



# BOSNIA AND HERZEGOVINA

**ECPAT**

## COUNTRY OVERVIEW

*A report on the scale, scope and context of  
the sexual exploitation of children*

November, 2018



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This publication was written by:

**Sunethra Sathyanarayanan**

With assistance from:

**Mark Kavenagh and Andrea Varrella**

Design and layout by:

**Manida Naebklang**

This report was also developed in collaboration with the International Forum of Solidarity-EMMAUS (IFS-EMMAUS), the ECPAT Member in the country.



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**ECPAT International**

328/1 Phaya Thai Road, Ratchathewi,  
Bangkok, 10400 Thailand

Tel: +662 215 3388 | [www.ecpat.org](http://www.ecpat.org) | [info@ecpat.org](mailto:info@ecpat.org)

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## *Preface*

Recent years have seen unprecedented progress towards embedding the child's right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children (SEC) enshrined in the Sustainable Development Goals (SDGs) adopted by world leaders in 2015. ECPAT Country Overviews on SEC provide an effective tool for advocacy at all levels as well as for monitoring, including on government commitments made in the SDGs to end violence against children in all its different forms by 2030.

ECPAT Country Overviews are first and foremost, a desk review exercise that gather and present all the existing publicly available information into a comprehensive summary of all forms of SEC in a country. They do not contain any new primary data. They also provide an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate SEC.

ECPAT Country Overviews also suggest concrete priority actions urgently needed to proactively advance the national fight against SEC and enable the monitoring of the implementation of international instruments on child rights related to sexual exploitation that have been ratified by the State. Furthermore, the ECPAT Country Overviews provide well-organised information and research, which can be used in preparing Alternative Reports and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

During the process, drafts are shared with ECPAT members, relevant local organisations, and experts working on the ground who review the content and supplement the information with other local sources and analysis. ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.



## At a Glance

Bosnia and Herzegovina (BiH) is a country with a highly complex and decentralised system of administration. The impact of such a fragmented system of governance has influenced the socio-political dynamics of the country in various regards. Needless to say, it also has a strong influence on the sexual exploitation of children in the country. The different and often inconsistent criminal codes, and the inadequate cooperation and coordination between the law enforcement officials of the different administrative units seem to complicate the efforts taken towards countering the different manifestations of sexual exploitation of children (SEC). Efforts also include the country's commitment towards fulfilling its obligations under various Council of Europe Conventions that it has ratified towards this end. At present, BiH is not a member of the European Union but is a potential candidate member.

The decentralised government and legal systems combined with factors such as poverty, high unemployment rate and discrimination based on ethnicity exacerbate the circumstances facilitating SEC in the country. BiH continues to be a major source and destination for trafficking of children for the purpose of sexual exploitation. The State Coordinator for Combating Trafficking in Human Beings has also identified an increase in cases of cross-border trafficking for the purpose of SEC. Children of Roma ethnicity are more prone to becoming victims of SEC due to poverty, social exclusion and lack of birth registration. Impoverished children are also the most vulnerable to being subject to early and forced marriages. These marriages are pursued as a source of stability and protection for children. Children from poor families are also regularly

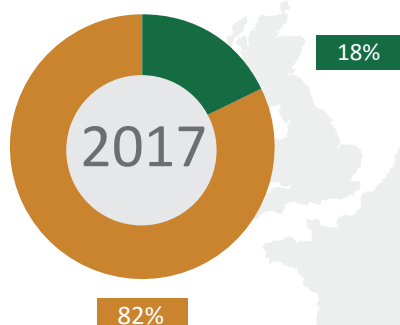
targeted for the purpose of online child sexual exploitation. Law enforcement officials have found literature and online content that trains and encourages sex offenders to sexually exploit children. However, except Republika Srpska, none of the administrative units maintain a register with the comprehensive records of convicted child sex offenders. Republika Srpska passed the 'Law on the Special Register of Persons Directly Concerned for Criminal Activities of Sexual Abuse and Use of Children' earlier this year.

According to BiH's Constitution, the international conventions ratified by the country supersede national legislation. Hence its obligations towards fulfilling its international commitments is of high importance. The country is scheduled for a Voluntary National Review in 2019. BiH had established specific coordinating bodies such as the Council for Children and Ombudsman for Children to carry out its duties towards protection of children's rights in the country. However, the inadequate allocation of financial and human resources, and lack of coordination among authorities seem to have hampered the work of these bodies. NGOs such as IFS-EMMAUS and Udružene žene have been playing a significant part in combating SEC in the country. These NGOs have coordinated with the State in conducting several educational and training workshops to facilitate efforts to counter SEC. Although provisions to enable child participation, compensation for victims, and recovery and reintegration of victims exist in theory, there have not been exemplary cases of such facilities being availed. The comprehensive data on such cases has also not been maintained by the State.

## POPULATION

SOURCE: The State of the World's Children Report 2017

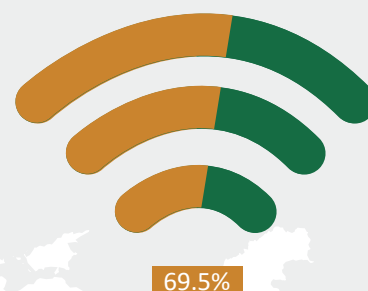
### Children under 18 years



## INTERNET ACCESS

SOURCE: ITU Statistics 2017: Country Profile

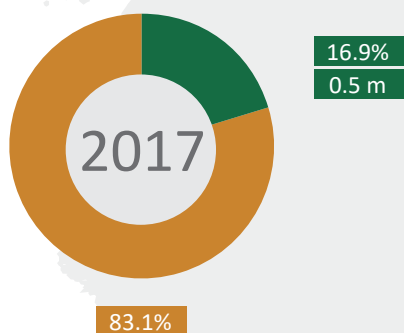
### Have internet access



## POVERTY RATE

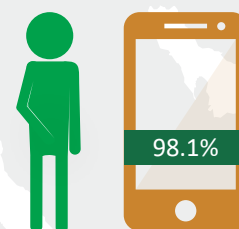
SOURCE: Poverty headcount ratio at national poverty lines: World Bank

### Living under the national poverty line



## MOBILE PHONE USERS

SOURCE: ITU statistics 2017 : Bosnia and Herzegovina Profile



98.1 mobile phone subscriptions  
per 100 inhabitants

## CHILDREN'S RIGHTS UNDER THE LAW

	Boys	Girls
Age of consent for sex	14	14
Minimum age for marriage	18*	18*
Legal working age	15*	15*
Compulsory age of schooling	14**	14**

\* With a few exceptions

\*\* Obligatory education starts when a child reaches six years and continues for a period of at least eight years.

# Introduction

## COUNTRY OVERVIEW AND SPECIFIC VULNERABILITIES LEADING TO THE SEXUAL EXPLOITATION OF CHILDREN

After the aggression on Bosnia and Herzegovina, the Dayton Peace Agreement<sup>1</sup> went on to create a complex, multi-ethnic, government with four administrative units that have governed Bosnia and Herzegovina (BiH) since.<sup>2</sup> The language that is predominantly used is Bosnian (52.9%), followed by Serbian (30.8%) and Croatian (14.6%) which are all official languages of the state.<sup>3</sup> BiH comprises four tiers of governance, at the State, Entity, Canton and Municipal levels.<sup>4</sup> This level of decentralization has also greatly influenced the legal systems in the country, for instance, there are four different Criminal Codes- for BiH, for the administrative units of Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH), and for the Brčko District (BD). Decentralized governance such as this can lead to challenges when addressing the sexual exploitation of children (SEC) because different legal provisions

create inconsistencies between jurisdictions and hinder the protection of child victims.<sup>5</sup>

While the total population of BiH adds up to 3,517,000, the population of children under the age of 18, amounts to 628,000<sup>6</sup> which makes up for about 18% of the population yet the expenditures for child protection from the total annual budget are comparatively smaller than other expenses. For example, one of the earlier reports on development published by the Council of Ministers Directorate for Economic Planning said that programmes aimed at demobilised veterans and their families accounted for the vast majority of cash transfers for social protection measures while cash transfers to the poor, and child protection programmes remained limited and provided uneven geographic coverage.<sup>7</sup> The compulsory age of schooling in BiH is between 6 and 14 years.<sup>8</sup> However, data on the net enrollment and literacy rate seems unclear. Poverty, social exclusion and the consequences of system gaps and weaknesses are the three main and interlinked factors that challenge the fulfilment of the rights of children in BiH.<sup>9,10</sup> The high unemployment rates and lack of opportunities and choices have aggravated the

1 Signed on 21 November 1995.

2 European Committee of the Regions. (n.d.). *Bosnia and Herzegovina: Division of Powers*. Europe: European Committee of the Regions.

3 Central Intelligence Agency. (2018, September 26). *The World Fact Book: Bosnia and Herzegovina*. U.S.A: Central Intelligence Agency.

4 European Committee of the Regions. (n.d.). *Bosnia and Herzegovina: Division of Powers*. Europe: European Committee of the Regions.

5 Council of Ministers of Bosnia and Herzegovina. (2015, September 29). *The First Periodical Report of Bosnia and Herzegovina on Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*. Sarajevo: Council of Ministers of Bosnia and Herzegovina.

6 UNICEF. (2017, December). *The State Of The World's Children 2017*. 174. New York: UNICEF.

7 Council of Ministers Directorate for Economic Planning. (2015, July). *Bosnia and Herzegovina Report on Development*. 51. Sarajevo: Directorate for Economic Planning.

8 *Framework Law on Primary and Secondary Education in Bosnia and Herzegovina*. (2003). Art. 16. (BiH).

9 Ferrone, L. and Chzhen, Y. (2015, April). *Child Poverty and Deprivation in Bosnia and Herzegovina: National Multiple Overlapping Deprivation Analysis*. Florence: UNICEF Office of Research.

10 UNICEF. (n.d.). *Working with and for Children*. Bosnia and Herzegovina: UNICEF.

circumstances that render children vulnerable to be trafficked in BiH. In this regard, trafficking for the purpose of early and forced marriages, exploitation in prostitution and other forms of sexual exploitation have been identified among other things as the most common purposes for trafficking of children.<sup>11</sup>

Social exclusion serves as an obstacle to the realisation of child rights in BiH. Social exclusion due to ethnicity is a major problem notably faced by the Roma community. Studies have shown that Roma children are at a disproportionately high risk of trafficking due to their low socio-economic status, low educational achievements, high unemployment and the pervasive, generational racism and discrimination they face.<sup>12</sup> Roma children often also lack birth registration documentation making it extremely difficult for social welfare services to render protection. The lack of formal documentation also presents serious obstacles while rendering protection to victims of trafficking.<sup>13</sup>

Contextual factors like low economic growth, high unemployment rates, porous borders and limited law enforcement resources have led to BiH's status as a source, destination and transit country for human trafficking.<sup>14</sup> Corruption among the international community, including cases of UN staff taking part in trafficking during the conflict period paved the way for corruption among local government in later years, leaving no safe-haven for the trafficked women. According to a previous report published in 2013 by a group of European NGOs with the assistance of the European Union,

corruption among local police continued to contribute to the trafficking infrastructure in Bosnia and Herzegovina at that time.<sup>15</sup> Challenges in coordination and cooperation between the different administrative units in the country also hamper anti-trafficking efforts, including efforts against trafficking for the purpose of sexual exploitation of children.<sup>16</sup> According to a report by the Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina,<sup>17</sup> 16 presumed victims of trafficking were identified in 2013, 49 in 2014, 35 in 2015 and 45 in 2016. No data was available from government sources. The GRETA data indicated that the majority of the victims were children (30 girls and 16 boys) during 2013 and 2014. In the years 2015 and 2016, 27 child victims of trafficking were identified. The report noted that between 2013-2016, children were trafficked for various reasons which also included sexual exploitation and five cases of trafficking for early and forced marriage.<sup>18</sup> Reports have also identified inadequate victim identification and victim protection processes, lack of victim-centered prosecutions and access to assistance outside of NGO-run shelters, as significant gaps that allow room for such offences to occur. Recent reports have also noted that the government penalised victims for the unlawful acts that were committed as a result of them being subject to trafficking.<sup>19</sup>

11 State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. 9, 55. Sarajevo: State Coordinator for Combating Trafficking in Human Beings.

12 UNICEF. (2013). *The Status of Roma Children and Families in Bosnia and Herzegovina*. 30. Sarajevo: UNICEF.

13 UNICEF. (n.d.). *Legal Aspects of Social Protection for Children in Bosnia and Herzegovina*. 30. Sarajevo: UNICEF.

14 *Ibid.*, 80.

15 ASTRA, IFS-EMMAUS, et al. (2013, September 30). *Situation Analyses of Human Trafficking: Bosnia and Herzegovina, Croatia, FYR Macedonia and Serbia*. 8. Belgrade: ASTRA.

16 *Ibid.*, 19.

17 Group of Experts on Action Against Trafficking in Human Beings (GRETA). (2017, July 17). *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina*. Strasbourg: Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

18 *Ibid.*, 7.

19 U.S. Department of State. (2018, June). *Trafficking in Persons Report*. 104. Washington D.C.: U.S. Department of State.

# The context of the sexual exploitation of children in Bosnia and Herzegovina

## THE CONTEXT OF SEXUAL EXPLOITATION IN BOSNIA AND HERZEGOVINA

### Exploitation of children in prostitution

Article 2(b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) defines 'child prostitution' as "the use of a child in sexual activities for remuneration or any other form of consideration".<sup>20</sup>

As is the case around the world, the fight against sexual exploitation of children in prostitution has been ongoing for years in BiH, but it has taken new forms and patterns in the recent past. There has been an alarming trend indicating victims of prostitution to be mostly children, increasingly boys.<sup>21</sup>

The legal framework that outlaws exploitation of children in prostitution lacks consistency and efficiency, exacerbated by BiH's complex

administrative structure. For instance, the law of FBiH criminalizing "enticement to prostitution"<sup>22</sup> has resulted in law enforcement officers treating children who are 14 years or older as juvenile offenders who are willingly engaged in prostitution, instead of treating them as victims.<sup>23</sup> Studies have also suggested that a juvenile is more likely to be treated as a victim if the police viewed him or her as being cooperative, had no prior criminal records, and/or if there is a significant presence of child exploiters, or pimps within the officer's jurisdiction.<sup>24</sup> These studies are indicative of the legal system placing the burden of proof of exploitation on the child in such cases.<sup>25</sup>

The shortcomings in the legal system are also rooted to the fact that the law enforcement agencies of the different administrative units do not communicate well with each other. The complex legal framework has contributed to the shift in the *modus operandi* of the organized criminals who exploit the weaknesses of the system to continue their involvement in such offences through underground operations.<sup>26</sup> The exploitation of children in prostitution now takes place in motels, private houses and residences, unless the victims are taken abroad.

20 UN General Assembly. (2000, May 25). *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. (A/RES/54/263). Art. 2(b).

21 Mujanović, E., Muratbegović, E., et al. (2016). *Trgovina ljudima u Bosni i Hercegovini*. 16. Sarajevo: Centar za istraživanje politike suprotstavljanja kriminalitetu (CPRC).

22 *Criminal Code of Republika Srpska*. (2017). Art. 198. (BiH).

23 U.S. Department of State. (2018, June). *Trafficking in Persons Report*. 106. Washington D.C.: U.S. Department of State.

24 Smith, M., Muftić, L. R. et al. (2015). *Perceptions of the Sex Trade in Bosnia and Herzegovina: A Comparative Analysis of Practitioners and Future Practitioners*. *International Criminal Justice Review*. 4. Georgia: Georgia State University.

25 Group of Experts on Action against Trafficking in Human Beings (GRETA). (2017, July 17). *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina*. 28. Strasbourg: Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

26 ASTRA, IFS-EMMAUS, et al. (2013, September 30). *Situation Analyses of Human Trafficking: Bosnia and Herzegovina, Croatia, FYR Macedonia and Serbia*. 9. Belgrade: ASTRA.



## Online child sexual exploitation (OCSE)

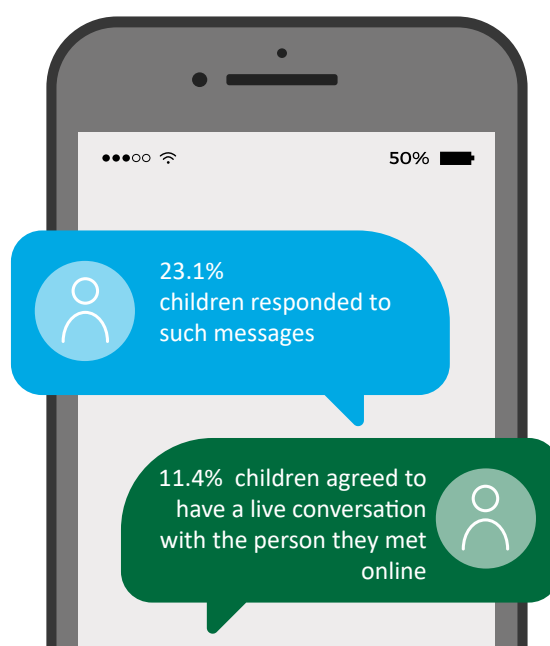
Online child sexual exploitation (OCSE) can include child sexual abuse/exploitation material (CSAM/CSEM),<sup>27</sup> live streaming of child sexual abuse, online grooming of children for sexual purposes, sexual extortion of children and various CSAM/CSEM-related conducts (production, distribution, downloading).<sup>28</sup> Article 2 (c) of the OPSC defines 'child pornography' as "any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes".<sup>29</sup>

BiH has seen a consistent rise of Internet users over the years. International Telecommunication Union's statistics show that 69.5% of the total population were identified as Internet-users and 98% were mobile-phone users as of 2018.<sup>30</sup> The rise of Internet availability also raises the need to address risks of online child sexual exploitation (OCSE). A recent study explored children's behaviour on the Internet and traced the attitudes of children, parents and teachers.<sup>31</sup> It involved 390 parents, 22 teachers and 623 children between the ages of 9-17 years from 18 primary and secondary schools. A very high 90.4% of students claimed to be social network users. 48% of children said that their parents have never prevented them from using the Internet and 70% of children said that their parents did not have much knowledge about it. Worryingly, the study showed that 48.5% children received messages from unknown persons on the Internet, one in four children (23.1%) responded to such messages and one in ten children (11.4%) agreed to have a live conversation with the person they met online.<sup>32</sup> The study also indicated that a large number of children shared their personal pictures, residential addresses, pictures of their friends, their school name, and details about their likes and dislikes on social networking sites. The results also showed

that one in six children (16%) did not know how to block a person on social networking applications such as Facebook and Viber or on mobile phone calls. As many as a third of children (30%) did not know how to block a person by e-mail. Every fifth child (18%) had no knowledge of how to change the privacy settings on social networking sites and every fourth child (26%) did not know how to find information on safe Internet usage.<sup>33</sup>

# 48.5%

**CHILDREN RECEIVED  
MESSAGES FROM  
UNKNOWN PERSONS**



These trends are indicative of emerging risks where children are vulnerable to be targeted by predators online, and cases are emerging that indeed confirm this in BiH. For instance, earlier this year there was an incident involving a kindergarten teacher from Banja Luka, who contacted a 13-year-old girl on Facebook asking her to send

27 ECPAT prefers the terms 'child sexual exploitation material' or 'child sexual abuse material', but in a legal context still uses 'child pornography' in line with the recently widely adopted Terminology Guidelines.

28 ECPAT. (n.d.). *Issues we work on*. Bangkok: ECPAT International.

29 UN General Assembly. (2000, May 25). *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. (A/RES/54/263). Art. 2(c).

30 International Telecommunications Union. (2018). *ITU Statistics: Bosnia and Herzegovina Profile*. Geneva: International Telecommunications Union.

31 Muratbegović, E. and Vujović, S. (December 2016, December). *Ponašanje i navike djece na Internetu: stavovi djece, roditelja i nastavnika informatike*. 4. Sarajevo: Save the Children in North West Balkans.

32 *Ibid.*

33 *Ibid.*, 5.

explicit photographs of herself.<sup>34</sup> Furthermore, law enforcement officials from BiH have found literature online that trains potential sex offenders on how to communicate, gain trust and approach a child.<sup>35</sup> They have also warned about the role that the 'darknet' plays in online sexual exploitation in BiH.<sup>36</sup> The State Investigation and Protection Agency (SIPA) received complaints regarding a Facebook group called "*Zabranjene tajne incesta*" (*Forbidden Secrets of Incest*) which encouraged people to post incestuous, paedophilic and pornographic content of children.<sup>37</sup> According to the media, the group constituted more than 2000 members who posted images, paedophilic and incestuous statuses about their own children and close relatives.<sup>38</sup> Research indicates that poverty and societal perceptions allow room for online child sexual exploitation to occur. Perpetrators particularly target children from poor families.<sup>39</sup> Thus, in BiH where about 17%<sup>40</sup> of the population lies below poverty line, online child sexual exploitation continues to be a risk.

compilation of data regarding all offenders who are convicted for trafficking children, abusing children older than 15 years of age, having a spousal relationship with children below 15 years of age, exploitation of children for the purpose of child sexual abuse materials, displaying pornographic content to a child, exploitation of information and communication technologies for the commission of sexual abuse or exploitation of a child, referring a child to prostitution and all other sexual offences that are committed to the detriment of children and minors under the laws that have ceased to exist in Republika Srpska.<sup>44</sup>

BiH law enforcement has noted that between 2013 and 2018, there was an increase in known perpetrators and resolved cases of crimes related to child sexual abuse materials in FBiH. They said that there were 14 perpetrators registered in 2017.<sup>41</sup> It is important to note that despite the increase in the number of cases of online child sexual exploitation, BiH continues to be one of the few European states that does not have a register of child sex offenders. However, Republika Srpska's National Assembly has recently adopted the 'Law on Special Registry of Persons Finally Convicted for the Criminal Offenses of Sexual Abuse and Exploitation of Children',<sup>42</sup> earlier this year.<sup>43</sup> Police, courts and prosecutors shall have the right to inspect this registry. This will be a

34 Svašta ću te naučiti! Je li ti smeta što sam stariji? Pedofil koji radi u vrtiću u Banja Luci tražio od djevojčice (13) da mu pošalje golišave slike (Foto). (2018, August 6). *Kurir*.

35 Armin, L. (2018, April 15). Osobe iz BiH u mračnim međunarodnim kanalima dječije pornografije i pedofilije. *Cazinet*.

36 An encrypted internet space where perpetrators are known to exchange illegal materials such as CSAM.

37 Bogosav, B. (2017, August 18). "Majke, imate li ćerkice za taticu" Otkrivene grupe u kojima pedofili iz Srbije i regiona razmenjuju užase na Fejsbuku. *Blic*.

38 Institution of the Human Rights Ombudsman of Bosnia and Herzegovina. (2018, March). *2017 Annual Report on the results of the activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina*. 83. Sarajevo: TMP Association for the employment of blind and semi-blind persons Ltd.

39 Muratbegović, E. and Kepes, N. (2013, September). *System for Protection of Children Against Child Pornography and Other Forms of Sexual Abuse and Exploitation through Information and Communication Technologies in Bosnia and Herzegovina*. 6. Sarajevo: Centar za istraživanje politike suprotstavljanja kriminalitetu (CPRC).

40 World Bank. (n.d.). Poverty headcount ratio at national poverty lines: Bosnia and Herzegovina. Washington D.C.: World Bank.

41 Armin, L. (2018, April 15). Osobe iz BiH u mračnim međunarodnim kanalima dječije pornografije i pedofilije. *Cazinet*.

Bogosav, B. (2017, August 18). "Majke, imate li ćerkice za taticu" Otkrivene grupe u kojima pedofili iz Srbije i regiona razmenjuju užase na fejsbuku. *Blic*.

42 *Law on The Special Register of Persons Directly Concerned for Criminal Activities of Sexual Abuse and Use of Children*. (2018). (BiH).

43 Republika Srpska dobila Zakon o registru pedofila. (2018, March 29). *Aljazeera*.

44 *Law On The Special Register Of Persons Directly Concerned For Criminal Activities Of Sexual Abuse And Use Of Children*. (2018). Art. 4. (BiH).

## Sale and trafficking of children for sexual purposes

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), defines 'trafficking in persons' as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".<sup>45</sup>

In case of child victims, Article 3 (c) of the Protocol specifies that "the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if it does not involve any of the means stipulated in Article 3 (a)".<sup>46</sup> In other words, the Protocol recognises that children can never be willing participants to their own exploitation.

For its part, the OPSC deals with the 'sale of children', defined as "any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration".<sup>47</sup>

Both concepts are often used in conjunction and without any clear distinction. However, despite a certain overlap, 'sale of children' is not identical to 'trafficking'. The 'sale of children' always involves some form of commercial transaction, which trafficking in children does not require, but does not necessarily include the purpose of exploiting a child (e.g. sale of children for illegal adoption). Therefore, 'sale of children' is not necessarily related to sexual abuse and sexual or other forms of exploitation. Lastly, the 'sale of children' can take place without physically moving the child out of his/her social environment, whereas trafficking inherently depends on the movement of the child.<sup>48</sup>

Trafficking of children in BiH mostly occurs within the borders of the country. But recently, sporadic cases of cross-border trafficking for the purpose of sexual exploitation have been recorded. These victims are also being trafficked to other European countries.<sup>49</sup>

A report on the 'State of Human Trafficking in BiH in 2017',<sup>50</sup> prepared by the State Coordinator for Combating Trafficking in Human Beings identified 83 victims of trafficking in 2017. Of these, 10 victims were trafficked exclusively for the purpose of sexual exploitation in prostitution and 2 children

were trafficked for the purpose of early and forced marriage. Of the total victims, 47 were minors. While 2 of these victims were foreign nationals, 81 of them were nationals of BiH.<sup>51</sup> This indicated an increase from 2016's numbers of 48 victims in total, though the increase could be attributed to improvements in reporting and recording the crime.

Studies suggest that victims of trafficking, especially those who are trafficked for the purpose of prostitution, are often additionally subjected to social rejection and criticism.<sup>52</sup> These victims

45 UN General Assembly. (2000, November 15). *United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)*. Res. 55/25 of 15. Art. 3 (a).

46 *Ibid.*, Art. 3 (c).

47 UN General Assembly. (2000, May 25). *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. (A/RES/54/263). Art. 2(b).

48 ECPAT International. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. 58. Bangkok: ECPAT International

49 State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. Sarajevo: State Coordinator for Combating Trafficking in Human Beings.

50 *Ibid.*

51 *Ibid.*

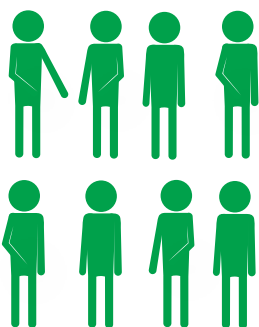
52 Dubački, A., Planinčić, D. et al. (January 2017, January). *Radna i seksualna eksploatacija djece i žena u BiH - Monitoring i proaktivni pristup borbi protiv trgovine ljudima*. 27. Vlasenica: Asocijacija za istraživačku djelatnost i sprovedbu proaktivne kriminalne politike.

were not provided sufficient protection as under Art. 6 of the Palermo Protocol and Art. 12 of the Council of Europe Convention on Action against Trafficking in Human Beings, which guarantee security and protection to the victims of trafficking. Reports have suggested that insensitive reactions from the courts and prosecutors towards victims' safety is particularly worrying.<sup>53</sup> Furthermore, the Organization for Security and Cooperation in Europe (OSCE) mission to BiH monitored 57 human trafficking and related cases that were prosecuted in 2017. The cases involved 96 accused (81 men and 15 women) and 39 child victims (20 girls and 19 boys) who were trafficked for different purposes including the production of child sexual abuse material (8 boys), sexual exploitation in prostitution (5 girls) and forced begging (6 girls and 10 boys).<sup>54</sup>

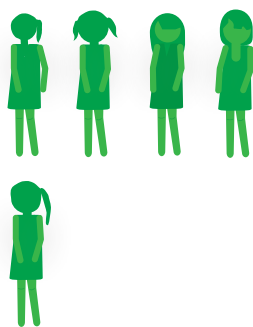
Poverty, high unemployment rates and financial instability widely prevalent in the country have also been identified as major reasons rendering children vulnerable to being trafficked for the purposes of SEC.<sup>55</sup> As mentioned previously, these factors especially make Roma children vulnerable to being trafficked, exploited and/or abused. The State Coordinator's report notes that Roma women who are a part of the human-trafficking network, had been identified recruiting girls with disabilities for the purpose of sexual exploitation. The report also notes that there is still evidence of societal prejudice with regard to cases of trafficking i.e. victims, including exploited children, are often branded as prostitutes and attract little empathy, rather than being considered the victims that they are.<sup>56</sup> While the number of foreign victims in BiH may be declining, the number of domestic victims trafficked to other countries is on the rise.

## TRAFFICKING OF CHILDREN FOR SEXUAL EXPLOITATION IN 2017

8 BOYS



5 GIRLS



### Sexual exploitation of children in travel and tourism (SECTT)

The sexual exploitation of children in travel and tourism (SECTT) is defined as any "acts of sexual exploitation embedded in a context of travel, tourism, or both".<sup>57</sup> The UNWTO Framework Convention on Tourism Ethics recognises that the exploitation of children conflicts with the fundamental aims of tourism and should be strongly combated with the cooperation of all the States concerned.<sup>58</sup>

According to the latest governmental statistics on tourism, in February 2017, BiH had about 56,042 tourist arrivals into the country, which represents a 7.2% increase compared to February 2016.<sup>59</sup> These figures accounted for tourist nights spent by 25.5% tourists from Croatia, 21.2% from Serbia,

<sup>53</sup> *Ibid.*, 27, 28.

<sup>54</sup> State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. 41. Sarajevo: State Coordinator for Combating Trafficking in Human Beings.

<sup>55</sup> ASTRA, IFS-EMMAUS, et al. (2013, September 30). *Situation Analyses of Human Trafficking: Bosnia and Herzegovina, Croatia, FYR Macedonia and Serbia*. 10. Belgrade: ASTRA.

<sup>56</sup> State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. 63. Sarajevo: State Coordinator for Combating Trafficking in Human Beings.

<sup>57</sup> ECPAT International, Defence for Children, Ministry of Foreign Affairs of the Netherlands. (2016, May). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism* (hereinafter Global study on SECTT). Bangkok: ECPAT International.

<sup>58</sup> UN General Assembly. (11-16 September 2017). *Consideration, approval or adoption of the UNWTO Framework Convention on Tourism Ethics*. UN Doc. A/RES/70/7(XXII). Art. 5 (3).

<sup>59</sup> Agency for Statistics of Bosnia and Herzegovina. (2017, April 6). *Tourism Statistics*. Sarajevo: Agency for Statistics. Sarajevo: Agency for Statistics of Bosnia and Herzegovina.



7.7% from Slovenia, 4.7% from Turkey, 3.2% from Germany and 37.7% from other countries.<sup>60</sup> The 2016 Global Study on the Sexual Exploitation of Children in Travel and Tourism suggested that low-cost airlines, more travel for business and labour, cheaper forms of tourism and rapid tourism development often expose children to greater risks.<sup>61</sup> With BiH's tourism industry steadily growing, the risk of SEC in travel and tourism is also growing. There is a need for improvements in the legal framework to combat sexual exploitation of children in travel and tourism. As of now, there is no concrete legislation or legal provision that specifically deals with this issue. However, it is important to note here that three travel and tourism companies with operations in BiH – Adventure Travel and Trade Association, Altruvistas and ANWB Reizen Beheer BV have signed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code).<sup>62</sup>

As an example of the risks that come with growing tourism, the city of Mostar is a popular tourist destination in BiH. Media reports indicate that a large number of outsiders visit the city throughout the year and clandestine human trafficking for the purpose of sexual exploitation in the city often goes undetected.<sup>63,64</sup> The State Coordinator report on the State of Human Trafficking reiterates that Bišće polje, which is an area located in the southern part of Mostar, has become an unofficial collection center for the Roma children trafficked not only within the country, but also from Kosovo and Serbia.<sup>65</sup> These children are then trained to beg and perform sexual services.<sup>66</sup> It is well established that offenders who indulge in trafficking of children for the purpose of sexual exploitation target vulnerable families with

poor economic conditions. These children are commodified and sold within larger global markets of tourism, entertainment, advertisement and media, which allow women and children to be transported, bought and sold.<sup>67</sup>

## Child, early and forced marriage (CEFM)

The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) define 'child marriage' as "a marriage in which at least one of the parties

is a child. It also refers to the act of marrying off children, usually young girls, with or without their consent".<sup>68</sup> Some forms of child marriage are related to commercial sexual exploitation of children, in cases where child marriage is linked to forced child labour, slavery and bondage, servitude or payment of a dowry.<sup>69</sup>

According to a report published in March 2018 by UNICEF, 4% of girls in BiH were married before their 18<sup>th</sup> birthday between 2010 and 2017.<sup>70</sup> The most recent Multiple Indicator Cluster Survey (MICS) says early and forced marriages occur more frequently to girls (10%) in BiH as compared to the boys (less than 1%).<sup>71</sup> The survey also noted that the proportion of child marriages that took place in rural areas was higher (12%) than in urban areas (5%).<sup>72</sup> A UNICEF report on Child Poverty and Deprivation in Bosnia and Herzegovina from 2015, has discussed the link between poverty and the dimensions of child well-being in the domains of survival, development, protection and social

60 Ibid.

61 ECPAT International, Defence for Children, Ministry of Foreign Affairs of the Netherlands. (2016, May). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism (hereinafter Global study on SECTT)*. 13. Bangkok: ECPAT International.

62 ECPAT. (n.d.). *The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism: Signatories*. Bangkok: ECPAT International.

63 Prosjachenje, seksualna i radna eksploatacija najčešći slučajevi trgovine ljudima u Hercegovini. (2017, October 18). *Bljesak.Info*

64 Strava: Muškarce iz BiH prodaju u Azerbejdžan!. (2014, October 13). *Depo Portal*.

65 State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. 62. Sarajevo: State Coordinator for Combating Trafficking in Human Beings.

66 Ibid.

67 Long, L. D (2006). *Trafficking Exchanges and Economic Responses: Reflections from Bosnia- Herzegovina and Serbia*. 17. Maryland, U.S.A: Johns Hopkins University.

68 ECPAT International. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. 63. Bangkok: ECPAT International.

69 ECPAT International and Plan International. (2015). *(Thematic Report. Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage)*. Bangkok: ECPAT International.

70 UNICEF. (2018, March). *Global databases: Child Marriage*. New York: UNICEF.

71 Pilav, A., Lolić A. et al. (2013, February). *Bosnia and Herzegovina Multiple Indicator Cluster Survey (MICS) (2011- 2012)*. 94. Sarajevo: UNICEF Office for Bosnia and Herzegovina.

72 Ibid.

participation. The report concludes that children from a rural area in BiH are deprived of more rights in comparison to children from urban areas in the country.<sup>73</sup> This pattern can also be identified in situations concerning early and forced marriage of impoverished children in BiH, especially the Roma children.<sup>74</sup>



According to the MICS Survey 15% of Roma women aged between 20-49 years were married before the age of 15 while 48% were married before the age of 18.<sup>75</sup> The survey also showed that the highest percentage of child victims of early and forced marriages belonged to the poorest wealth quintile.<sup>76</sup> Economically vulnerable Bosnian Roma children are reported to be subjected to forced begging and domestic servitude against their will in forced marriages. A Roma NGO representative reiterated that illiterate people are more prone to enter child marriages, which may often serve as a source of comfort.<sup>77</sup> Research suggests that circumstances such as poverty, protection of girls, family honour and the provision of stability during social periods are considered as significant factors that push girls into a greater risk of being forced into an early marriage.<sup>78</sup> The State Coordinator's report confirms the continuance of the practice of early and forced marriages in the state. In the year 2017, 2 out of 83 victims of trafficking were trafficked specifically for the purpose of early and forced marriage with a child.<sup>79</sup>

**48%**  
**ROMA WOMEN**  
**MARRIED BEFORE**  
**18 YEARS OLD**

73 Ferrone, L. and Chzhen, Y. (2015, April). *Child Poverty and Deprivation in Bosnia and Herzegovina: National Multiple Overlapping Deprivation Analysis*. Florence: UNICEF Office of Research.

74 UNICEF. (2013). *The Status of Roma Children and Families in Bosnia and Herzegovina*. 57. Sarajevo: UNICEF.

75 Pilav, A., Lolić A. et al. (2013, February). *Bosnia and Herzegovina Multiple Indicator Cluster Survey (MICS) (2011- 2012)*. 94. Sarajevo: UNICEF Office for Bosnia and Herzegovina.

76 *Ibid.*

77 UNFPA. (2012, October) *Child Marriage in Bosnia and Herzegovina (Overview)*. 6. Sarajevo: UNFPA Bosnia and Herzegovina.

78 *Ibid.*

79 State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. 3. Sarajevo: State Coordinator for Combating Trafficking in Human Beings.

# International, Regional and National Commitments and Legislation on Sexual Exploitation of Children

Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council

International Instruments		Date of ratification/accession
Convention on the Rights of the Child - 1989		1 Sep 1993 (Succession)
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000		4 Sep 2002
Optional Protocol to the Convention on the Rights of the Child on a communications procedure		17 May 2018
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)		5 Oct 2001
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)		24 Apr 2002
International Instruments		Date of ratification/accession
Council of Europe Convention on Action against Trafficking in Human Beings		11 Jan 2008
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)		14 Nov 2012
Council of Europe Convention on Cybercrime (Budapest Convention)		19 May 2006
Council of Europe Convention on Contact concerning Children		14 Nov 2012
Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (CRC review)	Nov 2009- Combined 2nd, 3rd & 4th report submitted	<ul style="list-style-type: none"> <li>“Develop appropriate legislation and legal frameworks to ensure the effective pursuit of perpetrators as well as assistance for and protection of victims and witnesses;</li> </ul>

Human Rights Bodies	Date of latest submitted report	Comments
		<ul style="list-style-type: none"> <li>• Ensure commensurate sanctions for perpetrators of child sexual exploitation and abuse offences within its jurisdiction and throughout its territory;</li> <li>• Improving the system of protection against child pornography and other forms of sexual exploitation and sexual abuse of children through information and communication technologies in Bosnia and Herzegovina (2010-2012).<sup>80</sup></li> </ul>
Committee on the Rights of the Child (OPSC review)	Committee on the Rights of the Child (OPSC review)	<ul style="list-style-type: none"> <li>• “The State party develop a national plan of action aimed at addressing specifically all issues covered under the Optional Protocol and provide adequate human and financial resources for its implementation.</li> <li>• The state should criminalize the sale of children by offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, or engagement of the child in forced labour or improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable legal instrument on adoption;</li> <li>• That the State party ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.”<sup>81</sup></li> </ul>
Human Rights Council – Working Group on the Universal Periodic Review	8 Aug 2014 8 Dec 2009	<ul style="list-style-type: none"> <li>• “Implement measures to reduce and eliminate child, early and forced marriage, including by addressing factors leading to high school drop-out rates among Roma children</li> <li>• Create a national system for information management to collect data on human trafficking, including human traffickers and identified victims.”<sup>82</sup></li> </ul>

80 UNCRC. (2012, November 29). *Concluding Observations on the Consolidated Second to Fourth Periodic Reports of Bosnia and Herzegovina, adopted by the Committee at its sixty-first session (17 September- 5 October 2012)*. (CRC/C/BIH/CO/2-4).

81 UNCRC. (2010, October 25). *Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography*. (CRC/C/OPSC/BIH/CO/1).

82 UNHRC. (2014, August 8). *Universal Periodic Review: Bosnia and Herzegovina*.



## INTERNATIONAL AND REGIONAL COMMITMENTS

International commitments	
Commitment	Start date
The 2030 Agenda for Sustainable Developments – ZAMISLI 2030	2016
WePROTECT - an international movement dedicated to national and global action to end the sexual exploitation of children online.	2014
International commitments	
Commitment	Start date
Palermo Anti-trafficking Declaration of South Eastern Europe	2014
Commitments on the Legalisation of the Status of Trafficked Persons	2002

Although the progress is slow, BiH has been steadily working towards fulfilling its international and regional commitments on prevention of sexual exploitation of children. According to the Dayton Peace Agreement, the international conventions ratified by BiH supersede national legislation.<sup>83</sup> The country has been making progress with its international and regional commitments by modifying existing legislation to meet international standards.<sup>84</sup> However, there are still steps that are needed. This can mainly be attributed to the lack of adequate allocation of financial and human resources to take on the task.<sup>85</sup> The BiH's SDG commitments (Zamisli 2030) have still not reached the stage of implementation. The country is still in the process of developing a roadmap for implementation.<sup>86</sup> BiH is scheduled for a Voluntary National Review on the implementation of the UN Sustainable Development Goals (SDGs) for the year 2019. Therefore, there is a need now more than ever to develop strategies to prevent and combat SEC-related crimes to make significant progress towards achieving its SDG commitments.

### National legislation

The legal framework of BiH is reflective of its decentralised organisational structure, wherein there are separate criminal codes for the state of BiH as a whole, the administrative units of RS and

FBiH, and Brčko District respectively. Recently, the various criminal codes were amended to ensure compliance with the international conventions that the country has ratified. Although the legal framework of BiH renders protection to children in several cases of sexual exploitation, actual access to such protection often falls short. This is due to a number of inefficient and ineffective systems for reporting, investigating, implementing activities, and prosecution.

### Exploitation of children in prostitution

Despite the existing evidence on the exploitation of children in prostitution, the legal framework does not comprehensively address this issue. Although all the Criminal Codes have a provision that touches upon the issue of prostitution, either they do not meet the international legal standards of criminalising all relevant elements of the act, or they do not provide a provision applicable to children specifically. While all the Criminal Codes in the country outlaw "Enticement to Prostitution",<sup>87</sup> they do not criminalise the offence of exploitation of children in prostitution specifically, as required by the OPSC. The Criminal Codes of BiH and BD punish the acts of enticing, luring, inciting and organizing prostitution, but these provisions do not mention the offence with regard to children. Although Art. 204 of the Criminal Code of BD

83 Council of Ministers of Bosnia and Herzegovina. (2015, September 29). *The First Periodical Report of Bosnia and Herzegovina on Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*. 2. Sarajevo: Council of Ministers of Bosnia and Herzegovina.

84 Sarajevo, N1. (2018, September 17). Foreign embassies welcome Criminal Procedure Code changes. *N1 English Edition*.

85 See generally Commission Staff Working Document. (2018, April 17). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*. Strasbourg: European Commission.

86 Bosnia and Herzegovina Association for United Nations. (2018, June 13). *High Level Sustainable Development Goals Business Conference- Hotel Hills, Sarajevo*. Sarajevo: Bosnia and Herzegovina Association for United Nations.

87 *Criminal Code of Federation of Bosnia and Herzegovina* 46/16. Art. 210. (BiH); *Criminal Code of Brčko District of Bosnia and Herzegovina* 26/16. Art. 207. (BiH); *Criminal Code of Bosnia and Herzegovina* 40/15. Art. 187. (BiH). *Criminal Code of Republika Srpska* 64/17. Art.189. (BiH).

punishes “sexual intercourse with a child”, the section is not sufficient to offer protection against exploitation of children in prostitution as it does not include the element of exchanging sexual services for the purpose of consideration or remuneration. The criminal codes of FBiH and RS are slightly more wide-ranging as Art. 210 of the FBiH Criminal Code offers greater punishment to persons who commit the offence against children and Art.189 of the RS Criminal Code does the same under a separate provision that talks specifically about enticement of children to prostitution.

There is a strong need for criminalising all the elements of the offence of exploitation in prostitution itself and with regard to children specifically. Besides criminalising this offence, the law should explicitly address the disadvantaged position of children in such circumstances by shifting the burden of proof towards the persons accused of committing such crimes. The existing law enforcement practices of the administrative units do not address the plight of children who have been exploited in prostitution. Rather, the law enforcement mechanisms re-traumatise them by demanding proof that the perpetrators have incited, directed or forced the person into sexual exploitation.<sup>88</sup> Thus, child victims end up being treated as “juvenile prostitutes”.<sup>89</sup>

## Online child sexual exploitation (OCSE)

The legal framework related to online child sexual exploitation is also fragmented. Firstly, the Criminal Code of BiH does not contain provisions that deal with OCSE-related offences. The Criminal Codes of FBiH<sup>90</sup> and BD<sup>91</sup> criminalise the “abuse of a child or juvenile for pornography”. Both the laws similarly punish any person who photographs or films a child for the purpose of pornography, imports or sells child sexual abuse material (CSAM). These provisions also punish incitement of a child to play in pornographic shows, which could allow scope for the interpretation of the section to include the offence of live-streaming of child sexual abuse. However, these provisions do not cover offences involving grooming or online sexual extortion, which are also significant and increasingly common manifestations of OCSE. Therefore, the protection provided by the Criminal Codes of FBiH and BD

falls short of the legal commitments of the country under the OPSC.

However, the new Criminal Code of RS passed in 2017 has made commendable progress in addressing the various forms of OCSE. This legislation firstly criminalises the production, dissemination, import, export, sale, distribution and possession of CSAM.<sup>92</sup> This provision goes a step further by also criminalising such acts with regard to the sexual abuse material which involves a person who “looks like a child” in real or explicitly simulated evident sexual behaviour.<sup>93</sup> Art. 176(3) of this legislation explicitly punishes a person who views a pornographic performance live or by any other means of communication in which a child has participated. Art. 175 and 176 also punish the use of force, threat, deceit, abuse of position or difficult circumstances of a child, or relationship of dependency or compulsion of a child to record CSAM, respectively. Finally, Art.178 of the Criminal Code of RS punishes the “utilization of computer networks or communication with other technical means for the commission of criminal offenses of sexual abuse or exploitation of a child”. This provision criminalises the usage of any means of communication for the purpose of sexual exploitation or for the production of pornographic material. This provision also has the scope of covering offenses such as online sexual extortion within its ambit. Therefore, the provisions relating to OCSE and CSAM/CSEM under the Criminal Code of RS are more in compliance with the legal obligations of the country under OPSC. Such extensive and comprehensive provisions are not yet evident in the criminal codes of the other administrative units. It has to be noted here that in the year 2017, 12 cases were filed against exploitation of a child or minor for CSAM-related conducts out of which seven indictments were made. Three cases were filed against the production, possession and distribution of CSAM out of which one indictment was made, and two cases were filed on introduction of a child to pornography out of which one indictment was made. This is an illustration of the continued prevalence of such crimes till date.<sup>94</sup>

Crimes relating to OCSE are often difficult to detect because the criminal and the offence do

<sup>88</sup> *Ibid.*

<sup>89</sup> United States Department of State. (2018, June). *Trafficking in Persons Report*. 106. Washington D.C.: U.S. Department of State.

<sup>90</sup> *Criminal Code of Federation of Bosnia and Herzegovina* 46/16. Art. 211. (BiH).

<sup>91</sup> *Criminal Code of Brčko District of Bosnia and Herzegovina* 26/16. Art. 208. (BiH).

<sup>92</sup> *Criminal Code of Republika Srpska* 64/17. Art. 175. (BiH).

<sup>93</sup> *Ibid.*, Art. 175(6).

<sup>94</sup> Information provided by IFS-EMMAUS, the ECPAT Member in the country. (2018, October 26). BiH.

not have to be located in the same region. Newer technologies have also made detection of such crimes difficult. Therefore, the cooperation of Service Providers with law enforcement agencies is necessary. This necessity has been addressed by the “Rule on the Conduct of the Activity of Internet Service Providers”.<sup>95</sup> Art. 8 of this Rule mandates Internet Service Providers to use appropriate technical measures to deny access to Internet addresses that are found to be harmful and illegal, especially if the contents spread CSAM and other harmful content. This rule however does not require the Internet Service Providers to report such instances to the law enforcement agencies, which remains a significant gap.

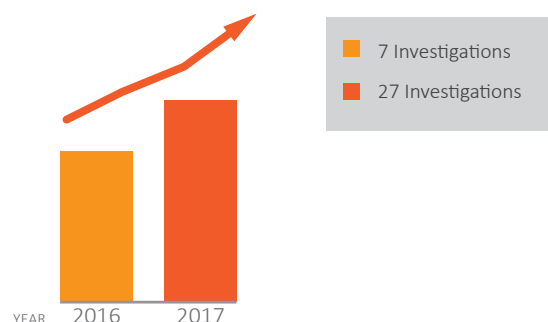
## Sale and trafficking of children for sexual purposes

BiH has made commendable progress by harmonising the anti-trafficking laws as laid down in the Criminal Codes of BiH,<sup>96</sup> FBiH,<sup>97</sup> RS<sup>98</sup> and BD.<sup>99</sup> The provisions dealing with trafficking of children under all these Codes criminalise the acts of recruitment, solicitation, transportation, transfer, harbour and receipt of a child for the purpose of *inter alia* sexual exploitation. However, these laws fall short in certain ways. For instance, Art.186 of the Criminal Code of BiH only criminalises the trafficking of victims outside the country of his/her citizenship or residence. It does not cover cases of trafficking that occur within the internal borders of the country. Art. 210a of the Criminal Code of FBiH and Art.207a of the Criminal Code of BD do offer a higher punishment for offences committed with regard to a child. Although these provisions do not include the requirement of using threat, force, deceit and other means to constitute the crime, they do not explicitly mention the exclusion of such requirements, as required by the Palermo Protocol. This could cause inconsistencies in the implementation of these provisions. Exceptionally, the Criminal Code of RS outlaws the trafficking of minors under a separate provision in which it

criminalises the acts of delivery, sale, purchase, intermediation in sale and retention of a trafficked child for the purpose of sexual exploitation.<sup>100</sup> It also punishes any person who sexually exploits children with the knowledge that the child was a victim of trafficking.<sup>101</sup>

As previously mentioned, there was an increase in trafficking victims in 2017 from the year 2016.<sup>102</sup> The State Coordinator’s report on human trafficking noted that 27 investigation proceedings were instituted against 38 persons in this regard in the year 2017. This also appears to be an increase from 2016 when only seven investigations were conducted against 33 persons.<sup>103</sup> During 2017, the courts pronounced 17 convicting verdicts against 17 persons, out of which 14 were imprisoned, 2 convicts were fined and 1 sentence was suspended.<sup>104</sup> The prison sentences conferred on the convicts of such offences is usually for one and a half years.<sup>105</sup>

## INCREASE IN TRAFFICKING INVESTIGATIONS



## Sexual exploitation of children in travel and tourism (SECTT)

BiH has not taken specific measures to address SECTT explicitly. While answering the Lanzarote

95 The Council of Regulatory Agency for Communications. (2012, April 17). *Rule 60/2012 on conduct of activities of Internet service providers*. (Official Gazette of BH, No. 36/2012). Bosnia and Herzegovina: The Council of Regulatory Agency for Communications.

96 *Criminal Code of Bosnia and Herzegovina 40/15*. Art. 186. (BiH).

97 *Criminal Code of Federation of Bosnia and Herzegovina 46/16*. Art. 210a. (BiH).

98 *Criminal Code of Republika Srpska 64/17*. Art. 198b. (BiH).

99 *Criminal Code of Brčko District of Bosnia and Herzegovina 26/16*. Art. 207a. (BiH).

100 *Criminal Code of Republika Srpska 64/17*. Art. 146. (BiH).

101 *Ibid.*, Art. 146(3).

102 State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. 3. Sarajevo: State Coordinator for Combating Trafficking in Human Beings.

103 *Ibid.*

104 *Ibid.*, (pp. 10).

105 Alarmantno / Cvjeta trgovina ljudima u BiH: Među 83 slučaja u čak 47 uključena djeca. (2018, June 21). *Radiosarajevo.ba*.

Committee's questions on the involvement of private sector (Internet communications and technology sector, tourism sector and banking sector were specifically mentioned) in combating SEC, BiH's reply made no mention of any engagement or strategy involving the travel and tourism sector.<sup>106</sup> The link between tourism and sexual exploitation of children has not been raised as an issue in relevant national action plans. None of the administrative units of BiH have criminalised the sexual exploitation of children in travel and tourism. This continues to remain a gap in the legal protection offered to children against sexual exploitation.

The Beijing Declaration and Platform for Action (1995) which included the Gender Action Plan (GAP) of BiH mandated that the law on tourism of FBiH be harmonized with the law on gender equality in BiH. The GAP dealt with 15 key areas which also included human trafficking, information and communication technologies and gender and sustainable environment.<sup>107</sup> The harmonization of laws in these areas could pave the way for the creation of an anti-SECTT framework in BiH. Despite the fact that this action plan was adopted years ago, there has been no significant step made towards developing policies, strategies, law or regulations to address the issue of SECTT in the country.

## Child, early and forced marriages (CEFM)

The legal age of marriage in BiH is 18. This has been enumerated in the legislation of all the administrative units. The Family Laws of FBiH,<sup>108</sup> RS<sup>109</sup> and the BD<sup>110</sup> consistently provide that a matrimonial contract cannot be concluded with a person below the age of 18 years. However, if a court deems the persons in question to be mentally and physically fit for this purpose and if justified reasons arise, it might allow a marriage between one or both of the people who are at least 16 years of age. The respective Criminal Codes of the administrative units<sup>111,112</sup> do not

criminalise the early and forced marriage of a child but do criminalise marriage-like circumstances such as cohabitation with children.

In fact, all the Criminal Codes uniformly criminalise the act of cohabitation of an adult with a juvenile below the age of 16 years. In case a parent or guardian has permitted or induced a minor to live in such a relationship, they shall be punished. However, all these provisions go on to provide that in case a marriage has been concluded between the parties, no prosecution would be instituted, or the on-going prosecution would be cancelled. On a bare perusal of these provisions, it is evident that the legal framework on early and forced marriages of children in country is insufficient as these offences do not even begin to encapsulate the element of force or incapability of the child to render consent by virtue of his/her young age. A UNFPA report on child marriages in BiH, suggested that in reality social welfare centers that are provided with the task of evaluating exceptional and justified cases of marriage of persons below 18 years, merely rubberstamp the cases in the face of a *fait accompli*.<sup>113</sup> Thus, applicants cohabit in common law marriages and wait to turn 16 years of age to get a legalised matrimonial contract from the court. In the face of the already weak system of prevention of early and forced marriages of children, the family laws allow room for the de facto lowering of marital age to 16 years.<sup>114</sup>

## Extraterritorial jurisdiction and extradition law

The various Criminal Codes operating in BiH establish slightly different rules on extraterritorial jurisdiction and extradition. The Criminal Codes of BiH and FBiH diverge from that of RS and BD in this regard. The Criminal Codes of BiH<sup>115</sup> and FBiH<sup>116</sup> apply to all citizens of BiH outside its respective territories (known as 'active jurisdiction'). They also apply to all foreigners who commit a crime against the citizens of BiH (known as

106 Council of Ministers of Bosnia and Herzegovina. (2014, May 20). Odgovori BiH na upitnik Lanzarote Komiteta- Opšti okvir- usvojeni su na 95. sjednici Vijeća ministara BiH. 38. Sarajevo: Council of Ministers of Bosnia and Herzegovina.

107 *Implementation of the Beijing Declaration and Platform for Action*. (1995) in Bosnia and Herzegovina.

108 *Family Law of Federation of Bosnia and Herzegovina Official Gazette FBiH No. 35/2005, 41/2005*. (31/2014). Art. 15. (BiH).

109 *Family Law of Republika Srpska. Sl. Glasnik RS. (br. 54/2002, 41/2008 I 63/2014)* Art. 35. (BiH).

110 *Family Law of Brčko District of Bosnia and Herzegovina. Sl. glasnik Brčko distrikta BiH. (br. 23/2007)*. Art. 26. (BiH).

111 *Criminal Code of Federation of Bosnia and Herzegovina 46/16*. Art. 216. (BiH); *Criminal Code of Republika Srpska 64/17*. Art. 184. (BiH).

112 *Criminal Code of Brčko District of Bosnia and Herzegovina 26/16*. Art. 213. (BiH).

113 UNFPA. (2012, October). Child Marriage in Bosnia and Herzegovina (Overview). 4. Sarajevo: UNFPA Bosnia and Herzegovina.

114 *Ibid*.

115 *Criminal Code of Bosnia and Herzegovina 40/15*. Art. 9. (BiH).

116 *Criminal Code of Federation of Bosnia and Herzegovina 46/16*. Art. 13. (BiH)



‘passive jurisdiction’). Both the aforementioned applications of jurisdiction can only be extended if the offender is found within their respective territories or has been extradited to them. Further, the criminal legislation of FBiH shall be applied to a non-citizen of Bosnia and Herzegovina who has committed a criminal offence against a foreign state or non-citizen, outside the territory of the FBiH (universal jurisdiction). However, this only includes offences for which a punishment of imprisonment for a term of five years or a more severe punishment may be imposed under the criminal legislation. The different forms of SEC are punished with varying years of punishment ranging between 6 months to 10 years. Therefore, the universal jurisdiction may not apply to all offences mentioned above.

The Criminal Codes of RS<sup>117</sup> and BD<sup>118</sup> differ slightly in terms of extraterritorial jurisdiction. Both of these Criminal Codes apply only in regard to citizens of these two administrative units. They also state that the sentence imposed by their courts shall not be more severe than the sentence that would have been passed on the same offence in the country where it took place. Exceptionally, the criminal legislation of BD also establishes jurisdiction over “anyone who perpetrates a criminal offence in the territory of FBiH and RS if the perpetrator is found in the BD territory”, unless otherwise provided by an agreement between BD and the other administrative jurisdictions.<sup>119</sup> Both Criminal Codes extend applicability of active and passive jurisdiction only when the act in question is deemed as an offence under the criminal legislation of the country where it was committed (double criminality), whereas, universal jurisdiction applies to all acts that are considered an offence under international law.<sup>120</sup>

Extradition is dealt under the Law on Mutual Legal Assistance in Criminal Matters of BiH. Only the Court of BiH has the authority to decide on extradition requests made to the country.<sup>121</sup>

The court can deny an extradition request made regarding a crime related to SEC under the following circumstances: If the person in question has already been acquitted, relieved of punishment, executed or if the proceedings against him/her have been discontinued;<sup>122</sup> or if the proceedings against that person for the same criminal offence is pending in the courts of BiH; or if the criminal prosecution or execution of a sanction pursuant to the national law is barred by the statute of limitations.<sup>123</sup> Extradition shall not be allowed if the offence for which extradition is claimed is not a criminal offence in both domestic law and the law of the state in which it was committed. Therefore, the principle of double criminality would apply to cases of extradition in SEC-related crimes as well.

Considering that, many SEC offences deal with transnational or international activities, the laws on extraterritorial jurisdiction and extradition are of very high importance. This is more so in cases of online child sexual exploitation as it often involves circumstances of perpetrators located differently from the location of the crime or criminal activity. This would include questions on conflicting jurisdictions, which could only be resolved with an efficient legal framework on extraterritoriality.

117 *Criminal Code of Republika Srpska 64/17*. Art. 13. (BiH).

118 *Criminal Code of Brčko District of Bosnia and Herzegovina 26/16*. Art. 13. (BiH).

119 *Ibid.*, Art. 12.

120 *Ibid.*, Art. 13 ; *Criminal Code of Republika Srpska 64/17*. Art. 13. (BiH).

121 Council of Europe. (2014, August 29). *Bosnia and Herzegovina - National procedures for Extradition*. 3. Strasbourg: Council of Europe.

122 This provision does not apply to cases of reopening the criminal proceedings in the requesting state.

123 *Law on Mutual and Legal Assistance in Criminal Matters*. Art. 10. (BiH).

# National Response to the Sexual Exploitation of Children

## COORDINATION AND COOPERATION

The Ministry of Human Rights and Refugees (MHRR) is responsible for all human rights situations in the country. Under the MHRR, the Council for Children of BiH was established in the year 2013 as a professional, inter-sectoral, advisory and coordinating body of the Council of Ministers (CoM) of BiH. The CoM is responsible for monitoring the Convention on the Rights of the Child and creating a new Action Plan for Children.<sup>124</sup> As per the legislative and institutional framework of the country, there are separate Councils for Children in each administrative units. This often creates problems due to the different interpretations of the role and mandate of the Council.<sup>125</sup> The Councils encourage and participate in the making of strategies on violence against children.<sup>126</sup> These activities are carried out through working groups that work on specific issues.

For over a decade now, the various Councils for Children have been playing the role of mobilising and promoting the protection of children's rights and in some cases, they have also played a preventive role. It is crucial to note that the lobbying efforts of such Councils are what led to the removal of reservations on Art. 9<sup>127</sup> of the

CRC.<sup>128</sup> Without this provision, children could be legally separated from their parents against their will under certain circumstances. In a country like BiH where the system of social protection afforded to children on the move and children in street situations is already weak, a reservation on this provision would only increase the risk of vulnerability of the child. The BiH Council for Children monitors child rights and reports to relevant international and national institutions. In the year 2015, the BiH Council for Children developed an Action Plan for Children 2015-2018<sup>129</sup> based on participatory and evidence-based research of the previous Action Plan for Children 2011-2014. The progress report of this Action Plan was published by the Council of Ministers of BiH in 2016 and was widely disseminated. It noted that during 2015, the Ministry of Security conducted a number of activities in order to fulfill the goals laid down by the Action Plan. The activities were carried out in cooperation with Save the Children and aimed at mapping existing capacities to establish effective anti-trafficking systems, sexual violence on the Internet and other forms of child abuse online. The report also said that the Ministry of Security is currently in the process of implementing the integration of prevention of abuse on the Internet in educational teaching plan and programming, and awareness campaigns for the public.<sup>130</sup>

124 Child Rights International Network. (2014, November 5). *Bosnia and Herzegovina: Children's Rights References in the Universal Periodic Review (20<sup>th</sup> Session 2014) - National Report*. London: Child Rights International Network.

125 UNCRC. (2010, February 24). *Consideration of the Reports submitted by State Parties under Article 44 of the Convention*. CRC/C/BIH/2-4. 12. Geneva: United Nations Committee on the Rights of the Child.

126 *Ibid.*

127 This provision prohibits the separation of a child from his/her family.

128 Informal Network of NGOs. (2011, October). *Alternative Report on Child Rights Situation in BiH for the Period 2005-2011*. Recommendations 12 and 13, 5. Bosnia and Herzegovina: Informal Network of NGOs.

129 Council of Ministers of Bosnia and Herzegovina. (2015, June). *Action Plan for Children of Bosnia and Herzegovina 2015- 2018*. Sarajevo: Council of Ministers of Bosnia and Herzegovina supported by UNICEF.

130 Council of Ministers of Bosnia and Herzegovina. (2016, August 31). *Report on Implementation of the Action Plan for Children of BiH 2015-2018*. 21 Sarajevo: Council of Ministers of Bosnia and Herzegovina.

However, reports show that the lack of resources and lack of coordination among authorities have hampered the implementation of the Plan.<sup>131</sup>

The BiH Council for Children was also responsible for developing a report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, with the support of UNICEF.<sup>132</sup> The Council has also taken form of the most relevant government body when it comes to monitoring child rights in the country. In October 2015, the Council for Children established three expert working groups to harmonize legislation and promote children's right to education, non-discrimination, and the best interests of a child and other special protection measures. These groups reportedly worked on implementing the activities listed in the Action Plan.<sup>133</sup> The government of RS has been developing its own mechanisms to render protection to children in the region. Apart from the Fund for Child Protection, the Council for Children of RS and the Ombudsman for Children in the region were formed and funded by the official budget of the entity.<sup>134</sup> The Fund for Child Protection is a public institution, which deals with social protection issues. It caters to 18,877 children and 13,080 parents who benefit from child allowance in Republika Srpska.<sup>135</sup>

BiH is a member of INTERPOL and allows the organization to exchange data and handle investigation requests from the National Central Bureau of Sarajevo. The Department of Regional Cooperation within the Ministry of Security of BiH, is responsible for establishing cooperation with INTERPOL to ensure the transfer of requests from police and judicial authorities of the state and vice versa.<sup>136</sup> This cooperation has been made specially to combat the transnational element of crimes. By virtue of its membership, the investigators from BiH are allowed access to INTERPOL's International

Child Sexual Exploitation Image Database which has so far helped in the identification of 10,000 victims and arrest of over 5,300 perpetrators globally.<sup>137</sup> In June 2017, the BiH Directorate for Coordination of Police Bodies conducted training sessions for local police agencies, on the use of INTERPOL's database.<sup>138</sup>

Between the years 2009-2013, the NGO, IFS-EMMAUS in cooperation with the Ministry of Security of BiH's Department for Combating Trafficking in Human Beings, Save the Children and OAK Foundation implemented, "A Comprehensive Approach to Solving Child Pornography in BiH" Project. This project included among other things the establishment of an SOS hotline for reporting cases on sexual exploitation.<sup>139</sup> The State Coordinator's report about the State of Human Trafficking in BiH for 2017, noted that a total of 699 reports of inappropriate content were received through the hotline between 2010 and 2017. These reports were in regard to several offences including offences related to OCSE and CSAM. All these applications were forwarded to the respective law enforcement agencies for further action.<sup>140</sup>

There is a strong need to train the law enforcement agencies and other stakeholders to handle issues regarding SEC in prostitution to avoid re-traumatising child victims during investigation and prosecution. Besides training law enforcement agencies to handle such cases within their respective administrative units, there is also a need for intra-state training to improve cooperation and coordination between the administrative units. As mentioned in the discussions above, the lack of cooperation and coordination between them has shifted the *modus operandi* of prostitution rings to underground operations that exploit weaknesses.<sup>141</sup>

131 Commission Staff Working Document. (2018, April 17). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*. 19. Strasbourg: European Commission.

132 UNICEF. (2015). *Annual Report 2015: Bosnia and Herzegovina*. 16. New York: UNICEF.

133 *Ibid.*

134 Informal Network of NGOs. (2011, October). *Alternative Report on Child Rights Situation in BiH for the Period 2005-2011*. Recommendations 12 and 13, 5. Bosnia and Herzegovina: Informal Network of NGOs.

135 *Double Amount of Child Allowance Paid*. (n.d.). Republika Srpska: Public Fund for Children's Protection.

136 Muratbegović, E., Kobajica, S., Vujović, S.. (2016, December). *Analiza u oblasti borbe protiv seksualnog nasilja i drugih oblika zlostavljanja na internetu djece u Bosni i Hercegovini*. 26. Sarajevo: Save the Children in North West Balkans.

137 The government of Bosnia Herzegovina. (2018, March 7). *Replies to the thematic questionnaire- The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)*. 12. Strasbourg: Council of Europe.

138 *Ibid.*

139 *Ibid.*, 13.

140 State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. 53. Sarajevo: State Coordinator for Combating Trafficking in Human Beings

141 ASTRA, IFS-EMMAUS, et al. (2013, September 30). *Situation Analyses of Human Trafficking: Bosnia and Herzegovina, Croatia, FYR*

## PREVENTION MEASURES, AWARENESS RAISING AND EDUCATION

BiH has been conducting and participating in several training and awareness raising programmes to effectively combat sexual exploitation of children. The representatives of BiH were among the many beneficiaries who participated in the Technical Assistance Information Exchange Instrument of the European Union (TAIEX) in May 2014. This workshop was conducted on 'Fighting Transnational Criminal Organisations Involved in Child Trafficking: Investigation, Prosecution and International Cooperation'.<sup>142</sup> This workshop focussed on the pertinent techniques and methods used for identifying traffickers from transnational organizations and detecting their victims. It covered significant cases such as the prosecution of the 'Hamidović' case<sup>143</sup> (a case of exploited children in France, presumed to be from Bosnia and Herzegovina). The workshop further dealt with the importance of international cooperation in combating trafficking in human beings, the EU legal framework for combating trafficking of minors, especially Directive 2011/36/EU, and 'The EU strategy towards the Eradication of Trafficking in Human Beings 2012–2016'.<sup>144</sup> While BiH is not yet a member state, it is currently considered a 'potential candidate'.

In 2016 and 2017, the Ministry of Human Rights and the Council for Children in BiH, with the support of German Corporation for International Cooperation (GIZ), organized several systematic child rights training groups for professionally working with children and for children in four BiH municipalities (Tuzla, Živinice, Bijeljina and Brčko).<sup>145</sup> These sessions focussed on obligations of the state party arising from the Convention on the Rights of the Child. Furthermore, the Ministry of Human Rights supported by UNICEF conducted an educational seminar on the CRC.<sup>146</sup>

Currently, the "Action Plan for Combating Trafficking in Human Beings of BiH" is in place for the period of 2016-2019. This plan which was instituted by the Ministry of Security of BiH, focussed on improving the system of support for fighting against trafficking, effective prosecution of trafficking cases, prevention, protection and assistance to victims. The Ministry of Security's Department for Fight against Trafficking in Human Beings has also formed regional monitoring teams to achieve appropriate standards and to improve the functional links between the competent authorities involved and the NGOs in BiH.<sup>147</sup> Furthermore, under the "Comprehensive Approach to Addressing the Problem of Child Pornography in BiH", NGOs such as IFS-EMMAUS and Udružene žene of Banja Luka organised educational workshops for children, parents and teachers in elementary schools throughout BiH, in cooperation with the Federation Police Administration (FMUP), the State Investigation and Protection agency (SIPA) and the partner organization of United Women in Banja Luka.<sup>148</sup> These activities focussed on training children on Internet safety. The portal ([www.sigurnodijete.ba](http://www.sigurnodijete.ba)) contained educational information on safe Internet usage that was customised for access by children, parents and teachers. Since establishment, this portal was further developed to serve as an educational platform for children, parents and the general public on safe usage of the Internet, and an additional portal was developed for teachers and educators ([www.e-school.sigurnodijete.ba](http://www.e-school.sigurnodijete.ba)). IFS-EMMAUS also established a hotline for reporting child sexual abuse and exploitation (CSAM) in 2010, and became a member of INHOPE – International Association of Internet Hotlines – a network of 45 internet reporting hotlines which exist in 40 countries.<sup>149</sup> Further awareness raising actions were implemented with children, parents and teachers on online child abuse in the digital environment (over 70 educational workshops in primary and secondary schools throughout BiH on the topic of "Surf Safely"). Through

*Macedonia and Serbia*. 9. Belgrade: ASTRA.

142 International Center for Migration and Policy Development. (n.d.). *TAIEX regional workshop on child trafficking held in Sarajevo*. Vienna: International Center for Migration and Policy Development.

143 Begley, I. (2017, June 5). Drug Mule Michaela in secret prison fling with Bosnian gangster. *Herald.ie*.

144 *Ibid.*

145 Ministry of Human Rights and Refugees. (2017, September). *The Combined Fifth and Sixth Report of Bosnia and Herzegovina on its Implementation of the Convention on the Rights of the Child*. Sarajevo: Ministry of Human Rights and Refugees of Bosnia and Herzegovina.

146 *Ibid.*

147 CEDAW. (2018, April 19). *Sixth Periodic Report Submitted by Bosnia and Herzegovina under Art.18 of the Convention due in 2017*. CEDAW/C/BIH/6. 20. Geneva: The Office of the High Commissioner for Human Rights.

148 Lanzarote Committee. (2017, June 2). *Thematic Questionnaire for the 2<sup>nd</sup> monitoring round on the protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies*. 3. Strasbourg: Council of Europe.

149 IFS-EMMAUS. (2017, March 10). *Education and Capacity Building*. Sarajevo: IFS-EMMAUS.



the involvement of the parents and parallel involvement of Councils of Students, IFS-EMMAUS has increased the potential for continuous electronic education among parents in the future.<sup>150</sup> As a part of the wider public campaign, IFS-EMMAUS broadcast the video, “*Gdje je Buco?*” with the support of the BiH Regulatory Agency for Communication.<sup>151</sup>

As the initiator and one of the founders of the SID (Safer Internet Day) Committee of BiH, IFS-EMMAUS has marked Safer Internet Day for eight years now in BiH. The day aims to promote safer and more responsible use of online technology and mobile phones, especially amongst children and young people across the world.<sup>152</sup> Furthermore, under the auspices of the Federal Ministry of Education and Science, this organization implemented ten webinars in 2017 for more than 100 professors and teachers of informatics on the topic “Preventing the Negative Impacts of the Internet on Children – Family Safety”.<sup>153</sup>

Under the motto “Surf the internet safe and smart”, the Ministry of Communications and Transport of BiH in cooperation with the Embassy of Switzerland in BiH and IFS-Emmaus published “*Stories from the internet / Priče sa interneta / Приче са интернета*”.<sup>154</sup> This publication was a comic and scenic portrayal of situations in which children and young people are at a high risk of being exposed to unsafe content on the Internet and other information and communication technologies.<sup>155</sup>

Under the campaign, “It’s more than a game, it’s your life”, the Ombudsperson for Children of Republika Srpska launched a website [www.djecanainternetu.org](http://www.djecanainternetu.org) which contained the feature of a “Brave Inbox” (*Hrabro sanduče*)<sup>156</sup> through which every child as well as an adult can use the portal anonymously to ask for help, report unpleasant situations and suggest activities.<sup>157</sup> In the period between 2013 and 2016, the

Ombudsperson for Children of RS organised 106 workshops on “Do we know what violence is?” which covered topics on all types of violence including cyber violence. In these workshops, students, teachers, professional associates and representatives of parents’ councils were invited and educated on the advantages and risks of the Internet, ethical use of the Internet, encouraging conversations with young people and reporting of all harassment and bullying cases.<sup>158</sup> Based on the Ombudsperson’s recommendations, the Ministry of Education and Culture of the RS and the RS Pedagogical Institute introduced the topic of violence against children in the education curriculum of students from 2<sup>nd</sup> to the 9<sup>th</sup> grade.<sup>159</sup> The programmes for the prevention of violence against children have become an integral part of the school curriculum.

## CHILD PROTECTION, ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

The previous sections of this report indicate that significant amount of training and educational workshops have been conducted towards achieving the criminalisation of sexual exploitation and abuse, the criminal prosecution of perpetrators and effective remedies and support for child victims. However, the results achieved by such programmes are unclear due to the lack of data available in that regard. The data on child victims of crimes has not been comprehensively maintained by any statistical or monitoring body.<sup>160</sup> Although the High Judicial and Prosecutorial Council maintains an electronic case database, the information on victims of criminal offenses is not readily available and it is not possible to identify cases involving child victims in particular.<sup>161</sup>

150 IFS-EMMAUS/Hotline Sigurnodijete. (2018, July 25). *Hotline*. Sarajevo, IFS-EMMAUS.

151 Klix. (2010, December 2). *RAK predstavio TV-spot Gdje je Buco?* Klix.

152 IFS-EMMAUS/Hotline Sigurnodijete. (2018, July 25). *Hotline*. Sarajevo: IFS-EMMAUS.

153 IFS-EMMAUS. (2017, October 31). *Webinars for teachers on “Preventing the Influence of the Internet on Children – Family Safety”*. Sarajevo: IFS-EMMAUS.

154 IFS-EMMAUS. (n.d.). *Invitation for the media ‘Stories from the Internet’*. Sarajevo: IFS-EMMAUS.

155 *Ibid.*

156 Ombudsman za djecu Republike Srpske. (2018, October 11). *Hrabro sanduče*. Banja Luka: Ombudsman za djecu Republike Srpske.

157 The government of Bosnia Herzegovina. (2018, March 7). *Replies to the thematic questionnaire- The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)*. 6. Strasbourg: Council of Europe.

158 *Ibid.*

159 *Ibid.*

160 Hrlje, M. and Tosić, S. (2015, November). *Children’s Equitable Access to Justice in Bosnia and Herzegovina*. 52. Sarajevo: UNICEF.

161 *Ibid.*

## National complaint mechanisms

The Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure was recently ratified by BiH on 17 May 2018. Art. 5 of this Protocol empowers the child victims or individuals on their behalf to directly submit a claim as victims of a violation by the state after fulfilment of certain pre-requisite conditions.<sup>162</sup> This is a commendable step taken with regard to ensuring victims' access to justice.

Within the domestic legal system, children are allowed to report crimes to the police. There is no lower age limit that could prevent them from doing so. However, research has indicated that in practice, children were usually accompanied by a parent or guardian.<sup>163</sup> According to the Laws on Protection and Treatment of Children and Juveniles in Criminal Proceedings of FBiH, RS and BD, police officers who work with children are required to undergo specialised training and get certified to work with child offenders and child victims/witnesses.<sup>164</sup> Prosecutors may also receive complaints directly from children. Research indicated that as stated above, in practice, children generally submit reports to the police with a parent.<sup>165</sup> This law also mandates the prosecutors working with children to undergo training and certification, similar to the police.

Under the Institution of Human Rights Ombudsman in BiH, a separate department has been created for monitoring the rights of children. This department is responsible for receiving and registering complaints on violations of rights and freedoms of children, monitoring the state of the rights and freedom of children, issuing reports and assisting individuals who seek protection.<sup>166</sup> These bodies receive complaints, investigate, and issue recommendations to official bodies. The Ombudsman office can be contacted whenever

responses from other state authorities such as the police, or social workers are inadequate.<sup>167</sup> All state bodies and officials are required to cooperate with the Ombudsman and there is no financial charge for making a complaint.

During 2017, the Department for Monitoring Child Rights received a total of 172 complaints and the Ombudsman issued 13 recommendations. In some high profile cases of peer violence which were posted on numerous media portals in violation of the right to privacy of the children involved, the Ombudsman, through a press release on the media and websites,<sup>168</sup> invited all editors of the Internet portals to immediately remove the controversial footage, all texts and comments from their portals.<sup>169</sup> The Ombudsmen also released a special report titled "Recommendations for improving the protection of children's rights to privacy when rights are violated by the media in Bosnia and Herzegovina".<sup>170</sup>

Besides the Ombudsman, under the Department for Monitoring Child Rights, there is an office of the State Coordinator for Combating Trafficking in Human Beings which has been established. However, neither of these authorities focus on the sexual exploitation of children specifically. There is no specialised government agency that is trained and mandated to deal with sexual exploitation of children in particular.

## Child-sensitive justice

The Law on Protection of Witnesses under Threat and Vulnerable Witnesses<sup>171</sup> aims to provide for the protection of witnesses in criminal proceedings. Art. 3(2) of the statute says that a "vulnerable witness is a witness who has suffered physical or mental trauma due to the events of the offence or has suffered a serious mental condition rendering him or her unusually sensitive,

162 UN General Assembly. (2011, December 19). *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure*. A/RES/66/138.

163 Hrle, M. and Tosić, S. (2015, November). *Children's Equitable Access to Justice in Bosnia and Herzegovina*. 48. Sarajevo: UNICEF.

164 *Ibid.*

165 *Ibid.*, 49.

166 The Institution of Human Rights Ombudsman of Bosnia and Herzegovina. (n.d.). Department for Following the Rights of a Child. Sarajevo: The Institution of Human Rights Ombudsman of Bosnia and Herzegovina.

167 Institution of Human Rights Ombudsman of Bosnia and Herzegovina. (2006). Rules of Procedure of the Institution of Human Rights Ombudsman. Arts. 17, 19, 39, 43, 45. Sarajevo: Institution of Human Rights Ombudsman of Bosnia and Herzegovina.

168 Blic (2017, October 21). Nezaštićena prava dece u BiH. *Blic*.

169 Institution of the Human Rights Ombudsman of Bosnia and Herzegovina. (2018, March). *2017 Annual Report on the results of the activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina*. 83. Sarajevo: TMP Association for the employment of blind and semi-blind persons Ltd.

170 Institution of the Human Rights Ombudsman of Bosnia and Herzegovina and Save the Children. (2012, November). *Recommendations to Improve the Protection of Children's Right to Privacy in Cases of Violations by the B-H Media*. Banja Luka: Institution of the Human Rights Ombudsman of Bosnia and Herzegovina.

171 *Law on Protection of Witnesses Under Threat and Vulnerable Witnesses*. (BiH).

and a child and a juvenile”.<sup>172</sup> Chapter II of this statute provides various witness protection measures including access to psychological, social assistance and professional help<sup>173</sup> and witness protection hearings.<sup>174</sup> Besides this law, all three administrative units have adopted Laws on Protection of Witnesses in Criminal Proceedings in 2003. These laws provide for numerous measures to afford protection to child witnesses including the possibility of giving an in-camera testimony, removal of accused during the testimony, and measures to provide anonymity. The possibility of rendering an in-camera testimony is only available to children under the age of 16 if there are grounds to fear that the witness cannot be questioned at the main trial.<sup>175</sup> Between the years 2013-2016, these witness protection measures were deployed in two cases of trafficking in which three victims/witnesses were accommodated in ‘safe houses’. Two of the victims gave their testimonies from another room that was closed off to the public. Here, it has to be noted that these protection measures are not uniformly provided across the country of BiH – as was criticised by the Council of Europe in its report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina.<sup>176</sup>

Research suggests that the mechanisms and resources allocated to ensure that justice proceedings are child-sensitive, are still insufficient.<sup>177</sup> Due to this, only police stations in the larger cities and cantonal/district courts have the facilities to implement child/victim-sensitive proceedings as set out by the Laws on Protection and Treatment of Children and Juveniles in Criminal Proceedings.<sup>178</sup> There are no special courts for children and families.

The Criminal Code of BiH provides for assistance of a minor by a pedagogue or other professional

during criminal proceedings in order to prevent any adverse impact on his or her mental condition.<sup>179</sup> The Laws on Protection and Treatment of Children and Juveniles in Criminal Proceedings of RS, FBiH and BD also contain provisions to children giving evidence. A child victim can only be questioned a maximum of two times and he or she can only be questioned in the presence of a pedagogue, psychologist or another professional.<sup>180</sup> These provisions are examples of positive practices of the State that encourages child, victim or survivor access to justice.

The Criminal Code of BiH also imposes an affirmative duty upon medical workers, teachers, pedagogues, parents, foster parents, adoptive parents and other persons authorised or obligated to provide protection and assistance to minors, to supervise, educate and raise minors.<sup>181</sup> Justice sector professionals have expressed concern about gaps in this regard due to the lack of adequate responses to allegations of misconduct. Research suggests that school officials fear that the school will gain a poor reputation from such complaints and thus dismiss them without investigation.<sup>182</sup> They often fail to recognise and address the problematic behaviour of a child and instead respond authoritatively by removing the child from the school. For instance, a justice sector professional noted an instance of a boy who was an excellent student and attended school regularly. There was a sudden change in his behaviour and he started to be absent from school very often. He was expelled from school due to excessive unexcused absence. Later, it emerged that he was a victim of sexual abuse.<sup>183</sup> Although the government has been conducting awareness raising programmes amongst children, parents and teachers, there is a need for stronger training programmes on identification of and response to SEC victims, for professionals who come in contact with children. Existing training programmes on

172 *Law on Protection of Witnesses Under Threat and Vulnerable Witnesses*. Art. 3(2). (BiH).

173 *Law on Protection of Witnesses Under Threat and Vulnerable Witnesses*. Art. 6. (BiH).

174 *Law on Protection of Witnesses Under Threat and Vulnerable Witnesses*. Art. 14. (BiH).

175 *Civil Procedure Code of Bosnia and Herzegovina*. Art. 90. (BiH).

176 Group of Experts on Action Against Trafficking in Human Beings (GRETA). (2017, July 17). *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina*. 37. Strasbourg: Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

177 Hrle, M. and Tosić, S.. (2015, November). *Children's Equitable Access to Justice in Bosnia and Herzegovina*. 14. Sarajevo: UNICEF.

178 *Ibid*.

179 *Criminal Code of Bosnia and Herzegovina 40/15*. Art. 86(4). (BiH).

180 *Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings of Federation of Bosnia and Herzegovina*. Art. 185. (BiH); *Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings of Republika Srpska*. Art. 186(2). (BiH).

181 *Criminal Code of Bosnia and Herzegovina 40/15*. Art. 213(2). (BiH).

182 Hrle, M. and Tosić, S. (2015, November). *Children's Equitable Access to Justice in Bosnia and Herzegovina*. 59. Sarajevo: UNICEF.

183 *Ibid*. 60.

this subject should be constantly monitored and followed-up to track implementation results.

## Access to recovery and reintegration

The Convention on the Rights of the Child requires State parties to take measures to promote the recovery and reintegration of child victims.<sup>184</sup> The Optional Protocol to the Lanzarote Convention also requires states to ensure that child victims have access to child-friendly compensation procedures.<sup>185</sup>

The Department for Combatting Trafficking in Human Beings established by the Council of Ministers, coordinates with the activities of the authorities of all administrative units and institutions as well as NGOs involved in the fight against human trafficking. It provides direct assistance to the victims and witnesses of human trafficking. In the past few years, BiH has developed various guidance documents such as the Manual for Direct Assistance to Victims of Trafficking,<sup>186</sup> Guidelines on the Treatment of Victims of Human Trafficking,<sup>187</sup> Practicum Training Program for Social Workers,<sup>188</sup> Handbook for Professionals to Protect Children from Trafficking,<sup>189</sup> Manual for Judges and Prosecutors on Compensation for Victims of Trafficking in Human Beings in Bosnia and Herzegovina,<sup>190</sup> Child Friendly Guidelines on Prevention of Violence Against Children in Bosnia and Herzegovina (2017).<sup>191</sup> While the country has made substantial efforts with regard to trafficking, there has not been as specific a focus on ensuring access to recovery and reintegration of victims of other SEC-related crimes.

Besides this, the association “Nova Generacija” manages a reception center for children and provides direct assistance to children who

have been exploited or abused in any way. This association is a member of the regional monitoring team for the fight against human trafficking in the country. This association initiated the activities relating to the establishment of Safe Houses for child victims of sexual abuse and trafficking. While trafficking has received significant attention, this research did not identify further explicit commitments from the State towards the recovery, reintegration and rehabilitation of the broader range of SEC victims.

The NGO IFS-EMMAUS also manages the largest shelter in BiH for the protection and assistance of adult and child victims of human trafficking, where over 67% of victims identified and sheltered since 2012 are children trafficked for purposes of labour exploitation (predominantly begging) and forced marriages. This organization is the only NGO entrusted by the responsible ministries for the sheltering and protection of both foreign and BiH national victims. Since 2011, IFS-EMMAUS is also the sole NGO associate member to the National Strike Force against Trafficking in Human Beings. At the same time, IFS-EMMAUS assists the government in the accommodation and protection of vulnerable migrants and asylum seekers, managing a Center for Children and Youth established in line with European quality standards for child protection.<sup>192</sup>

## Access to compensation

As a general rule, the Criminal Procedure Codes stipulate that the prosecutor and the court should inform the injured party about his/her right to file a compensation claim for material or non-material damages suffered as a result of crime.<sup>193</sup> The injured party may file such a claim during investigation or during the course of the main trial however, the judge may decide not to consider the

184 UN General Assembly. (1989, November 20). *United Nations Convention on the Rights of the Child*. A/RES/44/25. Art. 39.

185 UN General Assembly. (2000, May 25). *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. (A/RES/54/263). Art. 9(4).

186 Husić, S., Zenica, M. et al. (2008, December). *Direktna asistencija žrtvama trgovine ljudima u Bosni i Hercegovini*. Sarajevo: International Organization for Migration.

187 Ministry of Security of BiH and Catholic Relief Services. (2010). *Smjernice o postupanju centara za socijalni rad sa žrtvama trgovine ljudima*.

188 Ministry of Security of Bosnia and Herzegovina and Catholic Relief Services. (2010). *Praktikum za socijalne radnike o pojavi i pojavnim oblicima*. Sarajevo: Ministry of Security of Bosnia and Herzegovina

189 Rizvo, S., Đuderija, S. et al. (n.d.). *Za službenike zaposlene u tužilaštvu, policiji, socijalnim i zdravstvenim institucijama - Zaštita djece od trgovine ljudima*. Sarajevo: Office of the State Coordinator for Combating Trafficking in Human Beings and Illegal Immigration in Bosnia and Herzegovina and Save the Children Norway Regional Office for South-eastern Europe

190 IFS-EMMAUS. (n.d.). *Manual for Judges and Prosecutors on Compensation for Victims of Trafficking in Human Beings in Bosnia and Herzegovina*. Sarajevo: IFS-EMMAUS

191 Muratbegović, E., Hasanović, E. et al. (2017). *Smjernice za postupanje u slučaju nasilja nad djecom u digitalnom okruženju u Bosni i Hercegovini*. Sarajevo: IFS-EMMAUS.

192 IFS-EMMAUS. (2017, January 25) *Prevention of Trafficking in Human Beings and Illegal Migrations in BiH*. Sarajevo: IFS-EMMAUS.

193 Hrle, M. and Tosić, S. (2015, November). *Children's Equitable Access to Justice in Bosnia and Herzegovina*. 114. Sarajevo: UNICEF.



claim if in his/her opinion, it might “considerably delay proceedings”. In such circumstances, the victims are encouraged to bring a separate civil suit for compensation claims.<sup>194</sup> The Organization for Security and Cooperation in Europe’s Mission to BiH developed informative brochures on this subject and a claim form for compensation. However, limited awareness of injured parties’ rights to claim compensation continues even today.

The number of child victims who have benefited from these legal provisions is negligible. Victims are usually advised to file separate civil suits following the criminal proceedings<sup>195</sup> in order to claim compensation from their perpetrators. While the option to file for compensation under a civil suit might seem to afford some comfort to the victim, it has to be noted that such proceedings require the victims to submit new testimonies and medical examinations, thereby leading to possible re-traumatization.<sup>196</sup> A study from 2014 indicated that, out of 156 verdicts that year regarding gender-based criminal offences, not even a single claim for material compensation was addressed in criminal proceedings in FBiH. In the entity of RS, out of 18 cases reviewed, 4 compensation claims were resolved through the criminal proceedings.<sup>197</sup> This system of compensation is non-existent in cases of sexual exploitation of children which does not involve trafficking. This inefficient system of compensation equates the right of the victim to indemnification to the much narrower right to claim compensation for non-material damages. The system of being compensated through civil proceedings is not only cumbersome but is also insensitive to the experiences of a child victim of sexual exploitation.<sup>198</sup> It is generally known that victims refrain from resorting to this method for various reasons including the lengthy and

expensive nature of proceedings, difficulty in receiving free legal aid, lack of victim/witness protection measures in civil proceedings and finally the burden of proof of material and non-material damages that falls on the victim.<sup>199</sup> Representatives of the judiciary on BiH have deemed this system of compensation inefficient due to the lack of asset forfeiture legislation, asset management capacities of State institutions and low levels of awareness about the criminal asset confiscation for more efficient prosecution of organized crimes including human trafficking.<sup>200</sup> Justice sector professionals have also expressed that it is common practice to inform children about their right to compensation in legalistic language that children and their parents cannot understand.<sup>201</sup> Council of Europe recommendations have also reiterated the need for a concrete system of compensation of victims of trafficking regardless of their nationality and immigration status.<sup>202</sup> The Laws on Witness Protection include the provision of the right to legal aid for vulnerable witnesses. However, this provision is rarely used in practice.<sup>203</sup>

Notably, in July 2015 the NGO IFS-EMMAUS undertook a case involving trafficking victims of Serbian nationality who were sexually exploited in BiH. Based on this case, the lawyer involved, provided a report on the strategic litigation and evaluation of judicial practices in such cases. The report concluded that it is necessary to enable victims with legal counselling and free legal representation in all phases of proceedings. It also highlighted that the establishment of a State fund for compensation for victims of human trafficking is one of the most important issues in the process of enhancing guaranteed human rights of the victims. After the case was initially dismissed for lack of proof of intensity, severity and duration of mental suffering faced by the victims, in

194 See the provisions on damage compensation claims in *Law on Criminal Procedure of the Brčko District of Bosnia and Herzegovina*. Arts. 193-204. (BiH); *Criminal Procedure Code of the Federation of Bosnia and Herzegovina*. Arts. 207-218. (BiH); *Criminal Procedure Code of Republika Srpska*. Arts. 103-114. (BiH).

195 Compensation could be claimed by filing civil suits under *Civil Procedure Code of Bosnia and Herzegovina*. Art. 193(2). (BiH). It allows the injured party the right to claim compensation pertaining to reimbursement of damage, recovery of items, or annulment of a particular legal transaction.

196 *Ibid.*

197 Hrle, M. and Tosić, S. (2015, November). *Children’s Equitable Access to Justice in Bosnia and Herzegovina*. 115. Sarajevo: UNICEF.

198 *Ibid.*

199 Group of Experts on Action Against Trafficking in Human Beings(GRETA). (2017, July 17). *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina*. 28. Strasbourg: Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

200 ASTRA, IFS-EMMAUS, et al. (2013, September 30). *Situation Analyses of Human Trafficking: Bosnia and Herzegovina, Croatia, FYR Macedonia and Serbia*. 36. Belgrade: ASTRA.

201 Hrle, M. and Tosić, S. (2015, November). *Children’s Equitable Access to Justice in Bosnia and Herzegovina*. 116. Sarajevo: UNICEF.

202 Group of Experts on Action Against Trafficking in Human Beings(GRETA). (2017, July 17). *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina*. 28, 29. Strasbourg: Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

203 See for example, *Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings of Federation of Bosnia and Herzegovina*. Art. 6. (BiH).

the re-trial, the District court overturned the previous judgement. It upheld the victim's claim for compensation of € 8,697 for non-pecuniary (intangible) damage including mental pain, fear for the violation of honour, reputation, personal rights and dignity. This was the very first verdict in BiH whereby victims of trafficking received moral satisfaction in the form of non-pecuniary damage compensation.<sup>204</sup>

In the year 2014, a national public campaign called "Prevent, Protect, Compensate- Justice for Victims of Trafficking in Human Beings" was launched. The implementation of this campaign was supported by the Ministry of Security's Department for Combating Trafficking in Human Beings, the State Coordinator for Combating Trafficking in Human Beings, the Association of Prosecutors of FBiH and the Center for Criminal Policy Research (CRPC).

As a part of the campaign, a special multilingual website [www.astra.rs/en/balkans-act-now](http://www.astra.rs/en/balkans-act-now) was established with interactive content and useful information on the topic. The website also provided for the possibility to claim compensation both in BiH and wider region. A Working Group of experts in the field of criminalistics and legal sciences with the support of the Department for Combatting Trafficking in Human Beings and IFS-EMMAUS have prepared a Draft Law on Assistance and Compensation of Victims of Human Trafficking in BiH within the "Balkans ACT (Against Crime of Trafficking) Now!" project. This draft law was addressed to the Ministry of Justice of Bosnia and Herzegovina thereby initiating the legal process of establishing a law on this matter.<sup>205</sup> Subsequent to these efforts, there have been several training courses, campaigns and draft laws in all administrative units to highlight the need for compensation of victims of trafficking. However, the state has not yet made any progress with regard to setting up a concrete system of compensation for child victims of sexual exploitation.

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204 Information provided by IFS-EMMAUS. (2018, October 12).

205 State Coordinator for Combating Trafficking in Human Beings. (2018, March). *Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2017*. 10. Sarajevo: State Coordinator for Combating Trafficking in Human Beings.



## Child, Victim and Survivor Participation

Art. 12 of the Convention on the Rights of the Child confers on children, the right to have his or her opinion taken into account in all matters that concern them directly.<sup>206</sup> The right to voice one's opinion regardless of age is conferred on all persons in the jurisdiction of BiH, as per the Constitution.<sup>207</sup> However, there are a few examples of child participation in BiH, the implementation of this obligation has had limited effect, especially due to the barrier of formal court proceedings. Despite the Constitution allowing scope for child participation, there have not been specific efforts taken towards facilitating it. UNICEF has created Social Protection and Inclusion System for Children (SPIS Programme) in collaboration with all the relevant ministries of BiH and civil society partners. The programme is funded by the EU. It is an inter-disciplinary programme that focuses on improving social protection, social inclusion and child rights. SPIS programmes include Participatory Action Research groups which consist children who are involved in the process of enhancing social protection and inclusion in targeted municipalities.<sup>208</sup> Over 300 adolescents in about 20 municipalities in the country took part in participatory research training

activities and produced videos, photos and action plans on their needs and ideas which were later used for advocacy with the local authorities and service providers.<sup>209</sup> UNICEF also supported the government in the implementation of five adolescent-led action plans that were aimed at improving social inclusion of schools and communities in the Birac region of RS.<sup>210</sup>

The Institution of Human Rights Ombudsman in BiH has also been trying to incorporate child participants within the scope of its work. In a public institution primary school named “Jala” in Tuzla, the Ombudsman emphasised the importance and the need for the school to ensure adequate participation of children and their parents when making decisions regarding the exercise of the rights and interests of children.<sup>211</sup> Although there have been some instances of child participation in the process of policy development and research, there has not been any event of participation of child victims or survivors of sexual exploitation. This continues to remain a major gap as the inputs based on the experiences of children in this regard is extremely crucial for framing social protection policies, to combat SEC effectively.

206 UN General Assembly. (1989, November 20). *United Nations Convention on the Rights of the Child*. A/RES/44/25. Art. 12.

207 *Constitution of Bosnia and Herzegovina*. Art. 3 and 4. (BiH).

208 UNICEF and European Union. (n.d.). *Social Protection and Inclusion*. Bosnia and Herzegovina: UNICEF.

209 UNICEF. (2016). *Annual Report 2016: Bosnia and Herzegovina*. 3.. New York: UNICEF.

210 *Ibid*.

211 Institution of the Human Rights Ombudsman of Bosnia and Herzegovina. (2017, March). *2016 Annual Report on the results of the activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina*. 83. Sarajevo: TMP Association for the employment of blind and semi-blind persons Ltd.

## Recommendations for Action

### International and regional legislation, commitments and coordination to ending SEC

- Encourage more travel agents and tourism agencies to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.
- Include specific provisions criminalising different forms of OCSE such as grooming, live streaming of child sexual abuse, online sexual extortion, which are not already existent in the criminal codes.
- Criminalise child, early and forced marriage explicitly.
- Criminalise the mere possession of CSAM under all criminal codes.
- Make it mandatory for Internet Service Providers to report and delete CSAM and penalize those who knowingly upload, access, possess or distribute CSAM.

### National response to SEC's manifestations

- Establish a system for proper compilation of all data relating to SEC with awareness campaigns, legal developments and institutional aid easily accessible to the public.
- Establish a separate State fund for the compensations of victims of SEC and facilitate such claims of compensation during the course of criminal proceedings itself.
- Improve the system of coordination and cooperation between the administrative units by establishing inter-entity law enforcement agencies and institutions.

- Improve the scope of social protection rendered to the most vulnerable population such as children from impoverished families, Roma community etc. Allocate sufficient funds from the annual budget to meet these needs.
- Establish a register to keep record of all the sexual offenders convicted for the offence of SEC.

### Access to justice and right to remedies for child victims of sexual exploitation

- Improve national victim identification procedures to clearly identify child victims of sexual exploitation that arise within the law enforcement system.
- Improve concrete mechanisms to render the recovery, reintegration and rehabilitation of SEC victims.
- Improve assistance and protection for foreign child victims of trafficking with formal victim identification procedures and counselling in various languages so that they are not deported to dangerous environments.
- Expand the mandate of Safe Houses and Drop-In Centers to include victims of child trafficking or rescued victims of SEC etc. and allocate state funds to improve the human resources and financial resources of such institutions.
- Improve access to compensation by child victims of sexual exploitation by systematically informing the public about the various possibilities for compensation.



## Child, victim and survivor participation

- Include participation of SEC victims and survivors in development of policies regarding anti-trafficking strategies, social protection gaps.
- Design and implement a strategy that encourages and realistically facilitates child and youth participation in decision-making processes that impact them.

## Research needs and agenda

- Develop statewide mechanisms to collect and store information on statistics of the frequency of SEC, its forms, successful investigations, prosecutions, convictions etc.
- Carry out qualitative and quantitative research to identify the patterns and trends surrounding sexual exploitation in travel and tourism in BiH.
- Improve data and research on OCSE and follow-up the patterns and trends of the crime by adequate coordination with Internet Service Providers and NGOs.

## Acronyms

<b>BiH</b>	Bosnia and Herzegovina
<b>BD</b>	Brčko District
<b>CEFM</b>	Child, early and forced marriage
<b>CoM</b>	Council of Ministers
<b>CRC</b>	Convention on the Rights of the Child
<b>CSAM</b>	Child sexual abuse material
<b>CSEM</b>	Child sexual exploitation material
<b>EU</b>	European Union
<b>EUROPOL</b>	The European Union Agency for Law Enforcement Cooperation
<b>FBiH</b>	Federation of Bosnia and Herzegovina
<b>GAP</b>	Gender Action Plan
<b>GRETA</b>	Group of Experts on Action against Trafficking in Human Beings
<b>MHRR</b>	Ministry of Human Rights and Refugees
<b>MICS</b>	Multiple Indicator Cluster Survey
<b>NGOs</b>	Non-Governmental Organisations
<b>OCSE</b>	Online child sexual exploitation
<b>OPSC</b>	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
<b>RS</b>	Republika Srpska
<b>SDGs</b>	Sustainable Development Goals
<b>SEC</b>	Sexual exploitation of children
<b>SECTT</b>	Sexual exploitation of children in travel and tourism
<b>UNICEF</b>	United Nations Children's Fund



328/1 Phaya Thai Road, Ratchathewi, Bangkok, 10400 THAILAND  
Tel: +662 215 3388 | Email: [info@ecpat.org](mailto:info@ecpat.org)  
Website: [www.ecpat.org](http://www.ecpat.org)