

BOSNIA AND HERZEGOVINA

SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW, 48TH SESSION OF THE
UPR WORKING GROUP, JANUARY/FEBRUARY 2025

CONCERNING ISSUES RELATED TO IMMIGRATION DETENTION AND
MIGRANT RIGHTS

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ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

ABOUT COLLECTIVE AID

Collective Aid is a grassroots NGO committed to bringing dignity and care to refugees and other displaced people across Europe. Our organisation currently works in Serbia, Bosnia and Herzegovina, and France facilitating showers, clothes & washing services, safe water, and essential material aid. We are a member organisation of The Border Violence Monitoring Network and take testimonies of border violence and illegal pushbacks at all of our work sites.

ABOUT THE BORDER VIOLENCE MONITORING NETWORK

The 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 and Greece. The collection of data on illegal pushbacks and police violence is done by a consortium of independent field experts who are part of or cooperate with humanitarian support groups united through the Border Violence Monitoring Network.

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SUMMARY OF RECOMMENDATIONS FOR THE 4TH CYCLE

As discussed in more detail below (see section 8), the above-named civil society organisations urge Member States of the UH Human Rights Council to support the following recommendations for of Bosnia and Herzegovina during the 4th Cycle of the Universal Periodic Review:

- 8.1 End the immigration detention of children as well as all forms of arbitrary or de facto immigration detention in border zones or at temporary reception centres.
- 8.2 Improve transparency and accountability in the treatment of all non-citizens in any form of custody.
- 8.3 Improve conditions and operations in the Lukavica “Immigration Centre” and ensure that all detention sites meet international standards.
- 8.4 Improve the locations of and condition at TRCs.
- 8.5. Prevent pushbacks along its borders of migrants, refugees, and asylum seekers and ensure swift and independent investigation and follow up on accusations relating to pushbacks of migrants, in accordance with its international obligations
- 8.6 Ensure that the rights of refugees and migrants are respected when in custody and that the principle of non-refoulement is respected at all times.

1. INTRODUCTION

- 1.1 This submission for the fourth cycle of the Universal Periodic Review (UPR) of **Bosnia and Herzegovina** has been prepared by the **Global Detention Project** (GDP), a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status; **Collective Aid**, which provides dignifying services that cover the main basic aid gaps in the lives of those who are in transit, seeking a home and safety; and the **Border Violence Monitoring Network**, a horizontal, self-organised network denouncing pushbacks, other human rights violations, and broader forms of violence against people on the move at and within European borders.

- 1.2 This submission focuses on human rights concerns with respect to the treatment of migrants and asylum seekers who have been arrested or detained in Bosnia and Herzegovina for reasons related to their immigration status, conditions in temporary reception facilities, and reports of pushbacks.

2. CONTEXT

- 2.1 Bosnia and Herzegovina (BiH) is a key transit country within the Western Balkan Route. Since 2016 in particular, when Hungary effectively closed its borders to refugees and migrants, large numbers of non-nationals have entered the country in the hope of entering the European Union (EU) via Croatia. Between January and November 2023, the country recorded its largest number of irregular arrivals (31,152) exceeding the 2019 peak (29,196).¹ Most enter from Serbia, but some also enter the country from Montenegro.
- 2.2 Recently, there have also been reports of increased numbers of non-nationals being forcefully returned to BiH from Croatia. Observers have reported that Croatian police frequently (and often violently) pushback irregular arrivals without considering their protection needs—and these pushbacks often involve large groups of people. The Border Violence Monitoring Network (BVMN), through its field-based member organisations, have documented instances in which busloads of migrants and refugees have been handed over to Bosnian authorities.² According to Human Rights Watch: “Pushbacks from Croatia to the non-European Union countries it borders are now common. Between January 2020 and December 2022, the Danish Refugee Council recorded nearly 30,000 pushbacks from Croatia to Bosnia and Herzegovina, almost certainly an underestimate. Approximately 13 percent of pushbacks recorded in 2022 were of children, alone or with families.”³
- 2.3 Many irregular arrivals in BiH are accommodated in temporary reception centres (TRCs)—which include Borici TRC and Lipa TRC in Una-Sana canton, and Usivak TRC and Blažuj TRC in Sarajevo canton. Together, these four facilities provide 4,592 beds.⁴ According to the IOM, between 8 and 21 January 2024, 4,138 people were accommodated in TRCs, and average length of stay ranged from 6 to 11 days, depending on the facility.⁵ Those staying in the centres included people registered for the first time, as well as those returning after experiencing violent pushbacks at EU borders.⁶
- 2.4 Living conditions inside TRCs remain inadequate, including poorly maintained sanitary facilities, lack of heating, and limited privacy.

¹ UNHCR, “Bosnia and Herzegovina (BiH),” November 2023, <https://reliefweb.int/report/bosnia-and-herzegovina/bosnia-and-herzegovina-operational-update-november-2023-enbs>

² Border Violence Monitoring Network, “Croatia Carries Out Mass Deportations of People on the Move to Bosnia and Herzegovina,” 30 March 2023, <https://borderviolence.eu/app/uploads/BVMN-Press-release-Croatia-carries-out-mass-deportations-of-people-on-the-move-to-Bosnia.pdf>

³ Human Rights Watch, “‘Like We Were Just Animals,’ – Pushbacks of People Seeking Protection from Croatia to Bosnia and Herzegovina,” 3 May 2023, <https://www.hrw.org/report/2023/05/03/we-were-just-animals/pushbacks-people-seeking-protection-croatia-bosnia-and>

⁴ IOM, “Temporary Reception Center Profiles,” September 2023, <https://bih.iom.int/temporary-reception-center-profiles>

⁵ IOM, “Bosnia and Herzegovina Migration Response, Situational Report, 8-21 January 2024,” accessed 11 March 2024, https://bih.iom.int/sites/g/files/tmzbd11076/files/documents/2024-01/01_iom-bih-external-sitrep-8-21-january-2024-1.pdf

⁶ Collective Aid, “Sarajevo Situational Update, February 2024,” https://drive.google.com/file/d/1aJjNY1pUuv-NpxexKV2E_MG6ZLQLa3Z/view

- 2.5 In September 2023, authorities introduced amendments to the Law on Foreigners. Despite calls from observers including UNHCR, the law was not amended to prohibit the detention of children.
- 2.6 The country currently operates one dedicated immigration detention centre. Often referred to as the “Immigration Centre,” the facility is located in Lukavica in a suburb of Sarajevo. The opening of a second detention facility, in Lipa TRC, is currently on hold.
- 2.7 Conditions in the Lukavica facility have been criticised—including the fact that children are detained in the centre, and detainees are not provided with adequate information about their detention, or how to access free legal aid or asylum procedures.
- 2.8 As a formal “Semi-Protectorate” (a status imposed in 1995 as part of the Dayton Accords), the international community—including foreign embassies, NATO, the EU, and UN agencies—has the power to set rules and make decisions on behalf of the national government. Since 2018, migration and border security-related issues have gradually been handed over to the Service for Foreigners’ Affairs (SFA), however to-date the IOM remains a main agency responsible for migration-related issues in BiH, receiving funds from the European Commission which it allocates locally.
- 2.9 However, the IOM lacks a human rights or protection mandate, and its actions and decisions in BiH lack transparency.⁷ Observers argue that the EU’s relationship with the IOM in countries such as BiH has enabled the Union to treat the country like a “migration policy laboratory... where policies that are too difficult or controversial to implement in its own territory are imposed and enforced as one of the preconditions for accession to the EU.”⁸

3. IMMIGRATION DETENTION CONCERNS

3.1 Legal Framework

- 3.1.a In September 2023, BiH updated its Law on Foreigners.⁹
- 3.1.b According to this law, foreigners can be detained for a maximum of 6 hours in order for authorities to establish their identity and determine the circumstances of irregular border crossing (Articles 14(4) and 14(5)), and they are to be released once these are completed or the time period has passed. If authorities have not established this information within this time limit, they may be “placed under surveillance” and sentenced to expulsion from the country (Article 14(11)).
- 3.1.c Article 106 provides reasons for an individual’s expulsion from the country, and these include *inter alia* illegal entry (a), violating state border regulations when leaving BiH (c), remaining in the country after their request for asylum is rejected (f), representing a threat to public order or security (j), or their identity cannot be established (n). While

⁷ Transnational Institute, “Repackaging Imperialism: The EU – IOM Border Regime in the Balkans,” 18 December 2023, <https://www.tni.org/en/publication/repackaging-imperialism>

⁸ Rosa Luxembourg Stiftung, “The Dark Side of Europeanisation: Serbia, Bosnia and Herzegovina and the European Border Regime,” 7 April 2022, <https://rosalux.rs/rosa-publications/the-dark-side-of-europeanisation/>

⁹ Law on Foreigners, Official Gazette of BiH, no 88/2015, 34/2021 and 63/2023, “Bosnia and Herzegovina 2023 Report,” accessed 11 March 2024, <https://www.paragraf.ba/propisi/bih/zakon-o-strancima.html>

the law permits individuals to appeal their expulsion, lodging such an appeal does not have a suspensive effect (Article 112(6)).

- 3.1.d Non-nationals can be “placed under supervision” in order to ensure their removal. All costs are to be borne by the detainee. If they are unable to pay this, costs should be borne by those such as the individual who helped the foreigner to illegally enter the country, transit, or stay in BiH (Article 115(3))—and if this is not possible, it is covered by BiH funds for “special purposes” (Article 115(6)).
- 3.1.e Supervision can either involve the restriction of the movement to a certain place with reporting obligations, or placement in a specialised “immigration centre” (Article 118). Foreigners are placed in an immigration centre if there is a risk that their free movement represents a threat to public order, peace, or security; if there are grounds to believe the individual will prevent the execution of their expulsion; and when there is doubt regarding the identity information that the individual provided (Article 118).
- 3.1.f Applying for asylum from detention, or stating an intention to apply for asylum at the time of detention, does not have a suspensive effect upon their expulsion order (Article 118).
- 3.1.g Article 119 provides that a foreigner can be detained in an immigration centre for 90 days, but this can be extended by additional 90 day periods up to a total of 18 months. If, after this time period, authorities have been unable to expel the foreigner, they should be released from detention and placed under “movement restriction” supervision. Authorities are also to take “all necessary measures to reduce the duration of supervision to the shortest possible time” (Article 119(11)).
- 3.1.h Foreigners can challenge their detention, and detention extension orders, by submitting an appeal to the Ministry of Security within three days from the date of delivery of their decision (Article 120(5)).
- 3.1.i Article 123(2) states that “Competent authorities in BiH are obliged to treat minor foreigners with special care and respect and to deal with them in accordance with the Convention on the Rights of the Child and regulations in BiH related to the care of minors and their protection.” However, the same article provides that children can be detained with their families in immigration centres: “(3) Families with minors are detained in the immigration centre only as a last resort and for the shortest possible time.”

3.2 Detention Facilities

- 3.2.a As of February 2024, BiH operates one dedicated immigration detention centre, in Lukavica—in east Sarajevo—with capacity for 120 detainees. The facility is managed by the Service for Foreigners’ Affairs (SFA). According to the SFA, the centre includes 80 beds in the male unit, 12 beds in the female unit, and two family apartments.¹⁰ Opened in 2009, the facility was originally constructed in an effort by Bosnian authorities to fulfil EU pre-accession requirements.¹¹

¹⁰ Service for Foreigners’ Affairs (SFA), “Immigration Center,” accessed 20 February 2024, https://sps.gov.ba/?page_id=2500&lang=en

¹¹ Transnational Institute, “Outsourcing Oppression: How Europe Externalises Migrant Detention Beyond Its Shores,” April 2021, <https://www.tni.org/files/publication-downloads/outourcingoppression-report-tni.pdf>

- 3.2.b While the European Commission noted that 714 persons were detained in the facility in 2022, disaggregated detention statistics are not released—meaning it is unclear if overcrowding occurs.¹²
- 3.2.c The European Commission states that representatives of UNHCR, the IOM, and Vasa Prava BiH are granted access to the centre and detainees. Monitoring of the facility also falls under the authority of the BiH Ombudsman Institution for Human Rights—however it has not visited the centre since 2018.¹³
- 3.2.d Numerous concerns have been noted regarding the facility. Observers have described it as a “black hole” with detainees denied access to their phones, a lack of visible information about free legal aid and asylum procedures, and lack of interpretation services. Many detainees have reported being locked up for months with no understanding of the reason for their detention, or of when they will be released.¹⁴
- 3.2.e There are currently plans to enlarge the facility. In late 2022, the IOM issued a public call for contractors to work on an “extension and upgrade of Immigration Centre in Lukavica.”¹⁵
- 3.2.f There are also plans to open a second detention unit within Lipa TRC. In November 2022, the EU’s Neighbourhood and Enlargement Commissioner announced an EUR 500,000 agreement between the Bosnian government and IOM, financed by the EU, for the construction of a detention area at the camp.¹⁶ In January 2023, observers reported that several containers had been set up, separated from the rest of the Lipa facility by wire fence. In June 2023, however, Prime Minister Mustafa Ruznic of the Una-Santon Canton, where Lipa is located, announced that construction of the facility had been halted.¹⁷ As of March 2024, the detention unit remains closed.
- 3.2.g Although the Lipa TRC is intended to operate as a “reception centre,” conditions at the camp as well as its location and operations raise serious concerns about possible *de facto* detention at the site. Located 27km from Bihac, the current facility was opened in 2021 on the site of its predecessor which burned down in 2020. It is managed by the IOM with the help of SFA. While living conditions in the new facility are reported to be an improvement on the previous facility’s conditions, NGOs describe “detention-like conditions” at the TRC.¹⁸
- 3.2.h The services at Lipa TRC are reportedly very poor. Many people have reported that the food provided there is not enough in terms of quantity and nutrition, and the containers and bathrooms don’t allow people to have any privacy. Some people reported that breakfast consists of a banana and a few nuts, sometimes with a cup of

¹² European Commission, “Bosnia and Herzegovina 2023 Report,” accessed 11 March 2024, https://neighbourhood-enlargement.ec.europa.eu/document/download/e3045ec9-f2fc-45c8-a97f-58a2d9b9945a_en?filename=SWD_2023_691%20Bosnia%20and%20Herzegovina%20report.pdf

¹³ Collective Aid, “Sarajevo Situational Update, February 2024,” https://drive.google.com/file/d/1aJjNY11pUuv-NpxexKV2E_MG6ZLQLa3Z/view

¹⁴ Collective Aid, “Sarajevo Situational Update, February 2024,” https://drive.google.com/file/d/1aJjNY11pUuv-NpxexKV2E_MG6ZLQLa3Z/view

¹⁵ IOM, “Request for Quotation (RFQ) – Construction Works on Extension and Upgrade of Immigration Centre in Lukavica,” accessed 11 March 2024, <https://bih.iom.int/request-quotation-rfq-construction-works-extension-and-upgrade-immigration-centre-lukavica>

¹⁶ ECRE, “Croatia: Top Officials Share Sensitive Information on EU-Financed Border Operations, Ongoing Mass Deportations to Bosnia and Herzegovina, Italy to Hold Meeting with Croatia and Slovenia on “Balkan Route,”” 14 April 2023, <https://ecre.org/croatia-top-officials-share-sensitive-information-on-eu-financed-border-operations-ongoing-mass-deportations-to-bosnia-and-herzegovina-italy-to-hold-meeting-with-croatia-and-slovenia-on-ba/>

¹⁷ N1 Info, “Construction of Detention Unit at Bosnia’s Lipa Migrant Centre Stopped,” 8 June 2023, <https://n1info.ba/english/news/construction-of-detention-unit-at-bosnias-lipa-migrant-centre-stopped/>

¹⁸ Border Violence Monitoring Network, “Internal Violence Report, Bosnia and Herzegovina,” <https://borderviolence.eu/app/uploads/IV-BiH5247.pdf>

tea that is usually cold. Sometimes, you can have a dairy product and some honey. During lunchtime, they also gave dinner, consisting in a bag of two or three slices of bread and either a small can of tuna or some cheese and maybe a fruit. There are many showers in a container, and none of them can be closed. In January 2023, with the decrease in temperature and the snowfall, the temperature in Lipa dropped below zero which made the movement of people-on-the-move inside the camp more difficult.¹⁹

- 3.2.i The TRC also experiences problems with violence. Most recently, on 21 January 2024, one individual was killed and another seriously injured in a fight.²⁰

3.3 Detention of Children

- 3.3.a BiH continues to permit the detention of children, despite the growing global consensus that immigration detention is inherently harmful to children and thus is in all cases a breach of the Convention on the Rights of the Child's best interests principle, as the Committee on the Rights of the Child underscores in its General Comment No. 23/No.4 (2017).
- 3.3.b In 2022, UNHCR recommended that authorities amend the draft law amending the Law on Foreigners to provide that children should never be detained in the country for immigration-related reasons. It stated: "any kind of child immigration detention should be forbidden by law and such prohibition should be fully implemented in practice."²¹ However, this recommendation was not implemented, and Article 132(3) of the Law on Foreigners allows for the detention of children with their families.
- 3.3.c Children can be, and are, detained in the Lukavica "Immigration Centre." The facility includes a separate wing dedicated to families and single women.²² In 2022, the centre detained 714 people, amongst whom were 16 children.²³
- 3.3.d In late 2022, a Syrian unaccompanied minor was detained in Lukavica with an unrelated adult. In August 2023, BiH's Constitutional Court ruled that the child's rights had been violated—in particular, that detaining him in order to secure his deportation is not in accordance with the European Convention on Human Rights and the principle of the best interests of the child.²⁴

4. TEMPORARY RECEPTION FACILITIES - LIVING CONDITIONS

¹⁹ Border Violence Monitoring Network, Violence within the state border: Bosnia and Herzegovina <https://borderviolence.eu/app/uploads/Bosnia-Report.pdf>

²⁰ Sarajevo Times, "One Person was Killed in the Clash Between Migrants in the Temporary Reception Center in BiH," 22 January 2024, <https://sarajevoimes.com/one-person-was-killed-in-the-clash-between-migrants-in-the-temporary-reception-center-in-bih/>

²¹ UNHCR, "UNHCR Comments on the Draft Law Amending the Law on Aliens," 2022, <https://www.refworld.org/legal/natlegcomments/unhcr/2022/en/124128>

²² UNHCR, "UNHCR Comments on the Draft Law Amending the Law on Aliens," 2022, <https://www.refworld.org/legal/natlegcomments/unhcr/2022/en/124128>

²³ European Commission, "Bosnia and Herzegovina 2023 Report," accessed 11 March 2024, https://neighbourhood-enlargement.ec.europa.eu/document/download/e3045ec9-f2fc-45c8-a97f-58a2d9b9945a_en?filename=SWD_2023_691%20Bosnia%20and%20Herzegovina%20report.pdf

²⁴ Constitutional Court of Bosnia and Herzegovina, "Case no. AP-267/23," August 2023, https://www.ustavnisud.ba/uploads/odluke/_en/AP-267-23-1380158.pdf

4.1. Observers have expressed concern with the living conditions at temporary reception centres (TRCs) in BiH, with evidence demonstrating that conditions in some locations may be in direct variance with key international standards.

4.1 Video evidence of Blažuj TRC, the men-only camp on the outskirts of Sarajevo, shows that the bathrooms and toilets are in very bad condition with holes in the walls and mould. Some people report that there is no heating in the containers. Most people are housed in hangers, sleeping on bunk beds, with very limited privacy and only partition walls, which are not full height, between rooms’.

4.2 The communal area for cooking in Blažuj TRC does not have full walls. The water for showers is not hot which in freezing conditions is not adequate. The food provided at lunchtime for the evening is not warmed. Volunteers from Collective Aid have also received testimony of violence in Blažuj with the lack of basic resources leading to fights over small material possessions, even blankets are in short supply. As a result, people report feeling unsafe. The IOM provide regular updates on the provision of NFI in the camps and yet people are often seen by local actors having received nothing.

4.3 In Ušivak TRC, the family camp outside Sarajevo, the conditions are reportedly better but the location is difficult. It is far from the urban centre and its location in the mountain means the residents experience extremes of cold weather.

4.4 In the area of Bihac, Lipa remains problematic. The stated capacity is 1,500, but numbers have recently been as high as 1600 according to local actors, IOMs figures which are taken from SFA (The Service for Foreigners’ Affairs) differ drastically. Buses have reportedly come to Sarajevo from Lipa as a result. The camp also experiences problems with violence due to the difficult living conditions. On the night of the 21st of January 2024 one person was killed and another was seriously injured during a fight. There have also been recent reports of injuries sustained during a bear attack. It is very far from any urban centre, reportedly ten hours walk, leading to a lack of access to basic services and it is directly next to a minefield.

5. PUSHBACKS

5.1 Terminology and Legal Framework

5.1.a. ‘Pushback’ is a common term to denote the action of State representatives forcibly, and in most cases collectively, expelling individuals to another country in an irregular/informal manner and subsequently preventing or restricting their access to protection mechanisms.

5.1.b. The UN Special Rapporteur on Migrants²⁵ has recognised that the use of pushbacks is widespread, and in many contexts has become a routine element of border governance with a serious negative impact on the human rights of migrants. The UN Committee on Enforced Disappearances affirmed that the use of pushbacks is reflective of a ‘dehumanising border governance’ practice that can directly contribute to the disappearance of migrants.

5.1.c. We affirm that the practice of pushbacks violates both core international legal standards and also domestic legislation, including Article 105(12) of the Law on Foreigners

²⁵ OHCHR. Report on Means to Address the Human Rights Impact of Pushbacks of Migrants on Land and at Sea: Report of the Special Rapporteur on the Human Rights of Migrants. *A/HRC/47/30*.

which states: “Collective expulsion of foreigners is prohibited. Expulsion measures can only be imposed on individual cases.”

5.2 Pushback of Migrants and Refugees

5.2.a. Since 2018, through our field-based member organisations, BVMN has recorded evidence of at least 250 people being pushed back from BiH.²⁶

5.2.b. Evidence also demonstrates the indiscriminate nature of pushbacks, with testimonies collected by BVMN member organisation Blindspots²⁷ showing the pushback of a family, including a 8 year old child, from Bosnia.

5.2.c. In addition to the systematic denial of access to protection mechanisms, Collective Aid, BVMN and other member organisations have routinely documented other grave violations of human rights, including incidents in which migrants have been subjected to abuse amounting to torture or inhuman treatment, placed in arbitrary and incomunicado detention that lacks access to institutional safeguards and violently pushed back across international borders.

5.3. Inhuman Treatment in Detention During Pushbacks

5.3.a. Consistently, testimonies collected by BVMN member organisations recall migrants and refugees being subjected to detention during a pushback in conditions that are in direct variance with international standards and we affirm would amount to inhuman treatment. Testimonies routinely recall detention facilities without access to food, water and sleeping provisions.

5.3.b. In 2019, BVMN²⁸ recorded a testimony of a group of people who were apprehended by Bosnian authorities and detained for approximately 16 hours. The respondent described that at the detention location there were no benches in the room, they didn't get water, food or blankets and had to knock on the door when they wanted to go to the bathroom. They were later kicked and beaten with a metal baton before being pushed back to Montenegro.

5.4. Secret and incomunicado detention during pushbacks

5.4.a. Through its field based member organisations, BVMN has continued to document credible evidence of the use of incomunicado or secret detention during the pushback and refoulement of migrants and refugees. We not only affirm that this is in breach of international law, but also places migrants and refugees at significant risk of being disappeared.

5.4.b. In 2023, No Name Kitchen²⁹ documented a pushback testimony recalling the use of an abandoned building to temporarily detain a pushback group and hold them incomunicado. The 16 year old respondent described the abandoned building as isolated and far away from any other buildings. At this location the group was subjected to lengthy

²⁶ Border Violence Monitoring Network. *Testimony Database*. Available from: <https://borderviolence.eu/testimonies/>

²⁷ Border Violence Monitoring Network. “They were screaming louder and said a lot of bad things and said: go back!” Reported by Blindspots. 2022.

<https://borderviolence.eu/testimonies/may-2-2022-1530-smrekovac-close-to-the-municipality-of-velika-kladusa-bosnia-and-herzegovina/>

²⁸ Border Violence Monitoring Network. “In my country there is war but even there we don't treat people like this.”. Reported by BVMN. 2019, <https://borderviolence.eu/testimonies/april-12-2019-1600-trebinje-montenegro/>

²⁹ Border Violence Monitoring Network. “We wish no harm to anyone, and our respect for the police is like the respect for our parents”. Reported by No Name Kitchen. 2023, <https://borderviolence.eu/testimonies/march-17-2023-sremska-raca-serbia/>

violent attacks, including being slapped in the face, kicked, and punched all over their bodies, on and off over a period of 2 hours.

5.4.c. In 2020, No Name Kitchen³⁰ documented a testimony in which a islet was used as a form of de facto detention, where the group was left stranded and incommunicado for two days without any access to food, water or shelter. The respondent also described the violence of the apprehension, recalling how the police broke the teeth of one of the group members by hitting him in the face with a baton.

5.4.d. BVMN and its member organisation Are You Syrious have also received evidence of migrants and refugees, including children, being detained in 'cages' resembling animal pens. Evidence including testimonies³¹ and video evidence³² highlights how the use of secret or incommunicado detention is often followed by other forms of violence or abuse including the use of forced undressing.

5.5. Safeguards against ill-treatment

5.5.a. BVMN recognises a significant absence of safeguards against ill-treatment for persons deprived of liberty and subjected to detention during a pushback. We affirm that discrepancies in persons being detained and formally registered, denial of access to medical care and limited access to information about rights further exacerbates the risk of ill-treatment and torture.

5.5.b. Following the CPT visit to Bosnia and Herzegovina in 2021, the CPT assessed that several migrants deprived of liberty by the Border Police alleged to have received only verbal information in Bosnian about their rights by police officers.

5.5.c. In 2023, BVMN member Collective Aid³³ documented a testimony in which three people (two minors and one 18 year old) were detained and refused medical assistance before being subject to a pushback. Upon apprehension, one of the respondents had fallen from a bridge and severely injured his back. Despite watching one of the boys fall from the bridge and seeing his obvious injuries, no medical assistance was provided.

6. RECOMMENDATIONS DURING THE 3RD CYCLE

6.1 During the 3rd cycle of the Universal Periodic Review (43rd session, February/March 2020), Bosnia and Herzegovina supported several recommendations relevant to the human rights of migrants, refugees, and asylum seekers. Relevant recommendations included:

- Ensure humane and lawful conditions of detention and accommodation of migrants, including by implementing appropriate procedures, oversight mechanisms and

³⁰ Border Violence Monitoring Network. "The police officers pushed the respondents in the boat and carried them towards an island in the middle of the river". Reported by No Name Kitchen. 2020, <https://borderviolence.eu/testimonies/july-23-2020-0700-zvornik-bosnia-herzegovina-mali-zvornik-serbia/>

³¹ See; Border Violence Monitoring Network. "One police officer dragged the driver out of the car and started beating him" Reported by BVMN. 2019, <https://borderviolence.eu/testimonies/april-22-2019-0000-trebenje-bosnia-and-herzegovina/>

Border Violence Monitoring Network. "We were put like animals in a cage." Reported by BVMN. 2019, <https://borderviolence.eu/testimonies/april-14-2019-1730-apprehended-near-trebinje-bosnia-brought-to-klobuk-border-checkpoint-bosnia-transferred-to-ilino-brdo-border-checkpoint-montenegro/>

³² SAFF. "Šokantno: Kod Trebinja drže migrante sa djecom i ženama u kavezima /VIDEO/" 2019, <https://saff.ba/sokantno-kod-trebinja-drze-migrante-sa-djecom-i-zenama-u-kavezima-video/>

³³ Border Violence Monitoring Network. "Denied any medical assistance after falling from a bridge". Reported by Collective Aid <https://borderviolence.eu/testimonies/27925-2/>

effective coordination within government, especially to prevent the trafficking and abuse of women and girls (UK) (120.202)

- Take appropriate measures to provide refugees and migrants with effective access to international protection in line with international standards (Afghanistan) (120.201)
- 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 (Uruguay) (120.203)
- Improve the conditions for the reception of asylum seekers and migrants and increase housing capacity, including housing to protect vulnerable groups (Honduras) (120.205)

7. RECOMMENDATIONS FROM OTHER HUMAN RIGHTS INSTRUMENTS

7.1 Several UN human rights bodies have assessed Bosnia and Herzegovina's treatment of asylum seekers, refugees, and migrants and provided relevant recommendations:

- In 2021, the UN Committee on Economic, Social and Cultural Rights raised concerns about the inadequate capacity of reception facilities and poor living conditions within them. The committee also called on authorities to “ensure that the access that refugees, asylum seekers and migrants living outside designated reception facilities have to health care and education is equal to that of those living in the facilities.”³⁴
- In 2020, the UN Special Rapporteur on the Human Rights of Migrants visited what is described as an “immigration centre managed by the Ministry of Security, located in the eastern part of Sarajevo” (which would appear to be the Lukavica facility). Following the visit, he expressed concerns regarding the apparent lack of age assessments, the denial of access to outdoor activities for many detainees, and a lack of information provided on how to access free legal aid. He recommended that competent authorities and monitoring bodies “conduct regular visits to the immigration detention centre in order to protect migrants deprived of liberty and to prevent any human rights violations against them.”

8. RECOMMENDATIONS FOR CONSIDERATION DURING THE 4TH UPR CYCLE

8.1 End the immigration detention of children as well as all forms of arbitrary or de facto immigration detention in border zones or at temporary reception centres.

Arbitrary immigration detention represents a grave breach of Bosnia and Herzegovina's human right obligations. Because immigration detention of children is inherently contrary to the best interests principle, it is always arbitrary and represents a child rights violation, as established by the Committee on the Rights of the Child in its Joint General Comment No. 24/ No.4 (2017). Also, detaining anyone outside proper legal and statutory framework, as may be the case in some reception centres and during border pushbacks, is unlawful and thus inherently arbitrary as noted by the UN Working Group on Arbitrary Detention in its Revised Deliberation No. 5: “Arbitrary detention can never be justified, including for any reason related to national emergency, maintaining public security or the large movements of immigrants or

³⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), “Concluding Observations on the Third Periodic Report of Bosnia and Herzegovina,” E/C.12/BIH/CO/3, 11 November 2021, <https://uhri.ohchr.org/Document/File/302e3b03-9563-46be-9664-b160f052551b/693FEA1F-C12F-43B0-AFD6-CDC216BA60C9>

asylum seekers. This extends both to the territorial jurisdiction and effective control of a State” (paragraph 8). Bosnia and Herzegovina should:

8.1.a Cease the detention of children for immigration-related reasons.

8.1.b Amend the Law on Foreigners to prohibit the detention of children and families.

8.1.c Cease de facto and arbitrary detention operations in border regions and in all temporary reception centres.

8.1.d Ensure that vulnerable groups are never placed in immigration detention.

8.2 Improve transparency and accountability in the treatment of all non-citizens in any form of custody.

8.2a Ensure that data on numbers of persons held in immigration detention is systematically collected and publicly disseminated. Data should be disaggregated by age, gender, nationality, migration status, ethnicity, and grounds for detention, and include statistics on deaths, suicides, self-harming, and health-related problems.

8.2b Ensure that the BiH Ombudsman Institution for Human Rights regularly inspects the Lukavica “Immigration Centre” – including immediately after the planned extension project is completed.

8.3 Improve conditions and operations in the Lukavica “Immigration Centre” and ensure that all detention sites meet international standards.

8.3a Urgently ensure that detainees have access to appropriate interpretation services, and are provided with information detailing the reasons for, and the length of, their detention in a language they can understand.

8.3b Ensure that detainees have guaranteed access to the outside world—including by providing clear information on how to access free legal aid and asylum procedures.

8.3c Ensure that material conditions in detention guarantee access to security, health, food, and other rights.

8.4 Improve the locations of and condition at TRCs. Temporary reception facilities should be in safe and suitable locations, accessible by public transport and close to essential services to ensure that migrants and asylum seekers enjoy freedom of movement and maintain a decent quality of life.

8.5. Prevent border pushbacks and ensure swift and independent investigation and follow up on accusations relating to pushbacks of migrants, in accordance with its international obligations.

8.6 Ensure that the rights of refugees and migrants are not violated when in custody and that the principle of non-refoulement is respected at all times.