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**Submission from the Internal Displacement Monitoring Centre (IDMC)
of the Norwegian Refugee Council (NRC) for consideration at the
52nd pre-session of the Committee for Economic Social and Cultural Rights
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Serbia

30 September 2013

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Internal Displacement Monitoring Centre

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

I. Background to internal displacement in Serbia

1. In 1999, over 245,000 people fled from or within Kosovo in fear of reprisals from the majority Albanian population. This was as a result of NATO air strikes that had forced the withdrawal of Yugoslav troops and ended years of oppression of ethnic Albanians. Kosovo's current political status remains ambiguous despite the increasing number of states that have recognised its claim to independence. Negotiations continue between Kosovo and Serbia and are chaired by the European Union.

2. As of December 2012, there were an estimated 225,000 internally displaced people (IDPs) from Kosovo within Serbia, including an estimated 15,000 internally displaced Roma who have never been registered as displaced. These figures do not take into account those who have achieved durable solutions through local integration, relocation elsewhere in the country or return. Approximately three-quarters of IDPs are ethnic Serbs and 11 per cent Roma, Ashkali and Egyptian – collectively known as RAE.

3. In 2011, an assessment of the needs of IDPs conducted by the Serbian Commissariat for Refugees with the support of UNHCR identified over 97,000 IDPs still in need of assistance (JIPS/UNHCR, 2011). Eighty per cent of registered IDP households expressed a need for improved housing. Seventy-four per cent of IDPs were living below the poverty line. Roma were deemed the most vulnerable. The assessment indicated an equal representation of men and women amongst IDPs, but did not identify specific needs or protection issues of women.

4. Though the majority of IDPs have remained where they were initially displaced, a significant number have moved on from smaller to large urban areas such that 165,000 IDPs now live in cities. IDPs have largely settled in the regions of Sumadija and western Serbia in cities such as Kraljevo and Niš and around Belgrade. A majority of the most vulnerable IDPs live in rural areas and require assistance with housing, employment and access to documentation.

II. Main issues of concern and questions for the Government of the Republic of Serbia

Article 2.2 Non- Discrimination

5. In its 2nd Periodic State report (E/C.12/SRB/2) submitted to the Committee on 24 March 2011 (para 101), the Government of the Republic of Serbia reported that informal Roma settlements were recognised as a priority issue for the future national housing policy. In the general plan of the city of Belgrade until 2021, social and affordable housing is highlighted as a special form of housing, to which destitute Roma are recognised as socially vulnerable persons who need special assistance to provide adequate housing conditions. The Action Plan for the Implementation of the Strategy for Improvement of the Status of Roma for the period 2012-2014 was adopted in June 2013. However, the Strategy for the Improvement of the Status of Roma does not appear to have any budgeted funds for internally displaced RAE.

6. Despite these measures, Roma IDPs continue to be discriminated against and separated from the rest of the population through residential segregation. Often the resettlement of Roma after a government-enforced eviction results in Roma IDPs being moved to the outskirts of Belgrade to such places as Makis, Rakovica, Mladenovac and Barajevo. The feeling of isolation is heightened by the presence of physical barriers such as fences and barbed wire as present in Barajevo.¹ Marginalisation is most evident in the spheres of housing, education, healthcare and employment and is partially a result of lack of documentation that is required to access their rights in these spheres.

7. The anti-discrimination framework applicable in Kosovo does not provide protection to IDPs, asylum seekers or others in a similar position since it applies only to the citizens of Kosovo (see Article 1 and Article 2(c) of the Antidiscrimination Law and Article 3 of the Law on Ombudsperson in conjunction with Article 15).

8. In Kosovo, most ethnic Serb IDPs live in the north, where they rely on a system of education, policing and health care services provided entirely by Serbia. Many others live in enclaves in areas where their ethnic group constitutes a majority, but where they often face restrictions on their freedom of movement and have little access to livelihoods and services. Ethnically motivated attacks mainly against ethnic Serb IDPs in northern Kosovo and Metohija have risen to 60 in the first four months of 2013, up from 40 during the same period in 2012 (UN SC/11033).

9. Over 46 per cent of all displaced households in Serbia own apartments or houses in Kosovo. Most of these have been destroyed or illegally occupied. Around 30 per cent of households with property in Kosovo have filed property claims (JIPS/UNHCR, 2011). Seventy per cent of the complaints remain unaddressed.

10. In 2004, IDPs from Kosovo submitted around 18,000 claims for compensation for their destroyed properties. After a delay of several years, caused by an order of UNMIK to the courts not to process those cases, local courts in Kosovo are now rejecting massively these claims, on the grounds that UNMIK and KFOR enjoy immunities and the local institutions of Kosovo were not formed at the time. Moreover, certain number of courts are asking IDP claimants in these cases to pay the court fees retroactively although virtually all claims of this kind included the request for the exemption from the payment of court fees and despite the fact that the major international standards in the field of post-conflict property restitution stipulate that these proceedings should be conducted free of charge.

11. The result is that the property rights of these claimants remain unrecognised. Reconstruction programmes did not cater for all the needs and only covered some IDPs who expressed the wish to return. While IDPs wait for a response to their claim they cannot use their property left behind to earn an income or as a place of residence. This places them in need of housing and livelihood assistance which the government of Serbia is responsible for providing. Repairing and/or compensating properties would allow IDPs to become self-sufficient, either in Serbia proper or in

¹ Information Submitted to the Committee on the Elimination of Racial Discrimination on the occasion of Initial Periodic Report of Serbia, 78th Session joint submission by Praxis, Regional Centre for Minorities, CEKOR and CHRIS

Kosovo and more easily find a durable solution. While Serbia does not have effective control over Kosovo, the discrimination faced by IDPs in Serbia related to their claims for restitution and property protection in Kosovo is significant.

12. The lack of a functioning postal service system between Serbia and Kosovo also poses difficulties for IDPs to realise their property rights in Kosovo. IDPs living in Serbia cannot be officially notified of court and administrative proceedings affecting their properties by the authorities in Kosovo. This is particularly important given current ongoing expropriation procedures for the construction of the highway Pristina – Merdare. This situation is partially yet unsatisfactorily addressed by informal contacts and by the work of NGOs, but it is unsustainable and cannot replace an official notification system. In a similar way, the EULEX mission to Kosovo has a system for exchange of information between the Ministries of Justice in Serbia and Kosovo, but that has proven to be ineffective as well.

13. When seeking judicial protection of their rights through the competent courts in the territory of Kosovo, IDPs face numerous obstacles. One of the most important obstacles is that they cannot be represented before the courts in Kosovo on the basis of powers of attorney verified before the regular courts in the Serbia proper. For this reason, IDPs are forced to travel to Kosovo and verify the powers of attorneys issued to the lawyers there. This creates a situation where certain segments of the IDP population such as the elderly, disabled, low income or chronically ill in effect cannot approach the courts since they have difficulty to travel.

14. The agreement on the normalisation of relations between Serbia and Kosovo provides an opportunity to address some of the systemic discrimination issues affecting IDPs. Re-establishing a functioning postal service system would improve the situation of IDPs since they could be officially notified of on-going developments related to their properties. In a similar manner, the issue of properties owned by IDPs and their right to housing could be discussed and resolved in the context of the dialogue, so as to ensure that an effective remedy is provided for the massive destruction of IDP properties that occurred in 1999 and 2004.

Given the recently adopted Strategy for Prevention and Protection against Discrimination (2013) and the closely linked issue of discrimination and housing, IDMC invites the Committee to pose the following question to the Government of the Republic of Serbia in relation to Article 2.2:

- Please outline how the new Strategy for Prevention and Protection against Discrimination action plan will integrate the strategy of the Decade of Roma Inclusion as well as provide protection to Roma and non-Roma IDPs.
- Please outline measures undertaken to assist IDPs with property restitution and/or compensation through non-discriminatory governmental and judicial avenues.

Article 6

Right to Work

15. In its 2nd Periodic State report (E/C.12/SRB/2) submitted to the Committee on 24 March 2011 (para 32), the Government of the Republic of Serbia responded that its aim was to stimulate employment of refugees, displaced persons and returnees under the Readmission Agreement and the National Employment Action Plan. Whereas, the National Employment Strategy 2011-2020 highlights the need to specifically design active labour market programmes targeting returnees and IDPs.

16. Around 49 per cent of IDPs are unemployed and an estimated 29 per cent of IDPs have informal employment without a contract. More than 90 per cent of unemployed IDPs, are in a situation of long-term unemployment (more than two years), having lost their jobs due to displacement. Since 2003, Serbia pays monthly fees to more than 23,500 IDPs and persons residing in the territory of Kosovo and Metohija, who up to June 1999 were employed in one of the state and social organisations or companies in the area of Kosovo and Metohija (National Strategy for Resolving Problems of Refugees and Internally Displaced Persons for the Period from 2011 to 2014). Despite being unemployed, these IDPs are treated as if they are gainfully employed as a result of the income received from the Serbian authorities, resulting in the lack of full access to active employment policies in order to improve their competitiveness in the labour market, gain real employment, and achieve self-sustainability.

17. For those IDPs who lost their jobs, their employment relations were never de jure terminated, but only de facto. In some cases, the company records for those IDPs simply mention that they were dismissed from their jobs in June / July 1999, at the time when the Serbian authorities were officially withdrawing from Kosovo, but no formal decision was issued nor the persons were notified, therefore it is questionable whether such terminations were in compliance with the law and not issued on a discriminatory basis, as it was found by the Special Chamber of the Supreme Court of Kosovo for Privatisation issues. As these companies are now entering the phase of liquidation, a solution should be found for both unpaid salaries and pending employment relations to bring this issue in compliance with the law and international standards.

18. Unemployment among Roma IDPs is of significant concern as they often cannot access employment opportunities due to administrative restraints such as lack of documentation and/or lack of registered residence (CoE, 31 May 2011, para 94). In April 2012, the government signed a Memorandum of Understanding with the Ombudsman and UNHCR to provide assistance on the registration of legally 'invisible persons' and changes were brought to the law of non-contentious procedures in August 2012 aimed at facilitating late registration in the birth registry (CoE SWD(2012) 333 final).

19. On 19 June 2013, the Ministry of Labour, Employment and Social Policy issued a new instruction for social welfare centres in relation to registration of permanent residence. Persons who do not fulfil other legal bases of housing may have their residence registered at the social welfare centres. The new instruction offers a more efficient and more rational solution for the citizens. It is unclear how these new instructions will be implemented. This is because the Law on Permanent and

Temporary Residence (adopted in November 2011) is still not implemented consistently, and the Ministry of Interior only recently issued the instruction for acting of police departments and stations in procedures for determination of permanent residence at the address of social welfare centres (Praxis, 2013).

Given that around 49 per cent of IDPs are experiencing long-term unemployment, IDMC invites the Committee to pose the following questions to the Government of the Republic of Serbia in relation to Article 6:

- Please outline specific measures the government has taken in order to target IDPs for inclusion within the labour market and the effects these measures have had on the employment of IDPs.
- Please outline measures the government has taken in order to promote income-generating activities through grants, given that one third of unemployed and one fifth of unemployed IDPs consider this form of support the most attractive.

Article 9 Right to Social Security

20. Concluding Observation 49 specifically addresses the issue of social security and requests the State “to alleviate documentation requirements for payment of pensions to internally displaced persons whose work booklets were destroyed during the hostilities in Kosovo” (E/C.12/1/Add.108). However, in practice it remains a requirement to present a work booklet for proof of employment in order to obtain pension benefits.

21. In its 2nd Periodic State report (E/C.12/SRB/2) submitted to the Committee on 24 March 2011 (para 48 and 49), the Government of the Republic of Serbia acknowledges the difficulty associated with payment of pensions without a work booklet. It specifically focuses on the problem of pensions for ethnic Serbs in the Republic of Croatia, but does not discuss or attribute initiatives to alleviate this issue for IDPs from Kosovo as addressed in under Concluding Observation 49. In the context of normalisation of relations with Kosovo, Serbia should be encouraged to find a pragmatic approach to ensure the full payment of the accrued pensions.

22. IDPs from Kosovo residing in the Republic of Serbia are eligible for pensions based on their employment history, often recorded in work booklets and M4 forms, which contain information on work experience and paid contributions. Most employment records remain in Kosovo, however the Serbian and UNMIK authorities do not recognise each other’s M-4 forms (forms that are used for making decisions on pensions)(Civil Action LINGVA, 2011). Additionally, Serbian authorities do not recognise documents issued by the Kosovo Republic authorities and vice versa. In the absence of an employment record, a provisional pension is provided which is significantly lower than what would be given if they provided records of employment.

23. After the signing of the Kumanovo Agreement on 9 June 1999 IDPs were required to register a temporary address in the Republic of Serbia outside of Kosovo

in order to claim their pensions. Those who did not do so had their pensions suspended. The pension claim is subject to renewal and requires extensive documentation to receive benefits. Serbian authorities require photocopies of personal identification documents, the application of residence in the Republic of Serbia, a decision on retirement, last salary payment, and displacement certification. The lack of personal documentation prevents IDPs from gaining access to their full pension benefits.

Given the continued hardships suffered by IDPs due to their inability to provide personal documents and to realise the enjoyment of Covenant rights, IDMC invites the Committee to pose the following questions to the Government of the Republic of Serbia regarding Article 9:

- Please outline measures the government has taken to provide assistance to IDPs in facilitating the procedures necessary to obtain personal documents, or provisional alternatives in relation to obtaining social security and pension benefits.
- Please outline measures the government has taken to resolve administrative discrepancies between UNMIK and Serbian authorities regarding acceptance of documentation on pension decisions of IDPs.

Article 11 Right to Adequate Standard of Living

24. IDPs are faced with many challenges in achieving an adequate standard of living. Some remain in collective centres, while others struggle to provide a decent accommodation with electricity and running water. Surveys have shown that IDPs prefer two solutions to their housing needs; construction material kits to improve their existing accommodation or to reconstruct their home that was damaged in the war, and social housing apartments.

25. As of March 2013, 30 collective centres housing 1,986 IDPs remain. Nineteen of these 30 collective centres are in the Republic of Serbia and 11 collective centres are within the territory of Kosovo and Metohija. Over half of IDPs live in precarious conditions with limited access to basic services, inferior to conditions of non-displaced. The majority live outside of designated IDP collective centres in private accommodations.

26. Residents of informal settlements, the vast majority of which are Roma, are at a high risk of eviction. According to the European Roma Rights Centre (ERRC) from 2009 to mid-2012 there have been 17 major evictions from informal settlements in Belgrade, affecting nearly 2,500 persons principally Roma (ERRC, July 2012; HR Ombudsman of Republic of Serbia, July 2012; Praxis, May 2012; Praxis, 4 October 2011).

27. For RAE IDPs, progressive realisation of the right to housing is not visible. Their living conditions are extremely poor and they do not have security of tenure since they often live in unauthorised encampments putting them at high risk for evictions. One thousand live in non-recognised collective centres that are makeshift shelters,

while another significant number of RAE live in an estimated 600 illegal settlements in Serbia. Conditions are insalubrious and generally without water, electricity or sanitation (CoE, 31 May 2011, para 91-92).

28. The Regional Housing Programme under the “Sarajevo Process on refugees and displaced persons” is a joint initiative of Bosnia and Herzegovina, Croatia, Montenegro and Serbia and was developed in order to meet the housing needs of returnees and IDPs in the region. While other countries have included IDPs within their RHP country housing projects, Serbia has not. This significantly limits the available housing solutions of IDPs in Serbia.

Given the needs of IDPs and the obligation of the Government to progressively provide an adequate standard of living, IDMC invites the Committee to pose the following question to the Government of the Republic of Serbia regarding Article 11:

- Please outline alternative initiatives the Government of the Republic of Serbia is implementing to address inadequate housing of IDPs, including internally displaced RAE, that correspond to the anticipated outcomes of the Regional Housing Programme for IDPs.

Article 12 Right to Physical and Mental Health

29. In paragraph 36 of the Committee’s concluding observations, “the Committee regrets the absence of information on mental health services in the State party’s report, including provision of psychological rehabilitation to victims of physical and sexual violence and other traumatising experiences related to armed conflict” (E/C.12/1/Add.1-8).

30. In its 2nd Periodic State report (E/C.12/SRB/2) submitted to the Committee on 24 March 2011 (para 168 and 169), the Government of the Republic of Serbia acknowledges the right of health protection under the Law on Health Care as well as the rights provided to individuals under the compulsory health insurance. However, the Government of the Republic of Serbia fails to address the outstanding issues related to exercising these rights.

31. IDPs face various forms of physical and mental health challenges. Twenty four point one per cent of IDPs suffer from chronic diseases, 19.27 per cent of IDPs experience certain difficulties in everyday life due to health conditions. Twelve point six per cent have difficulty with mobility and 11.6 per cent with sight. One fifth of the displaced population is at risk of social exclusion requiring special attention.

32. Steps taken to modernise the Serbian healthcare system have included digitalising records by attributing an individual’s health record to their personal identification number. At the beginning of 2009, certificates allow people to access healthcare were replaced with health cards. Those who do not have appropriate

documentation or a personal identification number have no means to obtain a health card which prevents them from accessing free healthcare.

Given the adoption of the Law on Non-Contentious Procedures in 2012 and the right to health protection acknowledged by the Government of the Republic of Serbia, IDMC invites the Committee to pose the following question to the Government of the Republic of Serbia regarding Article 12:

- Please outline measures taken to provide access to healthcare to IDPs.

Article 13 Right to Education

33. Internally displaced children and young people that should be included in primary and secondary education (ages 7 to 18) account for 20 per cent of the displaced population. Seven per cent of internally displaced children do not attend primary school (National Strategy for Resolving Problems of Refugees and Internally Displaced Persons for the Period of 2011-2014).

34. IDPs residing in collective centres are most often the most economically vulnerable IDPs. Around 14 per cent of IDPs residing in collective centres have either no education or they have only partially completed elementary school. Forty-five per cent of collective centre residents have completed elementary school. Less than 5 per cent of residents have graduated from college or university (Commissariat for Refugees and Migration, 2010).

35. Roma children face multiple obstacles to receiving education such as, lack of identity documents to enrol and discrimination by separating RAE from their peers or referring them to schools for children with special needs (CoE 31 May 2011, para 93).

36. Roma-only schools are usually located next to segregated Roma communities. Many of these schools particularly those in multi-ethnic surroundings did not start out as Roma-only schools, but due to the increase in number of Roma students, non-Roma students withdrew as observed in Horgos, Apatin, Senta, Bujanovac and Nis. Over time, the quality of education diminishes, curriculum becomes substandard, and school funding is reduced leading to overcrowding. Children attending these schools rarely manage to continue their education (Praxis, 2011). The Government hired 180 Roma teaching assistants in 2010 to help Roma kids in class and improve cooperation between schools (CoE 31 May 2011, para 93).

Given the importance of education to the overall development and welfare of society and acknowledged by the Committee as a right, IDMC invites the Committee to pose the following questions to the Government of the Republic of Serbia regarding Article 13:

- Please outline Government initiatives on education targeting IDPs in collective centres.

- Please outline measures taken to eradicate Roma-only schools and prevent the degradation of education, curriculum and funding where Roma children are in the majority.
- Please outline measures taken to ensure internally displaced RAE receive the necessary identity papers to enrol children in school.