

BOSNIA and HERZEGOVINA

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BOSNIA AND HERZEGOVINA

I. Introduction

Bosnia and Herzegovina (B&H) is located in SE Europe, more specifically, in the western Balkans. Its neighbouring countries are Croatia to the north, northwest and south, and Serbia and Montenegro to the east. At the far south there is a 32 km long coastline to the Adriatic Sea. The borders of B&H are mainly rivers and mountains.

B&H became an independent state in 1992. The country, while facing the challenges of its recently gained independence, was also burdened with the need for recovery from long-term consequences of war, lasting almost four years, as well as with political transition from socialism and a socialist economy to democracy and a market economy. Considering the historical background and geographical position of B&H, trafficking in human beings has found the perfect conditions to blossom.

B&H is a poor country, in transition, where women, children and men are easy targets for trafficking by organised crime networks. It is impossible to determine precisely when the first cases of trafficking in human beings were registered in B&H, because the law enforcement agencies have classified this phenomenon into the category of prostitution. Taking this into account, we can clearly conclude that when trafficking first appeared in B&H there was minimal awareness regarding this kind of crime and its victims. The increase in the number of cases led to the recognition of the complexity of this phenomenon, as well as of the need to take the necessary steps towards its prevention and suppression.

Research reveals that the main reasons for people finding themselves in the chain of trafficking are general poverty, low socio-economic status, domestic violence, peer group influence and lack of information.³ Persons directly affected by these circumstances are those who wish to migrate to rich countries in order to pursue better living conditions. In this context, they become easy prey for traffickers. NGOs were the first to trace the problem of human trafficking and to provide assistance and support to the victims. During 1999, *Zena B&H* jointly with the

³ See research carried out by UNICEF and *Save the Children-Norway* in 2003. Also research by Barbara Limanowska 'Trafficking in human beings in Southeast Europe', UNICEF/UNOHCHR/OSCE-ODIHR.

NGO *LARA* from Bijeljina carried out a survey for the United Nations Voluntary Trust Fund for Contemporary Forms of Slavery. The findings demonstrate that the problem of trafficking in women is most prevalent.⁴ Although anti-trafficking activities in that period posed certain risks, those who could contribute to the cause joined their efforts. State institutions have also joined efforts with various NGOs. In early 2003, the State started dealing with this problem by using NGO research findings and experience.

The current situation concerning trafficking in human beings in B&H is satisfactory and there is good cooperation between the government and local, international and nongovernmental organizations. Various anti-trafficking instruments and bodies are currently being developed. NGOs which run shelters for victims have provided temporary accommodation, assistance and protection to 66 potential victims of trafficking during 2005 (44 foreign citizens and 22 B&H citizens). Foreign citizens originate from Serbia, Montenegro, Moldova, Romania, the Ukraine, Russian Federation, Former Yugoslav Republic of Macedonia, China, Belarus and Croatia. 13 victims (30% of victims) were minors.⁵ Compared to previous years, particularly to 2002, when 225 victims were accommodated in shelters, there is a decrease in the number of foreign victims, while the number of domestic victims has increased.

II. National Legal Framework

A. National law

In accordance with international conventions, B&H has adopted and implemented certain reforms of its relevant legislation. Such reforms can be found in:

- B&H Criminal Code
- B&H Criminal Procedure Law
- Law on B&H Court
- Law on B&H Prosecutor's Office
- Law on *protection of witnesses under threat, and vulnerable witnesses*

⁴ Researches carried out by *Zena B&H Mostar* and *LARA Bjeljina* in 1999 supported by the United Nations Voluntary Trust Fund for Contemporary Forms of Slavery.

⁵ Report on human trafficking and illegal immigration in B&H for 2005.

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- Law on programme of witness protection
 - Law on state investigation and protection agency
 - Law on state border service
 - Law on control and supervision of state border
 - Law on movement and stay of aliens and asylum
 - Law on gender equality and
 - Law on prevention of domestic violence

In addition, institutional mechanisms for the implementation of the aforementioned laws in B&H have also been developed.

Trafficking in human beings is a criminal offence only under the B&H Criminal Code. The Federal Criminal Code, the Criminal Code of the Republic of Srpska and of the Brcko District deal only with soliciting. Only the Court of B&H has jurisdiction to hear and judge trafficking related cases.

B. Bilateral agreements

B&H has concluded **Agreements on Readmission** with **Sweden, Norway, Denmark** and **Romania**, and has initiated negotiations to conclude similar agreements with countries in the wider region, notably Moldova, Former Yugoslav Republic of Macedonia, Albania, Bulgaria and Turkey.

C. State Action Plan

In November 2001, a Group, the **State Group for combating trafficking in human beings**, was established to prepare the State Action Plan (NAP). The Group is comprised of the representatives of the Ministries of Human Rights, of Justice, of Safety, of Foreign Affairs, the State Prosecutor's Office and representatives of the State Border Service. The NAP for combating trafficking in human beings was enacted by the Council of Ministers on 06.12.2001.

A new NAP for combating trafficking in human beings for 2005-2007 was adopted in 2005. This Action Plan comprises the following chapters:

- Framework for support;
- Prevention;
- Protection of victims and witnesses;
- Criminal prosecution and international cooperation.

The Ministry of Safety nominates a person for the position of **State Coordinator** for combating trafficking in human beings, who is appointed by the Council of Ministers. The State Coordinator together with the 'State Group' follows up and coordinates the implementation of measures and activities foreseen in the Action Plan. Bearing in mind the need to focus on the prevention of trafficking in children, a **Subgroup for children** was formed in March 2004.

Even though the responsibilities of the State Coordinator are not yet formalised, he/she cooperates closely with the Liaison Officers and the Strike Force for Combating Violence. The latter's purpose is to enhance anti-trafficking activities at the highest level and it consists of representatives from the Prosecutor's Office, the State Border Service, the State Investigation and Protection Agency (SIPA) and the police division against financial crime.

Comments

- The revised State Action Plan for combating trafficking in human beings 2005–2007 does not include any chapter on victims' repatriation. However, apart from provisions on accommodation and assistance during their stay in Safe Houses, assistance with repatriation-socialization-reintegration procedures is also needed in order for victims to regain their self-confidence and to become active members of society. Inadequate and non-comprehensive assistance to victims entails the possibility for them to be caught in the trafficking chain again and to completely lose their self-confidence.
- Even though there are only a few victims from B&H who have been repatriated so far, a relevant chapter should be included in the State Action Plan providing for repatriation/reintegration measures and activities, as well as assigning persons charged with their implementation.

III. General Framework

A. Capacity building

According to the NAP, state institutions and NGOs regularly implement training courses for capacity building and education of state officials. In cooperation with the Centre for Education of Judges and Prosecutors and the Brcko District Judiciary Com-

mission, **police officers**, members of Centres for public security from the Republic of Srpska and cantonal Ministries of Interior, **judges and prosecutors** from the entire country have participated in seminars on combating trafficking in human beings. In the course of the seminars, relevant international and national legal frameworks and the work carried out by the police, the Prosecutor's Office and the State border service in the field, were presented.

Seminars were also held on the **procedure for dealing with potential victims of trafficking** and on the **Rulebook on the protection of foreign victims of trafficking, data managing, monitoring, evaluation and revision** (under the auspices of the regional CARDS EU-funded programme). In addition, the Centre for Education of Judges and Prosecutors conducted seminars for SIPA and police members, judges and prosecutors, as well as other public information seminars. Various **study trips** were organised for the State Group members. Occasionally, NGO representatives have also participated in these study trips.

B. Analysis, research and monitoring mechanisms

In order to promote better coordination among the State Coordinator's Office, non-governmental and international organizations, **regular referral meetings** have been organised every three months. These referral meetings have provided a platform for exchange of information on implemented and planned activities, as well as coordination and harmonization of such activities, aiming at avoiding duplications of actions and at regulating the parallel expenditure of funds.

In order to combat effectively human trafficking, it is necessary to analyse, on a regular basis, trends that contribute to the phenomenon. Therefore, the State Coordinator has, in cooperation with UNICEF, appointed a **regional expert** to prepare a **report**, carrying out research and analysis of the situation in this field, focusing on indicators of increased numbers of domestic victims of trafficking. This report is important because it is the first analytical review of this new trend and presents the available structures for assisting domestic victims of trafficking. It is also important to point out the significance of the **Initial Report on Violence against Children**, prepared by the Council for Children, especially its conclusions on the problem of trafficking in children.

C. Cooperation and networking at regional and national levels

NGOs and state institutions are, individually or collectively, members of numerous regional networks for the prevention of trafficking (INTERPOL, EUROPOL, SECI, RING etc). They have achieved to promote regional cooperation on different issues. It is worth mentioning that close cooperation has developed among the Ministry of Safety and INTERPOL, EUROPOL and the Southeast European Cooperative Initiative Centre (SECI Centre) as well as the engagement of the same Ministry in the preparation of the Convention on Police Cooperation for SE Europe.

The Association *Zena B&H* has established good cooperation practices with NGO-members of the Croatian anti-trafficking network *PETRA*. It is also a member of the *ARIADNE* network, against trafficking in human beings in SE and E. Europe.

D. Mobilization of resources

Funds from the Council of Ministers, UNICEF and the Permanent Delegation of Iceland to OSCE, ensure implementation of activities. In addition to USAID, IOM, *Star Network of World Learning* and *Catholic Relief Services* (CRS) have also contributed by co-funding counter-trafficking activities.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness raising

Local and international NGOs, as well as State authorities, have conducted several ***awareness raising campaigns*** in the past few years. Their target groups are:

- Institutions responsible for law implementation in B&H (police officers, immigration offices, State Border Service);
- Elementary and secondary school pupils;
- Indirectly the entire population of B&H.

These stakeholders have conducted several campaigns during 2005. The following target groups have been included in these campaigns: parents and teachers; men as potential clients (this preventive campaign, the first one in the country to deal with this target-group, as well as relevant work with men is a pilot project of the Association *Zena B&H-Mostar*).

The ***Group for Prevention and Economic Empowerment*** is working within the ***State Group for combating trafficking***

in human beings and illegal migration. This Group has planned activities, which will be carried out in cooperation with other groups, authorities, local and international organizations. In addition, other similar activities are being carried out, such as the development of a **school curriculum**, including the recognition of the danger of human trafficking, the promotion of gender equality, the fighting against gender-based violence, the HIV/AIDS threat and the tracing of the connection between drug addiction and the recruitment to forced prostitution by criminal networks.

An interesting example of a preventive campaign is the publication by the Association *Zena B&H-Mostar*, in 20.000 copies, of a **book on true stories** written by victims of trafficking. It was sold under the symbolic price of 2 KM (1 EURO). The funds raised were donated to the shelter for victims of human trafficking.

It should be noted that for a long period, B&H was both a transit and destination country for victims of human trafficking. Even though NGOs had warned about the possibility of the country becoming a country of origin, State institutions showed no willingness to deal with this problem.

Research carried out by various local and international organizations in B&H showed that the main reasons why people are caught in the chain of trafficking are: ⁶

- General poverty;
- Low socio-economic status;
- Domestic violence;
- Lack of information;
- Peer group influence.

In addition, research on the level of information on issues of human trafficking showed that awareness increased in city centres compared to rural areas.⁷ Yet, the victims, in the majority of the cases, come from rural areas.

For the time being, the projects and activities for the economic development of B&H, are not aimed at improving the situation on general poverty and low socio-economic status. The number of people registered with the employment *bureau* and

⁶ Research carried out by UNICEF and *Save The Children Norway* in 2002 and 2003

⁷ Research carried out by *Zena B&H* supported by *BHRN* in 2006.

the low purchasing power can only serve as an argument in favour of this statement.

However, the 2005–2007 State Action Plan's chapter on prevention sets as a programme goal the **improvement of social and economic conditions of vulnerable social groups**. To meet this objective, it provides support for the implementation of national programmes addressing the economic empowerment of women. It remains to be seen to what extent this goal will be achieved.

B. Protection and assistance

Since 1999, the **International Organization for Migration** (IOM) has a leading role in providing accommodation for victims of trafficking. This is linked to the fact that IOM was the only organization to undertake repatriation activities.

The accommodation of victims in various Reception Centres depends on the granting of 'victim of trafficking' status and on their repatriation in the country of origin. Taking into consideration that the repatriation process, led so far by international organizations was not self-sustainable, the Ministry for Human Rights and Refugees (MHRR), according to article 3 of the State Action Plan, developed a project for the **establishment of Reception Centres**. The goal was to provide a better, 'victims rights-oriented' approach, a longer rehabilitation period, and to facilitate the dissemination of information. There is no state-run **SOS telephone line**. Only NGOs provide this kind of service.

During that time, some NGOs had already developed structures for the provision of direct assistance to victims. Their participation in the establishment of Reception Centres was limited due to lack of funds, even though three members of the *RING* coalition had been able to provide direct assistance to 100 women during the period of 1999–2002. These NGOs provided health care services, counselling, legal aid and other forms of support. **Provisional instructions** for dealing with victims of trafficking have also been issued. These instructions have set the rules and code of conduct for all state authorities and other entities fighting against trafficking in human beings.

MHRR has signed a **Protocol of Cooperation** with a number of NGOs, members of the *RING* Network. This Protocol provides some additions to the provisional instructions for the treatment of victims of trafficking. These provisional instructions

are still in force, even though there exists now a more detailed draft version.

Due to the lack of State facilities for the accommodation of victims, the Ministry of Safety, in March 2005, signed **Agreements of Cooperation** with the following NGOs: *Lara Bijeljina*, *Medica Zenica*, *Medjenarodni Forum Sildarnosti* (International Solidarity Forum), *Group EMMAUS International Tuzla*, *La Strada-Mostar* and *Zena B&H-Mostar*. These Agreements establish the rights and obligations of signatories concerning the provision of closed type shelters for foreign victims of human trafficking. Accordingly, NGOs have the obligation to transport the victims to shelters and provide them with accommodation, food and health care. The required funds are to be raised by donors and by other means. The Ministry of Safety supervises the work of NGOs in this field.

In July 2005 in Vlasic, the **Procedure for treating victims of trafficking in B&H** was signed by the following State and independent institutions: the State Coordinator for combating trafficking in human beings and illegal migration, the Federation of the B&H Prosecutor's Offices, the Prosecutor's Office of Brcko District, the State Border Service, the Ministry of Safety – Sector for Asylum and for Migration, the Republic of Srpska Ministry of Interior, the B&H Prosecutor's Office, the State Investigation and Protection Agency, the Federation of B&H Ministry of Safety and the Brcko District Police Department.

In July 2004, in accordance with the *Law on the movement and stay of aliens and asylum seekers*, adopted under the jurisdiction of the Ministry of Safety, the latter and the NGO *Vasa Prava* ('Your Rights') signed an Agreement on the provision of **free legal assistance** to potential victims of trafficking. Free legal assistance includes, *inter alia*, the provision of legal advice, the drafting of different deeds and documents, and the representation in all administrative cases before courts and state bodies.

Due to the fact that the State Action Plan does not recognise the existence of domestic victims of trafficking, it does not include provisions on the **repatriation** of victims, with related activities being carried out by NGOs. The first case of repatriation in B&H is a good example. The girl was sent back from Italy. IOM Italy provided *Zena B&H-Mostar*, where the girl was received, with small but significant financial assets for the repatriation and the reintegration of the victim.

A **Theme Group** for **the protection of victims and witnesses** from violence was also formed. It focuses on identifying the existing legal framework, conducting relevant analysis, comparing the above to international standards and identifying the practical aspects of the problem. In this context, an **Instruction Manual for the Protection of Domestic Victims of Trafficking** is being prepared, underlining that the protection of victims of trafficking, especially those who testify as witnesses, given the overall situation in B&H, is of the outmost importance. This is a very complex and demanding task. It is also important to mention that foreign victims and witnesses of trafficking have also rights to accommodation, legal aid, health care, humanitarian stay and repatriation.

C. Prosecution

The legal framework was developed with the aim to provide effective criminal prosecution of traffickers. However, it is necessary to further develop the technical and professional resources and to promote the cooperation between various agencies and the Prosecutor's Office for effective law implementation.

The **B&H Prosecutor's Office** is the competent authority for the prosecution of traffickers. The **Court of B&H** has already prosecuted successfully cases related to trafficking in human beings.

According to the Law on **State Investigation and Protection Agency** (SIPA), the latter is responsible for the prevention and investigation of criminal offences under the B&H Court's jurisdiction, including criminal offences related to human trafficking. The **Team for Suppression of Trafficking and Sexual Offences** is part of the SIPA's Criminal and Investigation Department and its primary task is to prevent, investigate and suppress criminal offences within the jurisdiction of the Court of B&H (Article 185 – Abolishment of Slavery and Transport of Slaves, Article 186 – Trafficking in Human Beings, Article 187 – International Recruitment for the Purpose of Prostitution, Article 188 – Unlawful Withhold of Identification Documents, Article 189 – Smuggling of Persons, according to the Criminal Code of B&H). Furthermore, other Teams have been formed within the SIPA headquarters, in regional offices in Sarajevo, in Banja Luka and in Mostar. There are also plans to establish regional offices in Brcko District and in Tuzla.

The State Parliament has adopted two Laws in 2004: the *Law on the State Border Agency* and the *Law on control and supervision of the state border*, which determine the jurisdiction of the State Border Service and the control and supervision of state border. These Laws form an effective legal framework for the suppression of illegal migration and human trafficking.

The Parliament has adopted the *Law on the programme for witness protection*, which provides the legal framework for a more efficient witness protection programme, including for cases of trafficking in human beings. The Law provides also protection of witness identity and confidentiality of statements. At the end of 2004, a Department for witness protection was established within the SIPA. Victims, who have already testified before the Courts of B&H, have been provided with safe shelter according to their status of witness under protection. For a more efficient implementation, SIPA structures, particularly the capacities of this department, need to be developed and the international cooperation in the field of witness protection needs to be promoted.

In 2005, competent Departments for the implementation of the Laws in B&H submitted to the Prosecutor's Office 36 reports against 59 individuals relating to criminal offences of trafficking. The Prosecutor's Office investigated 68 cases of trafficking in human beings and other related criminal offences in total. 37 investigations were initiated in 2005, while 312 investigations commenced in 2004 and continued in 2005. Various Prosecutors' Offices brought 24 charges against traffickers and perpetrators of other related criminal acts, while the courts confirmed 26 charges. By the end of 2005, there were 39 unsolved investigations, which continued in 2006. During 2005, 17 individuals were indicted and sentenced by the Courts in B&H.⁸

Comments

- Officers of State Institutions are not fully trained to implement the laws. They lack sensitivity when working directly with victims, especially with children. The percentage of women working against trafficking in State Institutions is extremely low (especially in State border services);
- There is a lack of human and material resources in the Institutions that deal with the problem of human trafficking;

⁸ The report on trafficking in human beings and illegal immigration in B&H for 2005.

- There is a lack of cooperation among field officers;
- There is no database about the real number of victims of trafficking in B&H;
- The problem of fictitious marriages: traffickers marry girls-potential victims of trafficking in their country of origin and then bring them, lawfully, to B&H. Once they come to B&H, they force those girls to prostitution.
- Lack of funds in both state institutions and NGOs.

V. BEST PRACTICES

- **Good cooperation** among local NGOs, international organizations and state institutions has contributed to the process of solving a great number of problems. The first results show that measures adopted are constructive and applicable in practice.
- Actions carried out with the cooperation of the NGOs and the public sector including the signing of the above-mentioned agreements, the implementation of the legal framework, the organization of joint study trips abroad and the organization of seminars and workshops in the country. The cooperation between NGOs and the government is satisfactory and State institutions are keen to follow the guidelines provided by NGOs.
- In addition to UMCOR and USAID, **great support** to the efforts of NGOs has been provided by the UN OHCHR-B&H office, the Prosecutor's Office of the B&H Federation, the Constitutional Court of the B&H Federation and the Office of the State Coordinator for Combating Human Trafficking.
- An example of good practice, is the **publication** of the book 'MARGUERITE can be your sister, daughter, a friend...'. This forms part of the campaign of the Association *Zena B&H* which was implemented in 2004. It is a collection of true shocking stories written by victims of trafficking, (emphasis has been given to the fact that the stories were written by victims from B&H and other European countries). Women victims, who agreed to publish their stories, significantly contributed to raising public awareness.
- Notably, NGOs from all over the world, including particularly B&H, France, Serbia and the Former Yugoslav Republic of Macedonia, publish in the **bi-weekly magazine** *START BiH*.

VI. DEFICIENCIES

- The first and most important problem of victims of trafficking is their **reintegration process**. All projects, implemented by NGOs and State agencies, focus on the provision of assistance measures, such as accommodation in Safe Houses. However, they have not been dealing sufficiently with victims' reintegration, in other words their socialization. There is no follow up of victims' cases after they leave the shelters. There is a lack of monitoring of the effects of the social exclusion of the victims and their difficulty in entering the labour market. Victims may therefore run the risk of falling back into the trafficking cycle.
- **Lack of good cooperation and coordination** among countries of origin, transit and destination, in order to follow up effectively the cases of victims.
- NGOs which are actually dealing with trafficking encounter the problem of **limited financial resources**.
- Despite the importance of **awareness raising campaigns** on human trafficking, it is evident that they are not sufficient for the prevention of the phenomenon. The central urban areas are already fully covered, in terms of campaign, while the rural areas remain rather neglected.
- Although the State Action Plan provides for the economic empowerment of vulnerable groups, the **socio-economic fundamental causes** of trafficking have not been sufficiently addressed yet.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. A more serious approach to **reintegration of repatriated** trafficking victims is needed.
2. Better **cooperation and coordination among regional governments and NGOs**.
3. **Risk reduction strategies** should be based on research findings. Considering that research findings reveal the root causes of trafficking in human beings, more attention should

be paid to developing and implementing strategies addressing these socio-economic root causes (general poverty, low socio-economic status, domestic violence, etc).

4. Additional **financial and material support** should be provided **to NGOs**, especially those in the countries of origin, with long-standing experience, as well as human and material resources for prevention, assistance and reintegration. It is extremely important to focus on the protection of victims originating from B&H and to provide them with education, re-training, additional qualifications, and access to the labour market, accommodation and systematic counselling.
5. With regards to **awareness raising activities**, it is necessary to focus on small towns/rural areas, from where the victims come in the majority of cases. Printed material should be distributed across villages and workshops should be held with the participation of men interested to learn more about this problem. In addition, participants should be provided with modest remuneration when workshops or focus groups are organised. This will motivate the public's participation, assuming that participants will later become interested in the discussion.

LIST OF ABBREVIATIONS

ARIADNE	NGO Network against Human Trafficking in SE and E. Europe
B&H	Bosnia and Herzegovina
CARDS	EU funded Programme: Community Assistance for Reconstruction, Development and Stabilization
CRS	Catholic Relief Services
EMMAUS	International movement against extreme poverty
EU	European Union
EUROPOL	European Police Office
LARA	NGO in B&H
INTERPOL	International Police
IOM	International Organization for Migration
MHRR	Ministry for Human Rights and Refugees
NAP	National Action Plan (State Action Plan)
OSCE	Organization for Security and Cooperation in Europe
ODIHR	OSCE's Office for Democratic Institutions and Human Rights
PETRA	Anti-trafficking network
RING	Regional network for the prevention of trafficking
SECI	Southeast European Cooperative Initiative
SIPA	State Investigation and Protection Agency
UMCOR	United Methodist Committee on Relief
UNICEF	United Nations Children's Fund
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
USAID	United States Agency for International Development
ZENA	NGO in B&H.

