

**Stakeholder report by the Internal Monitoring Displacement Centre (IDMC)
of the Norwegian Refugee Council (NRC)**

**to the Universal Periodic Review (UPR) mechanism established by the
Human Rights Council in Resolution 5/1 of 18 June 2007**

for consideration at the 20th Session of the UPR Working Group (October 2014)

Internal Displacement in Bosnia and Herzegovina

14 March 2014

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Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC) is a world leader in the monitoring and analysis of the causes, effects and responses to internal displacement. Through its monitoring and analysis of people internally displaced by conflict, generalised violence, human rights violations, and natural or human-made disasters, IDMC raises awareness and advocates for respect of the rights of at-risk and uprooted peoples. IDMC is part of the Norwegian Refugee Council (NRC). All of the information contained in this submission can be found online at www.internal-displacement.org. www.internal-displacement.org

I. Background on internal displacement in Bosnia and Herzegovina

1. More than a million people were internally displaced during the 1992 to 1995 war in Bosnia and Herzegovina (BiH) following the collapse of the Socialist Federal Republic of Yugoslavia. People fled their homes as a result of inter-ethnic generalised violence, human rights violations and armed conflict between Serb, Croatian and Bosnian armed forces and militias.

2. There has been no further large-scale violence since the *General Framework Agreement for Peace in Bosnia and Herzegovina* was signed in 1995. Nevertheless, secessionist and divisive political rhetoric remains intense and the country is still ethnically divided. The peace is fragile and underlying causes of instability and displacement are still to be adequately addressed.

3. At the end of 2013, the government reported there were around 103,000 people registered as internally displaced persons (IDPs). As a result of lingering mistrust, IDPs have mostly remained in areas where they are part of the majority ethnic group. Over 580,000 IDPs had returned to their areas of origin since 1995; however, in 2013 only 151 IDP returns were recorded by UNHCR – around half the number of returns in 2012.

5. As the last UPR examination of BiH took place in 2010, the reporting period under consideration in this submission is 2010 to 2014.

II. Achievements in upholding the rights of the internally displaced

6. The government of BiH has taken responsibility in upholding the rights of IDPs in BiH. It has passed numerous laws and policies, most notably the 1999 Law on Refugees from BiH and Displaced Persons in BiH and the 2000 Property Law Implementation Plan and the Strategy of BiH for the implementation of Annex VII of the General Framework Agreement for Peace. These policies provided IDPs with important access to their rights, with particular focus on the rights to return, housing and property, and led to restitution of over 99 per cent of property to pre-war owners. This is unprecedented in the history of protection of refugees and IDPs.

7. Since 2010 the government has remained committed to addressing internal displacement. In June 2010 it adopted a Revised Strategy for the Implementation of Annex VII of the General Framework Agreement for Peace. It also revised the Law on Refugees from BiH and Displaced Persons in BiH. This revised law was read in the House of Peoples in 2013, but was not adopted due to political divisions. In an important departure from an exclusive focus on the return of IDPs to their pre-war homes, these policies ensure support for integration of IDPs in their area of displacement as well as implementation of a compensation scheme for lost property.

8. New housing projects for IDPs were approved in 2013 thanks to international funding. Some IDPs were already moved to the new housing in 2013¹. Also in 2013, a Joint Declaration on Resolving Protracted Displacement in Bosnia and Herzegovina, which addresses the issue of refugees and IDPs in BiH, was signed by BiH authorities and representatives of the EU, UN and UNHCR. They expressed mutual commitment to solve the problem of protracted displacement in BiH by ensuring the sustainable settlement of IDPs.

9. The government stated during its 2010 UPR review that the country was determined to completely resolve displacement by 2014 through the implementation of several initiatives and the support of partners². In 2014, internal displacement had still not been resolved despite continuing government and international attention and resources.

¹ UNHCR, 18 September 2013, "New Social Housing Buildings Opened at Splaviste," accessed at: <http://unhcr.ba/wp-content/uploads/2013/09/Splaviste.pdf>

² UN, 17 March 2010, Report of Working Group on the Universal Periodic Review: Bosnia and Herzegovina, A/HRC/14/16, para 64.

III. Issues of concern

Non-discrimination

10. Hate crimes continue to manifest particularly in areas where IDPs have returned and are members of a post-war minority. The Organization for Security and Cooperation in Europe (OSCE) reported in 2012 that such incidents still occurred regularly in Srebrenica, Banja Luka and Mostar regions. Returned minority IDPs have been targeted and murdered for unknown reasons³. Politicians also continue to use nationalist rhetoric, often directed against minority returnees. Many returned IDPs have therefore fled again, while others remained in areas where they were part of the majority ethnic group because they feared discrimination and reprisals upon return.

11. A draft Law on Amendments to the Criminal Law of FBiH was adopted by the House of Representatives (lower chamber) in July 2013, but is yet to be approved by the House of Peoples (upper chamber), a precondition for it to enter force⁴. It expanded the definition of perpetrators of hate crimes as proposed by civil society to include “persons who, publicly incite or make publicly available pamphlets, photos, texts and other materials which advocates, urges or incites hatred, towards any person or group of persons because of their race, religion, national or ethnic origin, color, sex, sexual orientation, gender identity, disability, health status or other personal property”.

12. Roma are the largest national minority in BiH and the most socially, economically and politically marginalised group⁵. Roma IDPs are doubly vulnerable as a result of being both an ethnic minority and displaced. They face a series of difficulties exercising their rights, especially property rights, access to social welfare, education and employment. This is because they often lack documentation such as birth certificates and identity documents, either because they do not have a stable address, they never had these documents or because they were lost when they fled their home⁶. Many remain without documents despite the launch of a civil registration process for Roma.

13. While BiH has adopted Action Plans on Roma Housing, Employment, Health Care and Education and acceded to the 2005-2015 Decade of Roma Inclusion, these initiatives have not solved the problems of Roma IDPs who still have yet to fully benefit and solve their displacement-related issues. Displaced Roma have been unable to claim pre-war property or have been denied or given insufficient remedy for destroyed property. This is because of the lack of necessary documents and evidence of their pre-war property, because they had no title of ownership of land and housing, nor was their property entered in the land books. They face difficulty renting private accommodation either due to relative poverty or racial discrimination⁷.

³ OSCE, November 2012, “Tackling Hate Crimes,” available at http://www.oscebih.org/documents/osce_bih_doc_2012111310235235eng.pdf, accessed 11 March 2014; ECRI, 8 February 2011, “ECRI Report on Bosnia and Herzegovina,” available at http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/bosnia_herzegovina/BIH-CBC-IV-2011-002-ENG.pdf, accessed 11 March 2014.

⁴ Amnesty International, 3 February 2014, “Failure to Protect LGBTI Festival ‘Merlinka’ in Sarajevo,” available at: <http://www.amnesty.org/en/library/asset/EUR63/001/2014/en/7657aea2-7147-4a22-bf1e-d179c80a9aca/eur630012014en.html>, accessed 11 March 2014

⁵ Human Rights Watch, January 2014, “World Report: Bosnia and Herzegovina,” available at: <http://www.hrw.org/world-report/2014/country-chapters/121534>, accessed 12 March 2014

⁶ Human Rights Watch, 4 April 2012, “Second Class Citizens: Discrimination Against Roma, Jews and Other National Minorities in Bosnia and Herzegovina,” available at: http://www.hrw.org/sites/default/files/reports/bosnia0412ForUpload_0_0.pdf, accessed 12 March 2014

⁷ Council of Europe, 8 February 2011, “ECRI Report on Bosnia and Herzegovina,” available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/bosnia_herzegovina/BIH-CBC-IV-2011-002-ENG.pdf, accessed 10 March 2014

14. During the 2010 UPR examination, the BiH government acknowledged that it should implement the December 2009 European Court of Human Rights (ECtHR) ruling in *Sejdic and Finci v. BiH*. The ECtHR found that the constitution and electoral system discriminated against the Roma and Jewish applicants since they do not belong to any of the three named constituent peoples – Bosniaks, Croats, and Serbs⁸. The government also reported during the 2010 review that a plan of action for changes to the Constitution and Election Law were under preparation, but at the end of 2013 changes had still not been made⁹. Exclusion of Roma from national politics and local government lessens their influence on politics and obstructs their plight from being addressed.

Right to social security

15. During the 2010 UPR examination, the BiH government accepted recommendations 118-122 on ensuring the sustainability of return of IDPs to their homes. However, a large number of returned IDPs still have difficulties in accessing their full pensions or other forms of social protection and welfare. This is an obstacle to their sustainable return. As a result of the conflict, social benefits such as health care and pensions are administered not at the national level, but at the entity level and are split between the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS). Entitlements can be lower in the area of return if returnees move from RS to FBiH.

16. In 2014, the government still had not fully implemented the 2007 ECtHR decision *Karanovic v. BiH*¹⁰. It upheld a 2003 binding decision of the BiH Human Rights Chamber that FBiH should remedy differential treatment of returned IDPs from RS to FBiH and from within FBiH. Following this, FBiH amended its Law on Pension and Disability Insurance. Article 4 now provides that returnees from RS to FBiH, who were beneficiaries of the Sarajevo fund and who received pensions in what is now FBiH territory until 30 April 1992, are eligible for pensions from FBiH. However, there is still no single pension and disability fund for the entire country.

Right to adequate standard of living

17. Inadequate housing remains an ongoing issue for IDPs more than twenty years after the conflict. In FBiH, most IDPs live in the municipalities of Sarajevo and Tuzla and the city of Mostar, while in RS most of them live in Banja Luka and municipalities of Doboj, Zvornik, Prijedor and Bijeljina. Around 92 per cent of IDPs live in private accommodation¹¹. Comprehensive information on their living conditions is unavailable. However, many live without indoor plumbing or electricity in substandard private accommodations. Living conditions are particularly dire for Roma IDPs who mainly live in informal settlements with insecure tenure.

18. Some 8,500 displaced persons continue to live in dilapidated collective centres¹². About half of all families in collective centres are female-headed and one-fifth are chronically ill, physically or mentally disabled. Unlike FBiH, in which there are still facilities specifically assigned and officially recognised as collective centres, and other forms of collective accommodation, in RS, collective centres for displaced persons are various facilities converted and adapted for this purpose, and

⁸ See http://www.coe.org.rs/eng/news_sr_eng/?conid=1545

⁹ Amnesty International, 2014, "Annual Report: Bosnia and Herzegovina," available at: <http://www.amnesty.org/en/region/bosnia-herzegovina/report-2013>, accessed 12 March 2014

¹⁰ See *Karanovic v. BiH*, 2007, available at: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83372#{"itemid":\["001-83372"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83372#{), accessed 12 March 2014

¹¹ UNHCR reports there are around 8,500 IDPs living in collective centres (see note 13), which totals approximately 8 per cent of 103,000 IDPs. All other IDPs, 92 per cent, live in private accommodation.

¹² UN, "UN House Inaugurated", 5 July 2013. Available at: http://www.ba.undp.org/content/bosnia_and_herzegovina/en/home/presscenter/pressreleases/2013/07/05/un-house-inaugurated.html

they are usually former schools, community centres, barracks, medical centres, with poor living conditions.

19. The government reported during its 2010 UPR review that in 2009 it invested 70 million euros for the sustainable return of displaced persons¹³. Despite this and other significant investments, numerous obstacles continue to discourage IDPs from returning. These include uncleared landmines, lack of jobs, limited infrastructure, electricity and water, lack of harmonised legislation on social benefits, difficult access to health care and damaged housing. Nearly 45,000 housing units still need to be repaired¹⁴ and property issues of IDPs who lived in socially-owned housing units and apartments have yet to receive a remedy for their loss. These obstacles not only discourage IDPs who wish to return from doing so, but also jeopardise the sustainability of their return.

Right to property

20. The majority of property repossession cases have been resolved with 197,688 out of 211,791 claims positively decided¹⁵. However, there remain 110 unresolved cases and approximately 300 cases still pending before the Court of BiH in which the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) is a respondent party in administrative dispute procedures. However, the CRPC's mandate expired in 2009 and it has taken no further action.

21. Basic conditions for return were created throughout the country following housing, land and property restitution and reconstruction. Around 580,000 of 1 million IDPs have returned since 1995. There have been no comprehensive surveys of the sustainability of return, though some returnees left again due to difficult living conditions. Therefore it is believed the actual return figures are far lower than restituted property¹⁶.

22. Temporary occupation of IDPs' homes has been a common occurrence in BiH. In one case from 2011, a Bosnian Muslim IDP from Bijeljina in the Serb-dominated entity of RS was evicted after he returned to his home. His home was temporarily occupied during his displacement and the courts awarded extraordinarily high compensation to the temporary occupant for works carried out during the occupancy. As a result of his inability to pay compensation, the returned IDP's home was auctioned off to partially satisfy the compensation claim¹⁷. The right of the

¹³ UN, 17 March 2010, Report of Working Group on the Universal Periodic Review: Bosnia and Herzegovina, A/HRC/14/16

¹⁴ Government of BiH, 2 November 2012, "Implementation of the International Covenant on Economic, Social and Cultural Rights: Second periodic report submitted by State parties under articles 16 and 17 of the Covenant," available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW2zmG02fXGlZuQ2v%2bcpaAl2mfCvJxZu6bEBHNpsBh%2b6QUh%2b4ZmBl2sb2b8iZN7CiOrJS2ji03nuz6pK3ZSg3oEhXGWdP2KZmJSDxkvDDIG4s>, accessed 10 March 2014

¹⁵ Ministry of Human Rights and Refugees, "Need of Social Housing in Bosnia-Herzegovina", no date. Available at:

<http://www.mhrr.gov.ba/PDF/Izbjeglice/2.%20Needs%20of%20%20Social%20Housing%20in%20Bosnia%20and%20Herzegovina.pdf>

¹⁶ Ministry of Human Rights and Refugees, 24 June 2010, "Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement," available at:

<http://www.mhrr.gov.ba/PDF/Izbjeglice/Revidirano%20strategija%20Engleski.pdf>, accessed 10 March 2014

¹⁷ Office of the High Representative of Bosnia and Herzegovina, 24 April 2012, "Op-Ed by High Representative Valentin Inzko: The Right to Return," available at: http://www.ohr.int/ohr-dept/presso/prespa/default.asp?content_id=47089, accessed 11 March 2014;

Halisa Skopljak, "Unfinished business: Why return issues remain relevant in the process of European integration", TerraNullius Weblog (posted on 3 April 2012), available at

<http://terra0nullius.wordpress.com/resources/2012-resources/2012-04-unfinished-business-why-return-issues-remain-relevant-in-the-process-of-european-integration/>, accessed on 28 February 2014.

temporary occupant to receive compensation for necessary expenses should not undermine or prevail over the rights of displaced persons to exercise their right to return.

23. Another significant return-related problem in BiH is the failure of FBiH to implement the ECtHR decision requiring remedies for wartime confiscation of semi-privatised military apartments. Victims have been overwhelmingly Serbs. In the 2010 ECtHR case of *Dokic v. BiH*, a military school lecturer was awarded compensation since he had begun the process of privatising his socially owned flat prior to the conflict but was subsequently denied a remedy for loss of rights due to the restitution laws of FBiH that created special rules for military apartments from the pre-war housing fund¹⁸. Other IDPs who lived in socially-owned apartments before the war have yet to receive a remedy for their loss.

Rights of internally displaced women

24. During the 2010 UPR for BiH, the government did not accept the recommendation on human trafficking. It reported that it was implementing a national action plan to combat the phenomenon and was committed to revise and harmonise laws in line with the international definition of trafficking¹⁹. However, in 2013 victims of trafficking in BiH were increasingly internally displaced women from female-headed households as well as Roma women and girls²⁰. BiH's anti-trafficking legislation and practice were also in 2013 still not in full conformity with the Council of Europe Convention on Action against Trafficking in Human Beings²¹.

25. The government accepted the recommendation during its 2010 UPR review to support female victims of war and wartime rape²². In 2012 the government reported that the court of BiH had rendered a total of 84 final judgments in war crimes cases, including 31 cases of sexual violence. However, the Parliamentary Assembly of the Council of Europe estimated in 2009 that 20,000 women were subjected to rape and other forms of sexual violence during the war. The vast majority of female victims of sexual and gender based violence during war are therefore still waiting for justice. An unknown number remain displaced out of fear of potentially confronting perpetrators of the crimes against them upon return.

Right to education

26. Commonly known as “two schools under one roof,” around 50 schools in FBiH cater to children of different ethnicity, mostly Croats and Bosniaks. They attend the same school, but learn in separate classrooms. Some schools have separate entrances and classtimes, which prevents children of different ethnicities from meeting each other. Originally conceived to facilitate the return of minority IDPs and refugees to their areas of origin and protect their language, culture and identity, this temporary solution has over time led to segregation of pupils based on ethnicity. This challenges their reintegration and that of their parents.

27. During the 2010 UPR examination of BiH, the government accepted the recommendation to eradicate any form of discrimination in the education of children, which has been partially

¹⁸ *Dokic v. Bosnia and Herzegovina*, 2010, available at:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98692#{"itemid":\["001-98692"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98692#{), accessed 10 March 2014

¹⁹ UN, 17 March 2010, Report of Working Group on the Universal Periodic Review: Bosnia and Herzegovina, A/HRC/14/16

²⁰ UN Committee on the Elimination of Discrimination Against Women, 30 July 2013, “Concluding Observations on the combined fourth and fifth reports of Bosnia and Herzegovina”

²¹ Council of Europe, “Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina”, 14 May 2013. Available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2013_7_FGR_BIH_with_cmnts_en.pdf

²² UN, 17 March 2010, Report of Working Group on the Universal Periodic Review: Bosnia and Herzegovina, A/HRC/14/16

implemented. In February 2010, the parliament of the FBiH adopted a resolution establishing multiethnic school departments in 57 schools in south and central BiH. In August 2012, the ministers of education of the FBiH presented a two-year plan to end the 'two schools under one roof' policy in FBiH. Prior to that in April 2012, the Mostar municipal court ruled that ethnic segregation in the schools of Stolac and Čapljina was discriminatory and ordered officials to end the practice by September 2012. The Cantonal Court overruled the Mostar municipal court decision in 2013.

28. Administratively and physically unified schools that employ two types of school curricula, between which pupils have to choose, already function in Mostar and Zepce. Successful discontinuation of segregated schools in Brcko District and other cantons is also a positive step. However, such schools remain a critical issue in Herzegovina-Neretva and Central Bosnia cantons.

IV. Recommendations to the government of Bosnia and Herzegovina

Non-discrimination

1. Adopt the draft Law on amendments to the Criminal Law of FBiH, which expands the definition of a hate crime as proposed by civil society and fast track the prosecution of hate crimes, particularly those targeting ethnic minority returned IDPs;
2. Give Roma IDPs priority selection status in implementation of programmes for Roma, IDPs and vulnerable groups;

Right to social security

3. Ensure returned IDPs can access their rights relating to social protection, health care, education, housing, employment and physical security without discrimination;

Right to adequate standard of living

4. Conduct a study of the situation of returned IDPs to determine the degree to which return has been sustainable and any outstanding barriers to sustainability;

Right to property

5. Develop a short-term mandate for the Commission for Real Property Claims of Displaced Persons and Refugees to facilitate the resolution of outstanding cases currently pending before the court as well as to develop a database on outstanding property claims;
6. Consider offering extra-judicial settlements to temporary users of occupied properties for investments they made to those properties;
7. Devise a remedy for residents who lost access to and enjoyment of their socially-owned apartments as a result of the conflict;

Rights of internally displaced women

8. Strengthen mechanisms to identify and refer victims of trafficking, with a special focus on internally displaced women;
9. Fast track the prosecution of perpetrators of sexual violence;

Right to education

10. Resolve all remaining cases of “two schools under one roof” by ensuring all of these schools are unified administratively and physically and that pupils are taught together wherever possible.