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2019 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 meetings to solicit feedback on regional monitoring teams, changing the structure, and revising guidelines for the teams to increase effectiveness. The government funded NGOs to conduct awareness campaigns and made indictments in the first joint international investigation with French authorities. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. Law enforcement lacked capacity and knowledge and continued to regularly investigate trafficking under lesser offenses, while judges issued sentences that fell short of the trafficking statutes' minimum penalties and cited unreasonable “mitigating circumstances” to decrease the sentences. Law enforcement lacked victim-centered investigations and prosecutions, and the anti-trafficking strike force—the only mechanism to coordinate law enforcement efforts across entities—remained ineffective. In addition, the government identified fewer victims and lacked victim protection efforts, particularly efforts to proactively screen victims and provide assistance, which led to penalization of victims for unlawful acts that traffickers compelled them to commit. Victim assistance providers continued to lack resources and could not assist all domestic victims. Therefore Bosnia and Herzegovina remained on Tier 2 Watch List for the second consecutive year.

PRIORITIZED RECOMMENDATIONS

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. • Vigorously investigate, prosecute, and convict traffickers, including any complicit officials, and impose sentences that reflect the serious nature of the crime. • 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. • 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 issue 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 198a of RS's criminal code criminalized sex and labor trafficking and prescribed a minimum penalty of three years' imprisonment. 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.

The State Prosecutor's Office (SPO) did not initiate any investigations (three suspects in 2017). SPO indicted one defendant under Article 186 (three in 2017) and indicted eight defendants for organized crime involved in trafficking. State courts did not convict any traffickers (four in 2017). Federation authorities investigated four suspects (seven suspects in 2017). Federation prosecutors indicted two defendants (one in 2017) and Federation courts convicted 11 traffickers (seven in 2017). Federation judges sentenced four traffickers to imprisonment of one year, 1.5 years, 5.5 years, and 7.5 years. One trafficker received a monetary fine and the Federation did not provide sentencing information for the other six traffickers. RS authorities investigated three suspects (one in 2017) and indicted one defendant (none in 2017). RS did not report any convictions in 2017 or 2018. BD authorities did not initiate any investigations (one in 2017) or any prosecutions (one in 2017). BD courts convicted one trafficker (one in 2017) and judges sentenced the trafficker to six months' imprisonment. Court proceedings lasted many years and judges issued sentences below the trafficking statutes' minimum penalties, while often citing unreasonable “mitigating circumstances” to decrease further the sentences. For example, a judge mitigated the sentence of a perpetrator who raped a sex trafficking victim by asserting that a victim of sex trafficking was more inclined to sexual activity. In previous years, a BD appellate judge acquitted an alleged trafficker convicted by a lower court by citing forced child begging as traditional Roma cultural practices and customs. 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 (\$59) a day.

The State Investigation and Protection Agency (SIPA) maintained 12 specialized officers, including three female 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 regularly to investigate and prosecute sex trafficking, forced begging, and trafficking cases involving family members under lesser offenses. 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; however, the strike force was largely ineffective, with SPO denying disbursement of operational funds, the Federation and the state failing to appoint prosecutors, and SIPA rarely participating in meetings. The government did not report any investigations, prosecutions, or convictions of government employees complicit in trafficking. The

government continued its first joint international investigation with French authorities 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. The government cooperated with neighboring countries, Austria, and France, and signed bilateral agreements with Croatia, Montenegro, North Macedonia, and Serbia, but 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 prosecutors and judges on various trafficking issues.

PROTECTION

The government decreased victim protection efforts. The government identified 36 potential trafficking victims (82 in 2017). Of these, 17 were victims of sex trafficking, 19 were victims of forced labor, including 18 for forced begging (15 victims of sex trafficking, seven of forced labor, 59 of forced begging, and one whose exploitation was not reported in 2017); 21 victims were female and 15 were male (58 females and 25 males in 2017); 12 were children (47 in 2017); and eight were foreign victims (two in 2017). 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, lacked the knowledge to accurately identify trafficking victims, and lacked proactive identification efforts, particularly for adult victims. The government operated seven drop-in centers for children that conducted outreach work and a mobile team for street children in Sarajevo; drop-in centers and the mobile team identified 510 street children (130 in 2017). 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 the 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, GRETA and an NGO reported, in practice, the interview and identification procedures lacked transparency and only prosecutors' designation of whether a person was a trafficking victim was recognized; some prosecutors required victims to cooperate with law enforcement to receive assistance and support.

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 10 victims to NGO-run shelters (26 in 2017). The Ministry of Human Rights and Refugees allocated 60,000 convertible marks (\$35,170) to assist domestic trafficking victims in both 2017 and 2018. The Ministry of Security allocated 70,000 convertible marks (\$41,030) for assistance to foreign victims in both 2017 and 2018. Funding for victim assistance was disproportionately lower for domestic victims, although they constituted the majority of identified victims. The government failed to reach an agreement to 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 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, which lacked the resources and staff to provide specialized assistance to trafficking victims. 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 cases of children spending more than two years at NGO-run shelters due to slow court proceedings and a lack of reintegration opportunities. The law provided repatriation assistance to Bosnian citizens identified abroad and foreigners identified in Bosnia; no victims required repatriation assistance (one in 2017). 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.

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. 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 prostitution instead of victims of rape or sex trafficking; no prosecutions were reported. 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; some courts required victims to testify with no prior notification or preparation; and international organizations reported cases of victims’ identity and personal information leaked to the media and published. Victims could obtain restitution through criminal proceedings or compensation through civil suits; a district court awarded a victim 7,500 convertible marks (\$4,400). Observers reported civil proceedings 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 action plan and the State Coordinator continued to produce its annual report. Four Regional monitoring teams (RMT) met regularly but only served as forums to exchange information rather than their intended mandate of establishing local referral mechanisms. However, the State Coordinator organized meetings to solicit feedback on RMTs and accordingly changed the structure from four to 17 RMTs: 10 in the Federation, six in the RS, and one in BD. In addition, the government, with financial and technical assistance from an international organization, revised guidelines for RMTs. The government continued to allocate 10,000 convertible marks (\$5,860) to seven NGOs to conduct awareness raising activities. The government did not make efforts to include Romani communities in discussions on anti-trafficking issues. The labor inspectorate lacked resources to adequately inspect recruitment agencies. The government did not make efforts to reduce the demand for commercial sex acts or forced labor. 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. Foreign victims in 2018 were from Afghanistan (2), Montenegro (3), North Macedonia (1), and Sri Lanka (2). In previous years, victims from Cuba, Gambia, Libya, and Serbia were subject to trafficking in BiH. Bosnian women and girls are subjected to sex trafficking within the country in private residences, motels, and gas stations. Marginalized Romani children are subjected to 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. Bosnian victims are subjected to sex trafficking and forced labor in construction and other sectors in countries across Europe, including Croatia, France, Serbia, Slovenia, and Austria. Thousands of migrants and refugees from Afghanistan, Iran, Iraq, 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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