

LEGALIZATION OF ROMA SETTLEMENTS AND HOUSING UNITS IN BOSNIA AND HERZEGOVINA

An analysis of eight municipalities



Funded by the EU



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July 2013

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EXECUTIVE SUMMARY

The primary goal of this report is to provide an overview of the legalization issues of illegally constructed housing units and settlements of the Roma population in Bosnia and Herzegovina (BiH). It is important to state that this issue, for the needs of this report, was examined through eight BiH municipalities, involved in the project “Best Practices for Roma Integration” (BPRI Project)¹. The examples referred to in this report are illustrative and reflective of the situation in other BiH municipalities. In addition, the report contains an overview and analysis developed through field research, and provides a brief overview of the legislation regulating the legalization of illegally constructed housing units and settlements.

Regarding the status of the legalization of settlements and individual residential housing units occupied by the Roma population, the following outstanding issues have been identified:

1. Urban infrastructure in the existing settlements
2. Legalization of Roma settlements and residential housing units
3. Relocation of Roma settlements
4. Social housing

There is a need to improve the quality of housing in all of the settlements, regardless of whether they are multi-ethnic or solely Roma. Research has revealed significant discrepancies in the conditions and the equipment of residential housing units. The extent of problems varies, as all settlements have both uninhabitable housing units as well as quality constructed housing units. In some settlements, the residential housing units of Roma are no different from the houses of non-Roma; they are not separated and thus constitute an integral part of the wider settlement.

Secondary networks of public utility infrastructure are often absent from Roma settlements. A decision approving the construction of a house (i.e. a construction permit) is required for a connection to the urban water supply and sewage networks, as well as to the electricity distribution network. Roma often are connected to these services if they live in zones with urban utility infrastructure. However, these connections are mostly illegal or granted under temporary terms.

It is a fact that infrastructure development and improvement remains a problem throughout suburban BiH. Complete infrastructure is available mainly in the urban zones of municipalities, while in suburban zones there is a notable lack of facilities such as sewage networks, water supply networks or paved roads. Even when the technical requirements for a connection are in place, the non-legalization of a housing unit inevitably prevents its connection to the public utility infrastructure.

¹ Five municipalities in the Federation of Bosnia and Herzegovina: Lukavac, Kakanj, Jablanica, Mostar and Jajce; two municipalities in Republika Srpska: Prijedor and Bijeljina; and Brčko District of Bosnia and Herzegovina.

Non-legalized housing units are indeed prevalent across BiH. This issue, however, is most notable within the Roma population, proportionate to its size and degree of social vulnerability. Although no exact numbers exist for the aforementioned municipalities, it is assumed that the majority of housing units inhabited by Roma require legalization.

Bearing in mind the extent of the documentation, as well as the costs, required for legalization of a housing unit, this report categorizes illegally constructed housing units into four groups:

1. Housing units constructed on land owned by the housing unit occupant;
2. Housing units constructed on land owned by ancestors of the housing unit occupant (probate proceedings not carried out);
3. Roma settlements and housing units on publicly owned land; and
4. Housing units that do not meet the technical construction requirements.

Also taking into consideration that a number of Roma families will not be able to legalize their inadequate housing units, social housing is a mechanism that could improve living conditions of Roma, as well as that of other vulnerable groups. It is therefore recommended that a more comprehensive policy on social housing is developed through BiH, following the examples of local self-governments that have adopted laws and strategies to regulate the provision and development of social housing.

1. INTRODUCTION

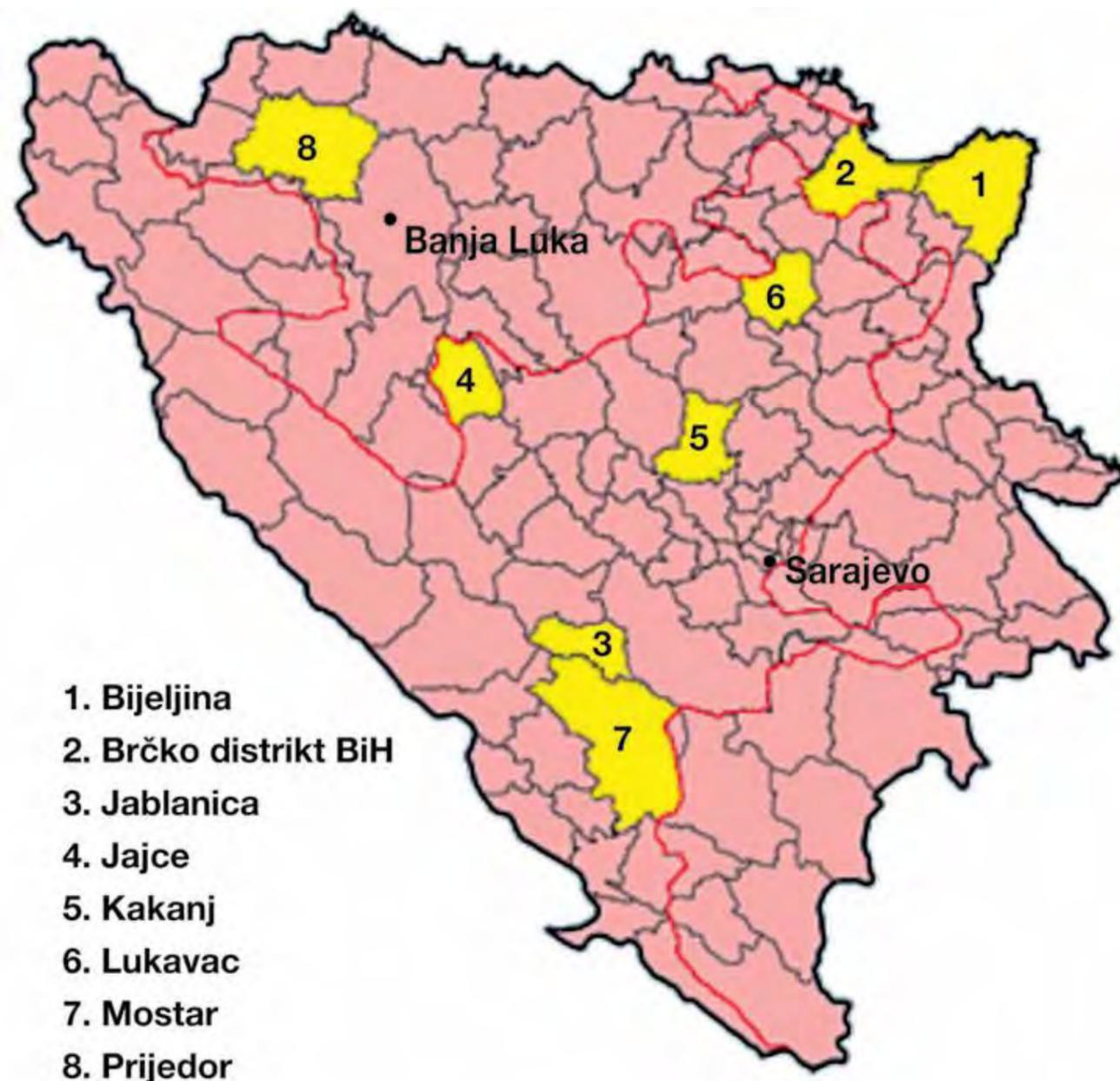
Recognizing the problems and needs of socially excluded Roma, several countries in the region initiated the Decade of Roma Inclusion 2005-2015 (the Decade) aimed at including Roma in the life of the wider community. The Decade represents a political commitment to accelerating the inclusion of Roma into society and to improving their economic and social status across the region. The Decade includes 12 member countries, including Bosnia and Herzegovina (BiH). Each country identified a limited number of national tasks with measurable degrees of implementation, in the areas of poverty, discrimination and gender; and proceeded to develop action plans detailing goals and indicators within these areas. BiH adopted action plans to resolve Roma issues in the areas of housing, employment and health care. These plans were adopted in July 2008, when BiH joined the Decade.

One of the critical components of the Roma Action Plan on Housing is the legalization of illegally constructed housing units and settlements. Notwithstanding the adoption of the action plans and a series of activities undertaken to date to resolve housing issues, the problem of legalization of illegally constructed housing units remains unresolved. As a result, the *Best Practices for Roma Integration* (BPRI) Project, financed by the European Union (EU) and implemented by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), supported a survey analysis on the issue of legalization in Roma settlements throughout BiH.

The primary goal of this report is to provide an overview of the issue of legalization of illegally constructed housing units and settlements of the BiH Roma population. It is important to state that, for the purposes of the report, this issue was examined through eight BiH municipalities, all of which were involved in the BPRI Project. The examples referred to in this report are illustrative and reflective of the situation in other BiH municipalities. In addition, the report contains an overview and analysis developed through field research, and provides a brief overview of the legislation regulating the legalization of illegally constructed housing units and settlements.

The field research data collected in eight BiH municipalities is an integral part of the report, and was carried out in:

- five municipalities in the Federation of BiH (FBiH): Lukavac, Kakanj, Jablanica, Mostar and Jajce;
- two municipalities in the Republika Srpska (RS): Prijedor and Bijeljina; and
- Brčko District of BiH (BDBiH).



Field research identified the problems faced by local communities with respect to the legalization of illegally constructed housing units. Information was gathered on the number of Roma settlements and their status, the infrastructure available, the quality of housing, the relocation and expropriation of Roma settlements and housing units, and social housing.

In order to gather the most comprehensive data possible, the following activities were carried out:

1. In consultation with OSCE Mission advisors, a check-list was developed to define the questions for local self-government representatives.
2. Check-lists were sent out to local self-governments, together with requests for meetings.
3. All check-list questions were discussed in meetings with the relevant local self-government representatives. These discussions also addressed the specific problems that local self-government representatives encounter in their municipalities with respect to the legalization of illegally built housing units.
4. Visits were made to Roma settlements to determine the conditions of the housing units occupied by Roma.
5. Preliminary reports for each municipality were prepared based on the meetings held, responses provided in the check-list, field observations and all information collected.²

It should be noted that the last population census in BiH was carried out in 1991 and, according to that census, there were 8,864 Roma living in BiH. However, it is very likely that a number of Roma did not declare themselves as such.

The table below provides an overview of the Roma population's numbers in each of the eight target municipalities, and the number of settlements inhabited by Roma. The data is not considered final; population figures have been taken from the respective municipalities' websites.

Table no. 1: *Total Roma population and number of Roma settlements in eight BiH municipalities*

Number	Municipality	Total population	Number of settlements inhabited by Roma	Roma population	Source of data on Roma population
1.	Prijedor*	112 500	10	650	Estimate
2.	Bijeljina	110 000	5	2 000	Estimate
3.	Kakanj	48 300	3	1 485	Estimate
4.	Lukavac**	51 000	6	511	Social Welfare Centre
5.	Jablanica	12 690	2	78	Social Welfare Centre
6.	Mostar	105 000	1	236	Roma NGO
7.	Jajce	24 000	1	363	Roma NGO
8.	Brčko District*	75 000	3	825	Social Welfare Centre
	TOTAL:	538 490	31	6 148	

* There is a higher number of Roma living in the municipality who do not declare themselves as such.

** Estimates place the number of Roma in the municipality of Lukavac at over 1,000.

² Check-lists and preliminary report for each municipality are an integral part of this report and are provided in Annex 1.

2. INTERNATIONAL AND EUROPEAN STANDARDS PERTAINING TO THE RIGHT TO HOUSING

The protection of the right to adequate housing is an integral part of several international instruments for the protection of human rights, which BiH has committed to observe as a member of the United Nations (UN) and the Council of Europe. The first among these documents, the Universal Declaration of Human Rights from 1948 (the Declaration), acknowledges the right to an adequate standard of living, and since the Declaration is considered a source of common law, it pertains even to those States that are not UN Members. States signatory to other international documents referred to in this chapter are under obligation to uphold, protect and enforce the rights covered by these instruments. Although the majority of UN and Council of Europe Member States have signed and ratified the relevant documents related to the protection of the right to adequate housing, it is still necessary to incorporate international standards and requirements into national legislation, especially in countries where international documents do not apply directly.

By introducing the right to adequate housing standards, states not only meet international obligations arising from membership of organizations such as the UN; they also create a legal system which empowers individuals and groups with a legal means to safeguard their human rights. There are further reasons to use international law as a model for national legislation, too. For example, relying on international law in national legislation can result in greater consistency within national legislation with regard to universally acknowledged rights, including the right to adequate housing. International law is subject to the influence of different ideas borne out of different legal, political, economic and cultural traditions. The codification process of these norms into international law reflects the acceptance of the very ideas that the international community holds as examples of best practices insofar as they can be universally recognized and accepted.

Below is an overview of the fundamental international documents pertaining to the right to adequate housing standards applicable in BiH.

I Universal Declaration of Human Rights³

Article 25 (1)

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

II International Covenant on Economic, Social and Cultural Rights (ICESCR)⁴

Article 11(1)

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

General Comment 4 of the Committee on Economic, Social, and Cultural Rights regarding to Article 11 of the ICESCR⁵

Summary of State obligations regarding adequate housing:

- 1) The State undertakes to endeavor by all appropriate means to ensure that everyone has access to affordable and acceptable housing.
- 2) The State will undertake a series of measures which indicate policy and legislative recognition of each of the constituent aspects of the right to housing.
- 3) The State will protect and improve houses and neighborhoods rather than damage or destroy them.
- 4) Enjoyment of the right to adequate housing must not be subject to any form of discrimination. Further, the right is not only applicable to families but to individuals as well.
- 5) The right to housing should be seen as the right to live somewhere in security, peace and dignity and should be ensured to all people irrespective of income or access to economic resources.
- 6) Essential components of the right to adequate housing are as follows:
 - (i) *Legal security of tenure*: everyone should enjoy legal protection from forced eviction, harassment and other threats;
 - (ii) *Habitability*: housing must provide inhabitants with adequate space and protection from the elements and other threats to health;

³ Adopted and proclaimed by the United Nations General Assembly on 10 December 1948 (Resolution no. 217/III).

⁴ Adopted and opened for signature, ratification and accession under the Resolution of the United Nations General Assembly 2200 A (XXI) dated 16 December 1966. ICESCR is in force from 3 January 1976 in accordance with Article 27. Published in the “Official Gazette of the Socialist Federal Republic of Yugoslavia” (International Treaties) number 7/1971. BiH took over the ICESCR by succession on 1 September 1993 (“Official Gazette of the Republic of BiH”, no. 25/93), and it acquired the force of a constitutional provision in the Constitution of BiH. In Article II pertaining to human rights, it is established that “BiH and both entities shall provide the highest level of internationally recognized human rights and basic freedoms.”

⁵ Right to Adequate Housing, Article 11(1) of the Covenant, 6th session of the Committee on Economic, Social, and Cultural Rights, 13 December 1991.

- (iii) *Location*: housing must be in a safe and healthy location which allows access to opportunities to earn an adequate livelihood, as well as access to schools, health care, transport and other services;
 - (iv) *Economic accessibility*: personal or household costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not compromised;
 - (v) *Physical accessibility*: housing must be accessible to everyone, especially vulnerable groups such as the elderly, persons with physical disabilities and the mentally ill;
 - (vi) *Cultural acceptability*: housing must be culturally acceptable to the inhabitants, for example reflective of their cultural preferences in relation to design, site organization and other features;
 - (vii) Availability of *services, materials, facilities and infrastructure* that are essential for health, security, comfort and nutrition, such as safe drinking water, sanitation and washing facilities.
- 7) Social groups living in unfavourable conditions should be given priority in the realisation of the right and policies and laws should not benefit already advantaged social groups at the expense of others.
- 8) The obligations under the Covenant continue to apply and perhaps are even more pertinent during times of economic contraction. Thus it would be inconsistent with the obligations of the Covenant if living and housing conditions decline because of policy and legislative decisions taken by States Parties. Also the adoption of a national housing strategy is an important step.
- 9) States Parties, both recipients and providers, should ensure that a substantial proportion of financing is devoted to creating conditions leading to a higher number of persons being adequately housed. International financial institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the right to adequate housing.
- 10) Effective monitoring of the situation with respect to housing is another obligation of immediate effect. For a State Party to satisfy its obligations under Article 11(1) it must demonstrate, inter alia, that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee emphasise the need to "provide detailed information about those groups within society that are vulnerable and disadvantaged with regard to housing." They include, in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in "illegal" settlements, those subject to forced evictions and low-income groups.

Concluding observations of the Committee on Economic, Social and Cultural Rights to BiH

The Committee on Economic, Social and Cultural Rights, in its 35th session held from 7 through 25 November 2005, adopted key recommendations in relation to the implementation of the ICESCR in BiH.

The Committee has especially emphasized the following in items 46 and 47:

- 46. The Committee recommends to the State Party to adopt, at the State level, a housing law and a national housing strategy to address the housing needs of the population. The Committee also recommends that the State Party allocate sufficient resources for the provision of social housing, especially for the low-income and disadvantaged and marginalized groups.
- 47. The Committee urges the State Party to ensure the right of Roma people to repossess their pre-armed-conflict property, to guarantee security of tenure to inhabitants of Roma settlements and to ensure that adequate alternative housing or compensation is provided to Roma people and to pre-armed-conflict tenants who have been evicted from their settlements and homes, in line with the Committee's general comment No. 7.

III International Convention on Elimination of Racial Discrimination (CERD)⁶

Article 5 (e) (III)

"In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (e) Economic, social and cultural rights, in particular: ... (iii) The right to housing."

IV Convention on the Rights of the Child (CRC)⁷

Article 27 (3)

"States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing."

⁶ Adopted and opened for signature and ratification under the Resolution of the United Nations General Assembly 2106 A (XX) dated 21 December 1965. CERD entered into force on 4 January 1969 in accordance with Article 19. BiH ratified CERD by succession in 1993 ("Official Gazette of the Republic of BiH", no. 25/93), and it acquired the force of a constitutional provision under Article II of the Constitution of BiH.

⁷ Adopted and opened for signature, ratification and accession under the Resolution of the United Nations General Assembly 44/25 dated 20 November 1989. CRC entered into force on 2 September 1990 in accordance with Article 49. CRC was published in "Official Gazette of the Socialist Federal Republic of Yugoslavia", no. 15/90). BiH ratified CRC by succession in 1993, and it acquired the force of a constitutional provision under Article II of the Constitution of BiH.

V European Convention on Human Rights and Fundamental Freedoms (ECHR)⁸

Article 8 of the Convention

“Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Article 1 of the ECHR Protocol 1

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

VI European Social Charter (revised)⁹

Article 16 – The right of the family to social, legal and economic protection

“With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”

Article 30 – The right to protection against poverty and social exclusion

“With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a) to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
- b) to review these measures with a view to their adaptation if necessary.”

Article 31 – The right to housing

“With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

- a) to promote access to housing of an adequate standard;
- b) to prevent and reduce homelessness with a view to its gradual elimination;
- c) to make the price of housing accessible to those without adequate resources.”

⁸ Convention for the Protection of Human Rights and Fundamental Freedoms (“European Convention on Human Rights”) was adopted on 4 November 1950 in Rome and its first Protocol was adopted on 20 March 1952 in Paris. In accordance with the General Framework Agreement for Peace in BiH (Annex IV), the provisions of ECHR and its protocols shall apply directly in BiH and enjoy primacy over any other legislation, including the Constitution of BiH. As a ratified international treaty, ECHR is an integral part of the legal order of BiH, and, with its ratification, the country assumed the obligation to continuously examine the compatibility of all legislative enactments with ECHR. ECHR and its protocols are published in its integral wording in the “Official Gazette of BiH”, no. 6/99.

⁹ As a complementary instrument to the European Convention on Human Rights which protects civil and political rights, the European Social Charter is a treaty signed in Turin in 1961 with the aim of improving the basic social and economic rights of signatory countries. The Charter was amended and consolidated into a single document (initial text of the Charter from 1961 and Supplementary Protocol from 1988) and opened for signature on 3 May 1996. It entered into force on 1 July 1999. Under the Decision on ratification of the European Social Charter (Revised), number 01-011-1697-22/08, BiH has committed to fully enforcing the provisions of Articles 1, 2, 5, 6, 7, 8, 9, 11, 14, 16, 17, 20, 21, 22, 23 and 28, and specific provisions of Articles 4, 12 and 13. BiH has not committed to adhering to the provisions of Article 31 of the Charter.

3. APPLICABLE LEGISLATION PERTAINING TO LEGALIZATION IN BIH

3.1 Bosnia and Herzegovina

Given the competences set out in the BiH Constitution, there are neither State level regulations governing the matter of the legalization of illegally constructed housing units, nor State level regulations to govern matters related to the resolution of property and legal relations over the land on which such housing units are constructed. These matters are the competence of the two entities, the Republika Srpska (RS) and the Federation of BiH (FBiH) and Brčko District of BiH.

It is important to note that the Strategy of BiH for Addressing Roma Issues (the Strategy) has been adopted at the State level.¹⁰ The Strategy pays particular attention to the issue of Roma national minority housing. Amongst other things, the Strategy states that:

"the first measure in this area is to legalize the housing units constructed in the past without a valid urban planning and legal documentation, or drastic reduction of costs in the process of the legalization of existing residential housing units, especially individual houses, and repair and humanization of the existing settlements which are deemed viable after being subjected to monitoring and application of the minimum urban planning and infrastructure criteria and terms."

It should be noted that the question of the legalization of illegally constructed housing units is covered in the Action Plan of BiH for Addressing Roma Issues in the Fields of Employment, Housing and Health Care.¹¹ In terms of housing provision, the Roma Action Plan on Housing emphasizes that:

"resolving the housing problems of Roma and all the related complexities (unresolved property and legal relations, complicated procedures for obtaining the necessary permits, lack of reliable data, poor construction condition of the existing housing units, avoiding the trap of ghettoization, etc) are an enormous issue to tackle even for the much more developed societies than the one in Bosnia and Herzegovina."

The Roma Action Plan on Housing also emphasizes that it is necessary to begin with the legalization of individual housing units, and that a series of measures need to be

¹⁰ Strategy of BiH for Addressing Roma Issues ("BiH Official Gazette", no. 67/05)

¹¹ Action plans of BiH for Addressing Roma Issues in the fields of employment, housing and health care, adopted by the Council of Ministers of BiH, in session held on 3 July 2008.

undertaken to realize this goal; starting from the establishment of a common data base, through regulating property and legal relations, to the legalization of illegally constructed housing units, the creation of a more favorable legislative framework, etc.; to help attain humane and urban living conditions for Roma within the wider community in BiH.

3.2 Brčko District of BiH

The question of construction and legalization of illegally constructed housing units in the Brčko District of BiH (BDBiH) is regulated in the *Law on the Legalization of Illegally Constructed Housing Units*.¹² Under this law, all those who had constructed housing units illegally or started such construction by October 2003 were eligible to apply for these residential housing units to be legalized. The deadline for filing applications for legalization was November 2005.

The usual procedure for the construction of residential units is governed by the *Law on Spatial Planning and Construction*¹³ while the question of expropriation of residential units is governed by the *Law on the Expropriation of Property in BDBiH*.¹⁴

3.3 Federation of BiH

Matters of construction and legalization of illegally constructed housing units in the FBiH are under cantonal regulations, mainly in cantonal construction laws or separate laws dealing with the legalization of illegally constructed housing units. In some cases, the question of more specific regulation of legalization has been devolved by local self-governments. It is worth noting that there are cantons without separate regulations for the legalization of illegally constructed housing units.

Other regulations, critical for construction and legalization of illegally constructed housing units should also be mentioned. Among these are the *Law on Proprietary Rights*¹⁵ and the *Law on Construction Land*¹⁶ which are relevant for questions related to property and legal relations over land on which the housing units are constructed.

Matters of expropriation in the FBiH are regulated at the entity level, specifically by the *Law on Expropriation*.¹⁷ Similar to the RS, it is only possible to expropriate property under the procedure foreseen in the law with the payment of the fee prescribed in the regulation.

In Tuzla Canton, the question of legalization of illegally constructed housing units is regulated by the *Law on Requirements and Procedure for Legalization of Illegally Constructed Housing Units*.¹⁸ It is worth noting that, in accordance with Article 3 (1), it is possible to legalize only those housing units built up until 19 July 2007. The deadline for filing applications for the legalization of illegally constructed housing units, according

¹² Law on Legalization of Illegally Constructed Housing units ("BDBiH Official Gazette", no. 21/03, 3/04, 29/04 and 19/07)

¹³ Law on Spatial Planning and Construction ("BDBiH Official Gazette", no. 29/08)

¹⁴ Law on Expropriation of Property in BDBiH ("BDBiH Official Gazette", no. 26/04, 19/07, 2/08, 19/10 and 15/11)

¹⁵ Law on Proprietary Rights ("Official Gazette of the FBiH", no. 67/13 i 100/13)

¹⁶ Law on Construction Land ("Official Gazette of the FBiH", no. 67/05)

¹⁷ Law on Expropriation ("Official Gazette of the FBiH", no. 70/07, 36/10 and 27/12)

¹⁸ Law on Requirements and Procedure for Legalization of Illegally Constructed Housing units ("Official Gazette of Tuzla Canton", no. 3/06, 1/07, 5/08 and 10/11)

to the 2008 amendments to this law, was May 2009. In subsequent amendments to the 2011 law, the deadline was extended until 31 May 2016. Those housing units which may be legalized under this Law must fulfill the requirements prescribed under BiH's *Law on Spatial Planning and Construction of Tuzla Canton*.¹⁹

In Zenica-Doboj Canton, the basis for the legalization of illegally constructed housing units is the *Law on Construction*.²⁰ This law specifies that it is possible to legalize housing units constructed up until February 2008, and the deadline for filing applications for the legalization of illegally constructed housing units was July 2013.

In Central Bosnia Canton, the matter of construction is regulated under the *Law on Construction*.²¹ The regulation does not cover the matter of retroactive legalization. Likewise, there is no separate regulation for the matter of legalization of illegally constructed housing units. However, it is worth noting that illegal builders may still obtain urban planning and a construction permit under the terms prescribed in the *Law on Construction*, provided they meet the prescribed requirements.

In Herzegovina-Neretva Canton, the matter of illegally constructed housing units is regulated under the *Law on Construction*.²² Article 45 of this law prescribes that local self-governments will regulate the status of housing units built without a valid construction permit, within the competence of the local self-governments under their own regulations. Moreover, the law prescribes that the local self-governments cannot impose obligations on the investor of a development on the basis of the fees for: development of construction land; use of construction land; benefits (rents); and other fees paid by the investor in the amount lower than that of corresponding costs the construction investor would pay under ordinary procedure. The law prescribes that a housing unit constructed without a valid construction permit may not be connected to the public water supply, sewage, district heating or electricity.

3.4 Republika Srpska

The matter of legalization of illegally constructed housing units in the RS is governed by the *Law on Spatial Planning and Construction*²³ which entered into force on 24 May 2013. In essence, legalization is subsequent issuance of the construction permit and certificate of occupancy for housing units constructed without a construction permit up until the day this law entered into force, i.e. up until 24 May 2013. Under the law, the deadline for applying for legalization is 24 May 2015.

The conditions required for legalization are regulated under Articles 151 – 168 of this law. These provisions set out, et al: what is considered to constitute legalization; which housing units may not be legalized; documentation required for legalization; fees in the legalization process; and categories entitled to reduced legalization fees. Article 154 of the law specified that housing units may not be legalized in cases where they are built on unfavorable soil, such as landslides, swamp, land exposed to flooding, and similar conditions. In addition, it is not possible to legalize housing units constructed

from materials which fail to ensure durability and safety of the structure. It is likewise not possible to legalize housing units built on surfaces intended for public use or housing units constructed in the zone of protected natural resources and in the zone of protected cultural heritage.

Legalization can be carried out after the competent administrative authority has established that requirements in terms of stability and safety of the housing unit are met and that such legalization does not have adverse impact to neighboring structures and rights of other parties. The decision on subsequent issuance of the construction permit is adopted, et al, on the basis of: proof of ownership; geodesic survey of the as-is state of the illegally constructed housing unit; design of the as-is state; records on performed technical expertise regarding technical regularity and quality of how the housing unit is built; legalization and proof of fees paid for the legalization of housing unit.

The owner of the housing unit, as subject of the request for subsequent issuance of the construction permit and the certificate of occupancy, is required to pay the housing unit legalization fee. Under the law, the payment of the legalization fee may be made in one-off cash payment, at an additional 10% discount or in monthly instalments for a repayment period of up to 10 years with the annual interest rate of 1%. The law foresees the possibility of fee reduction for legalization of illegally constructed housing units in cases when the applicant has resolved the housing situation for themselves and members of their family household through illegal construction, provided they do not have another residential unit in the territory of the local self-administration unit where the illegally constructed housing unit is located. Fee reduction is in inverse proportion to the number of the family household members, and may be reduced by up to 80% of the highest ordinary amount of the fee. The right to reduced fees is also extended to certain categories such as war invalids, families of fallen soldiers, and displaced persons and returnees.

It is important to stress that housing units constructed up until the end of 1980 are considered legal in accordance with Article 151 (4) of the law.

The law applicable prior to the entry into force of the current law was the *Law on Spatial Planning and Construction*.²⁴ In Article 125, this law prescribed that all units of local self-administration must adopt decisions on the legalization of illegally constructed housing units within six months from the date the law enters into force. The deadline for filing applications for the legalization of illegally constructed housing units was one year from the date of passing of these decisions.

In addition to the *Law on Spatial Planning and Construction*, there are other regulations in place relevant to the legal status of settlements and individual housing units constructed by Roma. The key law for resolving property and legal relations for illegally constructed housing units is the *Law on Proprietary Rights*.²⁵ In Article 330a of the amendments to the law ("Official Gazette of Republika Srpska", no. 95/11), it is defined that the builder of the housing unit constructed without a construction permit on publicly-owned urban construction land, built up until the entry into force of the law, shall acquire the right of ownership over the land used for regular use of that housing unit in the legalization

¹⁹ Law on Spatial Planning and Construction of Tuzla Canton ("Official Gazette of Tuzla Canton", no. 06/11)

²⁰ Law on Construction ("Official Gazette of Zenica-Doboj Canton", no. 11/05, 2/08, 15/09 and 13/13)

²¹ Law on Construction ("Official Gazette of Central Bosnia Canton", no. 11/05)

²² Law on Construction ("Official Gazette of Herzegovina-Neretva Canton", no. 4/13)

²³ Law on Spatial Planning and Construction ("Official Gazette of Republika Srpska", no. 40/13)

²⁴ Law on Spatial Planning and Construction ("Official Gazette of Republika Srpska", no. 55/10)

²⁵ Law on Proprietary Rights ("Official Gazette of Republika Srpska", no. 124/08, 58/09 and 95/11)

procedure. The builder of the illegally constructed housing unit is under obligation to pay the market price of the land to the land owner. It is certainly worth noting the *Law on Expropriation of Republika Srpska*²⁶ as well, taking into account that some individual residential housing units constructed by Roma might be or might have already been affected by expropriation. In essence, this law regulates the expropriation of residential housing units owned by private individuals under the legally foreseen procedure. It is worth noting that the law foresees the obligation of the expropriation beneficiary to pay out compensation to the owner, i.e. the occupant, for the property expropriated.

4. THE EXISTING SITUATION IN EIGHT BIH MUNICIPALITIES

This chapter provides a detailed overview of the data collected regarding the number and status of Roma housing units and settlements in eight municipalities in BiH.

4.1. Bijeljina

According to the official website of Bijeljina, the city has a population of 110,000. According to estimates of the competent authorities, there are 2,000 Roma inhabitants in 500 households living in Bijeljina; however the results of the most recent survey carried out by the Ministry of Human Rights and Refugees of BiH (BiH MHRR) places the number of Roma living in Bijeljina at 884 individuals in 269 households.²⁷ Roma live in five settlements, four of which are of mixed composition while one, *Fincov salaš*, is populated solely by Roma.

Roma are indigenous to this locality and have been living in these settlements for over 50 years. All the settlements are located in the territory of Bijeljina and all housing units are of solid construction and intended for individual housing. Bijeljina has no records on the number of housing units in each individual settlement.

Sewage infrastructure is a notable problem in Bijeljina. The construction of a sewage network in Bijeljina is a project currently underway, and once completed all settlements will have sewage infrastructure in place. A water supply network and electricity are available in all of the settlements. The roads in the four settlements of mixed composition are paved; while the road to *Fincov salaš* settlement is paved, the roads within the settlement itself are not paved. Plans to pave roads have not been prepared due to lack of funding. The inhabitants of these settlements have access to services provided by public facilities.



²⁶ Law on Expropriation of Republika Srpska ("Official Gazette of Republika Srpska", no. 112/06, 37/07, 66/08 and 110/08)

²⁷ Analysis of Roma Needs, Ministry of Human Rights and Refugees of BiH, Sarajevo 2011.

According to the city administration, four out of five settlements are included in spatial planning documents, namely: *Gvozdevići*, *Filip Višnjić*, *Kaltinovača* and *Pučilska polja*. *Fincov salaš* settlement is not included in the current regulatory plan, but is covered by the urban development plan which foresees a residential settlement with housing units for individual housing; therefore there are no obstacles to the legalization of illegally constructed housing units of this type. Legalization of an illegally constructed housing unit can be carried out with payment of a specific amount for the costs of amendment to the spatial planning documents. These costs are established in the decision of the competent authority which calculates the one-off annuity as well as annuity for the development of construction land. The funds collected are used for the preparation of spatial planning documents.

Bijeljina does not have exact figures on the number of housing units owned by Roma with construction permits, or the number of filed applications to legalize illegally constructed housing units. All housing units are constructed on land owned either by the occupants or by their ancestors. Accordingly, there are no legal obstacles to the legalization of illegally constructed housing units of this type in terms of property and legal relations.

The *Fincov salaš* settlement is particularly noteworthy insofar as land is owned by the occupants' ancestors, i.e. the transfer of the ownership right has not been registered in the land registry. Proof of ownership over land occupied by a housing unit is the first of several requirements for the legalization of an illegally constructed housing unit. Interestingly, the land occupants in the *Fincov salaš* settlement know which of their ancestors bought the land and when they did so, as well as how successors split the land via internal agreement. It is also of note that there are no court litigations among the occupants of the settlement in relation to land disputes or boundary disputes.

When builders of housing units are not in possession of any proof of land ownership and the matter of inheritance is not resolved, substantial financial means are needed for court proceedings. Moreover, the financial means needed to pay for the preparation of design documents and the fees for legalization of an illegally constructed housing unit, such as the fee for development of urban construction land, one-off annuity and other fees, should not be neglected. Bijeljina has not developed an estimate of the financial means necessary for the legalization of illegally constructed residential housing units. The actual amount is defined on the basis of the construction zone of the locality in which the housing unit is situated. The data on the actual amount of finance necessary can be obtained based on the prepared housing unit location permit. The legalization of an illegally constructed housing unit must be done by the builder in-person, or in this case, the occupant of the housing unit. There are currently no decisions offering Roma additional cost relief or funding for the legalization process of illegally constructed housing units.

The most recent city-level decision on the legalization of illegally constructed housing units was in force until April 2012; subsequently no new decisions on the legalization of illegally constructed housing units were made, as adoption procedure of a new *Law on Spatial Planning and Construction* is underway in the RS, meant to regulate the matters in the domain of illegal construction, i.e. the legalization of illegally constructed housing units.

Roma housing projects

The Bijeljina Social Welfare Centre (SWC) awarded eight of its apartments to socially vulnerable Roma families. The housing costs were borne by the SWC.

Bijeljina submitted a project proposal to the EU for construction of a collective housing housing unit with 18 apartments for the Roma population to be built in the *Fincov salaš* settlement. If funding is granted for this project, its regulatory plan would foresee collective housing in this locality as well.

4.2 Brčko District of BiH

According to its official website, the BDBiH has 75,000 inhabitants. According to the data from the BDBiH SWC, there are 825 Roma inhabitants of 174 families, while according to the results of the most recent survey of the BiH MHRR, there are 825 Roma in 172 households living in the BDBiH.

The BDBiH Roma population is indigenous and lives in three settlements of mixed constitution: *Suljagića sokak*, *Mjesna zajednica Stari rasadnik* and *Prutače*. All three settlements inhabited by Roma are covered by spatial planning documents.

The following table provides an overview of the settlements occupied by Roma, the type of settlement, from when it dates, and the number and type of housing units.

Table no. 2. Roma settlement in Brčko District of BiH

Settlement	Type of settlement	Number of housing units	Dates back	Type of housing unit
Suljagića sokak	Multiethnic	93	over 30 years	Individual housing – solid construction
MZ Stari Rasadnik	Multiethnic	30	over 30 years	Individual housing – solid construction
Prutače	Multiethnic	15	over 15 years	Individual housing – solid construction

The housing units occupied by Roma in the aforementioned settlements are intended for individual housing and all of them are constructed on land that is the property of the occupants or the property of the occupants' ancestors. As such, there are no obstacles to the legalization of illegally constructed housing units when it comes to property and legal relations. Despite this fact, the majority of housing units in settlements *Suljagića sokak* and *MZ Stari rasadnik* have not been legalized. In the settlement of *Prutače*, a number of housing units, namely the housing units constructed for the accommodation of displaced persons, have been legalized. Other housing units are in the process of being legalized. There is no exact data on the number of housing units that have been legalized.

The most recent decision on the legalization of illegally constructed housing units was adopted in October 2003 for a validity period of one year. There are currently no plans to adopt decisions on the legalization of illegally constructed housing units. The basis for the legalization of illegally constructed residential housing units is the aerial survey from 2003.



Occupants of illegally constructed housing units in the process of the legalization enjoy certain benefits including: the amount of a one-off annuity payment; additional discounts for payment in cash or in installments; possibility of legalization for housing units constructed on the land owned by the BDBiH with purchase of the land; and other benefits. There are currently no decisions offering Roma additional cost relief or funding for the legalization of illegally constructed housing units.

All three settlements have complete infrastructure: water supply, sewage, electricity and paved roadways.



Roma housing projects

Two projects have been implemented with funding from the BiH MHRR: construction and repair of 15 residential housing units for the Roma population (three housing units constructed and 12 housing units repaired). A public competition is currently underway for the selection of beneficiaries of Roma housing provision. Funding in the amount of 205,000.00 BAM has been provided for this purpose. The implementing authority and co-financier of the project is the BDBiH.

In 2010, the BDBiH Government distributed 41 plots to Roma for permanent ownership, with the possibility of registering the right of ownership.

Moreover, "Laca Rom" Centre has been constructed using funding made available by the BDBiH in the territory of the local community *Broduša*, which is intended exclusively for the Roma population, their gatherings and cultural events.

4.3 Jablanica

In administrative terms, the municipality of Jablanica belongs to the Herzegovina-Neretva Canton. There are 12,690 inhabitants, 78 of whom are Roma living in 20 households. Population figures were taken from the municipality's official website, while the data on the number of Roma inhabitants came from the SWC. According to the results of the most recent survey conducted by the BiH MHRR, there are 75 Roma in 22 households living in Jablanica.

Roma in the municipality of Jablanica are an indigenous population living in two settlements: the *Bokulja* settlement, situated in the very downtown area of Jablanica and the *Šljunkara* settlement, located in the so-called industrial zone about 3 km from the downtown area. Both settlements are included in the spatial and planning documents.

The *Bokulja* Settlement is a multi-ethnic settlement in downtown Jablanica, first settled by Roma in 1954. At that time houses were built on publicly owned land granted to Roma by the municipality. Since then, 27 housing units have been constructed. All the housing units are intended for individual housing and are of solid construction, i.e. reinforced concrete and brick. The land on which the housing units are constructed is the private property of the housing unit occupants.

One of the housing units has a construction permit. Three applications for the legalization of illegally constructed housing units were filed by the application deadline, which expired on 1 July 2007. These housing units have not been legalized because the legalization applications submitted were not accompanied by all the required documents.

As the majority of housing units were built before 1974, they are considered legal. A certificate of occupancy, required for the housing unit to be registered with the land registry, can be obtained through an application and an inspection of an aerial survey from 1975.

The population of the *Šljunkara* settlement has lived there since 2002. The settlement is multi-ethnic in character. It has three residential housing units with seven apartments for Roma. One residential housing unit with four apartments was built in 2003-2004 with the financial assistance of an Italian humanitarian organization, and one housing unit with two apartments and one individual housing unit was funded by the BiH MHRR as part of the Provision of Housing to Roma project. Two housing units have a construction permit and one has an urban planning permit. It has not been legalized since it was



constructed as part of a project contributed to by the municipality. There are however no obstacles to the legalization of the housing unit.

The *Šljunkara* settlement has a complete infrastructure, provided that works are underway to pave the access road and the square within the settlement. There is regular public transport to the settlement. In addition, inhabitants can access services provided by public facilities.

In the municipality of Jablanica, there is currently no decision in force on the legalization of illegally constructed housing units. There is a new cantonal *Law on Construction* in preparation that will shift the legalization decision to the municipal level. There are currently no decisions offering Roma additional cost relief or funding for the process of legalization of illegally constructed housing units.

Roma housing projects

One housing unit was constructed using funds for assistance to refugees and displaced persons, while two housing units were reconstructed with funds from the BiH MHRR within the Provision of Housing to Roma project.

4.4 Jajce

The municipality of Jajce belongs to Central Bosnia Canton and has 24,000 inhabitants, according to data from the municipal website. According to data from the Roma association, there are 363 Roma in 69 households, namely in *Skela* settlement in the local community of *Kuprešani*. According to the results of the most recent survey by the BiH MHRR, there are 248 Roma in 56 households in Jajce.

Skela – Kuprešani is a settlement populated solely by Roma. Roma began living in this settlement, located around 15 km away from the town, over 50 years ago. There are 54 residential housing units intended for individual housing in the settlement. Fifty-one housing units are of solid construction – reinforced concrete or brick - while three temporary housing units are uninhabitable.

The main road to *Skela - Kuprešani* settlement is paved, and so is the main roadway within the settlement; however, the streets within the settlement are not completely paved. Design documents for paving have yet to be prepared. The water supply network gives the settlement access to potable water, but the supply suffers from drought in the summer months. Sewage network or cesspools have not been constructed. A significant number of residential housing units do not have a legal connection to the electricity distribution network. Settlement residents use old electricity switchboxes from two housing units whose occupants are the owners of the land. It is worth noting that these families connected to the main line over 20 years ago. In this manner, all settlement residents have secured electricity in their residential housing units. The issue with connecting the housing units to the main line lies in the lack of construction permits. Namely, being in possession of all statutory permits is one of the principal prerequisites for lawful connection to the main line.

None of the housing units have been legalized and, so far, no applications for legalization have been filed. The housing units have been built on publicly owned land, intended as farming land. The cadastral survey of the municipality of Jajce was made in 1953 and

there is accordingly no base with a graphical presentation of the plots and numbers of units; for that reason, identification of this settlement was done via parties' testimonies.

There is no regulation governing the the legalization of illegally constructed housing units in the territory of Central Bosnia Canton, which presents a problem for municipalities in the legalization process. The draft cantonal *Law on Construction* was prepared in 2009 but has not been adopted to date. There are still no indications as to when this law will be adopted. There is no prepared regulation plan or spatial planning document for the municipality of Jajce. Representatives of municipal authorities do not have information on whether the preparation of these documents is planned. Accordingly, the legalization of housing units in the municipality is carried out under the procedure for the issuance of a construction permit for a new housing unit.

The municipality of Jajce has no construction plans for new settlements, nor relocation plans for existing Roma residential housing units or settlements. There are currently no decisions offering Roma additional cost relief or funding for the legalization of illegally constructed housing units.

Roma housing projects

As a part of a 2009 project, housing was provided to 26 Roma families in the *Skela-Kuprešani* settlement. The housing units were reconstructed or repaired using funding from the BiH MHRR, the municipality of Jajce and Hilfswerk Austria. In addition, as part of a project proposal from 2013, plans were put into place for repairs of three residential housing units and the construction of 29 cesspools for this settlement. Funding was provided by the BiH MHRR and the municipality of Jajce. In 2013, funding was extended from the programme of small grants from the BPRI Project for improvements to the *Skela-Kuprešani* settlement's water supply. The improvements included two new water catchments, the joining of existing catchments into a new system and the construction of a new water pump.



4.5 Kakanj

In administrative terms, the municipality of Kakanj belongs to Zenica-Doboj Canton. There are 48,300 inhabitants, 1,485 of whom are Roma in 275 families. Population figures were obtained from the official municipal website, and information regarding the number of Roma is an estimate provided by the municipal authorities. According to the results of the most recent survey by the BiH MHRR, there are 1,090 Roma in 299 households in Kakanj.

Roma live in three settlements, each of multi-ethnic character. All three settlements, *Željeznička stanica*, *Varda* and *Podvarda*, are located in the territory of Kakanj town and are covered in the spatial planning documents.

The following table provides an overview of settlements inhabited by Roma, the period from which the settlement dates, its status in relation to spatial planning documents, the number of residential units in each settlement and the types of housing units in each of the settlements.

Table no. 3. Roma settlements in Municipality of Kakanj

Settlement	Number of housing units /estimate/	Settlement dating from	Spatial planning documents	Type of housing units /estimate/
Željeznička stanica	60	over 20 years	Covered in spatial planning documents	90% solid construction housing units * 10% temporary housing units **
Varda	130	over 20 years	Covered in spatial planning documents; part of the settlement foreseen for relocation	80% solid construction housing units 20% temporary housing units
Podvarda	10	over 20 years	Covered in spatial planning documents	100% solid construction housing units

* solid construction housing units – reinforced concrete, brick

** temporary housing units – uninhabitable housing units

The settlements have complete infrastructure: sewage and water supply networks, electricity and paved roads; with the exception of settlement *Varda*, whose sewage network has not been built. Services provided by public facilities are available to the inhabitants of all settlements.



Željeznička stanica settlement is of multi-ethnic character. Roma began inhabiting this settlement over 20 years ago and have become integrated into the rest of the population. The settlement is included in spatial planning documents, which do not foresee the possibility of constructing new housing units, as the settlement itself is within the strip of the planned highway (part of the Vc corridor). Though there are no exact figures, municipal authorities estimate that adequate documentation exists for 50 per cent of the housing units.

All of the housing units are constructed on land owned by the occupants; as such, there are no obstacles to the legalization of the illegally constructed housing units in terms of property and legal affairs. The cantonal *Law on Construction* oversees the process of legalization. It sets a July 2013 deadline for legalization applications. There are currently no decisions offering Roma additional cost relief or funding for the legalization of illegally constructed housing units.



Varda settlement is of multi-ethnic character and is located in the downtown area of Kakanj town. The settlement is included in spatial planning documents and its land is public.

Roma began inhabiting this settlement over 20 years ago, initially with temporary housing units made of wood and cardboard. Later, they constructed housing units made of brick even though the area had never been designated for residential housing units due to poor soil conditions. Namely, the land was formed artificially by the long-term disposal of processed coal waste material from Kakanj Thermal Power Plant, which is why the surface does not meet the required bearing capacity or soil quality. The municipality prepared a geological survey confirming that the land is not suitable for the construction of residential housing units. Spatial planning documents oversee the entire *Varda* settlement, and the aforementioned land is intended for the construction of sports courts. Relocation is foreseen for all housing units constructed on the artificially formed earth, regardless of the type of construction. Municipal authorities estimate that the section of the settlement requiring relocation has around 130 housing units occupied by 170 Roma families. None of the housing units are legal or eligible for legalization.

Spatial planning documents foresee localities for the construction of new, multi-ethnic settlements. Locations on publicly owned land will be selected for the relocation of *Varda* settlement. The surface area needed will be determined by the type of housing, whether individual or collective. There is also the possibility of the construction of a number of housing units in existing settlements.

The municipality's position is that relocation should be carried out along the same lines as the current project implemented by the BiH MHRR. The housing units, intended for individual or collective housing, would be built on publicly owned land provided by the municipality. Newly constructed housing units would be owned by the municipality and given permanently to families alongside the right to inherit, but not the right to dispose of the property.

The infrastructure (sewage, water supply, electricity and roads) in the potential localities for the new *Varda* settlement has not been built and the municipality does not have the required design documents prepared. Estimates by municipal authorities, based on current market prices, indicate that relocation would cost between BAM 10 and 12 million. This amount includes the preparation of the design documents, the construction of the housing units and the development of infrastructure.

Roma began inhabiting the *Podvarda* settlement over 20 years ago. The settlement is situated along the main roadway and stands immediately next to the foot of the *Varda* settlement. There are ten residential housing units in the settlement occupied by Roma. The housing units are constructed on land owned by the occupants and all housing units have been legalized.

Roma housing projects

As a part of the “Repair, Reconstruction, and Construction of Housing Units to Resolve the Problem of Housing of Roma in the Territory of the Municipality” project, the BiH MHRH allotted funds to the municipality of Kakanj for the construction of ten houses for Roma families. Through a public competition, the committee selected ten socially disadvantaged beneficiaries – four from the *Varda* settlement, four from the *Željeznička stanica* settlement and two beneficiaries from ZPO Street and 27. Juli Street. The municipality provided the land on which the housing unit(s) are to be constructed, which was one of the criteria for awarding of the funding. Newly constructed housing units remain in the ownership of the municipality and are given to selected families for permanent use under contract, without the right to dispose of the property.

The locality initially chosen for the construction of the ten residential housing units was the *Bare* settlement. This is a new settlement established by displaced families from a suburban settlement, who had to move due to a landslide. The funds have since been approved and a contractor selected, but problems occurred at the very beginning of construction, i.e. staking out of the housing unit and taking possession of the site by the contractor, because of obstruction by the residents of *Bare* settlement.²⁸ The location has been changed and a housing unit with 12 apartments will be built in a section of *Varda* settlement suitable for construction.

4.6 Lukavac

The municipality of Lukavac is administratively part of Tuzla Canton and, according to the official municipal website, has 51,000 inhabitants. According to data from the SWC, there are 511 Roma in 137 households living in the municipality. It is assumed that the number given by the SWC accounts for only 50 per cent of the total number of Roma in the municipality, as it is generally the most socially disadvantaged members of this population who register with the SWC. According to the results of the most recent survey by the BiH MHRH, there are 508 Roma in 136 households living in Lukavac.

Roma live in six settlements, four of which are of multi-ethnic character: *Crveno brdo*, *Lukavac Grad*, *Prokosovići* and *Puračić*, while two settlements are inhabited only by Roma: *Svatovac* and *Kuljeno*.

The following table provides an overview of the settlements inhabited by Roma, the type of settlement, the period from which the settlement dates, the number of residential units in each settlement and the type of housing units in the settlements.

Table no. 4. *Roma settlements in the municipality of Lukavac*

Settlement	Number of housing units	Type of settlement	Dates from	Type of housing unit
Svatovac	38	Roma settlement	Since 1974	Solid construction housing units*: 5 Temporary housing units **: 33
Crveno brdo	14	Multi-ethnic	Since 1974	Solid construction housing units: 8 Temporary housing units: 6
Kuljeno	26	Roma settlement	Since 1974	Solid construction housing units: 19 Temporary housing units: 7
Lukavac Grad	34	Multi-ethnic	Since 1974	Solid construction housing units: 12 Temporary housing units: 22
Puračići	16	Multi-ethnic	Since 1974	Solid construction housing units: 7 Temporary housing units: 9
Prokosovići	8	Multi-ethnic	Since 1974	Solid construction housing units: 7 Temporary housing units: 1

* Solid construction housing units - reinforced concrete, brick

** Temporary housing units – uninhabitable

The cantonal authorities proclaimed the urban planning and technical documentation of the municipality of Lukavac to be invalid due to the expiry of its 20-year validity period. The Spatial Plan of Tuzla Canton for the Municipality of Lukavac and the *Law on Spatial Planning and Construction* of Tuzla Canton were applied. The preparation of the new Spatial Plan of the Municipality of Lukavac is underway and all aforementioned settlements will be included in the plan.

All settlements were built on publicly owned land, except for a section of *Crveno Brdo* settlement owned by “Kreka” Mine – Tuzla. The municipality of Lukavac does not have exact data on the number of legalized housing units. Only 10 per cent of the total number of occupants own the land on which their housing units are constructed.

The aforementioned law is applied in the legalization process of illegally constructed housing units. It foresees a deadline of 31 May 2016 for filing legalization applications. The legalization of housing units will be possible for housing unit occupants, provided that the housing unit can be seen on a satellite survey dated 19 July 2007, thus constituting the basis for the legalization of illegally constructed housing units in Tuzla Canton. Housing units constructed before 1975, i.e. those housing units visible on the aerial survey from 1975, are considered legal. Housing units are legalized by means of public examination and registration of the unit. This opportunity provided under the law was missed by 15 Roma families since they had not regulated the property and legal relations, i.e. resolved the matter of the transfer of ownership from parent to child. There are currently no decisions offering Roma additional cost relief or funding for the legalization of illegally constructed housing units.

²⁸ According to unofficial statements by the local authorities and media, the residents of *Bare* did not want Roma to settle in their settlement, although the reason cited for protesting against Roma settling in *Bare* was inadequate infrastructure.



A special problem in the legalization process is the reclassification of public property into construction land, since collecting the necessary documents requires the appropriation of substantial funds. The *Svatovac* settlement, inhabited exclusively by Roma, was constructed on land owned by the cantonal forestry estate. In order to reclassify forestry land into construction land, it is necessary to have an environmental permit and a certificate that there are no monuments of cultural or historical heritage on the site, along with other necessary documents. The application itself, as well as the costs of the proceedings, is borne by the builder of the housing unit.



Over the last 30 years, upon request by "Kreka" Mine, population relocation has been underway from the *Crveno brdo* settlement to allow for coal extraction. Relocation has been performed via expropriation procedure with appropriate compensation provided by "Kreka". Currently, the relocation of 14 housing units occupied by Roma families is underway. In the expropriation process, occupants are given compensation for the housing unit and land. Compensation is in the form of a replacement property, either through

the purchase of an apartment or the construction of a house in a different location. According to the information available to the municipal authorities, the expropriation procedure is progressing along normally.

The *Lukavac grad* settlement, located in the territory of the town of Lukavac, has complete infrastructure – sewage and water supply networks, electricity and paved roads. The water supply infrastructure is in place in the *Svatovac*, *Crveno brdo*, *Kuljeno*, *Prokosovići* and *Puračići* settlements, but there is no sewage network in any of these. Electricity is available in all settlements; as well as paved roads, with the exception of the *Svatovac* settlement whose access road is unpaved and in very poor condition.²⁹ Some of the streets within the settlement are partly paved and are also in very poor shape. The inhabitants of these settlements have access to services provided by public facilities, except that *Svatovac* settlement, which is the most remote, does not have a public transport connection.

In addition to these settlements, there is a residential housing unit in downtown Lukavac that has been occupied by 22 Roma families since 1982. The municipality has foreseen the demolition of these housing units, since future spatial planning documents will define this location as a site for the construction of residential and business housing units. The families accordingly required to move from the aforementioned housing

²⁹ In 2013, the paving of the access roadway in *Svatovac* settlement was financed by the small grants programme of the BPRI Project, together with the municipality of Lukavac.

units, oppose the Decision of the Municipality on Replacement Apartments. Relocation has been suspended, and the municipal authorities believe that this problem will be resolved by the investor was given the location for the construction of residential and business housing units.

Roma housing projects

The municipality has no construction plans for new settlements or new housing units in the existing settlements. The municipality of Lukavac, although lacking an overall plan to address the issue of Roma housing provision, is planning to partake in relevant public calls for applications by the BiH MHRR³⁰ and other donors. It is worth noting that paving the access roadway in *Svatovac* settlement was financed in 2013 by the small grants programme of the BPRI Project, together with the municipality of Lukavac.

4.7 Mostar

The City of Mostar is administratively affiliated with Herzegovina-Neretva Canton and has a population of 105,000 inhabitants. Data on the population was taken from the official City of Mostar website. According to the results of the most recent survey by the BiH MHRR, there are 236 Roma in 67 households living in Mostar.

According to data provided by the competent authorities, there is only one settlement in Mostar, *Bišće polje*, inhabited by Roma. The settlement is around 5 km away from the downtown area and is included in spatial planning documents. Roma began settling this location 20 years ago. In the settlement, there are six buildings for collective housing with 18 housing units built for Roma on a surface area of 3000 m². Construction was completed mid-2012. The housing units were built on publicly owned land and construction was financed by a donation from Caritas, which also implemented the project. The city acted as the supervisory body during construction. The housing units have not been occupied to date, and representatives of the competent authorities do not have information on the criteria used for awarding the apartments, or whether the apartments have been awarded to future occupants.³¹ At the aforementioned location, there are three housing units of solid construction, intended for individual housing, occupied by Roma families. The city does not have information on whether the housing units have been legalized or whether applications have been made for their legalization.

The following table provides an overview of the number of housing units in *Bišće polje* settlement and their status.

Table no. 5. *Roma housing units in Bišće polje settlement*

Housing units	Number of housing units	Type of housing unit	Number of housing units	Status of the housing unit	Title-holder over the land
Existing housing units	3	Individual housing	3	No data	Publicly owned land
Newly constructed housing units	6	Collective housing	18	Legalized	Publicly owned land

³⁰ In the meantime, the municipality of Lukavac submitted a project proposal to MHRR, within the programme for funding the implementation of the Action Plan for the Housing of Roma, and their proposal was selected for financing in 2014.

³¹ In the meantime, apartments have been awarded to beneficiaries selected by a committee composed of representatives of the municipal authorities, the BiH MHRR and Roma. The apartments were occupied as of July 2013.

A section of *Bišće polje* settlement is accessed via gravel road from the M-17 Mostar-Dubrovnik main road. The settlement has sewage and water supply networks, and the area surrounding the newly constructed residential housing units is paved; yet the access road remains unpaved.³² The surface in the non-developed section of the settlement is unpaved. A new substation should be built and negotiations to do so are underway with the competent electricity company. Inhabitants of the remote settlement have sporadic access to services provided by public facilities, but they do have access to regular public transport.

The City of Mostar is known for the migration of huge numbers of Roma from other municipalities, who come – mostly in the summer – to collect secondary raw materials and trade. The competent authorities assume that the majority of the 236 Roma, situated in the territory of the city, are not registered and are living in deserted, dilapidated housing units or in abandoned barracks.

A site visit concluded that the data obtained from the competent authorities does not correspond with the situation on the ground. In the course of the site visit, the surface size of the settlement was measured at greater than 3000 m², and a non-urbanized section was found in which there are several uninhabitable residential housing units occupied by Roma (see Table no. 6). Since these housing units and their occupants were not mentioned in the meeting with city representatives, it is unknown as to how long these uninhabitable housing units have been in this locality, and whether they are temporary in nature, occupied by transitory Roma who are in Mostar for trade.

There is currently no cantonal decision on the legalization of illegally constructed housing units in force. The preparation of a new cantonal *Law on Construction* is underway which will allocate decisions on legalization to the municipal level. There are currently no decisions offering Roma additional cost relief or funding for the legalization of illegally constructed housing units.

Roma housing projects

Table no. 6 below provides an overview of the number of housing units intended for collective housing, foreseen for construction in the *Bišće polje* settlement. The construction of an additional four collective housing units with six apartments each is expected, amounting in total to 24 housing units. The BiH MHRR gave funding for 2 housing units, with a total of 12 residential units, while funding for the remaining two housing units is still outstanding.

Table no. 6. *Housing units foreseen for construction in Bišće polje settlement*

According to spatial planning documents	Number of housing units	Type of housing unit	Number of housing units	Title-holder over the land	Funding secured
Housing units planned for construction	2	Collective housing	12	Publicly owned land	Yes

Spatial planning documents foresee locations for the construction of public facilities such as schools, kindergartens, infirmaries and the like. There are neither the conditions nor space for the construction of the aforementioned housing units at the locality. Children from this settlement attend a school for children with special needs, which is the closest to this settlement. Roma children attending this school receive free textbooks and all other school necessities from the school.

The paving of a section of the access roadway to *Bišće polje* settlement was financed in 2013 from the small grants programme of the BPRI Project.



³² The paving of a section of the access roadway in *Bišće polje* settlement was financed in 2013 from the small grants programme of the BPRI Project.

4.8 Prijedor



According to data from the official city website, Prijedor has 112,500 inhabitants. According to estimates by the competent authority, there are 650 Roma inhabitants in 91 households. According to the most recent survey by the BiH MHRR, there are 289 Roma in 70 households living in Prijedor.

Roma have been living in Prijedor for over 40 years, in 10 settlements of multi-ethnic character; they are integrated with the rest of the local population. Nine settlements date back to 1970, while one settlement, the so-called *Izbjegličko naselje Vrbice i Aerodrom* dates back to 2003. According to the data received from the city authorities, spatial planning documents cover two settlements; *Centar* and *Izbjegličko naselje Vrbice i Aerodrom*, while there is no implementing spatial planning document for the other eight settlements. There are likewise no implemented documents to foresee construction of Roma settlements. The construction of new housing units is foreseen in the settlements included in spatial planning documents. In the *Centar* settlement, spatial planning documents anticipate the construction of housing units for individual housing, as well as housing units for



collective housing. In *Izbjegličko naselje* settlement, spatial planning documents foresee the construction of housing units for individual housing.

As presented in Table no. 7 below, in the *Raškovac* settlement there is a residential housing unit in which two of the apartments, owned by the SWC, have been awarded to socially disadvantaged Roma families. In the *Kokin Grad* settlement, there is a publicly owned residential housing unit, the so-called "Roma house", with nine apartments available for use by Roma families.

The City of Prijedor has a problem with water supply and sewage networks. In the settlements inhabited by Roma, where there is no secondary water supply network, wells were dug and water supplied accordingly to all housing units. Cesspools were built in settlements currently without conditions necessary for a sewage network connection. Access roads to all of the settlements are paved, while roads within settlements remain unpaved. Design documentation for paving and reconstructing the roads for a total length of 2.6 km has been prepared, but the principal problem obstructing further road infrastructure is of a financial nature. Residents in these settlements have access to services provided by public institutions.

The following table provides an overview of the number of housing units in Roma settlements.

Table no. 7. *Roma settlements in the City of Prijedor*

Settlement	Number of housing units of Roma population	Type of housing unit
Ljubija	5	Housing units are intended for individual housing, of solid construction
Hambarine	15	All housing units are intended for individual housing. 13 housing units are of solid construction, and 2 housing units are uninhabitable
Urije	20	Housing units are intended for individual housing, of solid construction
Kozaruša	20	Housing units are intended for individual housing, of solid construction
Raškovac	5	3 housing units are intended for individual housing, of solid construction, and 2 are apartments owned by the SWC in a residential housing unit
Centar	2	Housing units are intended for individual housing, of solid construction
Kokin grad	11	2 housing units are intended for individual housing, of solid construction, and 9 are apartments in a residential housing unit, the so-called "Roma House"
Žuti put Miljakovci	4	Housing units are intended for individual housing, of solid construction
Brežičani	2	Housing units are intended for individual housing, of solid construction
Izbjegličko naselje Vrbice i Aerodromsko	7	Housing units are intended for individual housing, of solid construction

There is no accurate data in the City of Prijedor regarding the number of legally built housing units occupied by Roma. Housing units intended for collective housing, i.e. apartment housing units, are publicly owned while individual residential housing units are the private property of occupants. There are no legal obstacles to the legalization of illegally constructed individual residential housing units. The land on which the housing units are constructed is owned by the occupants of the housing units.

The most recent municipal Decision on the Legalization of Housing Units was published in the Official Gazette of the Municipality of Prijedor, no. 10/10, dated 14 December 2010 and in force until 14 December 2011. During that period, four Roma families applied for the legalization of illegally constructed housing units. The applications were not accompanied by all required documents and, since the applications were not subsequently amended, the housing units have not been legalized.

There are currently no decisions offering Roma additional cost relief or funding for the legalization of illegally constructed housing units. Costs for the legalization of residential housing units depend upon the construction zone in which the housing unit was built. There are six construction zones defined in Prijedor; the downtown area categorized as Zone I, while Zone VI is the most remote suburban zone. The legalization costs for housing units in Zone I are the highest, decreasing the further they move from Zone I.

To convey a sense of the finances required for the legalization of an illegally constructed housing unit, below is an example of the fees for a housing unit constructed in Zone III. Information on the stated fees has been taken from the official City of Prijedor website.

Example: Individual housing unit of 80 m² floor area in construction Zone III

1. Fee for development of urban construction land.....	20.00 BAM/m ² / 10.23 €/m ²
2. Fee for the benefits provided – one-off annuity	16.60 BAM/m ² / 8.49 €/m ²
3. Preparation of a simplified main design	6.00 BAM/m ² / 3.07 €/m ²
4. Review of the design.....	1.00 BAM/m ² / 0.51 €/m ²
<hr/> Total: 42.60 BAM/m ² / 21.78 €/m ²	

Accordingly, for the legalization of an individual housing unit of 80 m² floor area in construction Zone III it is necessary to allocate no less than 3,408.00 BAM/m². The aforementioned amount would increase with the fee for the establishment of a property unit record and other accompanying fees.

Roma housing projects

Sixteen Roma housing units in Prijedor have been reconstructed with funds provided by the BiH MHRR as a part of the "Repair, Reconstruction, and Construction of Housing Units to Resolve the Problem of Housing of Roma in the Territory of the Municipality" project. The City of Prijedor was a co-financier and undertook the obligation to finance the preparation of the design documents for housing unit reconstruction, supervision of works and the technical approval of the completed works. Following the completion of the construction works, and the handover of the housing unit, the city gave three copies of the design documents to the owner of the housing unit. With these documents, the housing unit owner fulfilled the requirement to apply for the legalization of the housing unit. However, no applications for any the 16 reconstructed housing units have been filed. In 2013, the construction of a drainage canal along the road and the construction of 900m of street lights in the *Hambarine* settlement were financed by the small grants programme of the BPRI Project.

5. ANALYSIS OF THE IDENTIFIED PROBLEMS

Regarding the legalization status of settlements and individual residential housing units occupied by Roma, the following outstanding issues have been identified:

- 5.1 Urban infrastructure in the existing settlements
- 5.2 Legalization of Roma settlements and residential housing units
- 5.3 Relocation of Roma settlements
- 5.4 Social housing

The following table provides an overview of the number of settlements inhabited by Roma, the number of residential housing units and the title-holder of the land on which these housing units are constructed, for each of the eight municipalities covered in this report.

Table no.8: Number of housing units and title-holder of the land of housing units occupied by Roma by municipality covered by the research

Municipality	Settlement	Dating from	Individual housing units			Collective housing		Land title-holder	Note
			Solid construction	Uninhabitable	Number of housing units	Number of housing units			
BIJE LJINA	Gvozdevići	over 50 years	/	/	/	/	/	The total number of housing units in all five settlements is 500. <i>Fincov salaš</i> is a solely Roma settlement, while the other settlements are integrated into the community.	
	Filip Višnjjić	over 50 years	/	/	/	/	/		
	Kaltinovača	over 50 years	500	/	/	/	/		
	Pučiska polja	over 50 years	/	/	/	/	/		
	Fincov salaš	over 50 years	/	/	/	/	/		
	TOTAL		500	0	0	0	0		
BRČKO DISTRICT OF BIH	Suljagića sokak	over 30 years	93	/	/	/	/	The settlements are integrated into the community.	
	MZ Stari Rasadnik	over 30 years	30	/	/	/	/		
	Prutače	over 15 years	15	/	/	/	/		
	TOTAL		138	0	0	0	0		
JABLANICA	Bokulja	since 1953	27	/	/	/	/	Housing units in the Šljunkara settlement are the private property of housing unit occupants. The settlements are integrated into the community.	
	Šljunkara	since 2002	1	/	2	6	6		
	TOTAL		28	0	2	6	6		
JAJCE	Skela - Kuprešani	over 50 years	51	3	/	/	/	Settlement <i>Kuprešani</i> is integrated into the community, the <i>Skelani</i> section of the settlement is populated solely by Roma	
	TOTAL		51	3	0	0	0		

KAKANJ	Željeznička Stanica	over 20 years	54	6	/	/	/	The section of <i>Varda</i> settlement foreseen for relocation is inhabited only by Roma, other settlements are integrated into the community
	Varda	over 20 years	104	26	/	/	/	
	Podvarda	over 20 years	10	0	/	/	/	
	TOTAL		168	32	0	0	0	
LUKAVAC	Svatovac	since 1974	5	33	/	/	/	Only 10% of the land is the private property of housing unit occupants. <i>Svatovac</i> and <i>Kuljeno</i> settlements are solely Roma settlements, others are integrated into the community.
	Crveno brdo	since 1974	8	6	/	/	/	
	Kuljeno	since 1974	19	7	/	/	/	
	Lukavac grad	since 1974	12	22	/	/	/	
	Puračić	since 1974	7	9	/	/	/	
	Prokosovići	since 1974	7	1	/	/	/	
	TOTAL		58	78	0	0	0	
MOSTAR	Bišće polje	since 2002	3	/	6	18		Six housing units for collective housing have still not been occupied. The settlement is integrated into the community
PRIJEDOR		TOTAL	3	0	6	18	18	All settlements are integrated into the community.
	Ljubija	since 1970	5	/	/	/	/	
	Hambarine	since 1970	13	2	/	/	/	
	Urije	since 1970	20	/	/	/	/	
	Kozaruša	since 1970	20	/	/	/	/	
	Raškovac	since 1970	3	/	1	2	2	
	Centar	since 1970	2	/	/	/	/	
	Kokin grad	since 1970	2	/	1	9	9	
	Žuti put Miljakovci	since 1970	4	/	/	/	/	
	Brežićani	since 1970	2	/	/	/	/	
Izbjeljičko naselje	Since 2003	7	/	/	/	/		
	TOTAL	78	2	2	11	11		

Visits to the settlements in these eight local communities have revealed significant differences in condition and equipment of the residential housing units. The quality of housing in all of the settlements should be improved, regardless of whether they are of mixed constitution or solely Roma. The dimensions of their problems vary, as all settlements have both uninhabitable housing units as well as quality constructed housing units, i.e. fully habitable. In some settlements, the residential housing units of Roma are no different from the houses of the non-Roma, are not separate and thus constitute an integral part of the wider settlement.

5.1 Urban infrastructure in the existing settlements

A secondary network of public utility infrastructure is frequently not built in settlements inhabited by Roma. The prerequisite for connection to the urban water supply and sewage networks, as well as the electricity distribution network, is an official decision approving construction (i.e. construction permit). Housing units occupied by Roma and located in zones that have the urban utility infrastructure, are connected to it. Nevertheless, many connections have been made illegally or have been granted under temporary terms. For example, in the municipality of Kakanj, a temporary two-year connection is approved after occupants of housing units, built on land they own, file an application for housing unit legalization. However, after they have connected, the occupants typically withdraw their application for housing unit legalization.

In settlements remote from the urbanized part of their municipality, the utility infrastructure is dealt with through the construction of cesspools and wells with potable water. For example, the City of Prijedor has a general problem with urban utility infrastructure, so waste water in most of the settlements is collected in cesspools, while access to potable water is via wells. The municipality of Lukavac also has a general problem with its sewage network. Out of its six settlements inhabited by Roma, only *Lukavac Grad* settlement has a sewage network. The most striking problem in the municipality of Lukavac is in two settlements inhabited solely by Roma. One of those, the *Svatovac* settlement, is about 15 km away from the urban part of the municipality, with the settlement access road a forest track in very poor shape.³³ There is no public transport to the settlement and no possibility for connecting the settlement to the public utility network. The problem of waste water disposal in the *Svatovac* settlement was resolved through the construction of cesspools, and potable water is supplied via wells. Another settlement, the *Kuljeno* settlement, is close to the urban area of Lukavac; it has a paved road and organized public transport, but no sewage or water supply networks.

All settlements and all housing units occupied by Roma have electricity, the connection made either legally (permanent and temporary connections) or illegally. For example, in the *Skela-Kuprešani* settlement in the municipality of Jajce, only two housing units are connected to the main line. The occupants of these two housing units are also the owners of the land and have been connected for over 20 years. All other residents of this settlement connected their own residential housing units to the electricity supply in these two housing units and thus obtain electricity accordingly.

It is a fact that the development and improvement of urban infrastructures is a general problem in BiH. Complete urban infrastructure is available mainly in municipal urban zones while, in suburban zones, there is a notable lack of infrastructure such as sewage networks, water supply networks and paved roads. Even in cases where the technical requirements for connections are in place, the fact that the housing unit is not legalized inevitably obstructs its connection to public utilities.

5.2 Legalization of settlements and housing units of Roma

The issue of illegal housing units is a general problem in BiH. However, it can be observed that this problem is more notable within the Roma population, proportionate to its size and its degree of social vulnerability.

The following table provides an overview of settlements occupied by Roma in the eight municipalities assessed, stating the number of residential housing units and the title-holder of the land on which the housing units are constructed.

³³ In 2013, the paving of the access road to the *Svatovac* settlement was financed by the small grants programme of the BPRI Project, together with the municipality of Lukavac.

Table .9: Number of Roma settlements and legalized housing units

Municipality	Number of settlements		Number of housing units	Land title-holder	Number of un-legalized housing units	Note
	Multiethnic	Roma				
Bijeljina	4	1	500	Private property of housing unit occupants or private property of ancestors of housing unit occupants.	A number of housing units has not been legalized.	All the housing units are individual.
Brčko District of BiH	3	-	138	Private property of housing unit occupants or private property of ancestors of housing unit occupants.	Most of the housing units have not been legalized.	All the housing units are individual.
Jablanica	2	-	34	3 housing units are on land that is public property, while 27 housing units are on land that is the property of housing unit occupants.	All housing units are considered legal: 27 housing units have been constructed prior to 1974, and 3 housing units have been constructed from donation funds.	3 housing units with 7 apartments on publicly owned land have been constructed from donation funding and are the property of housing unit occupants.
Jajce	-	1	54	Public property – farming land.	None of the housing units have been legalized.	Only the occupants of 2 housing units are owners of the land.
Kakanj	2	1	200	Private property of housing unit occupants except for Roma settlement <i>Varda</i> which is foreseen for relocation.	A number of housing units on land which is the private property of occupants has been legalized.	Relocation of 130 housing units with 170 families from settlement <i>Varda</i> is foreseen.
Lukavac	4	2	136	All settlements are on land which is public property (Svatovac-forestry land), and a part of one of the settlements is on the land that is private property of Kreka Mine.	None of the housing units have been legalized, only 10% of the housing units are on the land that is owned by housing unit occupants.	Eviction with expropriation of a part of settlement on the land owned by Kreka Mine is underway.
Mostar	1	-	21	Public property.	4 housing units with 18 apartments have been legalized, no data is available for 3 individual housing units.	4 housing units with 18 residential units have been built from donated funding provided by Caritas.
Prijedor	10	-	91	All individual housing units are on land that is private property of housing unit occupants.	A number of housing units has not been legalized.	11 apartments are public property, and 80 housing units are individual

The summary overview of settlements provides an insight into the highly unfavorable position of Roma in terms of the number of legalized housing units. Although there are no exact numbers in the aforementioned municipalities, it is assumed that the majority of the housing units require legalization.

As indicated above, there is no common procedure or requirements for the legalization of illegally constructed housing units in BiH. The differences in regulations governing the legalization of illegally constructed housing units in BiH are dictated by the organizational structure of the country, which establishes multiple layers of competent legislative authorities. Legalization of illegally constructed settlements and housing units is a complex problem, one that can only be resolved with assistance from higher levels of government.

The most frequent issues with legalization relate to: unresolved property and legal relations; land ownership; lack of financial means needed for the legalization process; and the quality of the constructed housing unit, i.e. the need for additional investment if a housing unit has not been built in accordance with the rules and regulations of the civil engineering profession; or if it fails to meet technical construction requirements needed for its legalization. For a construction permit to be issued subsequently, the occupant of the housing unit must personally file an application for legalization of the housing unit. This takes place in two stages: first– issuance of the housing unit location permit; and second– issuance of the subsequent construction permit.

Taking into account the scope of the required documentation for housing unit legalization, as well as the costs required to legalize, problems concerning of the legalization of illegally constructed housing units can be broken down into four groups:

- 5.2.1 Housing units constructed on land owned by the housing unit occupant;
- 5.2.2 Housing units constructed on land owned by ancestors of the housing unit occupant (probate proceedings not carried out);
- 5.2.3 Roma settlements and housing units on publicly owned land; and
- 5.2.4 Housing units that do not meet the technical construction requirements.

5.2.1 Housing units constructed on land owned by the housing unit occupant

The legalization of housing units constructed on land owned by the housing unit occupant, is an issue that exists in all eight municipalities. Although status of ownership over the land has been met as an important prerequisite for legalization, most of the housing units have not been legalized. In the vast majority of cases, the reason why the housing unit occupants have so far not legalized the housing units is a lack of financial means. In the legalization process, the Roma population does not enjoy any benefits as a national minority, i.e. they are treated as all other citizens of BiH.

The example best illustrating the challenge of financial resources is the City of Prijedor. Namely, all the housing units in which Roma are living have been constructed on land that is the private property of the housing unit occupants, but many of the housing units have not been legalized. Likewise, even though design documents for 16 reconstructed housing units have been developed, no applications for legalization have been filed. Namely, the prescribed documentation regulating the legalization of illegally constructed housing units is most frequently the following:

- Land registry excerpt (proof of ownership over the land);
- Design documents (the level of design documents is specified in the cantonal or municipal decision);
- Proof of payment of the prescribed duties: application fee, fee for development of urban construction land, one-off annuity and other fees; and
- Other required documents prescribed under the law or decision on legalization.

Accordingly, for the legalization of an illegally constructed housing unit it is necessary to include the required documents which in turn require substantial financial means. Legalization costs for residential housing units differ, and depend upon the unit's construction zone. As stated in the example of the City of Prijedor, the legalization of an individual housing unit of 80 m² of floor area in construction Zone III requires allocation of funds in the amount of no less than 3,408.00 BAM/m².

5.2.2 *Housing units constructed on land owned by ancestors of the housing unit occupant (probate proceedings not carried out)*

A precondition for initiating the legalization procedure for an illegally constructed housing unit is to resolve any and all property and legal affairs. Accordingly, every occupant must first regulate issues related to the use of the land, which most frequently entails transfer of ownership over the land. The process for the legalization of an illegally constructed housing unit can then be initiated. In instances where ownership records register land in the name of the ancestor of the housing unit occupant, it is necessary to carry out probate proceedings and execute the official division of the land among the successors. This procedure is necessary in order to acquire and register the right of ownership for the successors who wish to initiate the legalization process of housing units they occupy.

One of the most striking examples of unregulated ownership over land can be found in the City of Bijeljina. Most of the housing units in all five Roma settlements are built on land owned by the occupants' ancestors. To date, probate proceedings and division of land among successors (which is required to initiate the legalization procedure) have not been carried out. In the Roma settlement *Kuljeno* in the municipality of Lukavac, 15 Roma houses have not been legalized for the same reason –the transfer of property from parents to children has not been executed.

The procedure of ownership transfer presupposes occupants' awareness of legal procedures. However, many are discouraged by the chance of lengthy procedures due to disputes, and by the substantial and required financial means for probate proceedings. These reasons are cited as obstacles for most Roma, and in such a way prevent transfer of ownership over the land of their housing units.

5.2.3 *Roma settlements and housing units on publicly owned land*

In the legalization process of housing units on publicly owned land, the first matter to be resolved is the one of property and legal relations, either through purchase of publicly owned land or by means of awarding it for use. Moreover, it may be necessary to carry out the process of reclassification of farming or forestry land into construction land.

Roma settlements constructed on publicly owned land are located in two municipalities: the *Svatovac* settlement and the *Kuljeno* settlement in the municipality of Lukavac; and

the *Skela – Kuprešani* settlement in the municipality of Jajce. The status of the land on which the aforementioned Roma settlements are built is as follows:

- *Kuljeno* settlement – publicly owned land owned by Municipality Lukavac.
- *Svatovac* settlement – publicly owned land – forestry estate owned by the canton.
- *Skela-Kuprešani* settlement – publicly owned land – farming estate owned by Municipality Jajce.

For housing units constructed on publicly owned land that is classified as forest, plough land or other different forms of public good, it is necessary to reclassify such land as a construction land. This constitutes a separate, additional procedure prior to that of the legalization process. Reclassifying publicly owned forestry land into construction land requires an environmental permit, a certificate proving there is no monument of cultural or historical heritage at the given location, and other prescribed documentation. The occupant must ensure substantial financial means for the required documentation. According to data received from the representatives of the municipality of Lukavac, the occupant of a housing unit in the settlement *Svatovac* must provide around 2,000 BAM for reclassification of forestry land into construction land. After the status of the land has been regulated, the legalization process of the housing unit may ensue, alongside all necessary documentation and accompanying costs—namely, preparation of design documents, costs of one-off annuity, development of the construction land and other fees.

A means of reducing legalization costs, in accordance with the proceedings' economic principles, is for the cantonal authorities to reclassify the public good into construction land through a single procedure officiating the change of purpose of a particular space.

5.2.4 *Housing units that do not meet the technical construction requirements*

Housing units may only be legalized if they are constructed in accordance with the rules and standards of the civil engineering profession, which ensure safety and stability; it is not possible to legalize those which have been constructed against the regulations and do not meet the fundamental criteria of stability. Among other things, the purpose of issuing a construction permit is to ensure that the housing unit is constructed in adherence to architectural and civil engineering standards, ensuring its stability and safety of use.

In all of the settlements inhabited by Roma there are usually numerous housing units that fall short of technical construction requirements. The prevention of legalization of housing units due to improper construction even appears in settlements included in the spatial planning documents. These housing units have been constructed in a haphazard fashion, without design documents and without regard for construction regulations; and they do not meet the basic criteria of structural stability, which is one of the requirements for housing unit legalization. Such a housing unit first of all requires structural repair (a design for reconstruction and repair), if its manner of construction would allow for this. In case the housing unit cannot be repaired, it must be demolished and rebuilt.

5.3 Relocation of Roma settlements

Only two out of the eight municipalities covered by this survey have settlements in need of relocation: the *Varda* settlement in the municipality of Kakanj³⁴ and the *Crveno brdo* settlement, as well as the housing unit in the very downtown area, of the municipality of Lukavac. The reasons necessitating relocation of these settlements, and the respective relocation processes, differ.

In the municipality of Kakanj, the Roma settlement *Varda* is built on publicly owned land which, due to unfavorable soil composition, was never meant for a settlement. In the municipality of Lukavac, part of the Roma settlement *Crveno brdo* became property of “Kreka” Mine through expropriation. In the downtown area of the municipality of Lukavac, construction of a new residential and business housing unit is foreseen on the location of a residential housing unit currently occupied by 22 Roma families.

5.4 Social housing

In BiH, there is no definition of social housing. To better understand the issue and the concept of social housing, the Centre for Housing Rights and Eviction Matters proposed the following definition: “Social housing is defined as housing which is financed, constructed and/or awarded by the state, in general intended for no income to low-income groups. Social housing normally has affordable rent or, in case of property ownership, is repaid from low interest rate loans. In market economy terms, social housing is provided to persons with limited financial means or income.”

In light of this definition, the housing of socially disadvantaged groups should be understood as a combination of several elements. Beyond its essence – providing housing units for the vulnerable – housing of socially disadvantaged groups should also aim to meet other social policy goals. In addition, social housing should form inclusive housing units, to aid the social integration of disadvantaged groups by helping the target groups improve their living conditions. The awarding of housing must be in line with measures aimed at facilitating employment opportunities and access to social services, such as care of children, the elderly, or the disabled; or making accessible the institutions providing education for the unemployed. The policy of housing provisions for socially disadvantaged groups should be comprehensive and long-term.

The provision of housing to socially disadvantaged groups should cover two types of housing: housing for the most disadvantaged persons; and access to adequate housing. The accepted definition of access to available housing, in Article 31 (3) of the Revised European Social Charter also prescribes that households that can meet the up-front costs (deposit, advance payment, current rent) and/or other costs (utility costs, maintenance and management costs) in the long-term, should still be able to maintain a minimum living standard, relative to the society in which the household exists. As BiH is undergoing different stages of the transition process, available housing can be viewed as assistance to the poor or low-income owners of housing units who cannot afford to maintain their housing.

³⁴ In the meantime, under the decision of the Mayor of Municipality of Kakanj, section of settlement *Varda* will not be relocated after all.

Also, in accordance with Article 31 (1) of the aforementioned charter, all levels of government in BiH are under obligation to secure adequate housing, and government authorities should undertake the necessary measures –preparing and managing records of the housing stock; measures against the owners who disregard their obligations, including the urban development rules and maintenance obligations (e.g., an order asking the owner to use the collected rent to cover maintenance obligations if the owner neglects to do so). Authorities also need to ensure protection from discontinuation of necessary utilities such as water, electricity and telephone in cases where the occupants have paid their bills and, to a reasonable extent, acted in accordance with other contractual obligations towards service providers. In case the poor cannot afford their bills or meet other contractual obligations, as determined by objective proof of the need for social housing, the national authorities are under obligation, pursuant to Article 11(1) of the ICESCR, to provide full, or at least minimal, basic services in order to ensure health, safety, comfort and food.

Since the provision of housing to socially disadvantaged groups in BiH is such that the relevant competences are not explicitly regulated on any authority level,³⁵ the policy of housing provision for the socially disadvantaged should help determine the general competence of specific authorities. It is therefore necessary to invest additional efforts to regulate this matter. It should be noted that certain breakthroughs have been made in the recent past—two cantons, namely Bosnia-Podrinje and Zenica-Doboj, have adopted laws on social housing, and the City of Prijedor adopted its Social Housing Strategy.

³⁵ There are, however, some important provisions in the legislation which pertain to social protection which, as one of the criteria, include the housing needs of the potential tenants, for example, procedure for housing of people in the centres for social care.

6. CONCLUSIONS AND RECOMMENDATIONS

Based on data obtained and information collected in the eight BiH municipalities, regarding the number and status of residential housing units occupied by Roma, as well as the actual legalization procedure of illegally constructed housing units, the general conclusions are as follows:

- Since there is no exact data about the size of the Roma population, it is difficult to determine the number and status of housing units occupied by Roma.
- The legal framework governing legalization of illegally constructed housing units in BiH is fragmented. In the FBiH, legalization of illegally constructed housing unit is overseen by cantonal and municipal regulations; while in the RS, up until the adoption of the *Law on Spatial Planning and Construction* in 2013, the procedure was governed by municipal decisions. Cantonal or municipal decisions are adopted for a particular period of time (usually with a validity of up to one year).
- The regulations governing legalization of illegally constructed housing units prescribe certain relief for fee payments; however Roma are not recognized as a separate category when setting the amount and manner of payment of legalization fees.

The legalization procedure of an illegally constructed housing unit requires knowledge of legal procedures as well as financial means for all documentation necessary.

■ Housing units constructed on the land owned by housing unit occupant

Within the Roma population, there is large number of non-legalized housing units constructed on land owned by housing unit occupants; the primary reason for this is the lack of financial means to pay for the preparation of the design documents and for prescribed duties. Under the *Law on Legalization* in the RS and regulations in the FBiH/cantons, there is no special relief for Roma. Roma can acquire benefits only on the basis of social status, as war veterans, or if they belong to a category of disabled persons.

The legalization of a housing unit permanently settles the issue for the occupant of the housing unit, as well as for other members of the household. Therefore, lawmakers (entity, canton or municipality level) should adopt decisions to lower legalization costs on the basis of: the number of household members; unemployment among household members; the status of the housing unit occupant as a returnee/displaced person, or other categories owed relief under the law.

One possibility is for the municipality to provide funds (its own or from donors) for the design documents. If the municipality were to finance the design documents on its own, then the costs incurred could be added to other legalization costs, and the occupant

would be allowed to pay back the full amount of costs in monthly installments over a set period of time, e.g. at least one year or more, depending on the amount of costs and financial solvency of the housing unit owner.

■ Housing units constructed on land owned by ancestors of the housing unit occupant (probate proceedings not carried out)

For housing units constructed on land owned by the ancestors of the current occupants, the legalization process can only be initiated following a probate or other proceedings to establish the current occupant's ownership before the competent court. This is in order to reach a decision on inheritance and carry out the land's transfer of ownership from the ancestor to the owner of the constructed housing unit. Such procedure entails a long-term court proceeding, necessary to acquire ownership over the land where the housing unit is constructed, and to verify this right. All of the above requires substantial financial means to cover costs of court proceedings as well as legal representation (i.e. a lawyer).

The undertaking could be mediated through financial provisions from donations, whose exact amount could be defined once the exact number of housing units constructed on the land of the current occupant's ancestors is determined. While the duration of court proceedings cannot be controlled, it is possible to provide legal counsel for the families, successors to the land, thereby easing complications and facilitating the court proceeding of establishing ownership with adequate legal aid.

■ Roma settlements and housing units on publicly owned land

In the legalization process of housing units illegally constructed on publicly owned land, the housing unit occupants/owners must file an application to the competent authority for property and legal affairs; this is to obtain from the authority a decision determining the right of property in favor of the builder/occupant of the housing unit. The issuance of this decision requires that it is possible to obtain a construction permit, in line with civil engineering regulations. Thus, for example, the builder/occupant of the housing unit is obliged to pay the fee for the land on which the housing unit has been constructed, in the amount defined in the regulations applicable at the initiation of proceedings.

The legalization of a housing unit constructed on publicly owned land in the RS is prescribed in the *Law on Proprietary Rights*. The market price shall be determined by mutual agreement before the competent administrative authority over property and legal affairs. If no such agreement can be reached, the price shall be determined before the competent court in extra-judicial proceedings.

For settlements constructed on publicly owned land that is categorized as farming or forestry land, the first step toward legalization is to reclassify the land as construction land. The reclassification procedure for farming and forestry land is complicated and lengthy, and requires substantial financial means. Under the applicable laws, each occupant/owner of the housing unit must personally file an application and bear the costs of all documents required. Once this reclassification procedure is finalized, land plotting completed, and upon entry into the land registry, the process of legalizing the housing units may proceed.

For these settlements, most of which have been built haphazardly, it is necessary to develop spatial planning documents aimed to improve the settlement as well as the living conditions of Roma. This lengthy and financially demanding procedure requires assistance from the relevant governments and ministries.

■ **Housing units that do not meet the technical construction requirements**

Haphazard construction inevitably results in housing units out of line with basic civil engineering standards; such units do not meet the technical requirements for their legalization. Housing units constructed in this way do not meet the requirements for structural stability, and are therefore not safe to occupy. It is necessary to identify the exact number of such housing units and define whether they can be repaired. If they do not meet conditions required for repair, such units must be demolished and altogether replaced.

One relevant recommendation is to prepare a programme to identify all technically defective housing units. This in turn would offer the exact number of housing units that are uninhabitable as well as the number of units eligible for repairs/reconstruction. Such information will provide insight into the financial means needed to resolve this problem. In all of the steps above, municipalities will require assistance from the competent ministries or donor funding.

■ **Improvement of housing for Roma**

The provision of housing for Roma is mainly addressed by the local community, using donor funding and funds provided in the BiH MHRR budget. Social housing units have been built and awarded to Roma families in most of the municipalities. As many areas of BiH lack a legal framework for the provision of social housing to BiH citizens, local communities encounter problems related to adequately regulating the right to use social housing units—e.g., whether these housing units should be awarded for permanent use without any restrictions, or for permanent use with the right to inherit, but not the right to dispose of. It is thus necessary to establish an adequate legal framework to define and govern social housing for Roma, et al.

Evidently, there is no exact data regarding the number of Roma in BiH; nor is there comprehensive data on Roma housing issues. It must be stressed that in order to address the housing needs of Roma, it is not necessary to know the exact number of their population. Rather, it is necessary to carry out an inventory and survey of housing units, assessing the actual conditions in the field in terms of unit quantity and legal status. The lack of data and facts on the housing status of the Roma population prevents local authorities from reaching appropriate decisions and efficient strategies in addressing this issue.

Relevant ministries— those for urban planning and construction— should initiate activities for design preparation of individual model houses for social housing. The housing design must meet the following criteria: affordable construction; adherence to civil engineering regulations; due observance of terrain (plains, mountains, etc.); and mindfulness toward the ethnic and cultural identity of Roma. The designs should be made available free of charge to the potential builders.

The improvement of Roma settlements/housing is primarily the obligation of the municipality, and secondly that of the competent ministries and governments on the cantonal and entity levels. It is accordingly recommended that teams are established within municipalities to deal specifically with this issue, and provide appropriate assistance to the Roma population in resolving their housing problems.

The following recommendations are given for resolving the issue of the legalization of Roma settlements and residential housing units in the eight target municipalities, as well as in other BiH municipalities facing similar outstanding issues regarding housing provision to Roma:

- Identify the exact number and status of housing units occupied by Roma in order to determine the amount of funding required for the legalization of illegally constructed housing units;
- Prepare a strategy for such legalization, and for the provision of housing to Roma in general;
- Consider the possibility of reducing costs of legalization on the basis of certain criteria; or the possibility of the municipality financing the design documents from its own sources or from donor funding, and then allowing the occupant to make payments in monthly installments;
- Ensure adequate legal aid to Roma families in court proceedings aimed at transferring land ownership to the successor of the housing unit, and in other disputes; as well as the preparation of the documents necessary for the legalization of the housing unit;
- Prepare spatial planning documents with the aim of improving settlements and enhancing the quality of life of Roma, following the reclassification of farming or forestry land as construction land;
- Prepare a programme to identify technically defective housing units, and in turn the exact number of uninhabitable housing units and the number of those eligible for repair/reconstruction;
- Harmonize cantonal laws in the FBiH in terms of the cut-off date (year) of valid satellite images for the legalization of illegally constructed housing units; whereby houses constructed illegally after this cut-off date cannot be legalized;
- Adopt a decision on the preparation of strategic municipal documents for the improvement of the status of Roma, in accordance with the Action Plan of BiH for resolving the problems of Roma;
- Appoint persons and establish teams on the municipal level, to prepare action plans, and subsequent operational plans, for resolving Roma housing issues based on the collected data;
- Improve the capacities of local governments to implement measures of social care and housing for Roma; this presupposes training of the municipal administration in using funds for inter-state co-operation, and IPA funds for project preparation and management;
- Ensure spatial planning documents for non-legalized Roma settlements;
- Educate members of Roma associations in terms of realizing their rights; familiarize them with the legal procedures related to the legalization of housing units and settlements, and provide them with assistance in attaining their rights.

The following recommendations are addressed to the higher levels of government in BiH:

- On the State level, carry out an inventory and survey of the actual housing conditions, in terms of the number, legal status and construction quality of the housing units occupied by Roma;
- Determine the number and status of Roma settlements and develop a single State-level database to determine which municipalities and settlements have the most vulnerable Roma population, i.e. where urgent action is needed;
- Establish co-operation with international organizations and donors, with the aim of providing financial support for programmes and projects of housing construction for Roma families, as well as for the urbanization and development of Roma settlements;
- Provide professional support and training to national and municipal authorities regarding housing policy, in co-operation with international organizations;
- Further encourage the municipalities that are removing obstacles and creating preconditions for the legalization of Roma settlements and residential housing units, by awarding funds from potential donors; and
- Ensure financial support from the relevant ministries to provide urban planning documentation for areas in which Roma settlements are located, or for new settlements without such documents that will be inhabited by Roma.

LIST OF LOCAL SELF-ADMINISTRATION REPRESENTATIVES IN EIGHT MUNICIPALITIES IN BIH

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