

BOSNIA AND HERZEGOVINA (Tier 2)

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. The government demonstrated overall increasing efforts compared with the previous reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; therefore Bosnia and Herzegovina remained on Tier 2. These efforts included increasing overall prosecution efforts with the state, Republika Srpska (RS), and Brcko District (BD) convicting more traffickers and the Federation of Bosnia and Herzegovina (Federation) investigating and prosecuting more suspects. Judges issued more sentences with significant prison terms, and the State Prosecutor's Office (SPO) created a specialized department and staffed the department with three prosecutors. The government updated standard operating procedures (SOPs) for victim identification and identified victims from irregular migration flows for the first time. The Federation, RS, BD, and all 10 cantons adopted their action plans, and two cantons approved and disbursed honorariums for each member of the local coordinating teams (LCT). However, the government did not meet the minimum standards in several key areas. The government identified fewer victims, and law enforcement continued to lack capacity, resources, and technical knowledge, which hindered their ability to conduct effective and victim-centered investigations and prosecutions. Authorities did not investigate cases of potential forced child begging and forced labor involving Roma but rather justified them as traditional cultural practices and customs and returned children to their families, even when parents were involved in their exploitation. The government lacked proactive identification efforts, resulting in victims penalized for unlawful acts traffickers compelled them to commit, particularly with misdemeanor charges for petty crimes.

PRIORITIZED RECOMMENDATIONS: Vigorously investigate, prosecute, and convict traffickers and impose adequate penalties, which should involve significant prison terms. * Allocate sufficient funding for NGO-run shelters and NGOs providing legal assistance. * Train first responders on victim identification and referral and increase proactive identification efforts, particularly for migrants, refugees, asylum seekers, and Roma. * 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. * Establish and implement policies to formally disconnect identification procedures and official victim status from cooperation on investigations and prosecutions. * Increase resources, personnel, and training for law enforcement to investigate complex trafficking cases. * Institutionalize and implement screening procedures for irregular migrant flows. * 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. * Establish procedures to ensure trafficking cases are handled by trained prosecutors. * 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 advocates into decision-making processes regarding victim protection. * 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.

PROSECUTION

The government increased law enforcement efforts. Bosnia and Herzegovina (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 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. RS amended Article 146 to increase the minimum sentence of child trafficking from 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 2021 and 2020 and prosecuted two defendants, compared with one defendant in 2020. State courts convicted one trafficker, compared with no convictions in 2020. State judges sentenced the trafficker to one year of imprisonment. Federation authorities investigated 16 suspects, a significant increase compared with three in 2020. Federation prosecutors prosecuted 11 defendants, an increase compared with three in 2020. Federation courts convicted seven traffickers, compared to 10 traffickers in 2020. Federation judges issued sentences ranging from 21 months to eight years' imprisonment to four traffickers and did not report sentencing information for the other three traffickers. RS authorities investigated two suspects, compared with four in 2020. RS authorities prosecuted one defendant, compared with three in 2020. RS courts convicted two traffickers, compared with no convictions in 2020. RS judges sentenced one trafficker to five years and six months' imprisonment and did not report sentencing information for the other trafficker. BD authorities investigated three suspects in both 2021 and 2020. BD authorities prosecuted three defendants, compared with two in 2020. BD courts convicted one trafficker, compared with no convictions in 2020. A BD judge sentenced the trafficker to five years and two months' imprisonment. The government reported law enforcement personnel suffered from COVID-19 infections, including the majority of officers handling trafficking cases at the State Investigation and Protection Agency (SIPA), which delayed some investigations. While judges increasingly issued sentences with significant prison terms, court proceedings 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 (\$60) a day.

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. In 2021, the SPO

created the Department for Combating Trafficking in Human Beings and Illegal Migration and staffed it with three specialized prosecutors. RS, BD, and other Federation cantons 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 the 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 are 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 with cantonal prosecutors. The Chief State Prosecutor chaired the anti-trafficking strike force (strike force) that coordinated law enforcement efforts across entities on trafficking cases. In previous years, the strike force was largely ineffective due to a lack of participation and the state failing to disburse operational funds; however, the government approved and allocated 80,000 convertible marks (\$46,400) for honorariums and operational expenses in both 2021 and 2020. The strike force met monthly, and in cooperation with a foreign government in 2020, established a network of prosecutors and investigators to facilitate coordination across BiH; as a result, most prosecutors’ offices, except in the RS, appointed a point of contact for trafficking cases to participate in the network. The government did not report any investigations, prosecutions, or convictions of government employees complicit in trafficking crimes. The SPO cooperated with authorities from Croatia, Montenegro, Serbia, and Slovenia on trafficking cases. Additionally, the SPO continued a joint investigative team with Swedish authorities to investigate a forced labor case; authorities charged three suspects in BiH and five suspects in Sweden for trafficking. The government continued 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. SPO indicted eight defendants in May 2018, but the court did not order authorities to place defendants in custody during court proceedings, and as a result, one defendant was in Turkey reportedly involved in another forced begging case, two defendants were at-large, and Italian authorities arrested one defendant. In June 2014, the SPO issued the biggest indictment for trafficking in BiH’s history against 13 BiH nationals accused of exploiting 672 individuals in the construction industry in Azerbaijan in 2009; judges acquitted all defendants involved in the case in December 2019 and rejected SPO prosecutors’ appeals in April 2021. The government reported the lack of bilateral agreements regarding witness protection created obstacles for witnesses and victims to participate effectively in international investigations. 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 decreased victim protection efforts. The government identified 61 trafficking victims, a decrease compared with 80 in 2020. Of these, six were victims of sex trafficking, 54

were victims of forced labor, and one victim's exploitation was unspecified; there were six women, one man, 27 boys, and 27 girls; and five foreign national victims. Two bylaws 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 updated SOPs during the reporting period by adding the labor inspectorate, NGOs, and the education system to the list of institutions responsible for victim identification and developed new screening indicators specific to the type of exploitation. The government operated seven drop-in centers for children and a mobile team for vulnerable children in Sarajevo that conducted outreach work. The mobile team identified 150 victims (165 in 2020), and drop-in centers provided children with academic tutoring, hot meals, and laundry services (373 in 2020). The government, with financial and technical assistance from NGOs, established six new mobile teams. 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. Law enforcement and social workers 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 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 Service for Foreigners' Affairs, 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 an NGO, trained Border Police and staff from the Service for Foreigners' Affairs on identifying victims within irregular migration flows, and as a result, authorities identified four victims within the migrant population accommodated at the temporary reception center in Blazuj—the first time authorities identified victims within irregular migration flows. First responders referred potential trafficking victims to law enforcement, which conducted an interview and had authority to officially recognize victims. However, observers reported the interview and identification procedures lacked transparency, and authorities often required victims to cooperate with investigations and prosecutions to receive assistance and support.

The government did not disburse funds to NGOs due to the lack of a state budget stemming from an extended political crisis. Despite the lack of funding, NGOs continued to provide services to victims in 2021. In 2020, the government partly funded five NGO-run shelters through a victim protection fund with 130,000 convertible marks (\$75,410) administered by the State Anti-trafficking Coordinator. The government disbursed funds to NGOs based on the number of assisted victims; however, the government amended the 2022 funding requirements to allow all allocated funds to be disbursed—regardless of the number of assisted victims—to compensate for the lack of funding in 2021, provided BiH adopts a budget sometime in 2022. The government, in cooperation with NGOs, provided accommodation, psycho-social support, medical assistance, and legal assistance; however, no mechanisms were in place to assist victims with services outside of shelters, including at centers for social welfare (CSW). While access to care was not standardized and was 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. NGO-run shelters allowed victims to leave voluntarily after informing the staff and law enforcement. NGO-run shelters appointed a

guardian for each child victim, and one NGO-run shelter accommodated male trafficking victims but did not offer specialized services; NGO-run shelters assisted 56 victims (41 in 2020). 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 BiH citizens identified abroad and foreigners identified in BiH; one victim required repatriation assistance in 2021 and one in 2020. 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 (one in 2020).

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 (\$5,800 to \$8,700) 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 ages 14 years and older as juveniles willingly engaged in commercial sex instead of victims of rape or sex trafficking; there were six prosecutions of enticement to prostitution in 2020. 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 an NGO to provide free legal aid but did not disburse funding to the NGO despite an agreement to do so. 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. 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; in 2019, a district court awarded a victim 7,500 convertible marks (\$4,350), but the victim has not received the restitution because seized properties and assets of the traffickers went toward the state budget rather than restitution. 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 2020-2023 national strategy, and the State Coordinator continued to produce annual reports and organized three coordination meetings. The national strategy required the state, Federation, RS, BD, and cantonal governments to adopt their own action plans; the state, Federation, RS, BD, and all 10 cantons adopted their action plans during the reporting period. The government maintained 18 LCTs: 11 in the Federation (10 cantonal and one at the Federation entity level); six in the RS, and one in BD. LCTs consisted of government and NGO

representatives and an MOI official as the coordinator. Sarajevo Canton approved and disbursed honorariums for each LCT member of 300 convertible marks (\$170) per month for an annual total of 72,000 convertible marks (\$41,760). Herzegovina Neretva Canton also allocated 200 convertible marks (\$120) for each LCT member for an annual total of 19,200 convertible marks (\$11,140). The government, with financial and technical assistance from NGOs, trained LCT members, organized discussions with the Romani community on trafficking, and recruited and trained 25 Romani activists to join LCTs. The government, in partnership with civil society, conducted an awareness campaign targeting children, students, and the public. 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 2020, traffickers exploited foreign victims from North Macedonia and Pakistan. In previous years, victims from Afghanistan, Cuba, 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 neighboring Balkan countries and other countries across Europe. Thousands of migrants and refugees from Afghanistan, Bangladesh, Iraq, Morocco, Pakistan, Syria, and neighboring countries traveling through, stranded in, or being smuggled through BiH are vulnerable to trafficking, particularly women and unaccompanied children.