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## USDOS – US Department of State

## 2020 Trafficking in Persons Report: Bosnia and Herzegovina

## BOSNIA AND HERZEGOVINA: Tier 2 Watch List

The Government of Bosnia and Herzegovina does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included the State Coordinator organizing working groups with government and civil society representatives to draft the national strategy, which the government adopted in January 2020. The government identified more victims and the State Prosecutor’s Office (SPO) appointed a prosecutor to the anti-trafficking strike force—the only mechanism to coordinate law enforcement efforts across entities. The government revised the structure and guidelines of regional coordinating teams to increase effectiveness. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. The government did not have an approved state budget, which delayed funding to anti-trafficking efforts. Law enforcement continued to regularly investigate trafficking under lesser offenses, while judges continued to issue sentences below minimum penalties, as they tend to do in all criminal cases in Bosnia and Herzegovina. Law enforcement lacked victim-centered investigations and prosecutions, and the anti-trafficking strike force remained ineffective. In addition, the government continued to penalize victims and did not disburse annual funds to NGOs for victim protection efforts, while victim assistance providers continued to lack resources and could not assist all domestic victims. Because the government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards, Bosnia and Herzegovina was granted a waiver per the Trafficking Victims Protection Act from an otherwise required downgrade to Tier 3. Therefore Bosnia and Herzegovina remained on Tier 2 Watch List for the third consecutive year.

## PRIORITIZED RECOMMENDATIONS:

Vigorously investigate, prosecute, and convict traffickers, including any complicit officials, and impose sentences that reflect the serious nature of the crime. • Implement the law that exempts victims from penalties for unlawful acts their traffickers compel them to commit, particularly victims of sex trafficking, forced begging, and forced criminality. • Train first responders on victim identification and referral and increase proactive identification efforts. • Allocate sufficient funding for NGO-run shelters and develop financial policies that effectively allocate funding for victim assistance. • Improve cooperation and coordination among state and sub-state actors, including allocating adequate resources and assigning personnel to the anti-trafficking strike force. • Formally disconnect identification procedures and official victim status from cooperation on investigations and prosecutions. • Increase law enforcement capacity and training to investigate complex cases. • Train judges to understand the severity of trafficking when issuing sentences and sensitize prosecutors and judges to the issues of secondary trauma and victim-centered approaches. • Standardize victim assistance throughout the country, including the ability to access assistance and support outside of shelters and specialized assistance for male victims. • Integrate Romani groups into decision-making processes regarding victim protection.

## PROSECUTION

The government maintained law enforcement efforts. Bosnia and Herzegovina (BiH) consisted of two entities within the state—the Federation of Bosnia and Herzegovina (Federation) and Republika Srpska (RS). Each entity has political, legislative, and judicial authority. The Brcko District (BD) was a self-governing area under the jurisdiction of the state. Entity-level authorities addressed domestic trafficking offenses internal to their territories, and state-level authorities addressed cases with international aspects. Article 186 of the state-level criminal code criminalized sex trafficking and labor trafficking only in cases where the victim was exploited in a country in which he or she did not reside or have citizenship; it prescribed penalties of one to 10 years’ imprisonment. Articles 210a and 210b of the Federation’s criminal code criminalized sex and labor trafficking and prescribed a minimum penalty of five years’ imprisonment. Article 145 of RS’s criminal code criminalized sex and labor trafficking and prescribed a minimum penalty of three years’ imprisonment. Article 207a of BD

criminal code criminalized sex and labor trafficking and prescribed a minimum penalty of five years’ imprisonment. These penalties were sufficiently stringent and, with regard to sex trafficking, commensurate with those for serious crimes, such as rape.

SPO initiated one investigation (none in 2018). SPO did not issue any indictments (nine defendants in 2018). State courts did not convict any traffickers and acquitted two persons (none in 2018). Federation authorities initiated investigations on 16 suspects (four in 2018) and continued to investigate 13 suspects. Federation prosecutors did not issue any indictments (two in 2018), and Federation courts convicted 12 traffickers (11 in 2018). Federation judges sentenced five traffickers to imprisonment between 12 and 22 months and one trafficker to four years and nine months. Federation courts only seized the assets of one trafficker and did not provide sentencing information for the other five traffickers. RS authorities investigated seven suspects (one in 2018) and an additional three suspects for “enticement of a child to prostitution.” RS prosecutors indicted two defendants (one in 2018) and indicted one defendant for “enticement of a child to prostitution.” RS courts convicted one trafficker (none in 2018) and sentenced the trafficker to five years’ imprisonment. BD authorities did not initiate any investigations (none in 2018) or any prosecutions (none in 2018). BD lower courts did not convict any traffickers (one in 2018), but a BD appellate court upheld a conviction and sentenced a trafficker to one year imprisonment. Court proceedings lasted many years and judges continued to issue sentences below minimum penalties, including the trafficking statutes, while often citing unreasonable “mitigating circumstances” to decrease further the sentences. Additionally, the government reported traffickers avoided imprisonment by utilizing a law that allowed convicted perpetrators to buy their way out of up to one year of imprisonment for 100 convertible marks (\$57) a day.

The State Investigation and Protection Agency (SIPA) maintained 12 specialized officers, and Tuzla Canton in the Federation operated a specialized trafficking unit in addition to trafficking liaison officers in all police units within the canton. RS, BD, and other Federation cantons did not have specialized officers, although organized crime and corruption units were designated to investigate trafficking. Law enforcement reported the lack of capacity and technical knowledge hindered their ability to conduct effective investigations. Authorities continued to regularly investigate and prosecute sex trafficking, forced begging, and trafficking cases involving family members under lesser offenses, including “enticement to prostitution,” “child negligence,” and “enticement to child prostitution.” In some cases, authorities pursued trafficking-related cases under lesser offenses due to the unwillingness of some victims, particularly from the Roma community, to cooperate. Law enforcement reported difficulties in investigating trafficking offenses involving multiple cantons or entities, due to a lack of communication and coordination with cantonal prosecutors. The standing anti-trafficking strike force remained the only mechanism to coordinate law enforcement efforts across entities on trafficking cases. The strike force was largely ineffective, with the state failing to disburse operational funds and the Federation failing to appoint representatives. However, SIPA increased its participation, the state appointed a prosecutor, and SPO and the Ministry of Security agreed to resolve legal issues to disburse funds.

The government did not report any investigations, prosecutions, or convictions of government employees complicit in trafficking. The government continued the first joint international investigation with French authorities initiated in 2015 of a Bosnian and Croatian married couple alleged to have forced six Roma children to pickpocket in France; SPO indicted eight defendants in May 2018, but the court did not order authorities to place defendants in custody during court proceedings, and officials reported one defendant was in Turkey likely involved in another forced begging case. In June 2014, SPO issued the biggest indictment for trafficking in BiH’s history against 13 Bosnian nationals accused of exploiting 672 individuals, almost all of whom were Bosnian nationals, in forced labor in the construction industry in Azerbaijan in 2009; however, Judges acquitted all defendants involved in the case in December 2019. The government did not enter any new bilateral agreements; the lack of bilateral agreements regarding witness protection created obstacles for witnesses and victims to participate effectively in international investigations. Police academies maintained basic and advanced courses on trafficking, and the government, with financial and technical assistance from an international organization, trained police, border police, prosecutors, and judges on various trafficking issues.

## PROTECTION

The government maintained victim protection efforts. The government identified 61 potential trafficking victims (36 in 2018). Of these, 19 were victims of sex trafficking, 36 of forced begging, three of forced marriage for the purpose of forced begging and sexual exploitation, and three of multiple types of exploitation (17 were victims of sex trafficking, 19 were victims of labor trafficking, including 18 for forced begging in 2018); 49 victims were female and 12 were male (21 victims were female and 15 were male in 2018); 36 were children (12 in 2018) and six were foreign victims (eight in 2018). Two bylaws provided standard operating procedures (SOPs) for identifying and referring victims to services, including a list of general indicators, but observers reported first responders did not know or consistently use the guidelines and lacked the knowledge to accurately identify trafficking victims. The government operated seven drop-in centers for children and a mobile team for street children in Sarajevo that conducted outreach work. The mobile team identified 160 street

children (510 in 2018) and drop-in centers provided 163 children with academic tutoring, hot meals, and laundry services, including 17 who were accommodated in shelters. Drop-in centers lacked resources, capacity, and staff, and could only provide basic food, workshops, and short-term accommodation for a small number of children. Observers reported mobile team members were attacked, threatened, and intimidated by traffickers and perpetrators during their outreach efforts, but law enforcement did not investigate. International organizations reported law enforcement and social workers at centers for social welfare (CSW) justified cases of potential forced child begging and forced labor involving Roma as traditional cultural practices and customs and sometimes returned children to their families even when parents were involved in their exploitation. In addition, a report from an international organization indicated first responders, including Border Police, local police, Service for Foreigners' Affairs, and CSW, lacked standard guidelines and trafficking indicators for migration flows, interview questions and interpreters, and general capacity to screen the large influx of migrants and refugees. First responders referred potential trafficking victims to law enforcement, which conducted an interview and had authority to officially recognize victims. However, international organizations reported the interview and identification procedures lacked transparency, and some authorities required victims to cooperate with investigations and prosecutions to receive assistance and support. SIPA did not interview potential victims in migrant flows, according to observers, who noted SIPA lacked translators required to communicate with foreign victims and relied on NGOs.

The government partly funded four NGO-run shelters, but government-funded assistance programs required victims to obtain official recognition to access care, and potential victims received assistance only when an NGO had funds from other sources; authorities referred 42 victims to NGO-run shelters (10 in 2018). The Ministry of Human Rights and Refugees allocated 60,000 convertible marks (\$34,460) to NGOs assisting domestic trafficking victims in both 2019 and 2018, and the Ministry of Security allocated 70,000 convertible marks (\$40,210) to NGOs assisting foreign victims in both 2019 and 2018. However, the government did not disburse these funds to NGOs in 2019 due to the absence of a state government and budget. Funding for victim assistance was disproportionately lower for domestic victims, although they constituted the majority of identified victims. The government did not combine domestic and foreign assistance funds and returned unused funds allocated to assist foreign victims to the state budget instead of reallocating those funds for domestic victim assistance. As a result, some domestic victims did not have access to assistance. The government, in cooperation with NGOs, provided accommodation, psycho-social support, medical assistance, legal assistance, and guardianship for children. However, access to care was not standardized and was based on bylaws that were not legally binding; RS law entitled trafficking victims to social assistance, but Federation and BD laws did not. NGO-run shelters allowed victims to leave voluntarily after informing the staff, but no mechanisms were in place to assist victims outside of shelters, including at CSW. One NGO-run shelter accommodated male trafficking victims but did not offer specialized services. Authorities reported developing a reintegration plan for each victim, including vocational training, but the government did not provide funding for reintegration programs, and observers reported victims spent, at times, multiple years at shelters due to slow court proceedings and a lack of reintegration opportunities. The law provided repatriation assistance to in country citizen victims identified abroad and foreign national victims identified in country; no victims required repatriation assistance in 2019 and 2018. Foreign victims were eligible for a humanitarian visa allowing them to temporarily live and work in BiH, and victims were permitted a 30-day reflection period to determine whether they wanted to request a visa; three foreign victims received humanitarian visas.

The government penalized victims for unlawful acts traffickers compelled them to commit due to inadequate identification efforts; authorities penalized victims of sex trafficking, forced begging, and forced criminality with misdemeanor charges for petty crimes with some victims owing 10,000 to 15,000 convertible marks (\$5,740 to \$8,620) after receiving multiple fines. The government reported SOPs incorporated non-penalization standards but acknowledged authorities still penalized victims due to a lack of knowledge of the SOPs exacerbated by frequent rotations and turnover. Sub-state laws against “enticement to prostitution” permitted law enforcement to treat children 14 years and older as juveniles willingly engaged in commercial sex instead of victims of rape or sex trafficking; no prosecutions were reported. The law provided witness protection and free legal aid; the government did not report the number of victims in witness protection and relied mainly on NGOs to provide free legal aid. The government did not consistently conduct victim-centered investigations and prosecutions. For example, prosecutors did not need certification to work with children and often interrogated child victims without a psychologist or social worker present. Authorities also repeatedly interviewed adult victims, and courts did not offer victims any accommodation inside courthouses to prevent re-traumatization. Police did not consistently notify victims' lawyers when conducting interviews, and some courts required victims to testify with no prior notification or preparation. Victims could obtain restitution through criminal proceedings or compensation through civil suits; a district court awarded a victim 7,500 convertible marks (\$4,310), but the victim never received the restitution due to issues in seizing assets. Judges generally rejected restitution in criminal proceedings and encouraged victims to seek compensation by filing civil suits, according to observers, who noted civil suits required victims to submit new testimonies and medical examinations, causing re-traumatization, despite the government convicting their trafficker in criminal proceedings.

## PREVENTION

The government increased efforts to prevent trafficking. The government continued to implement the 2016-2019 national strategy and the State Coordinator continued to produce its annual report. The State Coordinator organized meetings with government and civil society representatives to inform the national strategy and drafted the 2020-2023 national strategy, which the government adopted in January 2020. Additionally, the State Coordinator organized meetings to solicit feedback on regional coordinating teams (RCT) and accordingly changed the structure from four to 18 RCTs: 10 in the Federation; six in the RS; one in BD; and one overarching team at the state level. The government, with financial and technical assistance from an international organization, organized trainings for the RCTs. The government continued to allocate 10,000 convertible marks (\$5,740) to seven NGOs to conduct awareness raising activities. The government did not make efforts to include Romani communities in discussions on anti-trafficking issues. Federation and RS laws required recruitment agencies to obtain a license and register with the Ministry of Labor, but labor inspectors lacked resources to adequately inspect recruitment agencies. The government did not make efforts to reduce the demand for commercial sex acts. The government did not provide anti-trafficking training for its diplomatic personnel.

## TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in BiH, and traffickers exploit victims from BiH abroad. In 2019, traffickers exploited foreign victims from Sri Lanka (2), Serbia (2), and Afghanistan (2). In previous years, victims from Afghanistan, Cuba, The Gambia, Libya, and Serbia, Sri Lanka, and neighboring Balkan countries were exploited in Bosnia and Herzegovina. Traffickers exploit Bosnian women and girls in sex trafficking within the country in private residences and motels. Marginalized Romani children are exploited in forced begging, sex trafficking, and domestic servitude in forced marriages. Foreign women and girls from European countries are vulnerable to sex trafficking within the country. Traffickers exploit Bosnian victims in sex trafficking and forced labor in construction and other sectors in neighboring Balkan countries and other countries across Europe. Thousands of migrants and refugees from Afghanistan, Bangladesh, Iraq, Morocco, Syria, and neighboring countries traveling through, stranded in, or being smuggled through BiH are vulnerable to trafficking, particularly women and unaccompanied minors.

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