

Sexual Exploitation of Children in Bosnia and Herzegovina
Submission
for the Universal Periodic Review of the human rights situation in Bosnia and Herzegovina

Submitted by

International Forum of Solidarity-EMMAUS (IFS-EMMAUS)

And

ECPAT International

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IFS-EMMAUS is a leading civil society organisation in Bosnia and Herzegovina (BiH) fighting against trafficking in human beings and online child abuse and exploitation. It has over 226 employees, 103 volunteers and a network of offices in Sarajevo, Dobož East and Srebrenica. The mission of IFS-EMMAUS is assistance to vulnerable individuals, through rehabilitation, repatriation and reintegration. Its key activities include prevention and suppression of trafficking in human beings with particular focus on children, as well as online child abuse and exploitation.



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ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 29 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 109 network members operating in 96 countries.

Justification for submission

1. The present submission serves as an update on the progress that has been made by the Government of Bosnia and Herzegovina (GoBiH) to end the sexual exploitation of children (SEC), and to assess the level of implementation of the UPR recommendations relating to SEC made in 2014.¹ New recommendations to end SEC in Bosnia and Herzegovina (BiH) will be made. Recommendations made in this report are in line with the commitment by the GoBiH to eliminate all forms of violence against children, including sexual abuse and exploitation, with the adoption of the 2030 Agenda for Sustainable Development in 2015.²
2. The content of this report is primarily based on country work experience and desk research by IFS-EMMAUS and ECPAT International.
3. The scope of this report is limited to SEC and its different manifestations, including exploitation of children in prostitution,³ online child sexual exploitation (OCSE), child sexual abuse materials (CSAM),⁴ child trafficking for sexual purposes, sexual exploitation of children in the context of travel and tourism (SECTT)⁵ and child, early and forced marriage (CEFM).

Current status and developments of sexual exploitation of children in Bosnia and Herzegovina

4. After the aggression on Bosnia and Herzegovina, the Dayton Peace Agreement established a complex, multi-ethnic, asymmetrical governmental system which comprises four tiers of governance at the State, Entity, Canton and Municipal levels.⁶ This decentralization has led to the creation of four different Criminal Codes: for BiH, the entities of Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH), and for the Brcko District (BD).⁷
5. As of 2017, the population of children under the age of 18 stands at 628,000, accounting for 18% of the total population.⁸ Poverty, social exclusion and the consequences of system gaps and weaknesses are the three main and interlinked factors that challenge the fulfilment of children's rights in BiH.^{9,10} In its 2017 Development Report, the GoBiH acknowledged that children continue to be particularly vulnerable with regards to the effects of poverty, with poverty resulting in a lack of access to pre-school education, secondary education, and health insurance.¹¹ High unemployment rates and lack of opportunities have heightened the risk for children to be trafficked in BiH, where trafficking for the purposes of prostitution and CEFM exists.¹² Further, social exclusion serves as an obstacle to the realization of children's rights in BiH, with Roma children disproportionately affected by trafficking due to their low socio-economic status, low educational attainment, high unemployment and pervasive discrimination against them.¹³ Additionally, social welfare services find it difficult to render protection to victims of trafficking due to a lack of formal documentation, primarily birth registrations.¹⁴
6. In recent years, the sexual exploitation of children in prostitution has taken on new forms and patterns. In particular, in BiH there has been an increasing trend indicating victims of prostitution

are mostly children, and especially boys.¹⁵ Studies have also suggested that in BiH, a juvenile is more likely to be treated as a victim if the police viewed him or her as being cooperative, they had no prior criminal records, and if there is a significant presence of child exploiters within the officer's jurisdiction.¹⁶ The complex legal framework has led organized criminals to exploit the weaknesses of the system and continue their involvement via underground operations, resulting in the exploitation of children in prostitution taking place in motels, private houses and residences, unless victims are taken abroad.¹⁷

7. Though conducive to innovation and development, the increase in Internet availability in BiH has led to heightened risks of online child sexual exploitation. The misuse of available technologies allows perpetrators new avenues to exploit children, and the anonymity of the Internet facilitates opportunities for offenders to share and disseminate CSAM.¹⁸ A recent study in BiH showed that 48.5% of children received messages from unknown persons on the Internet, 23.1% responded to such messages and 11.4% agreed to have a live conversation with the person they met online.¹⁹ Law enforcement officers have also noted the role that the 'darknet' plays in online sexual exploitation.²⁰ Further, investigators from BiH have found literature online that trains potential sex offenders on how to communicate, gain trust and approach a child.²¹ Research indicates that poverty and societal perceptions allow room for online child sexual exploitation to occur, with perpetrators particularly targeting children from poor families.²²
8. Trafficking of children in BiH mostly occurs within the borders of the country, but there have been recent reports of cross-border trafficking for the purposes of sexual exploitation. These victims are being trafficked to chiefly European countries.²³ A report prepared by the State Coordinator for Combating Trafficking in Human Beings identified 83 victims of trafficking in 2017, of which 47 were children. 81 of these victims were nationals of BiH.²⁴ Roma children are particularly vulnerable to trafficking, and the State Coordinator's report notes that Roma women who are part of the human-trafficking network have been identified recruiting girls with disabilities for the purpose of sexual exploitation. The report also notes that rather than being treated appropriately as victims, there is evidence of children in prostitution eliciting little empathy.²⁵
9. As BiH's tourism industry steadily expands, the risk of SECTT grows. The 2016 Global Study on the Sexual Exploitation of Children in Travel and Tourism suggests that low-cost airlines, more travel for business and labour, cheaper forms of tourism and rapid tourism development often expose children to greater risks.²⁶ Media outlets in BiH have reported that human trafficking for the purposes of sexual exploitation may be going undetected in the city of Mostar due to the large number of yearly visitors.^{27, 28} Children from vulnerably economic families are often targeted, with these children being commodified and sold within the larger global markets of tourism, entertainment, advertisement and media.²⁹ As of the date of this report, three travel and tourism companies with operations in BiH – Adventure Travel 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).³⁰

10. CEFM remains an important issue in BiH, with UNICEF reporting in March 2018 that 4% of girls in the country were married before their 18th birthday between 2010 and 2017.³¹ Girls (10%) are much more likely to be victims of early and forced marriage than boys (less than 1%), and the proportion of child marriages that took place in rural areas was higher (12%) than in urban areas (5%).³² Circumstances such as poverty, protection of girls, family honour and the provision of stability during social periods are considered significant factors that push girls into early marriage.³³ Roma children are often subjected to early and forced marriages.³⁴ According to the Multiple Indicator Cluster Survey, 15% of Roma women aged 20-49 years were married before the age of 15 while 48% were married before the age of 18.³⁵ In 2017, the Human Rights Committee expressed its concern over the practice of arranged marriages involving Roma children and advised the GoBiH “to implement programmes specifically designed to reduce the incidence of child marriages and train prosecutors to investigate cases of early marriage linked to the trafficking in persons”.³⁶
11. During BiH’s previous UPR in 2014, the report of the Working Group formulated 17 recommendations related to children’s rights, of which 5 were directly related to SEC (two of these targeted CEFM and one targeted CSAM).³⁷ Of the 14 recommendations related to human trafficking, 7 addressed trafficking in children.³⁸ 3 of these recommendations included different manifestations of SEC in the context of trafficking.³⁹

Legislative framework

12. BiH’s legal framework reflects its decentralized organizational structure, wherein there are separate criminal codes for the state of BiH as a whole, the administrative units of RS and FBiH, and BD. Recently, the various criminal codes were amended to ensure compliance with the international conventions that the country has ratified. In principal, the legal framework of BiH renders protection to children in several cases of sexual exploitation; however, actual access to such protection often falls short due to a number of inefficient and ineffective systems for reporting, investigating, implementing activities, and prosecution.

Exploitation of children in prostitution

13. The legal framework of BiH fails to comprehensively address the exploitation of children in prostitution. While the issue of prostitution is touched upon in all of the criminal codes, the codes either do not meet the international legal standards of criminalizing all relevant elements of the act, or they do not provide a provision applicable to children specifically. While the Criminal Codes in the country outlaw “Enticement to Prostitution”,⁴⁰ they do not criminalize the offence of exploitation of children in prostitution specifically, as required by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (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 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 and Art. 189 of the RS Criminal Code offer provide for greater punishment to persons who commit the offense against children.

Online child sexual exploitation (OCSE)

14. Similarly, the legal framework for OCSE remains fragmented: the Criminal Code of BiH does not contain provisions that deal with OCSE-related offences, while the Criminal Codes of FBiH⁴¹ and BD⁴² criminalize the “abuse of a child or juvenile for pornography.” Both FBiH and BD punish any person who photographs or films a child for the purpose of pornography, imports or sells 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 country’s legal obligations under the OPSC.
15. In contrast to the above, the new Criminal Code of RS passed in 2017 has addressed the various forms of OCSE. This legislation firstly criminalises the production, dissemination, import, export, sale, distribution and possession of CSAM.⁴³ 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.⁴⁴ 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.

Sale and trafficking of children for sexual purposes

16. BiH has worked to harmonize the anti-trafficking laws as laid down in the Criminal Codes of BiH⁴⁵, FBiH⁴⁶, RS⁴⁷ and BD.⁴⁸ The provisions dealing with trafficking of children under all these Codes criminalize the acts of recruitment, solicitation, transportation, transfer, harbour and receipt of a child for the purpose of, *inter alia*, sexual exploitation. 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.⁴⁹ It also punishes any person who sexually exploits children with the

knowledge that the child was a victim of trafficking.⁵⁰ Despite this progress, several shortcomings remain. For instance, Art. 186 of the Criminal Code of BiH only criminalizes the trafficking of victims outside the country of his/her citizenship or residence, thereby not covering cases of trafficking that occur within the borders of the country. Further, while 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 and 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 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.

Sexual exploitation of children in travel and tourism (SECTT)

17. BiH has not taken measures to address SECTT explicitly. The link between tourism and sexual exploitation of children has not been raised as an issue in relevant national action plans and none of the administrative units of BiH have criminalised the sexual exploitation of children in travel and tourism. This remains a gap in the legal protection offered to child victims of sexual exploitation.

Child, early and forced marriages (CEFM)

18. The legal age of marriage in BiH is 18 and is enumerated in the legislation of all the administrative units. The Family Laws of FBiH,⁵¹ RS⁵² and the BD⁵³ 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 marriage 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 Criminal Codes of FBiH⁵⁴ and BD⁵⁵ do not criminalize early and forced marriage of a child but do criminalize marriage-like circumstances such as cohabitation with children. Moreover, all of the criminal codes uniformly criminalize the act of cohabitation of an adult with a juvenile below the age of 16 years, and a parent or guardian who has permitted or induced a minor to live in such a relationship shall be punished. However, the relevant provisions go on to provide that in case a marriage has been concluded between the parties, there is no criminal liability.
19. The legal framework on early and forced marriages of children described above is insufficient because the offences do not encapsulate the element of force or incapability of the child to render consent by virtue of their young age. A UNFPA report on child marriages in BiH found that social welfare centres, tasked with evaluating exceptional and justified cases of marriage of persons below 18 years, merely rubberstamp the cases in the face of a *fait accompli*.⁵⁶ Thus, applicants cohabit in common law marriages and wait to turn 16 years of age to get a legalised matrimonial contract from the court. The result is that existing family laws allow room for the de facto lowering of marital age to 16 years.⁵⁷

Extraterritorial jurisdiction and extradition law

20. The various Criminal Codes operating in BiH establish slightly different rules on extraterritorial jurisdiction. The Criminal Codes of BiH⁵⁸ and FBiH⁵⁹ apply to all citizens of BiH outside its respective territories ('active jurisdiction'). They also apply to all foreigners who commit a crime against the citizens of BiH ('passive jurisdiction'). The Criminal Codes of RS⁶⁰ and BD⁶¹ differ slightly in terms of extraterritorial jurisdiction. Both of these Criminal Codes apply only in regard to citizens of these two administrative units and 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.
21. Extradition is prescribed by the Law on Mutual Legal Assistance in Criminal Matters of BiH and only the Court of BiH has the authority to decide on extradition requests made to the country.⁶²

Recommendations to the GoBiH

- Revise the provisions on online child sexual exploitation across the administrative units to criminalize all forms of this crime, including grooming and online sexual extortion;
- Revise Art. 186 of the Criminal Code of BiH to criminalize the trafficking of victims within the borders of the country;
- Adopt specific legal provisions to define and criminalise the sexual exploitation of children in travel and tourism;
- Establish strong oversight of social welfare centres tasked with evaluating cases of marriage of persons below 18 years, in order to stamp out the widespread incidents of marriage between children.

General measures of implementation

National Actions Plans and overall Strategies

22. The GoBiH has not adopted a specific National Action Plan to tackle SEC. However, in 2015, the BiH Council for Children developed an Action Plan for Children 2015-2018⁶³ based on participatory and evidence-based research on the previous Action Plan 2011-2014. The Council of Ministers of BiH published a progress report in 2016 noting that activities were carried out in cooperation with Save the Children 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 via an educational teaching plan, programming and awareness campaigns for the public.⁶⁴ However, reports show that lack of resources and lack of coordination among authorities have hampered the implementation of the Plan.⁶⁵

23. Additionally, the Action Plan for Combating Trafficking in Human Beings of BiH is in place for the period of 2016-2019. The goals of this plan include improving the system of support for fighting against trafficking, effective prosecution of trafficking cases, prevention, protection and assistance to victims.⁶⁶

Coordination and Evaluation

24. The GoBiH has not established a dedicated body to coordinate efforts against SEC. However, 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 2013 as a body of the Council of Ministers (CoM) responsible for monitoring the Convention on the Rights of the Child and creating a new Action Plan for Children.⁶⁷ In October 2015, the Council for Children established three expert working groups to harmonize legislation and promote children's rights to education, non-discrimination, and the best interests of the child and other special protection measures. These groups worked on implementing the activities listed in the Action Plan.⁶⁸
25. As per the legal framework of the country, there are separate Councils for Children in each administrative unit. This often creates problems due to the different interpretations of the role and mandate of the Council.⁶⁹ The Councils encourage and participate in the making of strategies on violence against children.⁷⁰ These activities are carried out through working groups that work on specific issues. Crucially, the lobbying efforts of these Councils led to the removal of reservations on Art. 9⁷¹ of the CRC.⁷²

Recommendations to the GoBiH

- Adopt a national plan of action to address all manifestations of sexual exploitation of children and provide adequate human and financial resources for its implementation;
- Establish a working group under the Council for Children explicitly tasked with coordinating efforts to combat the sexual exploitation of children.

Prevention

Training and awareness raising

26. BiH has conducted and participated in several training and awareness raising programmes to combat SEC, as detailed in its combined 5th and 6th report on the implementation of the CRC.⁷³
27. Under the Comprehensive Approach to Addressing the Problem of Child Pornography in BiH, NGOs, including IFS-EMMAUS and Udružene žene of Banja Luka, organized educational workshops for children, parents and teachers in elementary schools throughout BiH.⁷⁴ The result was the creation of a portal (www.sigurnodijete.ba) that contains educational information on safe Internet

usage for children, parents, and the general public. An additional portal was developed for teachers and educators (www.e-school.sigurnodijete.ba).

28. IFS-EMMAUS also established a hotline for reporting CSAM in 2010, and became a member of the International Association of Internet Hotlines, a network of 45 Internet reporting hotlines in 40 countries.⁷⁵ Further efforts by IFS-EMMAUS included initiating and founding the SID (Safer Internet Day) Committee of BiH⁷⁶ and implementing ten webinars in 2017 for more than 100 professors and teachers on the topic “Preventing the Negative Impacts of the Internet on Children – Family Safety”.⁷⁷
29. Additionally, the Ombudsperson for Children of RS launched a website (www.djecanainternetu.org) which contained the feature of a “Brave Inbox” (“Hrabro sanduče”)⁷⁸ allowing children and adults to use the portal anonymously to ask for help, report unpleasant situations and suggest activities.⁷⁹ 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 many types of violence, including cyber violence. Based on the Ombudsperson’s recommendations, the Ministry of Education and Culture of RS and the RS Pedagogical Institute introduced the topic of violence against children in the education curriculum of students from 2nd to the 9th grade.⁸⁰

Participation of children

30. Per the Constitution, the right to voice one’s opinion is conferred on all persons in the jurisdiction of BiH, regardless of age.⁸¹ However, there have been few instances of child participation, and the implementation of this right has been limited due to long and complicated court proceedings.
31. The Social Protection and Inclusion System for Children (SPIS Programme) was created by UNICEF in collaboration with all the relevant ministries and civil society partners of BiH. It is an interdisciplinary programme that focuses on improving social protection, social inclusion and child rights. SPIS programmes include Participatory Action Research groups which consists of children who are involved in the process of enhancing social protection and inclusion in targeted municipalities.⁸² Over 300 adolescents in about 20 municipalities 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 local authorities and service providers.⁸³ UNICEF also supported the government in the implementation of 5 adolescent-led action plans that were aimed at improving social inclusion of schools and communities in the Birac region of RS.⁸⁴
32. The 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 emphasized the importance of ensuring adequate participation of children and their parents when making decisions regarding the exercise of the rights and interests of children.⁸⁵

Protection of the rights of the child

National complaint mechanisms

33. The Optional Protocol to the Convention on the Rights of the Child on a communications procedure was ratified by BiH on 17 May 2018, fulfilling the recommendations suggested by Portugal and Slovakia during the previous UPR.⁸⁶
34. Domestically, the legal system allows children to report crimes to the police and there is no lower age limit that could prevent them from doing so. Police officers working with children are required to take specialized training and become certified to work with child offenders and child victims/witnesses.⁸⁷ Prosecutors may also receive complaints directly from children and must undergo similar training and certification. Research indicates that children are usually accompanied by a parent or guardian when reporting a crime.⁸⁸
35. 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.⁸⁹ In addition to the Ombudsman, there is an office of the State Coordination for Combating Trafficking in Human Beings. However, neither authority focuses on the sexual exploitation of children specifically, resulting in no specialized government agency that is trained and mandated to deal with the sexual exploitation of children in particular.

Child-sensitive justice

36. The Law on Protection of Witnesses under Threat and Vulnerable Witnesses aims to protect children in court proceedings via Art. 3(2), stating 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, and a child and a juvenile.”⁹⁰ Chapter II of this statute provides various witness protection measures including access to psychological, social assistance, professional help⁹¹ and witness protection hearings.⁹² All three administrative units have adopted laws to protect witnesses in criminal proceedings, affording protection to child witnesses through the possibility of giving in-camera testimony, removal of accused during the testimony, and measures to provide anonymity. It should be noted that that these protection measures are not uniformly provided across the country, as was criticised by the Council of Europe.⁹³ Research also suggests that the mechanisms and resources allocated to ensure that justice proceedings are child-sensitive are insufficient.⁹⁴
37. 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.⁹⁵ Further, the Criminal Code of BiH imposes an affirmative duty upon medical workers,

teachers, pedagogues, parents, foster parents, adoptive parents and other persons authorized or obligated to provide protection and assistance to children.⁹⁶ Justice sector professionals have expressed concern about gaps in this regard due to lack of adequate responses to allegations of misconduct, and research suggests that school officials fear that the school will gain a poor reputation from such complaints and dismiss individuals without investigation.⁹⁷ Similarly, schools occasionally fail to recognize and address the problematic behaviour of a child and instead respond authoritatively by removing the child from the school, as was the case when a boy was expelled from school due to excessive unexcused absence, only for it later to emerge he was a victim of sexual abuse.⁹⁸

Access to recovery and reintegration

38. The Department for Combatting Trafficking in Human Beings coordinates with all of the administrative units, as well as NGOs, in the fight against human trafficking. In this capacity, it provides direct assistance to the victims and witnesses of human trafficking and has developed various guidance documents to assist officials and social workers, including the Manual for Direct Assistance to Victims of Trafficking,⁹⁹ Guidelines on the Treatment of Victims of Human Trafficking,¹⁰⁰ Practicum Training Program for Social Workers,¹⁰¹ Handbook for Professionals to Protect Children from Trafficking¹⁰², Manual for Judges and Prosecutors on Compensation for Victims of Trafficking in Human Beings in Bosnia and Herzegovina,¹⁰³ and the Child Friendly Guidelines on Prevention of Violence Against Children in Bosnia and Herzegovina (2017).¹⁰⁴
39. In addition to the above, the association Nova Generacija manages a reception centre for children and provides direct assistance to children who have been exploited or abused. This association is a member of the regional monitoring team for the fight against human trafficking in the country. They have initiated activities relating to the establishment of Safe Houses for child victims of sexual abuse and trafficking.¹⁰⁵
40. IFS-EMMAUS 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 has been the sole NGO associate member to the National Strike Force against Trafficking in Human Beings. IFS-EMMAUS also 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.¹⁰⁶

Access to compensation

41. The Criminal Procedure Codes stipulate that the prosecutor and the court should inform the injured party about their right to file a compensation claim for material or non-material damages

suffered as a result of crime.¹⁰⁷ 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 claim if in their opinion it might “considerably delay proceedings”. In such circumstances, the victims are encouraged to bring a separate civil suit for compensation claims.¹⁰⁸ 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 to this day.

42. Victims are usually advised to file separate civil suits following criminal proceedings¹⁰⁹ 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.¹¹⁰ 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.¹¹¹
43. 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. As a result, the system of compensation through civil proceedings is not only cumbersome but is also insensitive to the experiences of a child victim of sexual exploitation.¹¹² 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.¹¹³ Representatives of the judiciary of BiH have said this system of compensation is 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.¹¹⁴ Likewise, justice sector professionals have expressed that it is common practice to inform children about their right to compensation in legalistic language that children and their parents cannot understand.¹¹⁵ 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.¹¹⁶ Further, the Laws on Witnesses Protection includes a provision of the right to legal aid for vulnerable witnesses, but this provision is rarely used in practice.¹¹⁷
44. In 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 part of the campaign, a multilingual website (www.astra.rs/en/balkans-act-now) was established with interactive content and useful

information on the topic. Additionally, 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 addressed a Draft Law on Assistance and Compensation of Victims of Human Trafficking in BiH within the Balkans ACT (Against Crime of Trafficking) Now! project to the Ministry of Justice, thereby initiating the legal process of establishing a law on this matter.¹¹⁸

Recommendations to the GoBiH

- Expand the mandate of Safe Houses to also include victims of other crimes related to the sexual exploitation of children and allocate funds to improve the resources of such institutions;
- Establish a State fund for the compensation of child victims of sexual exploitation and facilitate claims of compensation during the course of criminal proceedings.

International Cooperation

45. BiH has steadily worked towards fulfilling its international and regional commitments on the prevention of sexual exploitation of children, and the international conventions ratified by BiH prevail over national legislation because they are conferred with the powers of a constitutional norm according to the Dayton Peace Agreement.¹¹⁹ The country has been making progress with its international and regional commitments by modifying existing legislation to meet such international standards.¹²⁰ However, insufficient implementation of its international commitments can mainly be attributed to lack of adequate allocation of financial and human resources to the task.¹²¹
46. GoBiH is scheduled for a voluntary National Review on the implementation of the UN Sustainable Development Goals for the year 2019.
47. 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.¹²² 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.¹²³ 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.¹²⁴

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- ¹ Human Rights Council. (2014). "[Report of the Working Group on the Universal Periodic Review: Bosnia and Herzegovina](#)", A/HRC/28/17, 4 December 2014, accessed on 28 February 2019.
- ² Sustainable Development Goal Targets 5.2, 8.7, and 16.2.
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