

**Submission from the Internal Displacement Monitoring Centre (IDMC)
of the Norwegian Refugee Council (NRC) for consideration at the
86th Session of the UN Committee on Elimination of All Forms of Racial
Discrimination**

(27 April – 15 May 2015)

BOSNIA AND HERZEGOVINA

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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). Information contained in this submission was gathered from interviews conducted during IDMC's mission to BiH in July 2014 as well as IDMC's "Figure Analysis" and country overview report, "Bosnia and Herzegovina: Ethno-political agendas still prolonging displacement", which can be found online at 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 violence, human rights violations and armed conflict between Serb, Croatian and Bosnian armed forces and militias.
2. Bosniaks, Bosnian Croats and others, including ethnic minorities (e.g. Roma, Jews) fled from Serb-dominated areas while Bosnian Serbs mainly fled to Serb-dominated areas. Over 580,000 IDPs have 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 2012¹.
3. There has been no further large-scale violence since the *General Framework Agreement for Peace in Bosnia and Herzegovina* (Dayton Peace Agreement) 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 addressed².
4. At the end of 2014, the government reported there were approximately 103,400 people registered as internally displaced persons (IDPs)³. The 2014 floods and landslides that struck BiH displaced another 90,000 people. Some had previously been displaced by conflict and had returned or settled in areas at risk of natural hazards.

II. Law and policy on internal displacement

5. The national response to conflict displacement is based on the 2010 Revised Strategy of Bosnia and Herzegovina for the implementation of Annex VII of the Dayton Peace Agreement (DPA)⁴. Its adoption represented an important shift in the government's approach to internal displacement since it contained provisions for the integration of IDPs in their areas of displacement and elsewhere – in addition to return.
6. Currently, the main form of assistance through this strategy remains housing reconstruction and provision of alternative accommodation, though there has also been livelihoods assistance and reconstruction of water and sewage systems, electricity networks and roads. A consultative group for the

¹ IDMC, [Bosnia and Herzegovina Figure Analysis](#), December 2014

² UN Security Council, [S/2014/777](#), p. 10, 31 October 2014; UN, [SC/1081](#), 13 November 2012

³ IDMC, [Bosnia and Herzegovina Figure Analysis](#), December 2014

⁴ Government of BiH, *Revised Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement*, 24 June 2010.

implementation of this revised strategy was formed in 2014, but has not yet started functioning⁵.

7. Originally adopted in 1999, a revised law on displaced people and returnees has been sent to the Council of Ministers – the executive branch of the BiH government - for adoption in 2014. According to the draft law, BiH's state institutions, entities, the Brčko district, cantons, cities and municipalities will all give two per cent of their budgets to fund projects until Annex 7 of the DPA is fully implemented⁶. Corresponding laws in the Federation of BiH (FBiH) and Republika Srpska (RS) adopted in 2005 currently govern assistance to people with displaced person and returnee status.

III. Issues of concern

Non-discrimination of internally displaced Roma

8. The situation of internally displaced Roma is not included in the Concluding Observations of the UN Committee on the Elimination of All Forms of Racial Discrimination issued on 23 September 2010. In its Ninth to Eleventh Periodic Reports of States Parties submitted to the UN Committee on the Elimination of All Forms of Racial Discrimination on 18 November 2013, the state of BiH does not report on the situation of internally displaced Roma. Nonetheless, the situation of Roma in BiH has been thoroughly assessed by the UN Independent Expert in its 2012 Report to the HRC.⁷
9. Roma IDPs are doubly vulnerable on account of their displacement and their circumstance as the largest and most discriminated against minority in BiH⁸. 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 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 home⁹. At times, even when birth certificates are issued, they lack the personal identification number (JMBG), which has long standing repercussions in terms of recognition of citizenship and access to social benefits.
10. Displaced Roma have been unable to claim pre-war property or have been denied or given insufficient remedy for destroyed property. Roma IDPs who were disproportionately housed in informal settlements were largely excluded from the property restitution process¹⁰. This is because most never had a formal property title or tenancy agreement, which leaves them at a

⁵ IDMC interview, July 2014

⁶ Balkan Insight, [Bosnian Parliament Backs New Rights for IDPs](#), 26 February 2013.

⁷ [UN Independent expert on minority issues](#), 31 December 2012, p.2

⁸ Ibid

⁹ Human Rights Watch, [Second Class Citizens: Discrimination Against Roma, Jews and Other National Minorities in Bosnia and Herzegovina](#), 4 April 2012

¹⁰ [CoE](#), 8 January 2010, p.7, 16; [CoE ECRJ](#), 7 December 2010, p. 33

disadvantage compared to most other IDPs. They face difficulty renting private accommodation either due to relative poverty or racial discrimination¹¹.

11. Many Roma remain without documents despite the launch of a civil registration process for Roma. 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. The government does not collect data on Roma IDPs and these Roma report that they are still marginalised from broader society¹².

Non-discrimination of minority returnees

12. In paragraph 13 of the Concluding Observations of the UN Committee on the Elimination of All Forms of Racial Discrimination issued on 23 September 2010, the Committee wrote:

The Committee reiterates its recommendation to the State party to continue fostering intercultural dialogue, tolerance and understanding, paying due attention to the culture and history of different ethnic groups within Bosnia and Herzegovina.

13. In paragraphs 185-187 of the Ninth to Eleventh Periodic Reports of States Parties submitted to the UN Committee on the Elimination of All Forms of Racial Discrimination on 18 November 2013, the state of BiH reported that ethnically motivated crimes against returnees had decreased:

A noticeable decline in ethnically motivated crimes against returnees can be seen in the number and type of crimes and petty offences committed against returnees...The police take measures to prevent incidents and perform regular patrols in returnee areas... Please note that the sustainable return of refugees and displaced persons from the aspect of security is given a special priority.

14. Physical attacks against IDPs who have returned to areas where they are members of a post-war minority have diminished in recent years, but continue to occur, along with attacks against religious sites, other hate-motivated attacks and ethnically divisive political discourse, often directed against minority returnees¹³.
15. Crimes against minority returnees are not always as vigorously investigated and prosecuted as crimes against those who are in the majority. 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 return¹⁴.

¹¹ Council of Europe, ECRI Report on Bosnia and Herzegovina, 8 February 2011

¹² [UN Independent expert on minority issues](#), 31 December 2012

¹³ [CoE FCNM](#), 7 April 2014, para 99; [CoE ECRI](#), 7 December 2010, p.8

¹⁴ IDMC, [Bosnia and Herzegovina: Ethno-political agendas still prolonging displacement](#), 19 November 2014

Right to own property

16. The issue of property repossession by IDPs is not included in the Concluding Observations of the UN Committee on the Elimination of All Forms of Racial Discrimination issued on 23 September 2010. In its Ninth to Eleventh Periodic Reports of States Parties submitted to the UN Committee on the Elimination of All Forms of Racial Discrimination on 18 November 2013, the state of BiH reports in paragraph 73 and 80 that:

...220,000 properties have been reposessed by their pre-war owners and tenancy rights holders, which makes the implementation rate of property law 99 per cent... Following an in-depth situation analysis within the scope of 10 working groups, problems have been identified and recommendations to remove the primary obstacles to a closure of the protracted displacement have been set out, with measures to improve the situation of refugees and internally displaced persons (IDPs) provided, with full respect of their individual rights freely to return to their homes of origin and to be compensated for any property that cannot be restored to them¹⁵.

17. Around 40 returnees are still embroiled in legal challenges against rulings requiring them to reimburse occupants of their property for expenses and investments incurred¹⁶. The law provides for compensation to temporary occupants for necessary expenses they made to preserve property and courts have often ruled that other non-essential payments were necessary.

18. Often compensation granted to temporary occupants is higher than the property value. This is despite the fact that occupants have not been paying rent while living there for over a decade. If returnees cannot pay they forfeit the right to return. Some returnees have taken loans to pay the compensation. Others have been unable to pay and thus had their homes forcibly auctioned¹⁷.

19. The Ombudsman of BiH has received complaints on this issue from returnees and concluded that due to lack of legal clarity returnees are unable to fully enjoy the right to return and the legislation that prescribes compensation for expenses for property preservation should be amended¹⁸.

Right to education and training

20. In paragraph 11 of the Concluding Observations of the UN Committee on the Elimination of All Forms of Racial Discrimination issued on 23 September 2010, the Committee wrote:

¹⁵ [CERD](#), 18 November 2013

¹⁶ IDMC interview, July 2014

¹⁷ Ibid

¹⁸ [Ombudsman BiH](#), March 2012, p. 2

The Committee reiterates its recommendation to the State party to end the segregated system of mono-ethnic schools and to ensure that the same basic curriculum be taught to all children, promoting tolerance among the different ethnic groups in the country and appreciating their specificities¹⁹.

21. In paragraphs 206-207 of the Ninth to Eleventh Periodic Reports of States Parties submitted to the UN Committee on the Elimination of All Forms of Racial Discrimination on 18 November 2013, the state of BiH acknowledged that segregated education continues:

...We can conclude that the phenomenon of “two schools under one roof” is still present in BiH and that it is perceived differently in the legal system of Bosnia and Herzegovina, which is evident from the above mentioned judgment of competent courts in Mostar and Travnik... Bosnia and Herzegovina will continue making efforts to find solutions to overcome this phenomenon that will be consistent with the constitutionally guaranteed right to language and script (note: in Bosnia and Herzegovina there are the three officially recognized languages: Bosnian, Croatian and Serbian, and two alphabets: Latin and Cyrillic)²⁰.

22. The education system in some areas where IDPs have returned remains ethnically segregated, cementing divisions and preventing reconciliation. Some children of returnees who have returned to an area, in which they are now a numerical minority, have found only mono-ethnic schools that cater to the needs of the majority. Some minority returnees in such schools have been marginalised²¹. In response some parents prefer to send their children to a school outside the catchment area that caters to their ethnicity²². The result is that ethnically homogeneous schools are proliferating even in ethnically-mixed areas²³.

23. In other areas, the “two schools under one roof” system – established in the late 1990s as an interim measure to promote return to places of origin – remains in place. In such schools minority returnee children are taught in their language based on their ethnicity. They are taught separately from children of other ethnicities using different textbooks, under separate school management and with their own teachers. There are up to 50 such schools operating in FBiH²⁴. The result is that returnee children are educated separately from other ethnic groups, which prevents their integration in the area of return.

24. Administratively and physically unified schools that employ two types of school curricula, between which pupils have to choose, already function in Mostar, Zepce and in Brčko District with Bosniak, Bosnian Croat and Bosnian Serb

¹⁹ [CERD](#), 23 September 2010

²⁰ [CERD](#), 18 November 2013

²¹ [UNICEF](#), 2009, p.13; IDMC interview, July 2014; OSCE, May 2010

²² [UN SR on right to education](#), 27 May 2008, para 68; [IIEP](#), 2010

²³ [CoE FCNM](#), 7 April 2014, para 120; [EC](#), 2013, p.17; [UN Independent Expert on minority issues](#), 31 December 2013, p.17

²⁴ [Barbieri](#), November 2013; [RFE/RL](#), April 2012; [SETimes](#), 11 March 2012; [IIEP](#), 2010; Perry, 2009

students studying together with the same curriculum, with respect for their own language and cultural specificities²⁵. A set of Recommendations for the Elimination of Segregating and Parallel Structures in Educational Institutions in the FBiH was adopted in 2012 but has not been implemented²⁶.

Right to adequate housing

25. Housing issues of IDPs and returnees are not mentioned in the Concluding Observations of the UN Committee on the Elimination of All Forms of Racial Discrimination issued on 23 September 2010. In paragraphs 77, 84 and 93-95 of the Ninth to Eleventh Periodic Reports of States Parties submitted to the UN Committee on the Elimination of All Forms of Racial Discrimination on 18 November 2013, the state of BiH outlined the housing needs of IDPs and related planned initiatives:

... Many persons are unable to return because their pre-war property is destroyed and is on the list of 45,000 housing units of returnees awaiting reconstruction, or because landmines have not been cleared from their pre-war villages. There are many persons who never owned property before the war and have not had the opportunity to benefit from any project to lead towards a durable solution for them.

The Concept Note for Addressing the Issue of Damage Compensation for Property Which Cannot be Restored to Refugees and Displaced Persons in Terms of the Rights Ensured in Annex VII of the Dayton Peace Agreement, has been adopted as an additional Appendix.

the Ministry for Human Rights and Refugees has designed specific projects and undertakes further procedural steps with several international financial institutions for granting loans... Finding durable solutions for 2,700 families, altogether 8,500 IDPs in collective centres is one of the top priorities for Bosnia and Herzegovina. To this end, a respective project to support the vulnerable IDPs will soon be submitted to the Council of Europe Development Bank (CEB) for a loan that should amount to approximately €80 million trusting to be approved for financing... Further, the OPEC Fund for International Development (OFID) provided a loan for reconstruction of 700 housing units (approx. €6 million) and the Saudi Fund for Development (SFD) provided a loan for reconstruction of 1,000 housing units aiming at the sustainable return of refugees and IDPs in BiH (approx. €11 million)²⁷.

26. Over 317,000 housing units have been reconstructed (in FBiH 232,367, in RS 72,388 and in Brčko District 12,365)²⁸. Despite these efforts, there is still a significant need for reconstruction assistance²⁹. Only some returnees received reconstruction aid and it was often insufficient for full reconstruction. As a result, many returnees live in partially reconstructed homes that they cannot

²⁵ [UN SR on right to education](#), 27 May 2008, para 99; Perry, 2009 p.217

²⁶ IDMC interviews, July 2014

²⁷ [CERD](#), 23 September 2010; [CERD](#), 18 November 2013

²⁸ GoRS, 30 June 2014

²⁹ [UN Independent expert on minority issues](#), 31 December 2012, para 67

afford to finish while others have moved again, leaving their partially reconstructed homes uninhabited³⁰.

27. In 2014, the Council of Europe Development Bank provided a loan for \$74 million for social housing for collective centre residents. IDPs residing in collective centers in general remain to be a vulnerable group due to their residence in dilapidated housing and lack of income or family support. Implementation is awaiting a memorandum of understanding between UNHCR and the Ministry of Human Rights and Refugees and a grant agreement.

Right to public health, medical care, social security and social services

28. In paragraph 8 of the Concluding Observations of the UN Committee on the Elimination of All Forms of Racial Discrimination issued on 23 September 2010, the Committee wrote:

The Committee encourages the State party to continue implementing measures to accelerate the sustainable return of refugees and internally displaced persons to their places of origin, inter alia by improving their reception conditions. The Committee recommends that further activities be devised to improve the socioeconomic integration of those who have returned, and by ensuring equal enjoyment of their social, economic and cultural rights, especially in the field of social protection and pension, health care, equal employment and equal education. Returnees should receive appropriate assistance or compensation, as the case may be, in order to prevent a further worsening of their human rights situation³¹.

29. In paragraph 65 of the Ninth to Eleventh Periodic Reports of States Parties submitted to the UN Committee on the Elimination of All Forms of Racial Discrimination on 18 November 2013, the state of BiH acknowledged that issues of medical care and social welfare are obstacles to sustainable return and reintegration of IDPs:

Creating conditions for sustainable return and reintegration of returnees is one of the strategic goals proclaimed by the "Strategy of Bosnia and Herzegovina for the Implementation of Annex 7 to the General Framework Peace Agreement". Unfortunately, results in this area are very limited. Undefined policies and regulations in the areas of health care, education, social welfare, employment and other issues of sustainability of return at the State level are a major obstacle to the return and reintegration in BiH. This is an area in BiH which is largely the responsibility of the relevant Entity institutions³².

30. Medical care entitlements and social and pension benefits are generally more advantageous in FBiH than in RS or Brčko District. This has been a factor in some IDPs deciding not to return to RS or Brčko District while others who have not returned have kept their registered FBiH address in order to continue

³⁰ IDMC interviews, July 2014; [UZOPI](#), 2009, p.13

³¹ [CERD](#), 23 September 2010

³² [CERD](#), 18 November 2013

accessing health care and benefits there³³. The exception is Sarajevo Canton which adopted legislation in April 2013 enabling IDPs to return to their pre-war homes while retaining the medical care and social benefits they received during their residence in the canton³⁴.

31. Ombudsmen reports from 2010, 2011, 2012 and 2013 show that the lack of harmonisation of rights to medical care and social and pension benefits between FBiH, RS and Brčko District is one reason why many IDPs have not returned or returnees have left again, especially from rural areas³⁵. In addition, some medical centres employ staff only from the majority ethnic group and display ethnically divisive symbols³⁶. Many returnees in a minority situation lack confidence to go to these institutions³⁷.

IV. Recommendations to the government of Bosnia and Herzegovina

32. At the 86th session of the Committee on Elimination of All Forms of Racial Discrimination, IDMC invites the Committee to consider the following recommendations to the Government of Bosnia and Herzegovina:

Non discrimination

- 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 or refugees;
- Give Roma IDPs priority selection status in implementation of programmes for Roma, IDPs and other vulnerable groups;
- Collect data and information on the situation of internally displaced Roma in order to address their outstanding displacement-related needs;

Right to own property³⁸

- Consider offering extra-judicial settlements to temporary users of occupied properties for investments they made to those properties
- Ensure that judgements made in cases involving temporary users of occupied properties do not infringe on the rights of legitimate owners as in line with the *Principles on Housing and Property Restitution*, Principle 17 on secondary occupants;

³³ [CoE ECRI](#), 7 December 2010, p.30; [UZOPJ](#), 2009, p.13

³⁴ Balkans Insight, "[Sarajevo Canton Adopts Law to Help Returnees](#)", 14 May 2013

³⁵ [Human Rights Ombudsman of Bosnia and Herzegovina](#), March 2014

³⁶ ([CoE ECRI](#), 7 December 2010, p.8)

³⁷ IDMC, [Bosnia and Herzegovina: Ethno-political agendas still prolonging displacement](#), 19 November 2014

³⁸ International Convention on the Elimination of All Forms of Racial Discrimination, Article 5, section "d", paragraph "v"

- Adopt the revised law on displaced people and returnees which allows for property compensation for the dispossessed who do not wish to return as provided for in the annex to the 2010 Revised Strategy of BiH for the Implementation of Annex VII of the Dayton Peace Agreement;

Right to education and training³⁹

- 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;

Right to housing⁴⁰

- Continue to implement the Revised Strategy of BiH for the Implementation of Annex VII of the Dayton Peace Agreement, to ensure that those who cannot or choose not to return to their pre-war homes are given suitable housing alternatives;
- 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 public health, medical care, social security and social services⁴¹

- Ensure all returned IDPs across Bosnia and Herzegovina can access their rights relating to medical care and social welfare without discrimination as done by the Sarajevo Canton.

³⁹ International Convention on the Elimination of All Forms of Racial Discrimination, Article 5, section “e”, paragraph “v”

⁴⁰ International Convention on the Elimination of All Forms of Racial Discrimination, Article 5, section “e”, paragraph “iii”

⁴¹ International Convention on the Elimination of All Forms of Racial Discrimination, Article 5, section “e” paragraph “iv”