



**On the Record: Returning Refugees to Bosnia**

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**Politics, Law, and Return to Sarajevo**

**Contents:**

- **From Peter's diary: I like it that people are playing chess in Sarajevo**
- **Struggling to Return**
- **In the News: Sarajevo is Threatened by New Sanctions Over Obstacles to Refugee Returns**
- **Special Feature: Occupancy Law**
- **"What is with Sarajevo? - The politicians love ethnic division"**

**From the AP Editorial Desk**

**I like it that people are playing chess in Sarajevo**

From Peter's diary:

Sarajevo was the New York of Bosnia, the most multi, the most cultured. It was ahead of the rest of Yugoslavia too, in many respects. Good rock 'n roll, good theater, good filmmakers. A lot of that is gone now. But the sophisticated atmosphere lingers. I find myself delighted to be back here; I find myself most stimulated here.

That will have to change, because I can't stay here forever. But for now, I like the sane way people have of being able to easily find themselves together in a kafana (coffeehouse) for a leisurely warm drink and a little while of chatting each day, and the way throngs of folks get out and walk around each evening, making the town's center a friendly place.

I like the shoeshine with the free simultaneous lecture on the history of the Rom (Gypsies): "We came from India, you know. We were kicked out from the area by the river 'Gong' a thousand years ago. There are no people more peaceful than the Roma"

I like it that people are playing chess on the 12 ft by 12 ft chessboard on the square in front of the Robna Kuća department store, the blue building that is one of the top candidates for Ugliest Building in the World. They are playing chess there with 2 ft high chess pieces, with a few dozen men gathered around watching, even though there is snow on the ground.

Yet, there is also plenty of bad news these days. In Drvar (Herceg-Bosna) where around 1,600

displaced Serbs have recently returned, someone stabbed an elderly Serb couple and then set their house on fire.

Then in Derventa, a town in the Republika Srpska (RS) north of Banja Luka, some Croats were coming back to celebrate St. George's day. Cardinal Vinko Puljić was leading them, and they went into their half-burned cathedral to hold mass. At that point several hundred Serbs surrounded the place and started throwing stones, and kept people from arriving. About 8 cars were turned over, and someone tried to set the cathedral on fire. The RS media and politicians ignored this incident.

Next day back in Drvar, a mob of about 1,000 Croats surrounded a meeting of Serb returnees. They started throwing stones and tried to set the International Police Task Force (IPTF) office on fire. The Serb mayor had to be hospitalized. After that, over 150 Serb returnees went back to the RS.

Today I read that Bosniaks (Bosnian Muslims) blockaded a road near the inter-entity borderline (IEBL) with the RS and threw grenades at Serb refugees returning to a village in the Federation. Now there's a barricade in both directions on the road from Tuzla to Dobož. It's almost a free-for-all. I imagine the internationals will find a way to clamp down pretty soon. There's no one in this "country" who's in charge who's prepared to act like a grownup. And to think there's going to be an election in less than five months. (June 12, 1998)

### **Struggling to Return**

In early 1998 the international community convened a conference on return to Sarajevo, to examine the problems and establish a plan for increased return. This resulted in the "Sarajevo Declaration," which called on the Sarajevo government to secure the return of 20,000 displaced minorities that year, out of an estimated 130,000 who left.

However, according to Human Rights Watch, only around 2,500 Serbs and Croats returned to Sarajevo by the end of September 1998. A preponderance of these returnees are older people. In response to the slow pace of return, the international community slowed assistance for reconstruction of apartments in the second half of 1998. USAID (US Agency for International Development) and the European Union (EU) together held up around \$15 million in aid.

Since the end of the war, the multi-cultural rhetoric of the ruling Muslim nationalist party SDA (Party for Democratic Action), headed by Alija Izetbegovic, has not been matched by action that would have promoted the rebirth of an ethnically mixed city. "Minorities" (Serbs and Croats) who remained in Sarajevo throughout the war have continued to leave.

Leading government figures in Sarajevo complained that undue pressure was being put on them, and that return must take place in two directions. The international community responded that Sarajevo could do better, and that, as the capital of Bosnia, it had the responsibility to make a positive example for the rest of the country. (In fact, it is also apparent that Sarajevo is specially targeted because it is in fact more cooperative than the hard-line regimes in the Serb- and Croat-controlled parts of Bosnia.)

Today there are still over 80,000 displaced Muslims living in Sarajevo. They come from all over Bosnia: from all parts of the Republika Srpska, as well as from many parts of Croat-controlled Herzegovina and western Bosnia from which they were expelled. Return to these areas is very difficult. And native Sarajevo Serbs are living in towns and villages throughout the Republika Srpska (especially Brčko and Srebrenica), waiting to come back. In some cases, they simply want to buy their socially-owned apartments, re-sell them at a higher price, and start a new life somewhere else.

Meanwhile the ongoing influx of Muslims from the Sandžak, an area straddling Serbia and Montenegro, further complicates the picture in Sarajevo. These are people who have fled from political pressure in their homeland, and more recently, from the draft. They are met, for the most part, with welcome from the Muslim establishment and with resentment from the Serbs and Croats. Many of them have taken over abandoned Serb-owned houses or apartments. The Serb population of Sarajevo is around 15% of its former number.

In 1999, there is renewed pressure from the international community to speed up minority return to Sarajevo. But it is difficult to be optimistic.

### **In the News: Sarajevo is Threatened by New Sanctions Over Obstacles to Refugee Returns**

(translated by P. Lippman from Oslobodjenje, April 22, 1999)

Oslobodjenje, April 22, 1999. The US Ambassador to Bosnia Richard Kauzlarich has warned that the international community in Sarajevo may introduce new sanctions because of the failure to implement the Sarajevo declaration and permit refugees to return.

Kauzlarich made the announcement during an interview on TV Erotel in Mostar. He was replying to a viewer who had received a favorable decision for return to her apartment from the Sarajevo government, but was not able to exercise that right because, she said, "the Bosniaks who are in my apartment do not wish to leave."

"This is something that has caused me and my colleagues to become very worried about Sarajevo," said the ambassador.

"Sufficient progress has simply not been achieved in the return of property; in other words, it is not being returned fast enough. Last year we declared sanctions on Sarajevo because there was no progress at all. Perhaps we will have to do that again, because we cannot permit excuses to be used as explanations for the delay of property return."

### **Special Feature- Occupancy Law**

In the course of interviews with activists for refugee return, as well as in interaction with displaced persons themselves, the subject of housing law is an unavoidable part of the discussion.

Displaced people wonder when they will be able to return to their houses currently occupied by

other displaced people. New occupants of "abandoned apartments" receive "permanent tenancy rights" from the local government. "Laws on cessation of laws on abandoned apartments" are passed, changing ownership status overnight, but not bringing refugees home.

What does it all mean? The confusion of housing regulations, compounded by various forms of obstruction, amounts to an obstacle so daunting that many displaced persons simply despair of ever being allowed to live in their pre-war homes again. Understandably, many refugees have only a tentative grasp on the continuously changing regulations.

To untangle the maze of bureaucratic jargon, I took time out from interviewing activists for return in order to meet with members of the international institutions responsible for supervising legal developments regarding occupancy rights in Bosnia. The information I received, while not exactly pointing the way to resolution of massive displacement in this country, at least makes it possible to understand some of the common problems involved.

### **Pre-War Tenancy Law**

To understand the present state of property rights in Bosnia it is necessary to examine the laws under the pre-war, socialist system. In Tito-era Yugoslavia, there was private property and "socially-owned property." Socially-owned property was generally built and administrated by state-controlled institutions such as banks, schools, and mining companies, as well as the armed forces. These institutions were termed "Allocation Rights Holders" because they controlled the distribution of this socially-owned property to their employees.

Most socially-owned property were apartments, and most houses were privately owned. All employees of state-controlled institutions paid taxes that contributed to the construction of socially-owned property. They were thus theoretically entitled to receive "tenancy rights" to an apartment, based on their need. People who already lived in privately-owned houses did not generally receive apartments, but nevertheless continued to pay the same taxes.

Those who did receive apartments often waited years for them, but once in the apartment, their rent was very low, and they were ensured of long-term security. Tenancy-rights holders were not owners, and thus could not sell their apartments. But as long as they paid their bills, and did not leave their apartments empty for more than six months, they were entitled to keep them. These rights were inherited by descendents of the original tenants.

### **Wartime Changes**

During the war there were massive shifts of population. People left their homes because they were destroyed, due to "ethnic cleansing," or simply to get away from the danger. Meanwhile, in most localities that people left behind, other groups of displaced persons came in their place. For example, during the war in Sarajevo, approximately 130,000 Serbs, Croats, and Muslims left the city, but tens of thousands of displaced persons, predominantly Muslims, arrived from areas of Bosnia, which had been ethnically cleansed.

It was natural for displaced persons to occupy empty houses and apartments. This happened in

two ways. Sometimes people would simply find an empty home and take it over illegally. Often, however, the home was declared abandoned and legally allocated to the new recipient. In both entities of wartime Bosnia, this transaction was performed under the authority of new laws that were enacted regarding abandoned homes.

These laws annulled former tenancy-rights holders' claims to their apartments, clearing the way for new occupants to receive temporary or permanent rights. Not only displaced persons were taking over empty homes. In many cases, citizens who remained in their own municipality would move into an abandoned apartment. Often this was simply because of the greater space available, or a better location. It was common for families that had been cramped in one apartment to split up into two or more apartments.

### **End of the War, Beginning of Return**

Thus at the end of the war, refugees hopeful of making a smooth transition back to their former homes were usually disappointed to find that they could not return. Not only were their houses and apartments occupied, but generally they were ethnic minorities in a place governed by a nationalist regime hostile to their ethnicity.

At this point, the Republika Srpska and the Federation ostensibly made arrangements for the recovery of occupied property, in different ways. Both ways were in reality obstructions. In the Federation, people who had left their apartments were required to return to them immediately -- within six days for refugees and five days for displaced persons -- or else forfeit their tenancy rights. However, even if returnees were able to arrive on time, they would not have been able to take over their apartments within the deadline, since they were occupied.

As John Stauffer, housing law expert for the OSCE (Organization for Security and Cooperation in Europe) Human Rights Unit told me, "They put up a notice on a bulletin board somewhere announcing this time limit for return. They did not even place it in an appropriate newsletter and, for that matter, it was not posted until after the time limit had expired. Therefore, people who had left their socially-owned homes automatically lost their tenancy rights."

In the Republika Srpska no time limit was imposed, but return was based on "reciprocity." This meant that the pre-war occupants of an apartment were only allowed to return if the new occupants were also able to return to their old homes, and only if they so desired. In practice this law prevented minority return to the RS.

These obstructionist rules applied only to tenancy rights. No time limits or "reciprocity" covered private property, and recovery of family-owned houses often tended to be blocked simply because they were occupied or destroyed.

### **International Community Involvement: New Laws**

Given this situation, very little changed for the first couple of years after the signing of the Dayton agreement for displaced persons hoping to retrieve their property. Gradually the Office of the High Representative (OHR), the international community's institution responsible for the

enforcement of the Dayton agreement, put pressure on the entity governments to correct existing laws so as to enable return of pre-war tenancy rights.

New laws were created first in the Federation, in April of 1998. The "Law on the Cessation of the Law on Abandoned Apartments" and a similar one regarding private property made it possible for pre-war occupants to file claims for their property. A third law rescinded annulment of tenancy rights by the Allocation Rights Holders.

Government bodies were set up to process property claims. Claimants were not required to submit deeds or other documentation, which was more often than not destroyed or lost; the burden of proof of rights to a property was placed on the government. These authorities were also obliged to process claims within 30 days. After this took place, the present occupant was given 90 days to evacuate the property. If this occupant did not have a place to move to, the government was responsible for supplying alternative accommodation.

After a decision was made and the deadline for vacating was expired, the government was authorized to evict the new tenant. In cases of illegal occupancy (where the property had not been declared abandoned and during the war tenancy rights had not been granted to the new occupant), evictions could take place right away, but this has happened extremely rarely, due to the negative political effects. In addition, illegal occupancies are treated differently in the Federation than are cases where the property has been declared abandoned. The former must be settled in court -- a process often taking years -- while the latter is covered by municipal or Cantonal administrative bodies, with the accompanying time limits. Stauffer informed me that the international community would like to see these two sets of problems covered by the same administrative bodies.

If this description of new regulations is confusing, imagine the confusion of an uninformed displaced person. What's more, the laws are all but surrealistic in their detachment from the reality of the return process. In practice, they have turned out to serve as so many opportunities for discouragement and obstruction to return.

Displaced persons often are unaware of their rights, and unaware of available legal assistance. They don't know which government body to turn to, and spend their days, if they have the endurance, going from one office to another trying to learn their fate. Occasionally they are illegally charged exorbitant fees for forms they must fill out; when there is a change of law they may have to start from the beginning again. The maximum period for a decision usually becomes the minimum and then, even if a returnee receives a favorable decision, evictions almost never happen.

These are only a few of the documented forms of abuse amounting to prevention of return, or "bureaucratic ethnic cleansing." As Stauffer described to me the very reasonable new set of laws, I couldn't help but think of friends who have been battling for their rights for over three years, at much expense to their health and peace of mind, with no success. Those who have alternatives often simply give up and leave.

In the Republika Srpska a single "Law on Cessation of the Law on Use of Abandoned Property,"

similar to that in the Federation, was finally passed only in December of 1998. The deadline for filing claims in the Federation has been extended three times, and will expire on July 4th of this year. The deadline in the Republika Srpska has been extended to December of 1999.

### **The Ongoing Struggle**

As mentioned above, new occupants of an apartment have received either temporary or permanent tenancy rights. Most displaced persons have received temporary tenancy rights, based on the possibility that they would return to their pre-war homes. However, many people, especially local citizens who have taken over other people's apartments in their hometowns, have received permanent tenancy rights. Returning refugees and displaced persons have not had the right to contest these decisions.

Solving the issue of "double occupancy" is an important part of unblocking the return process. The expression may refer to people who are using two apartments at the same time, or more broadly to families that have split up into more than one apartment. According to Helena Holme-Pedersen of the OHR's Reconstruction and Return Task Force, the decisive point is whether these new occupants have a place to return to. While many homes were destroyed during the war, and many others are occupied by displaced persons, resolution of the many double occupancy cases would be a relatively easy first step in facilitating return.

The international community has had difficulties cutting through the obstruction of the local governments. Local bodies were given the authority to create their own criteria for deciding whether a pre-war tenant or a new occupant was to receive a favorable determination. The international community's expectation was that the majority of decisions would go to the pre-war tenants. In practice the reverse proved to be true.

I asked Stauffer why such obstruction seemed to be the rule, rather than the exception in the return process. He explained to me that this could at times be the result of ignorance of the law on the part of the authorities, and in part may be true blockage due to an overwhelming number of cases. But he felt that to a large extent the obstruction was the result of instructions coming down from high levels of the government.

This answer corroborates what I have heard time and again from return activists. In addition, Stauffer explained to me that the fact that double occupants have so often received permanent tenancy rights is a reflection of their wealth or their political connections. The overall problem of obstruction is a political one, and the international community has gradually come around to favoring a more "interventionist" approach.

### **A Strong Move**

On April 13th of this year, High Representative Carlos Westendorp, using the authority given to him by the international community for implementation of the Dayton agreement, declared that all permanent tenancy rights to contested property were to be converted to temporary rights. This decision is to apply in both entities, and it gives new hope to pre-war tenants who have been struggling to recover their rights.

This means that many cases that had been settled will now revert back to the local governmental bodies responsible for considering them. It will put great pressure on double occupants to move back to their original homes. Holme-Pedersen explained to me that the decision has created a "stronger avenue for intervention." She said, "The rule of law has meant little in this situation, and political intervention has been very difficult. We have to go to higher levels of the government to be effective. Now we can say, 'we need a decision.' There are around 18,000 permanent occupancy rights in the Federation that have now been overturned, and 10,000 in the Republika Srpska. We won't see all of these apartments returning to their pre-war owners, but maybe we'll get one half, and that will be progress."

The present decision will dislodge some recalcitrant double occupants, but it does not solve the problems of the genuinely displaced persons who have nowhere to return. Short of wholesale banning of obstructionist nationalist parties in all areas of politics, the international community will be forced to continue its gradual approach to tackling obstacles to return.

### **"What is with Sarajevo? - The politicians love ethnic division"**

On May 6, 1999, Jacques Klein, deputy High Representative, was quoted in *Oslobodjenje* as saying the following:

"Three weeks ago I wrote a letter to the Canton government of Sarajevo. The question I asked was, 'What has happened with the Sarajevo declaration?'"

"Or, let's put it this way: Sarajevo is the capital of this country. That means that you have the police and the administration under your control. Also, it is the richest canton in Bosnia. If you cannot achieve return of refugees to Sarajevo, forget about return of refugees anywhere else, because you have the resources, you have the police, and you have the administration which the mayors of most of these other cities lack.

"So, what message are you sending to the Croats and Serbs? Do you really believe that this is also their capital, and if it is, what signs of welcome are you sending them so that they can feel that they can return?"

"When I came to Bosnia, I had a long meeting with Cardinal Puljić. He said to me, 'Two thirds of the Croat population lived in central Bosnia before the war. We have a 750-year Catholic tradition here -- please help people to return here.'

"Many times I have met (Croat) politicians who, in fact, are advocating that Croats leave central Bosnia, to move to Herzegovina, with long-term loans, gifts of property, etcetera. Why? Because when they have the whole population in one place, that means political power. Our goal is to return those people who wish to return, because they, in fact, are the largest group of displaced persons. However, the politicians love ethnic division, because that's how they stay in power." (Oslobodjenje, May 6, 1999)

I am afraid that without some kind of breakthrough, many people will just leave...



From Peter's diary:

Ankica is a Sarajevan displaced in her own city. During the war, she fled the bombing. She came back about a year ago to find that her nice apartment in the old town (Bas Čaršija) had been inhabited by someone else, who was given permanent rights to live there. This was a practice that started during the war, when a lot of people left, and a lot of refugees came in. However, the nice places were not given to refugees, but to politicians and profiteers. The man who moved in was someone who had gotten divorced from his wife and needed a place.

Now Ankica lives in a collective center in Vogošća, and spends her days knocking on office doors in Sarajevo trying to get her place back. She told me her story at length, of the stonewalling, the lies, and the run-around. She goes to one place and they tell her she has to go somewhere else, or get a different form, then another one, and it all costs money. There is a catch-22 because she has to get a certain form in order to make an appeal, but she is not allowed to have that form because the current inhabitant has tenancy rights. Technically her case is closed, but she hasn't given up.

The international community has put pressure on the government of Sarajevo Canton to solve these cases, and to reverse laws made during the war, which took away tenancy rights from people who left. But the new laws that were made have loopholes and can be manipulated.

Ankica says, "This is like another war. The war was more honest than this. But I'm not going to give up. I have nothing else. I'm prepared for them to kill me, I don't care. You can't understand this. If I could have left, I would have gone to a third country, somewhere completely else, a long time ago."

A friend of Marina's made a surprise telephone call from Belgrade.

He had been a professor of physics before the war, then he left. Now he can't come back to Sarajevo. I said to Marina that it must be depressing living in Belgrade under fascism. She said, "It's bad there, but at least you have an honest enemy. If I were there, I would say, ok, I'm fighting against fascism. But here, the politicians are clever. They say all the right things, all the beautiful things, but there's silent ethnic cleansing. You can't fight it. At work they use me as a token (she's Croat), to show how they're multi-ethnic. The rest of the time I'm nobody. I don't care anymore. You can't understand this."

Adisa lived in the "Airport" neighborhood. Her apartment was bombed. She has been living with her husband and three kids in the apartment of a Serb who left. That person now wants to come back, and Adisa will have to move out and find another place.

She talks about the Sarajevo Declaration, which said that 20,000 non-Muslims should be allowed back to Sarajevo by the end of this year. (About 4,000 have returned.) She says it's a good idea, except if people end up getting kicked out of their places where they are now, as she is, and they have nowhere to go. She told the person who wants to take back her place, "I have nothing against you having your home back. But not before I have a place to go. Then you can come

back."

Ahmo is the most highly trained dental specialist in the area of Zenica, but the public dental clinic won't hire him. It seems they object to the fact that his wife is a Serb.

Ahmo came from a prominent old Zenica family. They were even "Bega" at one time, i.e. important people under the Ottomans.

But when they came back after the war, they were unable to get employment. They have been waiting for a year. Ahmo opened a small private clinic, but he gives away most of his services. Ahmo's wife teaches French and Latin. She's the only teacher in the area who can teach Latin, outside of the Catholic school. But the public school won't hire her.

This has been interpreted to me as discrimination against Serbs in the area. After Marina told me this, she told me that they had fired 40 doctors in Sarajevo, for being of the wrong ethnicity.

People are hungry, especially retired people. They don't get their pensions on time. Hanifa and Mahira are retired and are very lucky to be working at the refugee center. The pensions for March have not been paid, and are now to be paid in June. A woman named Sadika, who comes into the center, said a kifla has to last her two days. A kifla is a piece of bread the size of a hot-dog bun.

The women are up in arms about medical care. Now they don't have insurance. All their lives under Tito it was free, or at least it was covered by their taxes. They never had to worry about it. Rusa's mother had to have an injection, and if she hadn't had 12 DM, she would have just died; 12 or 15 DM is a lot for people in a country where the average wage is under 300 DM, and that's if you're working. In the Tuzla canton, 32,000 out of a population of 624,000 are working.

Hanifa says that all their lives they paid into the health and pension systems, and now they're gone. She says if you go to the clinic now and don't have money, they just tell you to go home. I told her that sounded familiar.

Hanifa told me she looks at the death notices, which are posted on the walls and telephone poles, and that people are dying younger. There is a certain population that is hungrier than during the war, she said. Then at least you knew you were going to get an aid package, no matter who you were. You might not have had any vegetables, but you could count on those beans.

During the war, Hanifa said, there were people who sold all their good things, to get something to eat. A man she knew sold all his crystal pieces, one by one. She said there were reputable people going through the garbage cans then. And now. And she told me that then there are people who would starve before they would hold out their hand.

I had lunch with Magdalena and her husband Emin, from Kozarac.

After they got out of Trnopolje camp and escaped from Prijedor, they lived and worked in Germany for part of the war. They managed to save some money. In 1995 they came back to

Bosnia and bought an apartment in Sarajevo.

The war was still going on and a Serb woman wanted to sell her apartment cheap, so she could leave. They bought it for 25,000 DM, and it would now cost 100,000 DM. But they have almost no way to live. They receive a combined pension of 250 DM. Their savings were running out, and then Magdalena got a job taking care of a baby every day, for another 250 DM a month. So that's how they will live, for now.

It is difficult for Serbs and Croats to live here.

My friend Marina, a Croat from here whose apartment was ruined during the war, tells me she was called to court for confirmation of her right to receive her apartment back when it is rebuilt. The magistrate asked her, "Why did you stay in Sarajevo?" She told me, "I should have told her, 'because I've been here a thousand years!'"

I asked my friend from New Zealand, who has been here a long time, what he thought of the discrimination. He said, "Some Serbs moved out of Sarajevo five days before the beginning of the war, when we didn't know anything, and they didn't tell us. How are we supposed to feel about that?"

He continued, "My friend's apartment is in one of four identical buildings in Grbavica. In three of them there are mixed ethnicities, some Serbs, some Croats, some Muslims. However, in her building there are only Muslims. So there is no international money for repairing the roof on her building, because it's not a mixed building. My friend's family has to pay for it themselves.

"In one of the other buildings a Serb family moved back in, and maybe they are among the ones who lit the roof on fire as they were leaving at the end of the war. Do you know what my solution is? If I had a rocket launcher, I'd take it and blow that roof away."

This is but one of the many obstacles to return. What I'm seeing is that people want to go home, but there are obstacles at every level. The laws are in place to ensure freedom of movement and return, of course. But bureaucratic red tape can be deadly, as can be the ongoing physical attacks, arsons, and bombings against returnees in all directions.

I am afraid that without some kind of breakthrough, many people will just leave (as they are already) for a third country, and people will give up on going home.

Then there will be two or three more-or-less homogenized statelets that will make arrangements to do business with each other, but will meanwhile get used to being "ethnically pure."

It is already happening: young people have lived seven years already without the other ethnicity, and with strong propaganda against them. It is possible for a new society to be created on a separatist model. But it will be a sad society, without the enrichment of multi-cultural cooperation. Academic and cultural life are wilting in all three parts of Bosnia.

The Muslim-controlled part of Bosnia is the least closed, but that's not saying much. As an

example, I just read that there was a decree coming down to the local elementary schools, not to take time off or celebrate Christmas, not even New Year's! Bajram, the end of Ramadan, is coming up, and there will be two days off for that. Meanwhile, Croats and Serbs who have remained in the university and in the state-controlled media are suffering a lot of discrimination.

However, there is the atmosphere of Sarajevo. I don't believe that most ordinary people, especially real Sarajlije (Sarajevans) care for this homogenization.

I was talking to Ismet the other night, and he warned me about someone who had been seen in the yard, sneaking through the grass as if he were fighting a war. Apparently he's crazy but harmless. Ismet said, "The war's not over for him." I don't think it is over for any one. (October 22, 1998)