

AGREEMENT ON THE RELEASE AND TRANSFER OF PRISONERS

At the invitation of the International Committee of the Red Cross,

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

Met in Geneva on 30 September and 1 October 1992, at a 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

Have agreed on the following:

On the basis of the Agreement of 22 May 1992,

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,

Recalling the humanitarian plan of action their leaders accepted in London on 27 August 1992,

The undersigned have accepted the following:

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.

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.

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.

(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.

(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.

(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.

(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.

(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.

(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.

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.

(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.

(3) The party approached will make any internal enquiries necessary to obtain the information requested.

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.

Art. 6 Notification of prisoners

(1) Each party will notify the ICRC before 7 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.

(2) Each party will notify the ICRC before 15 October 1992 of the name and location of any other places where prisoners are being held on the territory under its control and of all prisoners held in those places.

(3) Thereafter, the ICRC shall be notified within 14 days:

- (a) of every prisoner captured, arrested, or transferred;
- (b) of every new place of detention opened.

(4) The local liaison officers of the parties will meet at least once every 14 days in a mutually agreed place to exchange lists of all prisoners held in their respective areas.

(5) All notifications referred to in this article and in Art. 9 shall contain at least the following details on the prisoners concerned:

- name
- first name
- father's first name
- mother's first name and maiden name
- date of birth
- place of birth.

Art. 7 Enquiries

(1) The ICRC and any party may ask any other party for information on the whereabouts of a prisoner held by the latter and previously registered by the ICRC in the power of that party, or allegedly detained by that party.

(2) The ICRC and any party may ask any other party about the location of any alleged place of detention and to be notified of any prisoners held there.

(3) The party approached will make any internal enquiries necessary to obtain the information requested.

Art. 8 ICRC access to prisoners

The ICRC shall have free access to all prisoners and may make a census of the population of any place of detention with a view to drawing up a specific plan of operation as provided for in Art.3.

Art. 9 Notification of releases without ICRC involvement

In the events of any release, transfer, repatriation or exchange of prisoners in which the ICRC takes no part, the ICRC will be notified of all the prisoners concerned.

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.

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.

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

Art. 12 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.

Geneva, 1 October 1992

Mr. K. Trnka
Mr. D. Kalenic
Mr. S. Sito Coric
Mr. A. Kurjak

ANNEX A1

**LIST OF PLACES OF DETENTION ACCORDING TO INFORMATION GIVEN BY DETAINING PARTIES ON
01.10.1992**

1. Under Bosnian control

Sarajevo Prison
Victor Bubanj Army Barracks
Zenica Prison
Tuzla Prison
Bihac Prison
Velika Kladusa Camp
Konjic Camp/Prison *2
Celebici Camp
Visoko Camp
Begov Han Camp

Jajce *2

2. Under Croatian control

Mostar Prison *1
Bosanski Brod Camp
Jajce *2
Konjic Camp/Prison *2
Livno *3
Tomislavgrad *3

3. Under Serbian Control

Manjaca Camp
Trno Polje Camp
Foca Prison
Drvar "Kamenica" Prison
Bileca Police Station
Sanski Most
Bijelina "Batkovic" Camp
Banja Luka Prison
Doboj Prison
Vlasenica Camp
Kula (Butmir) Prison
Pale Prison
Bosanski Samac
Kotor Varos

*1 All detainees formerly held in Ljubuski, Dretelj Cjapljina, Tomislavgrad and Livno were recently transferred to Mostar prison.

*2 Places of detention under common Bosnia-Croatian control

*3 Areas where restricted freedom of movements is applied to certain categories of persons

ANNEX A2

LIST OF PLACES OF DETENTION FORMERLY NOTIFIED BY DETAINING PARTIES FOR WHICH CLARIFICATION IS REQUESTED

1. Under Serbian Authority

Krupac
Vojkovic
Ilidiza
Ilijac
Vogosca
Hadzici

2. Under Bosnian Authority

Breza

Trnovo
Sarajevo

ANNEX A3

LIST OF ALLEGED PLACES OF DETENTION ACCORDING TO INFORMATION PROVIDED BY THE PARTIES DURING THE PLENIPOTENTIARY CONFERENCE FOR WHICH CLARIFICATION IS REQUESTED

1. Under Croatian Control

Bugojno
Bradina Tunnel
Stup (Sarajevo)

2. Under Bosnian Control

Tarcin Silo
Pazaric
Trnovo
Kljuc
Buturovic Polje

3. Under Serbian Control

Visegrad
Brcko
Zvornik
Tezlic

ANNEX B

Places of Detention

Trnopolje

Possible Routing

Trnopolje – Prijedor
Bosanski Novi
Dvor – Glina – Vojnic – Turanj – Karlovac

Bileca

Bileca – Front. Montenegro
Niksic – Podgorica
Podgorica – Skopje (?)

Bihac

Bihac – Izacic
Izacic – Licko Petrovo Selo
Licko Petrovo Selo Titova Korenica

Bosanski Brod

Bosanski Brod – Slavonski Brod – Lipovac
Lipovac – Kuzmin – Belgrade

Foca

Foca – Gradac
Gradac – Pljevlina-Front. – Front. – Prijelpa –
Sjenica – Novi Pazar

Celebici

Celebici – Jablanica – Front.
Front – Prozor – Posusje - Front. –
Front – Imotski – Split
1 Night
Slipt – Zelenika (Boat)

Konjic

Konjic – Celebici
Idem Celebici

Batkovic

Batkovic – Bijeljina
Kuzmin - Lipovac
Lipovac – Karlovac – Djakovo (?)
Sanski Most – Prijedor – Bosanski Novi
Dvor – Glina – Vojnic
Turanj – Karlovac

Sanski Most

Drvar-Kamenica

Drvar Kamenica – Zaseok
Zaseok – Knin
Knin – Slunj – Karlovac

Mostar

Mostar – Listica – Posusje – Front.
Front. – Imotski – Split
Split – Zelenika (Boat)

Capljina Grabovina

Capljina – Ljubuski
Puis Idem Ljubuski

Manjaca 1

Manjaca – Banja Luka
Bosanski Gradiska
B. Gradiska – Okucani – Novska
Novska – Karlovac

Zenica

Zenica – Front.
Front. Prozor – Posusje – Front.
Front. – Imotski – Split (Night)

Visoko

Visoko – Zenica (Night)
And Idem Zenica

Manjaca 2

Idem Manjaca 1

Tuzla

Tuzla – Belgrade (Airplane)

Livno

Livno – Posusje-Front.
Front.-Imotski-Split
Split – Zelenika (Boat)
Split – B. Luka (Airplane)

Tomislavgrad

Tomislavgrad-Posusje Front.
And Idem Livno

Banja Luka KPD

B. Luka – Bosanska Gradiska
B. Gradiska-Okucani-Novska
Novska – Karlovac

Doboj

Doboj – B. Luka
And Idem B. Luka

Pale

Pale - Zvornik
Zvornik – Loznica
Loznica – Sabac
Sremska Mitrovica – Kuzmin – Lipovac
Lipovac – Karlovac

Remark:

These routings are indicative and remain subject to changes according to up-dated assessment of local conditions.

RECOMMENDATION ON THE TRAGIC SITUATION OF CIVILIANS IN BOSNIA-HERZEGOVINA

At the invitation of the International Committee of the Red Cross,

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
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Met in Geneva on 30 September and 1 October 1992, at a 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

And adopted the following recommendation:

Deploring that the parties to the conflict and the international community did not yet find a political solution to end the conflict and a permanent answer to the serious humanitarian situation in Bosnia-Herzegovina,

Reaffirming the prohibition of any discrimination based on ethnic origin and the prohibition of forced movements of civilians and the inherent right of every human being to live in peace and dignity,

Recalling that the presence of civilians may not be used to render certain areas immune from military operations,

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,

Mindful of the winter which is approaching,

The undersigned submit the following recommendations to the deliberation of the International Conference on Former Yugoslavia:

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

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

Geneva, 1 October 1992

Mr. K. Trnka
Mr. D. Kalenic
Mr. S. Sito Coric
Mr. A. Kurjak

Source: ICTY Court Records, Karadzic trial exhibit P04859

<http://icr.icty.org/>