mention.

Racial/
ethnic/
national
group No specific mention.

Religious
groups No specific mention.

Indigenous
people No specific mention.

Other
groups No specific mention.

Refugees/
displaced
persons

Groups→Refugees/displaced persons→Substantive

Page 4, Art. 10, Right to return

Any prisoner released in or transferred to an area other than that of his or her former residence retains the right to return home at a later stage if he or she wishes to do so.

Page 4, Art. 11, Validity of documents, (1)

Any document, including a document renouncing or transferring property rights, assets or claims, signed by a prisoner who is to be released or transferred has no legal validity and does not in any way affect that prisoner's rights or obligations.

Page 4, Art. 11, Validity of documents, (2)

Paragraph (1) is also applicable to documents signed by civilians to be transferred to an area other than their area of former residence.

Page 9, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, Untitled preamble

...Considering that in the present situation in Bosnia-Herzegovina with generalised violations of International Humanitarian Law systematically committed against civilians, the lives of certain civilians in certain areas can only be saved if they leave temporarily their homes and reach temporarily other areas,...

Page 9, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, 1.

Civilians who desire to leave temporarily the territory controlled by another party should be entitled to do so.

Page 10, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, 2.

The will of civilians to leave temporarily should be checked by an impartial international body in a private interview.

Page 10, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, 3.

The civilians should be able to leave in an organised transfer under international supervision and, if necessary, protection. Its security will be guaranteed by each party on the territory it controls.

Page 10, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, 4.

Each party to the conflict guarantees those who leave temporarily the territory it controls:

- a) that their goods, assets and belongings will be respected and protected;
- b) that they have a right to return home at a later stage if they wish so;
- c) that any document, including a document renouncing or transferring property rights, assets or claims signed by a person who is about to leave temporarily has no legal validity and does not affect in any way that person's rights or obligations .

Page 10, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, 5.

Persons temporarily transferred to areas other than their areas of origin

Social class No specific mention.

Gender

Women, girls and gender No specific mention.

Men and boys No specific mention.

LGBTI No specific mention.

Family No specific mention.

State definition

Nature of state (general) No specific mention.

State configuration No specific mention.

Self determination No specific mention.

Referendum No specific mention.

State symbols No specific mention.

Independence/ secession No specific mention.

Accession/
unification No specific mention.

Border
delimitation No specific mention.

Cross-
border
provision No specific mention.

Governance

Political
institutions
(new or
reformed) No specific mention.

Elections No specific mention.

Electoral
commission No specific mention.

Political
parties
reform No specific mention.

Civil society Page 1, Untitled preamble

...Accepting the good offices of the ICRC to help conclude agreements to release prisoners in conformity with Chapter IV of the Agreement of 6 June 1992,...

Page 2, Art. 3 Release of prisoners, (2)

Each party will release all prisoners it is holding in any given place of detention as soon as the ICRC so requests on the basis of a specific plan of operation for the release and transfer of the prisoners held in that place.

Page 2, Art. 3 Release of prisoners, (3)

In particular, the parties accept that the ICRC will draw up specific plans of operation and implement them within 31 October 1992 for the places of detention and via the tentative [unreadable] of transfer listed in Annex B, subject to the approval of any third country entitled to be released under para. (1) and present on the day of implementation of the specific plan of operation will benefit from the operation, regardless of the notifications made under Article 6.

Page 2, Art. 3 Release of prisoners, (4)

The parties will grant the ICRC all the facilities necessary for the implementation of the specific plans of operation and will, in particular, guarantee the security of a transfer on the territory they control, including, if the ICRC so requests, by an armed escort. This is without prejudice to any UNPROFOR escort that might be requested by the ICRC in conformity with UN Security Council Resolution 776.

Page 2, Art. 3 Release of prisoners, (5)

The parties accept that under specific plans of operation prisoners may be transferred temporarily into neighbouring countries, where UNHCR may be involved in the implementation of such plans of operation, in conformity with its mandate.

Page 2, Art. 3 Release of prisoners, (6)

Each prisoner to be released has the right to express to the ICRC in a private interview his free will on whether he wishes to be released and transferred according to the specific ICRC plan of operation, or wishes to be released on the spot, or wishes to remain in detention.

Page 2, Art. 3 Release of prisoners, (7)

For prisoners who are nationals of third States the specific ICRC plan of operation shall always provide for the right to be transferred into their State of origin.

Page 2, Art. 4 Prisoners not entitled to be released (1)

Prisoners not entitled to be released under Art. 3 (1) shall benefit from the judicial guarantees set out in Arts 82-108 of the Third Geneva Convention if they are captured combatants, and Arts 71-76 of the Fourth Geneva Convention if they are civilians. The ICRC shall in particular be informed in each such case of the charge pending against the prisoner.

Page 3, Art. 5, Assistance to prisoners released and transferred

The parties accept that prisoners released by virtue of Art.3 shall receive, as vulnerable groups, assistance from the ICRC and UNHCR, in accordance with their respective mandates.

Traditional/
religious
leaders No specific mention.

Public
administration No specific mention.

Constitution No specific mention.

Power sharing

Political
power
sharing No specific mention.

Territorial
power
sharing No specific mention.

Economic
power
sharing No specific mention.

Military
power
sharing No specific mention.

Human rights and equality

Human
rights/RoL
general No specific mention.

Bill of
rights/
similar No specific mention.

Treaty incorporation Page 2, Art. 3 Release of prisoners, (1)
All prisoners not accused of, or sentenced for, grave breaches of International Humanitarian Law as defined in Art. 50 of the First Art. 51 of the Second, Art. 130 of the Third [unreadable] Art. 147 of the Fourth Geneva Convention, as well as in Art.85 of Additional Protocol I, will be unilaterally and unconditionally released.

Page 2, Art. 4 Prisoners not entitled to be released (1)
Prisoners not entitled to be released under Art. 3 (1) shall benefit from the judicial guarantees set out in Arts 82-108 of the Third Geneva Convention if they are captured combatants, and Arts 71-76 of the Fourth Geneva Convention if they are civilians. The ICRC shall in particular be informed in each such case of the charge pending against the prisoner.

Page 2, Art. 4 Prisoners not entitled to be released (2)
Even if convicted, such prisoners retain the benefits of the treatment provided for in Art. 2.3 or 2.4 of the Agreement of 22 May 1992, depending on their status.

Page 3, Art. 5, Assistance to prisoners released and transferred
The parties accept that prisoners released by virtue of Art.3 shall receive, as vulnerable groups, assistance from the ICRC and UNHCR, in accordance with the two organizations' respective mandates.

Page 9, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, Untitled preamble
...Considering that in the present situation in Bosnia-Herzegovina with generalised violations of International Humanitarian Law systematically committed against civilians, the lives of certain civilians in certain areas can only be saved if they leave temporarily their homes and reach temporarily other areas,...

Civil and political rights No specific mention.

Socio-economic rights No specific mention.

Rights related issues

Citizenship No specific mention.

Democracy	No specific mention.
Detention procedures	No specific mention.
Media and communication	No specific mention.
Mobility/ access	No specific mention.
Protection measures	Rights related issues→Protection measures→Other Page 10, 3. The civilians should be able to leave in an organised transfer under international supervision and, if necessary, protection. Its security will be guaranteed by each party on the territory it controls.
Other	No specific mention.

Rights institutions

NHRI	No specific mention.
Regional or international human rights institutions	No specific mention.

Justice sector reform

Criminal justice and emergency law	No specific mention.
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State of emergency provisions	No specific mention.
Judiciary and courts	No specific mention.
Prisons and detention	Page 3, Art. 6, Notification of prisoners, (3) Thereafter, the ICRC shall be notified within 14 days...(b) of every new place of detention opened.

[Summary: Page 4-5, Annex A1, List of places of detention according to information given by detaining parties on 01.10.1992, acts as a precursor to releasing prisoners from these sites of detention]

[Summary: Page 5-6, Annex A2, List of places of detention formerly notified by detaining parties for which clarification is requested, acts as a precursor to releasing prisoners from these sites of detention]

[Summary: Page 6, Annex A3, List of alleged places of detention according to information provided by the parties during the plenipotentiary conference for which clarification is requested, acts as a precursor to releasing prisoners from these sites of detention]

[Summary: Page 7-8, Annex B, Places of Detention, Possible Routing, provides suggested routes for transfer of released prisoners]

Traditional Laws	No specific mention.
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Socio-economic reconstruction

Development or socio-economic reconstruction	No specific mention.
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National economic plan	No specific mention.
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Natural resources	No specific mention.
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International funds No specific mention.

Business No specific mention.

Taxation No specific mention.

Banks No specific mention.

Land, property and environment

Land reform/ rights Land, property and environment→Land reform/rights→Property return and restitution
Page 4, Art. 11, Validity of documents, (1)
Any document, including a document renouncing or transferring property rights, assets or claims, signed by a prisoner who is to be released or transferred has no legal validity and does not in any way affect that prisoner's rights or obligations.

Page 10, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, 4.

Each party to the conflict guarantees those who leave temporarily the territory it controls:

a) that their goods, assets and belongings will be respected and protected;

b) that they have a right to return home at a later stage if they wish so;

c) that any document, including a document renouncing or transferring property rights, assets or claims signed by a person who is about to leave temporarily has no legal validity and does not affect in any way that person's rights or obligations.

Pastoralist/ nomadism rights No specific mention.

Cultural heritage No specific mention.

Environment No specific mention.

Water or
riparian
rights or
access

No specific mention.

Security sector

Security Guarantees

Page 2, Art. 3, Release of prisoners, (4)
The parties will grant the ICRC all the facilities necessary for the implementation of the specific plans of operation and will, in particular, guarantee the security of a transfer on the territory they control, including, if the ICRC so requests, by an armed escort. This is without prejudice to any UNPROFOR escort that might be requested by the ICRC in conformity with UN Security Council Resolution 776.

Page 9, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, Untitled preamble
...Recalling that the presence of civilians may not be used to render certain areas immune from military operations,...

Page 10, Recommendation on the tragic situation of civilians in Bosnia-Herzegovina, 3.
The civilians should be able to leave in an organised transfer under international supervision and, if necessary, protection. Its security will be guaranteed by each party on the territory it controls.

Ceasefire

No specific mention.

Police

No specific mention.

Armed forces

Page 4, Activities after release
The parties undertake not to recruit prisoners released and/or transferred under this Agreement in their armed forces or groups and to take all feasible measures that such prisoners do not take a direct part in hostilities.

DDR

No specific mention.

Intelligence services

No specific mention.

Parastatal/ rebel and opposition group forces	Page 4, Activities after release The parties undertake not to recruit prisoners released and/or transferred under this Agreement in their armed forces or groups and to take all feasible measures that such prisoners do not take a direct part in hostilities.
Withdrawal of foreign forces	No specific mention.
Corruption	No specific mention.
Crime/ organised crime	No specific mention.
Drugs	No specific mention.
Terrorism	No specific mention.

Transitional justice

Transitional justice general	No specific mention.
Amnesty/ pardon	No specific mention.
Courts	No specific mention.
Mechanism	No specific mention.

Prisoner
release

Page 1, Untitled preamble

...Accepting the good offices of the ICRC to help conclude agreements to release prisoners in conformity with Chapter IV of the Agreement of 6 June 1992,...

Page 1, Art. 1 Prisoners covered by this agreement

In this Agreement the term “prisoners” means:

(a) all civilian deprived of their liberty for reasons related to the conflict, as defined in Art. 2.3.(2) of the Agreement of 22 May 1992, including those interned, detained or subject to assigned residence.

(b) all captured combatants, as defined in Art. 2.4 of the Agreement of 22 May 1992,

Including those accused of or sentenced for any crime related to the armed conflict.

Page 1, Art. 2 Responsibility for prisoners

The parties are responsible for the application of this Agreement in respect of all prisoners held on territories under their control and will therefore ensure central control over all prisoners detained by individuals or local groups.

Page 2, Art. 3 Release of prisoners, (1)

All prisoners not accused of, or sentenced for, grave breaches of International Humanitarian Law as defined in Art. 50 of the First Art. 51 of the Second, Art. 130 of the Third [unreadable] Art. 147 of the Fourth Geneva Convention, as well as in Art.85 of Additional Protocol I, will be unilaterally and unconditionally released.

Page 2, Art. 3 Release of prisoners, (2)

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Page 2, Art. 3 Release of prisoners, (5)

The parties accept that under specific plans of operation prisoners may be transferred temporarily into neighbouring countries, where UNHCR may be involved in the implementation of such plans of operation, in conformity with its mandate.

Vetting No specific mention.

Victims No specific mention.

Missing persons No specific mention.

Reparations No specific mention.

Reconciliation No specific mention.

Implementation

UN signatory Observed for the United Nations High Commissioner for Refugees by Mrs. A.-M. Demmer, Director, Regional Bureau for Europe

Other international signatory Meeting chaired by Mr. Thierry Germond, ICRC Delegate General for Europe, in the presence of the following observers:
For the Federal Republic of Yugoslavia: Ms. Olga Lazic-Djerdj
For the Republic of Croatia: Mr. Ranko Vilovic

Referendum for agreement No specific mention.

International mission/force/similar Page 2, Art. 3 Release of prisoners, (4)
The parties will grant the ICRC all the facilities necessary for the implementation of the specific plans of operation and will, in particular, guarantee the security of a transfer on the territory they control, including, if the ICRC so requests, by an armed escort. This is without prejudice to any UNPROFOR escort that might be requested by the ICRC in conformity with UN Security Council Resolution 776.

Enforcement mechanism No specific mention.

Related cases No specific mention.

Source ICTY Court Records, Karadzic trial exhibit P04859
<http://icr.icty.org/>
