

2023 Trafficking in Persons Report: Bosnia and Herzegovina

BOSNIA AND HERZEGOVINA (Tier 2)

The Government of Bosnia and Herzegovina (BiH) does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared with the previous reporting period, considering the impact of the COVID-19 pandemic, if any, on its anti-trafficking capacity; therefore Bosnia and Herzegovina remained on Tier 2. These efforts included increasing overall prosecution efforts with the state, the Federation of BiH (Federation) entity, and Brcko District (BD) convicting more traffickers. Judges issued more sentences with adequate prison terms, including a judge from Tuzla canton issuing the highest sentence for organized child trafficking to date. The State Prosecutor's Office (SPO) added a specialized prosecutor and an investigator to the Department for Combating Trafficking in Human Beings and Illegal Migration, and the government disbursed funding to seven NGO-run shelters after failing to allocate any funds to victim assistance in 2021. The government, with financial and technical assistance from an NGO, created five additional mobile teams to identify vulnerable populations and allocated funds to three local NGOs to organize awareness campaigns. However, the government did not meet the minimum standards in several key areas. The government identified fewer victims and the Republika Srpska (RS) entity did not convict any traffickers. Law enforcement continued to lack capacity, resources, and technical knowledge, which hindered their ability to conduct effective and victim-centered investigations and prosecutions. The government lacked proactive identification efforts, resulting in victims sometimes penalized for unlawful acts committed as a direct result of being trafficked, particularly with misdemeanor charges for petty crimes or begging. Some authorities did not investigate cases of potential forced child begging and forced labor involving members of the Romani community but rather justified them as traditional cultural practices and customs and returned children to their families, even when their parents were involved in their exploitation. The government did not adopt the guidelines and standards for victim assistance and some cantonal governments did not budget honorariums for regional monitoring teams (RMTs), which hindered participation and coordination.

PRIORITIZED RECOMMENDATIONS:

- Vigorously investigate, prosecute, and convict traffickers and seek adequate penalties, involving, as appropriate, significant prison terms.
- Train first responders on victim identification and referral and increase proactive identification efforts, particularly for migrants, refugees, asylum seekers, and members of the Romani community.
- Ensure victims are not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked, particularly victims of sex trafficking, forced begging, and forced criminality.
- Increase resources, personnel, and training for law enforcement to investigate complex trafficking cases.
- Continue to allocate sufficient funding for NGO-run shelters and victim service providers.
- Adopt and implement drafted guidelines and standards on providing victim assistance.
- Establish and implement policies to formally disconnect identification procedures and official victim status from cooperation on investigations and prosecutions.
- Establish procedures to ensure trafficking cases are handled by trained prosecutors.

- Implement victim-centered approaches in prosecutions, particularly for children, and strengthen access to justice, such as allocating sufficient funding for NGOs providing legal assistance.
- 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.
- Integrate Romani advocates into decision-making processes in anti-trafficking efforts.
- Train judges on restitution in criminal cases, establish procedures to seize assets from traffickers, and create effective methods to allocate restitution in a timely manner.
- Budget and disburse honorariums for all RMTs.

PROSECUTION

The government increased law enforcement efforts. BiH consisted of two entities within the state – the Federation and RS. Each entity has political, legislative, and judicial authority. 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 in which 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 146 of RS's criminal code criminalized child trafficking and prescribed penalties between five to 20 years. Article 207a of BD's 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 two investigations on two suspects in both 2022 and 2021 but did not initiate any prosecutions, a decrease compared with prosecuting two defendants in 2021. State courts convicted five traffickers, an increase compared with one trafficker in 2021. State judges issued sentences ranging from 12 years' imprisonment and a fine to two years' imprisonment and a fine. Federation authorities investigated 13 suspects in 10 cases, compared with 16 suspects in seven cases in 2021. Federation prosecutors prosecuted seven defendants in six cases, a decrease compared with 11 defendants in 2021. Federation courts convicted 11 traffickers, an increase compared with seven traffickers in 2021. Federation judges issued sentences ranging from 22 years' imprisonment to five years' imprisonment to eight traffickers, sentences ranging from one year's imprisonment to a fine to three traffickers, and did not report sentencing information for one trafficker. RS authorities investigated five suspects in four cases, an increase compared with two suspects in two cases. RS authorities prosecuted one defendant in both 2022 and 2021. RS courts did not convict any traffickers, a decrease compared with two traffickers in 2021. BD authorities did not initiate any investigations, a decrease compared with investigating three suspects in 2021. BD authorities prosecuted one defendant, compared with three defendants in 2021. BD courts convicted two traffickers, compared with one trafficker in 2021. A BD judge sentenced the traffickers to five years and two months' imprisonment and the second trafficker to two years' imprisonment. Judges increasingly issued sentences with significant prison terms. For example, the Tuzla Cantonal Court convicted six traffickers in November 2022 for organized child trafficking for the first time and sentenced one trafficker to 22 years' imprisonment and the others to a total of 52 years' imprisonment, which was the highest sentence for trafficking in BiH to date. However, court proceedings generally lasted many years, and in previous years, judges often issued sentences below minimum penalties by citing unreasonable "mitigating circumstances" to decrease 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 a day (\$55).

The State Investigation and Protection Agency (SIPA) maintained an operational team with 20 officers across four regional offices, and Tuzla Canton in the Federation maintained a specialized trafficking unit in addition to trafficking liaison officers in all police units within the canton. Sarajevo Canton assigned two police officers within each of the seven police stations as liaison officers, but observers reported at least one station head was not aware of who was assigned as a liaison officer. The SPO maintained the Department for Combating Trafficking in Human Beings and Illegal Migration and added a specialized investigator and prosecutor for a total of four specialized prosecutors. Other Federation cantons, the RS, and BD did not have specialized officers, although organized crime and corruption units were designated to investigate trafficking. Authorities continued to regularly investigate and prosecute sex trafficking, forced begging, and trafficking cases involving family members under lesser crimes, such as “enticement to prostitution,” “child negligence,” and “enticement to child prostitution.” Law enforcement continued to report that lack of capacity, resources, and technical knowledge hindered their ability to conduct effective investigations. For example, the government reported difficulties in meeting the evidentiary requirement of trafficking due to a lack of resources and knowledge to conduct specialized investigative measures to corroborate victim testimony. Prosecutors reported they were evaluated on reaching overall monthly case quotas, which incentivized pursuing trafficking crimes as lesser offenses that were easier and faster to prosecute, while police experienced obstacles in investigating trafficking crimes involving multiple cantons or entities due to a lack of communication and coordination between cantonal prosecutors. The Chief State Prosecutor chaired the anti-trafficking strike force (strike force) that coordinated law enforcement efforts across entities on trafficking cases. The government allocated 80,000 convertible marks (\$43,720) for honorariums and operational expenses for strike force members in both 2022 and 2021. The strike force met monthly and maintained a network of prosecutors and investigators to facilitate coordination across BiH. As a result, most prosecutors’ offices, except in the RS, appointed a primary contact for trafficking cases to participate in the network.

State courts reported prosecuting and convicting a public servant from the Municipality of Vlasenica for accepting bribes for false birth and citizenship certificates that were used to facilitate trafficking cases. The SPO cooperated with authorities from Croatia, Montenegro, Serbia, and Slovenia on trafficking cases. Additionally, the SPO continued collaboration with Swedish authorities through a joint investigative team to prosecute a forced labor case; authorities charged three suspects in BiH and five suspects in Sweden for trafficking. The government finished its joint investigation with French authorities initiated in 2015 of a BiH and Croatian married couple alleged to have forced six Romani children to pickpocket in France. State courts convicted the traffickers in December 2022, after the SPO indicted eight defendants in May 2018, but only five received prison sentences; one was acquitted; one will be tried separately due to health reasons; and one was at large. Police academies maintained basic 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 and NGOs identified 38 victims, a decrease compared with 61 victims in 2021. Among the victims, eight were victims of sex trafficking, 21 were victims of forced labor, two were victims of domestic servitude within forced marriages, and seven were victims of an unspecified type of trafficking; there were seven women, two men, 23 girls, and six boys; five victims were foreign nationals. The government updated two bylaws in 2021 which provided SOPs for identifying and referring victims to services, including a list of general indicators, but observers continued to report some first responders did not know or consistently use the guidelines and lacked the knowledge to accurately identify trafficking victims. The government, with financial and technical assistance from an NGO, created five additional mobile teams for a total of six that conducted outreach to vulnerable populations; mobile teams identified 26 potential victims (150 in 2021) and more than 200 vulnerable people, primarily children.

Law enforcement and social workers sometimes justified cases of potential forced child begging and forced child labor involving members of the Romani community as traditional cultural practices and customs and sometimes returned children to their families even when their parents were involved in their exploitation; no cases were reported in 2022, but in 2021, prosecutors returned 16 children to family members who were involved in their exploitation. In previous years, first responders, including Border Police, local police, and the Service for Foreigners' Affairs (SFA), lacked standard guidelines and trafficking indicators for irregular migration flows, interview questions and interpreters, as well as general capacity to screen the large influx of migrants and refugees. However, the government, in cooperation with international organizations and NGOs, continued to train border police and staff from the SFA on identifying victims within irregular migration flows. As a result, authorities identified five trafficking victims within the migrant population accommodated at temporary reception centers, compared with four in 2021 – the first time authorities identified any victims within irregular migration flows. First responders referred potential trafficking victims to law enforcement, which conducted interviews and had authority to officially recognize victims. However, observers reported that the interview and identification procedures lacked transparency and authorities often required victims to cooperate with investigations and prosecutions to receive assistance and support.

In 2021, the government did not disburse funds to NGO-run shelters due to the lack of a state budget stemming from an extended political crisis. In previous years, the government disbursed funds to NGOs based on the number of assisted victims. The government amended the 2022 funding requirements to compensate for the lack of funding in 2021 and allowed all allocated funds to be disbursed regardless of the number of assisted victims. Subsequently, the government signed a memorandum of understanding with seven NGO-run shelters to provide victim assistance and allocated 130,000 convertible marks (\$71,040) to the NGO-run shelters through a victim protection fund administered by the State Anti-trafficking Coordinator. The government, in cooperation with NGO-run shelters, provided accommodation, psycho-social support, medical assistance, food and hygiene, and legal assistance. NGO-run shelters had the capacity to accommodate and provide assistance to approximately 200 victims and experts reported quality services; NGO-run shelters assisted 27 victims (56 in 2021). Centers for social welfare also operated seven drop-in centers for children, which provided academic tutoring, food, and laundry services; drop-in centers assisted 587 children (373 in 2021). However, 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. While access to care was not standardized and based on bylaws that were not legally binding, the government, in cooperation with an NGO, drafted guidelines and standards on providing assistance to victims, particularly children; the implementation of the guidelines has been pending adoption by the BiH Council of Ministers (COM) since 2021. NGO-run shelters allowed victims from BiH to leave voluntarily after informing the staff and law enforcement, but foreign victims required approval from law enforcement and SFA. NGO-run shelters appointed a guardian for each child victim and provided a separate and dedicated facility. One NGO-run shelter accommodated male trafficking victims but did not offer specialized services. NGO-run shelters reported developing a reintegration plan for each victim, including vocational training, but 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 BiH citizens identified abroad and foreigners identified in BiH; no victim required repatriation assistance (one in 2021). 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; no victims required a humanitarian visa (none in 2021).

The government penalized victims for unlawful acts that 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; some victims owed 10,000 to 15,000 convertible marks (\$5,470 to \$8,200) after receiving multiple fines. The government reported that its SOPs incorporated non-penalization standards, but NGOs reported authorities still occasionally penalized victims due to a lack of familiarity with the SOPs exacerbated by frequent staff rotations and turnover. Sub-state laws against “enticement to prostitution” permitted law enforcement to treat children 14 years and older as juveniles willingly engaging in commercial sex instead of victims of rape or sex trafficking. The law provided witness

protection and free legal aid, but lower courts did not possess necessary technical equipment to organize testimonies with adequate protection and confidentiality measures. Additionally, the government relied on NGOs to provide free legal aid but did not disburse funding to the NGOs despite an agreement to do so. The government also operated legal aid centers, but NGOs provided the bulk of the legal assistance to victims in practice. The government did not consistently conduct victim-centered investigations and prosecutions. For example, the government did not require prosecutors to have a certification on how to work with children, and child victims faced their traffickers in the waiting room before they were escorted to the court room, likely causing re-traumatization and/or creating opportunities to threaten and intimidate victims. In previous years, law enforcement often interrogated child victims without a psychologist or social worker present, 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; in 2019, a district court awarded a victim 7,500 convertible marks (\$4,100), but the victim has not received the restitution because seized properties and assets of the traffickers went toward the state budget rather than restitution. SPO issued mandatory instructions for prosecutors to request restitution claims for trafficking cases, but judges generally rejected restitution in criminal proceedings and encouraged victims to seek compensation by filing civil suits. Observers reported civil suits that required victims to submit new testimonies and medical examinations – causing re-traumatization – despite the government convicting their trafficker(s) in criminal proceedings.

PREVENTION

The government maintained efforts to prevent trafficking. The government implemented the 2020-2023 national strategy, and the State Coordinator produced an annual progress report and organized four coordination meetings with international organizations and local NGOs and three coordination meetings with RMTs. Additionally, the state, Federation, RS, BD, and all 10 cantons adopted and implemented their action plans. The government maintained 18 RMTs: 11 in the Federation (10 cantonal and one at the Federation entity level), six in the RS, and one in BD. RMTs consisted of law enforcement, government, and NGO representatives and a Ministry of Interior official as the coordinator. Five cantonal governments in the Federation allocated honorariums for RMT members to encourage participation. For example, Sarajevo Canton approved and disbursed honorariums of 300 convertible marks (\$160) per month for each RMT member for an annual total of 72,000 convertible marks (\$39,340). Herzegovina Neretva Canton also allocated 200 convertible marks (\$110) for each RMT member for an annual total of 19,200 convertible marks (\$10,490). However, BD and five cantonal governments failed to budget honorariums and some participants reported difficulties in dedicating time to participate or coordinate RMTs, particularly with no honorariums and additional work duties. The government, with financial and technical assistance from NGOs, trained RMT members but only one Romani activist was included in RMTs. The government allocated 10,000 convertible marks (\$5,460) to three local NGOs to conduct an awareness campaign for the public on proactive identification. The government budgeted 1.3 million convertible marks (\$710,380) to increase access to housing, employment, healthcare, and education for the Romani community; however, the government did not disburse the funding after the Minister of Human Rights and Refugees was arrested on corruption charges, which delayed the submission of grant decisions to the COM for approval. State-level institutions regulated recruitment agencies and required agencies to obtain a license and register, but labor inspectors lacked resources to adequately inspect recruitment agencies and did not report if they inspected any agencies during the reporting period. 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 2022, traffickers exploited foreign victims

from Afghanistan and Pakistan in sex trafficking. In previous years, victims from Afghanistan, Cuba, The Gambia, Libya, Serbia, Sri Lanka, and neighboring Balkan countries were exploited in BiH. Traffickers exploit BiH women and girls in sex trafficking within the country in private residences and motels. Romani children are exploited in forced begging, forced criminality, sex trafficking, and domestic servitude in forced marriages. Foreign women and girls from other European countries are vulnerable to sex trafficking within the country. Traffickers exploit BiH victims in sex trafficking and forced labor in construction and other sectors in other countries across Europe. Migrants and refugees from Afghanistan, Iran, Iraq, Pakistan, Syria, and neighboring countries traveling through, stranded in, or being smuggled through BiH are vulnerable to trafficking, particularly women and unaccompanied children.