

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; however, it is making significant efforts to do so. The government demonstrated significant efforts during the reporting period by identifying more forced begging victims and granting compensation to four victims from their traffickers in the first successful civil suit. However, the government did not demonstrate increasing efforts compared to the previous reporting period. The government penalized victims for unlawful acts committed as a direct result of being subjected to trafficking, in part due to inadequate victim identification practices. Law enforcement and social workers justified cases of potential forced child begging, forced labor, and forced marriage involving Roma as traditional cultural practices. The government lacked victim protection, including victim-centered prosecutions and access to assistance outside of NGO-run shelters, and the strike force was ineffective due to a lack of participation among relevant actors. Therefore Bosnia and Herzegovina was downgraded to Tier 2 Watch List.

RECOMMENDATIONS FOR BOSNIA AND HERZEGOVINA

Implement the law that exempts victims from penalties for unlawful acts committed as a direct result of being subjected to trafficking, particularly victims of sex trafficking, forced begging, and forced criminality; formalize a multidisciplinary national referral mechanism, including improving official identification procedures and providing assistance and support to all victims that is not contingent on cooperating with investigations; train first responders on victim identification and referral, particularly for those subjected to forced labor and forced begging; vigorously investigate, prosecute, and convict traffickers, including complicit officials, and impose sentences that reflect the serious nature of the crime; implement victim-centered approaches to investigations and prosecution; integrate Romani groups into decision-making processes regarding victim protection; allocate sufficient funding for NGO-run shelters and develop financial policies that effectively allocate funding for victim assistance; standardize victim assistance throughout the country, including the ability to access assistance and support outside of shelters and specialized assistance for male victims; increase proactive identification efforts, particularly for adult victims; and improve cooperation and coordination amongst State and sub-State actors, including allocating adequate resources and assigning personnel to the anti-trafficking strike force.

PROSECUTION

The government decreased law enforcement efforts. Bosnia consisted of two entities within the State, the Federation of Bosnia and Herzegovina (Federation) and the Republika Srpska (RS). Each entity had 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 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 commensurate with those prescribed for other serious crimes, such as rape.

The State Prosecutor's Office (SPO) investigated three suspects (one in 2016) and indicted three defendants (none in 2016). The State court convicted four traffickers (two in 2016) and sentenced two traffickers to one year and six months imprisonment but did not provide information on the other two traffickers. Federation authorities investigated seven suspects (four in 2016). The Federation prosecutors indicted one defendant (21 in 2016) and Federation courts convicted seven traffickers (six in 2016). Traffickers received sentences between eight months to three years and six months imprisonment. RS authorities investigated one suspect (two in 2016) but did not initiate any prosecutions in 2016 or 2017. RS did not report convictions in 2016 or 2017. BD authorities investigated one suspect and prosecuted one suspect. BD courts convicted one trafficker (two in 2016) and sentenced the trafficker to one year imprisonment. Authorities reported a BD appellate judge acquitted an alleged trafficker, who was convicted by a lower court, by citing forced child begging and early marriage as traditional Roma cultural practices and customs.

In contrast to the previous year, the government did not report any investigations, prosecutions, or convictions of government employees complicit in trafficking; however, corruption and official complicity in trafficking crimes remained

significant concerns. The government continued joint investigations with France and the Netherlands of a Bosnian and Croatian married couple forcing six Roma children to pickpocket in the Netherlands; however, no indictments were made due to internal dysfunction and inefficient processing of evidence by the SPO. Additionally, the lack of bilateral agreements regarding witness protection created obstacles for witnesses and victims to participate effectively in international investigations. The State Investigation and Protection Agency (SIPA) maintained 12 specialized officers, including three women, but the other 15 police agencies did not have specialized units and authorities continued to regularly investigate and prosecute forced child begging and forced labor under lesser offenses. The government operated a standing anti-trafficking strike force to coordinate criminal justice responses, but the Federation and the State failed to appoint prosecutors and SIPA rarely participated in meetings. Police academies maintained basic and advanced courses on trafficking and the State continued to provide basic training for prosecutors and judges on trafficking cases. The State, in cooperation with civil society, trained police, prosecutors, and judges on various trafficking issues.

PROTECTION

The government slightly decreased victim protection efforts. The government identified 82 potential trafficking victims (44 in 2016). Of these, 15 were victims of sex trafficking, seven of forced labor, 52 of forced begging, seven of forced begging and involuntary sexual servitude in forced marriages, and one whose exploitation was not reported (six of sex trafficking, 12 of forced labor, 20 of forced begging; and six of both sex trafficking and forced labor in 2016); 58 victims were female and 25 were male (26 were female and 18 were male in 2016); 47 children (10 were children in 2016). Two bylaws provided standard operating procedures for identifying and referring victims to services. The government also maintained guidelines to assist first responders in identifying trafficking victims, including a list of indicators, but observers reported first responders did not know or consistently use the guidelines 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 130 street children. International organizations reported law enforcement and social workers at centers for social welfare (CSW) justified cases of potential forced child begging, forced labor, and forced marriage involving Roma as traditional cultural practices and customs and sometimes returned children to their families even when parents were

involved in the exploitation. First responders referred potential trafficking victims to law enforcement who 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; prosecutors often required victims to cooperate with law enforcement to receive assistance and support. The 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 26 victims to NGO-run shelters (13 in 2016).

The government partly funded two specialized NGO-run shelters. The Ministry of Human Rights and Refugees allocated 60,000 marks (\$36,810) to assist domestic trafficking victims in both 2016 and 2017. The Ministry of Security allocated 70,000 marks (\$42,940) for assistance to foreign victims in both 2016 and 2017. Funding for victim assistance was disproportionately lower for domestic victims, although they constituted the majority of identified victims. The government returned to the State budget unused funds allocated to assist foreign victims but did not reallocate those funds for domestic victim assistance. NGOs reported good cooperation with the government but greatly lacked resources. 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 include trafficking victims to such assistance. NGO-run shelters allowed victims to leave voluntarily after informing the staff, but GRETA reported no mechanisms were in place to provide assistance to victims outside of shelters, including at CSW that 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 over 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; the government repatriated one victim from Hungary in 2017. Foreign victims were eligible for a humanitarian visa allowing

them to temporarily live and work in Bosnia 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 committed as a direct result of being subjected to trafficking; observers reported victims of forced begging and forced criminality were penalized with misdemeanor charges for petty crimes. The government may have deported, detained, or restricted freedom of movement of some trafficking victims due to inadequate identification efforts. 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. The government did not consistently conduct victim-centered investigations and prosecutions; authorities repeatedly interviewed victims and victims frequently appeared in front of their traffickers in court, causing re-traumatization. Police did not consistently notify victims’ lawyers when conducting interviews and international organizations reported cases of victims’ identity and personal information leaked to the media and published. Victims could seek restitution through criminal or civil suits. In 2016, a district court upheld an appeal made by an NGO that filed the first lawsuit for compensation on behalf of four trafficking victims and in 2017; the court ordered the traffickers to pay 12,100 marks (\$7,420) to their four victims. 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 maintained 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. Regional monitoring teams (RMT) met regularly but only served as forums to exchange information rather than their intended mandate of establishing local referral mechanisms. The government continued to allocate 10,000 marks (\$6,130) to seven NGOs to conduct awareness raising activities. The government organized a study trip for labor inspectors to the Netherlands and France for various forced labor issues, but 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, Bosnia and Herzegovina is a source, destination, and transit country for men, women, and children subjected to sex trafficking and forced labor. In previous years, victims from Cuba, Gambia, Libya, and Serbia were subject to trafficking in Bosnia. Bosnia is a transit country for Ukrainians subjected to trafficking in Germany. Bosnian women and girls are subjected to sex trafficking within the country in private residences, motels, and gas stations. Economically marginalized Romani children are subjected to forced begging and involuntary 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. Corruption creates an environment enabling some trafficking crimes.