

SUBMISSION TO THE COMMITTEE ON THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS

WRITTEN INPUT FOR THE 70TH SESSION OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

BORDER VIOLENCE MONITORING NETWORK



**BOSNIA AND
HERZEGOVINA**



I. Reporting Organisation

1. Border Violence Monitoring Network (BVMN) is a coalition of organisations working to document illegal pushbacks, collective expulsions and police violence along the EU's external borders in the Western Balkans since the formal closure of the route in 2017. The collection of data on illegal pushbacks and police violence is done by a consortium of independent field volunteers who are part of or cooperate with humanitarian support groups united through the Border Violence Monitoring Network.

II. Executive Summary

2. Despite the ratification of the International Convention on Economic, Social and Cultural Rights (the Covenant) we assert that Bosnia and Herzegovina has failed to meet its obligations under the Covenant.
3. BVMN is concerned about Bosnia and Herzegovina's practice of pushbacks. At the time of writing, 3% of the total testimonies recorded by BVMN since 2017 detail pushbacks from Bosnia and Herzegovina.¹ Pushbacks from Bosnia frequently include arbitrary detention in squalid conditions, the denial of basic and emergency health care as well as the denial of food and water. In this way, pushbacks entail violations of Articles 11 and 12 of the Covenant.
4. BVMN is concerned about Bosnia and Herzegovina's failure to provide an adequate standard of living to asylum seekers, displaced people and people-on-the-move who often endure squalid living conditions, with very limited access to adequate housing or reception facilities, sanitation, food, healthcare and medical care. This leaves people without access to their rights as per Article 11 and 12 of the Covenant.
5. Defining terminology
 - a. "Pushback" is a common term to denote the action of a State forcibly returning an individual or a group across borders to another country without due process and subsequently preventing or restricting them access to protection mechanisms.
 - b. BVMN uses the term 'people-on-the-move' as an all-encompassing term for people on the move whose legal status could not be determined at the time of reporting. Where applicable and known, we use the terms "asylum seeker" for persons who have expressed their wish to apply for asylum and "refugees" and "beneficiaries of international protection" for persons whose refugee status has been recognised, as well as persons who

¹ BVMN. 2021. Statistics About The Countries of Push Backs. Available from: <https://www.borderviolence.eu/statistics/countries-of-push-backs/>. [Accessed 27 August 2021].



have been afforded another type of international protection, such as subsidiary protection according to European Union (EU) law.²

III. Prior Recommendations

6. In the 2019 the Working Group on the UPR recommended that Bosnia and Herzegovina take “appropriate measures to provide refugees and migrants with effective access to international protection in line with international standards”³ and ensure “humane and lawful conditions of detention and accommodation of migrants, including by implementing appropriate procedures, oversight mechanisms and effective coordination within government”.⁴
7. Moreover, the Working Group urged Bosnia to make “the greatest efforts in relation to the situation of migrants and asylum seekers, improving reception conditions and, in particular, prohibiting the deprivation of liberty of unaccompanied minors, and ensuring that they have access to education and health services”⁵ and “increase housing capacity, including housing to protect vulnerable groups”.⁶

IV. State Practice, Pushbacks - Violation of Article 11 and 12

8. Due to Article 2(2) of the Covenant, the fact that people-on-the-move may have a variety of legal statuses does not change Bosnia and Herzegovina’s obligations towards them. The Committee has clearly enunciated that protection from discrimination is not conditional upon an individual having a regular status in a host country, “the ground of nationality should not bar access to Covenant rights”.⁷ Moreover, State Parties “should pay specific attention to the practical obstacles that certain groups of the population may encounter in the enjoyment of their rights under the

² Chapter V of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32004L0083&from=EN> [Accessed 20/03/2021].

³ Human Rights Council. 2019. Report of the Working Group on the Universal Periodic Review, Bosnia and Herzegovina. Recommendation. 120.201 Afghanistan. Available from: <https://undocs.org/A/HRC/43/17>. [Accessed 26 August 2021].

⁴ Human Rights Council. 2019. Report of the Working Group on the Universal Periodic Review, Bosnia and Herzegovina. Recommendation 120.202 United Kingdom of Great Britain and Northern Ireland. Available from: <https://undocs.org/A/HRC/43/17>. [Accessed 26/08/2021].

⁵ Human Rights Council. 2019. Report of the Working Group on the Universal Periodic Review, Bosnia and Herzegovina. Recommendation 120.203 Uruguay. Available from: <https://undocs.org/A/HRC/43/17>. [Accessed 26/08/2021].

⁶ Human Rights Council. 2019. Report of the Working Group on the Universal Periodic Review, Bosnia and Herzegovina. Recommendation 120.201 Honduras. Available from: <https://undocs.org/A/HRC/43/17>. [Accessed 26/08/2021].

⁷ UN Committee on Economic, Social and Cultural Rights. 2009. General Comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights). Available from: <https://www.refworld.org/docid/4a60961f2.html>. [Accessed 27/08/2021].



Covenant. Due to their precarious situation, asylum seekers and undocumented migrants are at particular risk of facing discrimination in the enjoyment of Covenant rights”.⁸

9. The Committee has expressed that State Parties “would not, in principle, be justified in restricting the enjoyment of the essential content of the Covenant rights on the basis of a lack of resources, even when confronted with a sudden and quantitatively significant flow of refugees.”⁹ This is because, “core obligations are non-derogable, they continue to exist in situations of conflict, emergency and natural disaster”.¹⁰ In other words, an increased presence of people-on-the-move cannot justify Bosnia and Herzegovina’s violation of the core obligations inherent in Articles 11 and 12.

10. BVMN is greatly concerned about the Bosnian authorities' use of pushbacks. At the time of writing, 3% of the testimonies recorded by BVMN detail pushbacks from Bosnia.¹¹ Since our records for Bosnia began, BVMN has taken 26 testimonies from individuals who have experienced pushbacks at the hands of the Bosnian authorities, with the majority being taken in 2019.¹² Testimonies often include the theft of money and valuables, the destruction of essential items such as phones, clothes and medicine, the threat and/or actualisation of physical violence, the abandonment of people-on-the-move in remote and/or dangerous locations, detention in inhuman conditions and the denial of food, water and medical treatment, placing the Bosnian authorities in variance with Articles 11 and 12 of the Covenant.

Theft of essential items - Article 11

11. Theft of money and essential items is routine during push backs from Bosnia and Herzegovina, leaving people-on-the-move in a more vulnerable position, often unable to then meet their basic needs such as being able to buy food and water.¹³ For example, a testimony from 2019 recounts how a transit-group of 8, including 3 minors, were picked up by the Bosnian police and brought by two vans to a point in the woods where “the police took almost all of their money”.¹⁴ This resulted in the transit group walking for “seven hours until the group members called the

⁸ UN Committee on Economic, Social and Cultural Rights. 2017. Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights. Available from: <https://www.refworld.org/docid/5bbe0bc04.html> [Accessed 27 August 2021]. Para 7.

⁹ UN Committee on Economic, Social and Cultural Rights. 2017. Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights. Available from: <https://www.refworld.org/docid/5bbe0bc04.html> [Accessed 27 August 2021]. Para 10.

¹⁰ E/C.12/2001/10, para. 18

¹¹ BVMN. 2021. Statistics About The Countries of Push Backs. Available from: <https://www.borderviolence.eu/statistics/countries-of-push-backs/>. [Accessed 27/08/2021].

¹² BVMN. 2021. Violence Reports. Available from: <https://www.borderviolence.eu/violence-reports/> [Accessed 27/08/2021].

¹³ See for example “The police officers forced them to hand over all the money and phones that they had.” BVMN. 2019. The Police Fired the Gun Three Times in the Air to Scare Us. Available from: <https://www.borderviolence.eu/violence-reports/may-6-2019-0000-bosnian-montenegrin-border-next-to-deleusa/> [Accessed 20/08/2021].

¹⁴ BVMN. 2019. Pushback and ‘Confiscation’ Despite Voluntary Departure. Available from: <https://www.borderviolence.eu/violence-reports/june-18-2019-0000-bileca-bosnia/> [Accessed 20/08/2021].



Montenegrin police to help them, because they were starving and didn't have any more money to buy food".

12. Another testimony from 2020 detailed an officer hitting a person-on-the-move "in the face with a baton breaking some teeth [...] The officers took their phones and shoes and set fire to them, and kept the respondents' money." After being forced into an islet in the middle of the river "The group spent two days on the island, without any access to food nor water nor shelter".¹⁵

Insufficient/ denial of food and water - Article 11

13. Testimonies also detail the insufficient or even the denial of food and/or water while being detained during a pushback.¹⁶ During a 2019 pushback, the respondent was taken to 'Imigracioni Centar' located in the east of Sarajevo where he was held for 22 days, staying 24 hours a day in his cell. He informed BVMN of the bad food there, which included "three day old bread".¹⁷ In another pushback from Bosnia, the respondent described the small portions of food which consisted of days old bread and "2 small packages of cheese and jam [...] It was possible to buy extra food, which was expensive compared to what it was worth. Articles for hygiene were not provided at all [...] Inside the cell there was a toilet and a sink. Detainees had to wash themselves with cold water via this sink because they weren't brought to a washing room".¹⁸
14. In another testimony recounting their time in detention before being pushed back the respondent explained, "They had access to toilets but were not given food nor water even though they had

¹⁵ BVMN. 2020. The Police Officers Pushed the Respondents in the Boat and Carried them Towards an Island in the Middle of the River. Available from: <https://www.borderviolence.eu/violence-reports/july-23-2020-0700-zvornik-bosnia-herzegovina-mali-zvornik-serbia/> [Accessed 20/08/2021].

¹⁶ See for example a testimony which recounts a group being detained where the officers "brought them water but denied them food". BVMN. 2019. We Were Transported Like Animals. Available from: <https://www.borderviolence.eu/violence-reports/february-17-2019-0700-m6-1-near-gacko-bosnia-herzegovina/> [Accessed 20/08/2021].

¹⁷ BVMN. 2019. They Are Going To Deport You Through Legal Crossing Inside The Land. If They Don't Have This, They Just Let You Out Somewhere In Forest. Available from: <https://www.borderviolence.eu/violence-reports/june-14-2019-0000-hum-scepan-polje-road-border-bosnia-and-herzegovina-montenegro/>. [Accessed 25/08/2021].

¹⁸ BVMN. 2019. How Long I Have to Stay in This Prison? Available from: <https://www.borderviolence.eu/violence-reports/june-6-2019-0000-bosnian-montenegrin-border-crossing-scepan-polje/>. [Accessed 25/08/2021].



asked for it”.¹⁹ Likewise, in the same year a respondent explains how during detention “the group was not given food or water”.²⁰

Physical Violence - Article 12

15. Testimonies frequently recount violence being used during pushbacks, both in the detention and while being apprehended outside, which impacts people-on-the-move’s physical and mental health. For example, one testimony detailing the respondent’s time in detention during a pushback explained how a policeman ordered the transit-group to remove their jackets, after which another policeman:

“wearing a blue uniform with the Federation emblem on the arm” came “with a baton and beat the men one-by-one [...] Before the attack started, the respondent stated to the officer: “My head was operated on. It is very injured [sic]. Don’t beat me on my head!” Despite this warning, the officer still beat the respondent on his head and shoulder. The officer shouted “No Bosnia” as he hit the men. [...] The group watched as the police beat each person one-by-one. After the beatings they stood in the room for 90 minutes and then were told to come out. Two other police officers arrived and drove the van which had earlier transported the group to Deluša. The men were directly handed over to the Montenegrin police”.²¹

16. Other testimonies detail the violence experienced by people-on-the-move near the border of Montenegro. For example, one testimony explains how “the officers struck them two or three times with batons. Afterwards the officers said to them “Go Jungle, go Jungle, to Montenegro!”²²
17. Another testimony from 2019 recounts a chain pushback where the Croatian authorities at the border with Bosnia handed the respondent over to “two Bosnian officers in dark blue uniforms with Bosnia’s flags on the sleeves [who] were waiting”. The Bosnian authorities then drove the respondent for around seven hours to the Granični prelaz Trbušnica bridge. The officers threatened the respondent with electric batons to coerce them to cross a bridge that leads to

¹⁹ BVMN. 2019. If I Try 100 Times And They Push Me Back No Problem. Available from: <https://www.borderviolence.eu/violence-reports/may-18-2019-1000-bileca-bus-station-bosnia-herzegovina/>. [Accessed 26/08/2021]. See also “There was no water, food or toilet provided to them.” BVMN. 2019. Don’t Beat Me On My Head. Available from:

<https://www.borderviolence.eu/violence-reports/may-17-2019-1800-divin-bosnia-and-herzegovina/>. [Accessed 26/08/2021].

²⁰ BVMN. 2019. They Made Fun of Us. Available from: <https://www.borderviolence.eu/violence-reports/may-17-2019-0800-metaljika-bosnia-herzegovina/>. [Accessed 25/08/2021].

²¹ BVMN. 2019. Don’t Beat Me On My Head. Available from: <https://www.borderviolence.eu/violence-reports/may-17-2019-1800-divin-bosnia-and-herzegovina/>. [Accessed 25/08/2021].

²² BVMN. 2019. Go Jungle, Go Jungle, To Montenegro! Available from: <https://www.borderviolence.eu/violence-reports/june-13-2019-0000-cajnice-metaljika-bosnia/>. [Accessed 25/08/2021].



Serbia.²³ Another testimony from the same year detailed how an officer hit a person with “three fist bumps. He boxed him two times in his right eye and one time on the right side of his head” .²⁴

18. A testimony from 2020 details how the “Bosnian authorities wearing black shirts and pants emblazoned with a blue and yellow striped shield with a black sword on their shoulders” loaded the transit group into their vehicle and drove them back to the border. “Upon arriving at the river border, the officers waited until no one was in sight on either side of the border and then threw the men’s possessions in the river, this included their money, mobile phones and power banks. The officers then pushed the men into the river and told them to swim back [...] one of the group-member’s heads was held under water, when he did not swim as commanded. [...]”.²⁵
19. Not only are such experiences physically and psychologically damaging they also represent the level of disregard that the Bosian and Herzegovian authorities have to people-on-the-move’s right to have their health respected in accordance with Article 12.

Denial of healthcare - Article 12

20. Pushbacks from Bosnia often include a denial of essential healthcare. For example, in 2019 BVMN took a testimony from a father and son who, at the time of the pushback, was “very sick and could not walk without the support of his father”.²⁶ The group was intercepted, detained and “not given food or water”. Despite the police promising they would be taken to Sarajevo, the police returned the group to the farmhouse where they had initially intercepted them. The two respondents then split from the group, “in an attempt to find medical treatment”. After being sat on the road flagging down passing police cars, they were eventually taken to the hospital where after only “15 minutes, four new police officers arrived [...] They asked one of the doctors to remove the infusion from the respondent’s arm and slapped him in order to make him stand up. They escorted the two men to a police van and brought them to a place in the mountains.”
21. During another pushback in 2019, there was an injured member of the transit group ““They notified the officers that they needed to go to a hospital because one of the individuals had an injured leg. The police officers did not speak English, but told them to “wait, wait.” The respondent believed that the officers would help them get to the hospital. Instead, within ten minutes, three border police officers arrived in a van. The border police asked them where they

²³ BVMN. 2019. The Officers Threatened the Respondent With Electric Batons and Pushed Him. Available from: <https://www.borderviolence.eu/violence-reports/april-18-2019-0000-granicni-prelaz-trbusnica-bridge-border-between-bosnia-and-serbia/>. [Accessed 25/08/2021].

²⁴ BVMN. 2019. One Woman, Nine Months Pregnant, Started Crying. The Police Shouted At Her ‘Stop Cry!’. Available from: <https://www.borderviolence.eu/violence-reports/april-15-2019-0600-strane-bosnia-and-herzegovina/>. [Accessed 27/08/2021].

²⁵ BVMN. 2020. A Man Couldn’t Swim So They Held His Head Underwater. Available from: <https://www.borderviolence.eu/violence-reports/july-29-2020-1400-loznica-serbia/>. [Accessed 27/08/2021].

²⁶ BVMN. 2019. They Made Fun Of Us. Available from: <https://www.borderviolence.eu/violence-reports/may-17-2019-0800-metaljika-bosnia-herzegovina/> [Accessed 27/08/2021].



are going and the respondent told them they wanted to go to the camp in Sarajevo (BiH) to ask for asylum and that one individual was injured and needed a medical assistance.” “The officers then shouted at the group and told them that they must go back to Montenegro.”²⁷

Poor detention conditions - Article 11

22. As well as the theft of belongings, denial of food and water, use of physical violence and denial of medical assistance, survivors of pushbacks are often detained in unsanitary and inhumane conditions. In another testimony the respondent reported that they were detained in a room near the Deleuša border crossing. The room “smelled very bad and had dirty clothes and socks on the floor. There were four chairs in the room, but the men were told to stand against the wall. There was no water, food or toilet provided to them.”²⁸
23. Another testimony details how officers “put the individuals in three small rooms divided by white metal fences [...] „We asked the officers again to give us milk for the babies. He pointed at us and laughed. He said: ‘I don’t have, I am not market.’ We were put like animals in a cage.”²⁹
24. Another testimony details being held in a police station where “[t]hey didn’t get water, food or blankets”. When the group requested asylum the police answered “No English, no asylum, Bosnia full.” When a 16-year-old boy told a Bosnian officer “ I will tell UN what you are doing” the officer answered “Fuck your mother! Fuck UN!” he then “kicked the young man with his heavy black boots on the side, so that he fell out of the car on the ground. The officer took a metal baton and beat the young man on his head and he started bleeding heavily from two wounds”.³⁰

V. State Practice. Inadequate Standard of Living - Violating Article 11 and 12 of the Covenant

25. The Ministry of Security of BiH, with competence over matters of asylum and migration, has “failed to actively engage or meaningfully support the local authorities”³¹ who are “are highly decentralised. Partly because of this state structure and the fact that the new Balkan route concentrates migrants in northwestern BiH, the management of the situation at the border often

²⁷ BVMN. 2019. The Only Solution For Them Is That We Go Back to Montenegro. Available from: <https://www.borderviolence.eu/violence-reports/may-19-2019-0320-brezovice-bosnia-and-herzegovina/>. [Accessed 27/08/2021].

²⁸ BVMN. 2019. Don’t Beat Me On My Head. Available from: <https://www.borderviolence.eu/violence-reports/may-17-2019-1800-divin-bosnia-and-herzegovina/> [Accessed 25/08/2021].

²⁹ BVMN. 2019. We Were Put Like Animals In a Cage. Available from: <https://www.borderviolence.eu/violence-reports/april-14-2019-1730-apprehended-near-trebinje-bosnia-brought-to-kl-obuk-border-checkpoint-bosnia-transferred-to-ilino-brdo-border-checkpoint-montenegro/> [Accessed 25/08/2021].

³⁰ BVMN. 2019. In My Country There is War But Even There we Don’t Treat People Like This. Available from: <https://www.borderviolence.eu/violence-reports/april-12-2019-1600-trebinje-montenegro/>. [Accessed 25/08/2021].

³¹ Amnesty International. 2019. Pushed To The Edge. Available from: <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR0599642019ENGLISH.pdf>. [Accessed 20/08/2021].



lacks coordination and clear, unified authority, with political leverage and interest in the situation varying greatly across BiH”.³²

26. As such, those who are “pushed back to Bosnia and Herzegovina risk being trapped without legal status in a country that cannot offer them adequate protection or reception conditions.”³³ BVMN asserts that although it is important to highlight the systematic practices of pushbacks to Bosnia,³⁴ this should not deflect from the reality that the relevant authorities in BiH are not properly addressing human rights violations within their own borders towards people-on-the-move. This is despite the Committee highlighting that State Parties “should accommodate refugees and migrant inflows commensurate with the extent of the maximum resources available”.³⁵

Lack of access to adequate housing

27. “The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights”.³⁶ As such, “the right to housing, should not be interpreted in a narrower restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head[...] Rather it should be seen as the right to live somewhere in security, peace and dignity[...]”.³⁷ Adequate shelter means “adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities all at a reasonable cost”. BVMN asserts that people-on-the-move in Bosnia and Herzegovina do not have access to adequate housing, due to the lack of security, basic infrastructure and facilities, representing a violation of Article 11 of the Covenant.
28. In 2019 BVMN network member Are You Syrious (AYS) reported that since 2018, “the government of BiH has been treating the influx of people-in-transit as a temporary phenomenon that threatens national security. However, this has meant that humanitarian efforts have been ad-hoc, rudimentary and simply not enough[...] Camps are not planned with sufficient foresight

³² Are You Syrious. 2019. On the Margins of Europe. Available from: <https://www.borderviolence.eu/wp-content/uploads/On-the-Margins-of-Europe-Report-on-Bihac.pdf>. [Accessed 20/08/2021]. Page 6.

³³ Amnesty International. 2019. Pushed To The Edge. Available from: <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR0599642019ENGLISH.pdf>. [Accessed 20/08/2021].

³⁴ The practice of systemic pushbacks to Bosnia and Herzegovina, which is well corroborated by international sources and, at the time of writing, constitutes 45% of pushback testimonies recorded by BVMN. BVMN. 2021. Statistics About the Countries of Pushbacks. Available from: <https://www.borderviolence.eu/statistics/countries-of-push-backs/>. [Accessed 20/08/2021].

³⁵ UN Committee on Economic, Social and Cultural Rights. 2017. Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights. Available from: <https://www.refworld.org/docid/5bbe0bc04.html> [Accessed 27 August 2021]. Para 10.

³⁶ UN Committee on Economic, Social and Cultural Rights. 1991. General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant). E/1992/23. Available from: <https://www.refworld.org/docid/47a7079a1.html> . [Accessed 27/08/2021]. Para 7.

³⁷ UN Committee on Economic, Social and Cultural Rights. 1991. General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant). E/1992/23. Available from: <https://www.refworld.org/docid/47a7079a1.html> . [Accessed 27/08/2021]. Para 7.



to ensure short- and long-term functioning and adequate standards of living for camp residents.”³⁸ Likewise, in 2019, Amnesty International described conditions in camps and migration centres as “inadequate. In addition to safety concerns, the people who spoke to Amnesty International complained about the poor hygiene, lack of hot water, long queues for meals and inaccessible medical care.”³⁹

Security

29. In 2019, there was a proliferation of reports attesting to the violence inflicted by private security forces, who are hired by IOM to safeguard their camps. For example, BVMN partner AYS uploaded a video to *YouTube* which shows IOM contracted private security in Miral camp beating a resident.⁴⁰
30. Later in the year, BVMN network member AYS reported that in Bira camp the guards ‘have regularly and arbitrarily required energy drinks, cigarettes and/or money (usually 10km) for re-entry into the camp’.⁴¹ When a representative of IOM was asked about this practice “they responded that they were aware of this practice but they felt there was nothing they could do to stop it. [...] IOM has not taken the relevant steps to prevent abuse and degrading treatment of the vulnerable people in their camp either by punishing such security guards or utilizing a different security company for its safeguarding needs.”⁴²
31. BVMN network member AYS also expressed deep concern about Vučjak camp, which has since been shut down due to “international outcry”.⁴³ Despite international standards stipulating that camps ‘should be located a sufficient distance from international borders (50km);[...] Vučjak [was] located approximately 10km from the Bosnian-Croatian border. This proximity can stimulate smuggling networks and, when the camp itself is inefficiently safeguarded... these smuggling networks come to ‘rule’ the camp’.⁴⁴ Moreover, despite the entrance of the camp being controlled by police, Vučjak had no perimeter fence raising “a number of safeguarding and security issues”.⁴⁵ Moreover, residents are “put in danger of witnessing or experiencing violence,

³⁸Are You Syrious. 2019. On the Margins of Europe. Available from: <https://www.borderviolence.eu/wp-content/uploads/On-the-Margins-of-Europe-Report-on-Bihac.pdf>. [Accessed 20/08/2021]. Page 39.

³⁹ Amnesty International. 2019. Pushed To The Edge. Available from: <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR0599642019ENGLISH.pdf>. [Accessed 20/08/2021].

⁴⁰ Are You Syrious. 2019. Violence Against Residents in IOM Run Refugee Camp in Bosnia. Available from: https://www.youtube.com/watch?v=jWmwACRIhRQ&ab_channel=AYSInfoTeam. [Accessed 20/08/2021].

⁴¹ *ibid.* Page 38.

⁴² *ibid.* Page 38.

⁴³ DW. 2019. Bosnia: Police clear controversial Vucjak refugee camp. Available from: <https://www.dw.com/en/bosnia-police-clear-controversial-vucjak-refugee-camp/a-51615295>. [Accessed 27/08/2021].

⁴⁴ Are You Syrious. 2019. On the Margins of Europe. Available from: <https://www.borderviolence.eu/wp-content/uploads/On-the-Margins-of-Europe-Report-on-Bihac.pdf>. [Accessed 20/08/2021]. Page 15.

⁴⁵ *ibid.* Page 18.



being threatened with violence and recruitment into trafficking such a human and/or sex trafficking”.⁴⁶ “Compounding these concerns is lack of light and the hostility of local authorities [...] [which] has been a constant in Bihać since we have been recording and significantly degrades safety at Vučjak.”⁴⁷

32. The lack of security is also found in informal shelter structures in Bosnia and Herzegovina. In 2020, BVMN network member Centre for Peace Studies (CPS) reported that camps are “running beyond their maximum capacity and at times do not accept new people asking for shelter. This has forced people to live in informal camps in the central hubs of bigger cities, at the margins of official camps, or close to border crossings. Places close to the EU external border like Velika Kladuša and Bihać [...] have become important places of transit for people on the move where many live outside official structures.”⁴⁸ In other words, due to the lack of capacity and inadequacy of reception centres, individuals are forced to live in informal settlements.
33. Yet, despite this lack of official capacity, the authorities violently evicted people-on-the-move from their informal settlements. As reported by BVMN network member AYS, on 14th of June the:

“MUP of Una-Sana Canton and the Cantonal Inspection Directorate, began to evict hundreds of people-in-transit out of abandoned houses, hostels and informal outdoor settlements. The authorities relocated people-on-the-move to a polluted area which posed several health and security risks. This polluted area would become Vučjak [see more on this camp below]. For now, there were only four tents set up for 282 evicted and removed people [...] without [...] essential services such as electricity, food, showers and toilets [...]

In the weeks following the evictions, we received messages from dozens of people who reported being beaten and injured by the police during evictions and removals [...] We observed [...] a litany of violences: bruised and battered bodies, black eyes, open wounds, split lips and teeth beat out of mouths.”⁴⁹

⁴⁶ *ibid.* Page 18.

⁴⁷ *ibid.* Page 18.

⁴⁸ BVMN and CPS. 2020. Criminalisation of Solidarity. Shrinking Spaces: Report on Criminalisation of Solidarity in the Western Balkans. Available from:

<https://www.borderviolence.eu/wp-content/uploads/Report-on-Criminalisation-of-Solidarity.pdf>. [Accessed 20/08/2021]. Pages 6-7.

⁴⁹ Are You Syrious. 2019. On the Margins of Europe. Available from:

<https://www.borderviolence.eu/wp-content/uploads/On-the-Margins-of-Europe-Report-on-Bihac.pdf>. [Accessed 20/08/2021]. Page 34-35.



Lack of basic infrastructure and facilities

34. Vučjak camp exemplified the acute “lack of dignity and basic human rights for people-in-transit in the Una-Sana Canton”.⁵⁰ Located “on a former landfill in the middle of a landmine-littered forest about 7 to 10km from the nearest city[...] in line with its implicit goal of making the migrant and refugee population in Bihać invisible”.⁵¹ The debris left over from the landfill attracted “rats and insects which are a threat to health but violate all norms of dignity and acceptable standards for shelter and housing”.⁵² The camp had no sanctuary facilities available on site, and no access to running water or electricity, instead, water was “brought in tanks twice a day and runs out quickly; camp residents scramble to shower outside among dirt and trash”.⁵³ Similarly Lipa camp lacks “basic facilities such as electricity or running water [...] migrants lit fires for days to protect themselves from the biting cold. Many migrants at the camp said they haven’t showered in a long time, while some have washed outside despite the cold”.⁵⁴
35. Also relevant to the lack of adequate shelter is the lack of physical and mental health facilities and the authorities' use of violence which directly impacts people-on-the-move's health. This will be covered by Section VI.

Lack of access to adequate food and water

36. The Committee has underlined that duties to secure freedom from hunger and to guarantee access to water to satisfy basic needs are core obligations of the State “and should therefore not be restricted on the basis of nationality or legal status”.⁵⁵ In 2019, Amnesty International described the food in camps generally as “insufficient” and “lacking basic nutrition”.⁵⁶ In 2019 BVMN network member AYS wrote that the “proportions observed at [refugee camp] Vučjak often aren’t enough for adults living in the conditions we see in Bihać, particularly as many people trek to and from Vučjak to Bihać.”⁵⁷
37. The lack of access to adequate food is further curtailed by the Bosnian and Herzegovinian authorities in two crucial ways. Firstly, in 2020, the authorities banned migrants from accessing

⁵⁰ *ibid.* Page 13.

⁵¹ *ibid.* Page 14.

⁵² *ibid.* Page 15.

⁵³ *ibid.* Page 16.

⁵⁴ Kemal Softić. 2021. Migrants in Bosnia Camp Health Checked After Days In the Cold. Available from: <https://apnews.com/article/bosnia-and-herzegovina-storms-coronavirus-pandemic-weather-croatia-a383004327ca29fa81f7ea06f594fd5f>. [Accessed 20/08/2021].

⁵⁵ UN Committee on Economic, Social and Cultural Rights. 2017. Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights. Available from: <https://www.refworld.org/docid/5bbe0bc04.html> [Accessed 27 August 2021]. Para 9.

⁵⁶ Amnesty International. 2019. Pushed To The Edge. Available from: <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR0599642019ENGLISH.pdf>. [Accessed 20/08/2021]. Page 29.

⁵⁷ Are You Syrious. 2019. On the Margins of Europe. Available from: <https://www.borderviolence.eu/wp-content/uploads/On-the-Margins-of-Europe-Report-on-Bihac.pdf>. [Accessed 20/08/2021]. Page 21.



supermarkets.⁵⁸This ban greatly restricts people’s abilities to supplement their insufficient diets and blocks a key avenue of food security for many people-on-the-move in Bosnia. Secondly, the authorities have hindered or even shut down the distribution of basic food and essential items. As reported by BVMN and CPS in 2020, “authorities seek to remove people on the move from public spaces to satisfy their constituency, while aid work might increase their presence in public spaces. Groups [aid workers and volunteers] we spoke to explained that public distributions of necessary items are increasingly viewed as problematic since they increase visibility - therefore, authorities hinder or even shut down distributions in return”.⁵⁹ In the same year, the New Humanitarian reported that local authorities in “Una-Sana announced a ban on food distributions for asylum seekers and migrants living outside official camps [...] [the Red Cross] team continued to distribute food anyway, and authorities eventually reversed the ban. “Had we not continued, there would have been a humanitarian catastrophe””⁶⁰. This is despite the international community recognising in 2019 that the inflow of migrants to Bosnia and Herzegovina “was a huge humanitarian challenge to provide basic supplies and accommodation to all migrants in the State, *requiring support from international organizations.*”⁶¹

38. This is hard to square with Bosnia’s convention obligations, especially when set within the wider context that in 2019, “the maximum available capacity across eight formal and informal centres in BiH was 4,117 with the camps in Una-Sana Canton full to capacity. The total population of people-in-transit and asylum-seekers in BiH is around 7,500”.⁶² It is deeply regrettable that the Bosnian authorities are hampering civil society from supporting people-on-the-move with basic needs as it is clear that the authorities themselves are not meeting their core obligations as per the Covenant.

VI. State Practice. Inadequate physical and mental health provisions - Violating Article 12

39. Article 12(d) requires State Parties to create “conditions which would assure to all medical service and medical attention in the event of sickness”. Bosnia and Herzegovina have failed to

⁵⁸ Amnesty International 2019

<https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR0599642019ENGLISH.pdf> p.29.

⁵⁹BVMN and CPS. 2020. Criminalisation of Solidarity. Shrinking Spaces: Report on Criminalisation of Solidarity in the Western Balkans. Available from:

<https://www.borderviolence.eu/wp-content/uploads/Report-on-Criminalisation-of-Solidarity.pdf>. [Accessed 20/08/2021]. Page 7.

⁶⁰ The New Humanitarian. 2020. Winter and growing animosity force migrants in Bosnia into retreat. Available from:

<https://www.thenewhumanitarian.org/news-feature/2020/12/2/bosnia-migrants-asylum-winter-eu-border-pushbacks> [Accessed 23/08/2021].

⁶¹ Human Rights Council. 2019. Report of the Working Group on the Universal Periodic Review Bosnia and Herzegovina. Available from: <https://undocs.org/A/HRC/43/17>. [Accessed 24/08/2021]. Para 71 (emphasis added).

⁶² Are You Syrious. 2019. On the Margins of Europe. Available from:

<https://www.borderviolence.eu/wp-content/uploads/On-the-Margins-of-Europe-Report-on-Bihac.pdf>. [Accessed 20/08/2021]. Page 6.



provide minimum guarantees of health care in the event of sickness. Moreover, people-on-the-move's health conditions are compounded and perhaps even caused not only by Bosnia's failure to provide adequate medical care but also by Bosnia's failure to provide adequate living conditions, housing, sanitation, food/ water to people-on-the-move.

40. In 2019, Amnesty International described a lack of adequate medical and psychological care in Bosnia.⁶³ In 2019, BVMN partner AYS reported that "skin conditions and infections are prevalent, with scabies, open wounds, infections, and rashes being very common".⁶⁴ In 2021, MSF wrote that people "find themselves cut off from healthcare and basic services in Bosnia and Herzegovina".⁶⁵
41. The Committee has emphasised that the "essential minimum content of each right should be preserved in all circumstances and the corresponding duties extended to all people under the effective control of the State, without exception."⁶⁶ Despite this, police violence against people-on-the-move is a widespread and common occurrence, which directly affects individual's physical and psychological health.
42. For example, BVMN network member AYS reported in 2019 that while "observing people coming back from the "game" (the colloquial term used by people-in-transit to describe the process of attempting to cross into desired countries for protection), we began noticing that people-in-transit were not just experiencing violence at the hands of Croatian, Slovenian and other police but were experiencing violence at the hands of local authorities in and around Bihac".⁶⁷
43. In 2020, BVMN published a video which showed a group of men assaulting an alleged refugee in an open field on the 19th of August near Velika Kladuša. Analysis of the video, which included using satellite images, photo-stitching techniques, vehicle identification and information related to the van's deployments allowed BVMN to "strong[ly] conclu[de] that the five men featured in the clip belong to the USK-MUP's Special Support Unit [Jedinica za specijalističku podršku]".⁶⁸

⁶³ Amnesty International. 2019. Pushed To The Edge. Available from: <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR0599642019ENGLISH.pdf>. [Accessed 20/08/2021]. Page 29.

⁶⁴ Are You Syrious. 2019. On the Margins of Europe. Available from: <https://www.borderviolence.eu/wp-content/uploads/On-the-Margins-of-Europe-Report-on-Bihac.pdf>. [Accessed 20/08/2021]. Page 19.

⁶⁵ MSF. 2021. Bosnia and Herzegovina. Available from: <https://www.msf.org/bosnia-and-herzegovina>. [Accessed 27/08/2021].

⁶⁶ UN Committee on Economic, Social and Cultural Rights. 2017. Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights. Available from: <https://www.refworld.org/docid/5bbe0bc04.html> [Accessed 27 August 2021]. Para 9.

⁶⁷ Are You Syrious. 2019. On the Margins of Europe. Available from: <https://www.borderviolence.eu/wp-content/uploads/On-the-Margins-of-Europe-Report-on-Bihac.pdf>. [Accessed 20/08/2021]. Page 1.

⁶⁸ BVMN Investigation: Analysis of video footage showing bosnian special support unit engaged in violent behaviour near miral camp



44. Other NGOs and reliable news sources have consistently shown the risk of people-on-the-move at the hands of Bosnian authorities.⁶⁹ For example, the New Humanitarian published the story of “Hamid, a 28-year-old from Morocco [...] he was attacked by police twice in May. The first time was in a small town in Una-Sana canton in an abandoned house where he was sheltering from the rain with a friend. “The police came and attacked us,” he said. “They chased us away and didn’t allow us to take our clothes and food with us.”⁷⁰
45. BVMN asserts that the denial of basic health care as well as the use of physical violence at the hands of Bosnian and Herzegovian police violates Article 12 of the Covenant.

VII. Suggested Recommendations

46. The Bosnian and Herzegovian authorities should immediately cease the practice of pushbacks which entail a violation of Articles 11 and 12 of the Covenant.
47. The Bosnian and Herzegovian authorities should establish an independent internal monitoring system and investigate violence and pushbacks at the hands of law enforcement.
48. The Bosnian and Herzegovian authorities should immediately ensure that the conditions and conduct within detention centres or refugee camps are in line with international standards, such as Articles 11 and 12 of the Covenant.
49. The Bosnian and Herzegovian authorities should cease hampering civil society organisations in their support of people-on-the-move.
50. The Bosnian and Herzegovian authorities should provide dignified living centers, access to medical care and protections for minors.
51. The Bosnian and Herzegovian authorities should provide access to remedy and compensation for those who have experienced human rights abuses, in particular the past residents of Vučjak camps.

<https://www.borderviolence.eu/bvmn-visual-investigations-police-violence-in-bosnia-enabled-by-special-support-un-it/>

⁶⁹ See for example: DW. 2021. Bosnia: Unaccompanied child refugees face cold, violence. Available from: <https://www.dw.com/en/bosnia-unaccompanied-child-refugees-face-cold-violence/a-56408691>. [Accessed 20/08/2021]; Info Migrants. 2020. IOM: Bosnia leaves migrants to suffer. Available from: <https://www.infomigrants.net/en/post/27566/iom-bosnia-leaves-migrants-to-suffer>. [Accessed 25/08/2021].

⁷⁰ The New Humanitarian. 2020. Winter and growing animosity force migrants in Bosnia into retreat. Available from: <https://www.thenewhumanitarian.org/news-feature/2020/12/2/bosnia-migrants-asylum-winter-eu-border-pushbacks> [Accessed 23/08/2021].