

Country/entity	Bosnia and Herzegovina Yugoslavia (former)
Region	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)

Former Yugoslavia

The disintegration of former Yugoslavia post cold war saw conflicts which became mediated and produced peace agreements in Slovenia (where the brief independence conflict was mediated by the EC Troika in 1991), Croatia (between Croatian and Serb populations 1991-1995), in Bosnia (between Croatian, Serb and Bosniak populations 1992-1995), in Macedonia (where mediation played a key pre-emptive role in preventing large scale conflict in 2001), in Kosovo (between Kosovar Albanians and Serbian population and the Federal Republic of Yugoslavia (FRY), but also between FRY and NATO, 1998-1999), and a conflict in the Presevo Valley (between Albanians in South Serbia and FRY, 2000-2001). The continued fall-out of the disintegration of former Yugoslavia also saw mediated agreement and ultimate dissolution of the Union between Serbia and Montenegro.

Bosnia-Herzegovina

In 1991, after nationalist parties won the first multi-party elections in the Socialist Federal Republic of Yugoslavia, a violent process of disintegration commenced. With its mixed population, Bosnia-Herzegovina became the centre of the following civil war that began in 1992 between the newly formed army of the Republic of Bosnia and Herzegovina (mostly Muslim Bosniacs), and the parastatal forces of self-declared Bosnian Croat (Herzeg-Bosnia) and Bosnian Serb (Republika Srpska) entities within Bosnia-Herzegovina, supported by Croatia and Serbia, with various, often short-lived, coalitions. The General Framework Agreement (Dayton Peace Agreement), signed in 1995, split the country into two ethno-federal entities, the Bosniak-Croat Federation and the Republika Srpska, and included continued peacekeeping and institutional administration by international actors.

Kosovo

The conflict between Serbs and Kosovar Albanians has a long history and always involved territorial disputes as well as ethno-political, cultural and linguistic factors. The most recent phase of the conflict began in November 1997 when the Albanian Kosovo Liberation Army (KLA or UCK) began their campaign for the independence of Kosovo from the Federal Republic of Yugoslavia (FRY – then Serbia and Montenegro). The subsequent war lasted until the NATO intervention, which undertook bombing campaigns of Belgrade and other places in Serbia during spring 1999. The main agreements solving the conflict were internationally driven and, finally, a UNSC resolution imposed a post-conflict arrangement in the wake of what was essentially a NATO military victory. In February 2008, Kosovo's parliament declared independence, but independence is still internationally disputed.

Close

Balkan Conflicts (1991 - 1995) (1998 - 2001)

Stage

Pre-negotiation/process

Conflict nature	Government/territory
Peace process	Bosnia peace process
Parties	<p>Mr. K. Trnka, Representative of Mr. Alija Izetbegovic, President of the Republic of Bosnia-Herzegovina</p> <p>Mr. D. Kalinic, Representative of Mr. Radovan Karadzic, President of the Serbian Democratic Party</p> <p>Mr. S. Sito Coric, Representative of Mr. Mate Boban, President of the Croatian Democratic Community</p> <p>Mr. A. Kurjak, Representative of the Party of Democratic Action</p> <p>Mr. M. Popadic, Liaison Officer of the Serbian Democratic Party</p> <p>Mr. M. Mujic, Liaison Officer of the Presidency of the Republic of Bosnia-Herzegovina</p>
Third parties	<p>Meeting chaired by Mr. Thierry Germond, ICRC Delegate General for Europe, in the presence of the following observers:</p> <p>For the Federal Republic of Yugoslavia: Ms. Olga Lazic-Djerdj</p> <p>For the Republic of Croatia: Mr. Ranko Vilovic</p> <p>For the United Nations High Commissioner for Refugees: Mrs. A.-M. Demmer, Director, Regional Bureau for Europe</p>
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 (opens in new tab) Download PDF
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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 should benefit, as vulnerable groups, from international assistance, inter alia, in conformity with its mandate, by the ICRC.

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 the two organizations' respective mandates.

Page 3, Art. 6, Notification of prisoners, (1)

Each party will notify the ICRC before 18 October 1992 of all prisoners detained in the places of detention listed in Annex A1, if this has not yet been done according to Annex A1

Traditional/ religious leaders	No specific mention.
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Public administration	No specific mention.
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Constitution	No specific mention.
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Power sharing

Political power sharing	No specific mention.
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Territorial power sharing	No specific mention.
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Economic power sharing	No specific mention.
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Military power sharing	No specific mention.
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Human rights and equality

Human rights/RoL general	No specific mention.
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Bill of rights/similar	No specific mention.
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**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.

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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,
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...Considering that in the present situation in Bosnia-Herzegovia 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.
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Regional or international human rights institutions	No specific mention.
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Justice sector reform

Criminal justice and emergency law	No specific mention.
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State of emergency provisions	No specific mention.
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Judiciary and courts	No specific mention.
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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.
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[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.

National economic plan No specific mention.

Natural resources No specific mention.

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)

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

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/
