

# BOSNIA AND HERZEGOVINA

## Government Policies and Programs to Eliminate the Worst Forms of Child Labor

While the Government of Bosnia and Herzegovina<sup>511</sup> does not have programs specifically targeting the elimination of the worst forms of child labor, it is participating in efforts to combat child trafficking. In December 2002, it signed a joint declaration with 12 other southeastern European nations to better assist victims of trafficking.<sup>512</sup> The IOM and UNICEF, among others, have developed their own assistance and prevention programs within the country. The IOM, in cooperation with government authorities, the UN and NGOs, operates a project to protect and assist trafficking victims by providing them with transportation, housing and financial assistance. The project targets women and children working in the commercial sex industry.<sup>513</sup> The IOM also trains government officials in counter trafficking methods, law enforcement, and the proper treatment of victims.<sup>514</sup> In its project on protection from extreme forms of violence, UNICEF is working with the various government bodies dealing with children's issues to assess how to better protect children at risk for being trafficked or who are trafficking victims.<sup>515</sup> In 2003, the government established a National Coordinator's Office to Combat Trafficking.<sup>516</sup> In addition, UNICEF continues to work with the Ministries of Education of Bosnia and Herzegovina's two entities to implement a project providing access to essential services for vulnerable groups, which has as one of its goals to increase the enrollment and retention of minority Roma children in the education system.<sup>517</sup>

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<sup>511</sup> The 1995 Dayton Accords established two distinct entities within Bosnia and Herzegovina: the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS).

<sup>512</sup> Alban Bala, *Southeastern Europe: Governments Shift Their Focus in Fighting Human Trafficking*, Radio Free Europe: Radio Liberty, [online] 2002 [cited December 13, 2002]; available from <http://www.rferl.org/nea/features/2002/12/13122002200939.asp>. The Government of Bosnia and Herzegovina is a member of the Southeast European Cooperative Initiative, and has participated in regional anti-trafficking efforts through the initiative's Regional Center for Combating Transborder Crime. See SECI Regional Center for Combating Transborder Crime, *SECI States*, [online] December 12, 2003 [cited January 6, 2004]; available from <http://www.secicenter.org/html/index.htm>. See also SECI Regional Center for Combating Transborder Crime, *Operation Mirage: Evaluation Report*, Bucharest, January 21, 2003; available from <http://www.secicenter.org/html/index.htm>.

<sup>513</sup> The majority of assistance projects within Bosnia and Herzegovina are carried out by international organizations and NGOs, with the government authorities playing minor roles. In 2004, the government should assume responsibility for a project in Sarajevo to shelter and assist TIP victims. The IOM has assisted 590 trafficked women and children since August 1999. Approximately 11 percent were girls under the age of 18. See IOM, *Shelter and Return of Trafficked Girls and Women in BiH*, [online] 2003 [cited June 24, 2003]; available from <http://www.iom.ba/Programs/OnGoing/trafficking.htm>. See also Human Rights Watch, *HOPES BETRAYED: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*, Washington, D.C., November 2002, 4; available from <http://www.hrw.org/reports/2002/bosnia>.

<sup>514</sup> IOM, *Service Areas: Counter Trafficking*, [online] 2003 [cited July 8, 2003]; available from <http://www.iom.ba>.

<sup>515</sup> UNICEF, *Bosnia and Herzegovina: UNICEF in Action*, [previously online] 2003 [cited June 24, 2003]; available from <http://www.unicef.org/programme/highlights/cee/bosnia/support.htm> [hard copy on file].

<sup>516</sup> U.S. Embassy- Sarajevo, electronic communication to USDOL official, February 20, 2004.

<sup>517</sup> UNICEF, *Bosnia: UNICEF in Action*. See also United Nations Mission in Bosnia and Herzegovina, *UNICEF - United Nations Children's Fund*, [online] 2001 [cited September 10, 2003]; available from <http://www.unmibh.org/unfam/unicef.asp>.

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## Incidence and Nature of Child Labor

In 2000, UNICEF estimated that 17.7 percent of children ages 5 to 14 years in Bosnia and Herzegovina were working.<sup>518</sup> Children occasionally assist their families with farm work and various jobs, and Roma children beg on the streets in Sarajevo.<sup>519</sup> The prostitution and trafficking of girls remains a problem.<sup>520</sup> Reports indicate that there are isolated cases of children as young as 13 and 14 years old from Eastern Europe and the former Soviet Union who are trafficked to Bosnia and Herzegovina and sold into prostitution.<sup>521</sup>

Education is free and compulsory until age 15.<sup>522</sup> The right to education is guaranteed by the constitutions of the country's two political entities, the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS), but each entity established compulsory education requirements in its own specific laws.<sup>523</sup> In 1998, the gross primary enrollment rate was 103.6 percent, and the net primary enrollment rate was 97.4 percent.<sup>524</sup> In 2000, the primary attendance rate was 94 percent.<sup>525</sup> A lack of reliable official statistics on attendance and level of school completed, however, hinder efforts to ensure that all school age children receive an education.<sup>526</sup> Access to education remains

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<sup>518</sup> Children who are working in some capacity include children who have performed any paid or unpaid work for someone who is not a member of the household, who have performed more than four hours of housekeeping chores in the household, or who have performed other family work. Less than 1 percent of children between ages 5 and 14 were paid for their employment, 6 percent of children participated in unpaid work for someone other than a family member, and 15 percent of children worked on the family farm or in the family business. See Government of Bosnia and Herzegovina, *Multiple Indicator Cluster Survey 2 (MICS 2): Bosnia and Herzegovina*, UNICEF, [online] 2000 [cited June 24, 2003]; available from [http://www.ucw-project.org/cgi-bin/ucw/Survey/Main.sql?come=Tab\\_Country\\_Res.sql&ID\\_SURVEY=169](http://www.ucw-project.org/cgi-bin/ucw/Survey/Main.sql?come=Tab_Country_Res.sql&ID_SURVEY=169). See also Government of Bosnia and Herzegovina, *Household Survey of Women and Children in Bosnia and Herzegovina 2000: A Multiple Indicator Cluster Survey: B&H MICS 2000*, UNICEF, May 29 2002, 54; available from <http://www.childinfo.org/MICS2/newreports/bosniaherzegovina/b&h.pdf>.

<sup>519</sup> U.S. Department of State, *Country Reports on Human Rights Practices- 2002: Bosnia and Herzegovina*, Washington, D.C., March 31 2003, Section 6d; available from <http://www.state.gov/g/drl/rls/hrrpt/2002/18356.htm>.

<sup>520</sup> According to the State Department, estimates of the number of trafficking victims are not considered reliable and vary considerably. Data collected by the United Nations Mission in Bosnia and Herzegovina and the IOM indicate that between 750 to 900 females were thought to be coerced or deceived into prostitution in 2002. Of these, between 10 to 15 percent were under the age of 18. According to LARA, a leading NGO in Bosnia and Herzegovina that combats trafficking, estimates range as high as 2,000 trafficked women and children. See *Ibid.*, Section 6f. See also Human Rights Watch, *Human Rights Watch Trafficking Report for BiH*, 11-12. See also Martina E. Vandenberg Human Rights Watch, *Testimony on Trafficking of Women and Girls to Bosnia and Herzegovina for Forced Prostitution*, House Committee on International Relations, Subcommittee on International Operations and Human Rights, Washington, D.C., April 24 2002, 1.

<sup>521</sup> The majority of trafficked women and girls in Bosnia come from Moldova, Romania, and Ukraine. See IOM, *Shelter and Return of Trafficked Girls*. See also U.S. Department of State, *Country Reports- 2002: Bosnia and Herzegovina*, Section 6f. See also Emir Imamovic, "Bosnian Brothels Flourish," *Balkan Crisis Report*, No. 201 (December 6, 2000). See also Alix Kroeger, "Vice Bars Raided in Bosnia," *BBC News*, March 3, 2001.

<sup>522</sup> U.S. Department of State, *Country Reports- 2002: Bosnia and Herzegovina*, Section 5. See also *Constitution of Republika Srpska*, Article 38; available from [http://www.ohr.int/const/rs/default.asp?content\\_id=5908](http://www.ohr.int/const/rs/default.asp?content_id=5908). See also *Constitution of the Federation of Bosnia and Herzegovina*, (May 8, 1997), Section II(A), Article 2(1)(m); available from [http://www.ohr.int/const/bih-fed/default.asp?content\\_id=5907](http://www.ohr.int/const/bih-fed/default.asp?content_id=5907). See also *Statute of the Brcko District of Bosnia and Herzegovina*, (2000), Article 16; available from <http://www.ohr.int/ohr-dept/legal/const/doc/brcko-statute.doc>.

<sup>523</sup> Article 2(3)(l) of the Constitution of Bosnia and Herzegovina establishes the right to education for all persons, but compulsory education laws and curricula are established by the entities. The GFAP Annex 4 Article III lists the responsibilities of the institutions of BiH and the entities. GFAP Annex 4 Article III 3(a) states that "all government functions and powers not expressly assigned in this Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entity." Consequently, the entities, not the state-level government, are responsible for such matters as education, health, and intra-entity law enforcement. In the FBiH, each of the 10 cantons also is responsible for health and education. Currently, the two entities have differing curricula, but an agreement has been reached to develop a common curriculum. See *The General Framework Agreement: Annex 4: Constitution of Bosnia and Herzegovina*, (December 14, 1995); available from [http://www.ohr.int/dpa/default.asp?content\\_id=372](http://www.ohr.int/dpa/default.asp?content_id=372). See also UNICEF, *UNICEF Consolidated Donor Report for Southeastern Europe: Bosnia and Herzegovina: January-December 2000*, Area Office of the Balkans, March 2001; available from <http://www.unicef.org/balkans/donrep-seeur-2000.pdf> [hard copy on file].

<sup>524</sup> UNESCO, *Education for All: Year 2000 Assessment* [CD-ROM], Paris, 2000.

<sup>525</sup> Government of Bosnia and Herzegovina, *Household Survey of Women and Children in Bosnia*, 25.

<sup>526</sup> U.S. Embassy- Sarajevo, electronic communication.

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limited in war-affected areas, where one-third to one-half of schools have been destroyed.<sup>527</sup> The quality of education in rural areas has deteriorated, and in some areas more girls are quitting primary school than in the past.<sup>528</sup> Tension among different ethnic communities and local policies favoring citizens in the ethnic majority also prevent minority or refugee children from attending school in these regions.<sup>529</sup> Efforts to address these issues, including implementation of the 2002 Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children, have led to modest improvements in a number of cases.<sup>530</sup>

## Child Labor Laws and Enforcement

In both FBiH and RS, the Labor Law sets the minimum age for employment at 15 years, and minors between the ages of 15 to 18 must provide a valid health certificate in order to work.<sup>531</sup> Also, in both entities, children are prohibited from performing hazardous and overtime work.<sup>532</sup> Night work by minors is also banned, although temporary exemptions may be granted by the labor inspectorate in regards to machine breakdowns, the elimination of consequences of force majeure, and protection of the political entity.<sup>533</sup> In FBiH, an employer found in violation of the above prohibitions must pay a fine ranging from 2,000 to 14,000 convertible marks (USD 1,273 to 8,917).<sup>534</sup> In the RS, fines range from 1,000 to 10,000 convertible marks (USD 637 to 6,396) for hiring children under the age of 15 and requiring overtime work or hazardous work of a minor.<sup>535</sup> The fines are raised to 2,000 to 15,000 convertible marks (USD 1,273 to 9,554) for employers who allow underage workers to work at night.<sup>536</sup>

On March 1, 2003, the Criminal Code of Bosnia and Herzegovina came into effect, criminalizing human trafficking. Anyone taking part in the recruitment, transfer, or receipt of persons through the use of threat, force, coercion, abduction, fraud, or deception shall be punished with imprisonment from 1 to 10 years. If the victim is a child under the age of 18, the perpetrator is to be imprisoned to a term of not less than 5 years.<sup>537</sup> Under the Criminal Codes of the two entities and the Brcko District, procuring a juvenile or seeking opportunity for illicit

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<sup>527</sup> UNICEF, *UNICEF Consolidated Donor Report*, 59.

<sup>528</sup> U.S. Embassy- Sarajevo, electronic communication.

<sup>529</sup> U.S. Department of State, *Country Reports- 2002: Bosnia and Herzegovina*, Section 5.

<sup>530</sup> While students and faculty of different ethnic groups began to share the same school facilities, their classes were on different floors or they attended in shifts. Students of different ethnic groups did not interact with each other. See *Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children*, (March 5, 2002); available from <http://www.unhcr.ba/protection/refugees&dp/agreem~1.PDF>. See also U.S. Department of State, *Country Reports- 2002: Bosnia and Herzegovina*, Section 5.

<sup>531</sup> *The Labour Law (FBiH)*, Issue No. 43, (October 28, 1999), Article 15 as revised by *Decree on Promulgation of the Law on Amendments to the Labour Law*, No. 01-447/2000, (August 15, 2000), Article 12. See also *The Labor Law (RS)*, (November 8, 2000), Article 14.

<sup>532</sup> *The Labour Law (FBiH)*, Articles 15, 32, and 51. See also *The Labor Law (RS)*, Articles 14, 41, and 69.

<sup>533</sup> The Labor Law of the BiH Federation refers to protections of the interests of the Federation, while the Labor Law of the RS refers to protection of the interests of the Republic. See *The Labour Law (FBiH)*, Article 36. See also *The Labor Law (RS)*, Article 46.

<sup>534</sup> See *The Labour Law (FBiH)*, Article 140 as revised by *Decree on Promulgation of the Law on Amendments to the Labour Law*, No. 01-447/2000, (August 15, 2000), Article 49. As of December 31, 2003, 1 USD = 1.57 convertible marks (KM). See Central Bank of Bosnia and Herzegovina, *Currency Exchange*, [online] [cited December 31, 2003]; available from <http://www.cbbh.gov.ba/en/list.shtml>.

<sup>535</sup> *The Labor Law (RS)*, Article 150.

<sup>536</sup> *Ibid.*

<sup>537</sup> *The Criminal Code of Bosnia and Herzegovina*, (March 1, 2003), Article 186; available from <http://www.ohr.int/decisions/judicialrdec/doc/HiRep-dec-101-law-crim-code-bih.doc>.

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sexual relations with a juvenile is specifically prohibited.<sup>538</sup> On October 14, 2003, the Law on Movement and Stay of Foreigners and Asylum entered into force. The law's implementing regulations address the provision of services to trafficking victims.<sup>539</sup> There have been allegations of both local law enforcement and international police facilitation of the trafficking of women.<sup>540</sup>

The Government of the Republic of Bosnia and Herzegovina ratified ILO Convention 138 on June 2, 1993, and ratified ILO Convention 182 on October 5, 2001.<sup>541</sup>

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<sup>538</sup> In FBiH, persons caught recruiting or luring juvenile females into prostitution face imprisonment between 1 and 10 years, while having sexual intercourse with a child under the age of 14 is punishable by imprisonment between six months and five years. The FBiH Criminal Code mandates between 6 months and 10 years imprisonment for those convicted of rape or forced sexual intercourse. In the RS, the punishment for persons convicted of rape or having sexual intercourse with a child is imprisonment for 3 to 15 years. Under the RS Criminal Code, an imprisonment term of 1 to 12 years is authorized for individuals who for profit compel or lure persons under the age of 21 into offering sexual services, including by threat or use of force or by abusing the situation originating from the persons' stay in another country. In practice, traffickers are sentenced in Bosnia and Herzegovina usually to imprisonment for no more than six to eight months. See *Criminal Code of the Federation of Bosnia and Herzegovina*, (November 20, 1998), Articles 221, 22, 24, and 29; available from [http://www.ohr.int/ohr-dept/legal/crim-codes/default.asp?content\\_id=5130](http://www.ohr.int/ohr-dept/legal/crim-codes/default.asp?content_id=5130). See also *Criminal Code of the Republika Srpska*, (July 31, 2000), Articles 185 and 88; available from [http://www.ohr.int/ohr-dept/legal/crim-codes/default.asp?content\\_id=5129](http://www.ohr.int/ohr-dept/legal/crim-codes/default.asp?content_id=5129). See also *Criminal Code of the Brcko District of Bosnia and Herzegovina*, (June 2000), Articles 209 and 12; available from <http://www.ohr.int/ohr-dept/legal/crim-codes/doc/bd-criminal-code.doc>. See also U.S. Department of State, *Trafficking in Persons Report*, Washington, D.C., June 11 2003; available from <http://www.state.gov/g/tip/rls/tiprpt/2003/21275.htm>. See also U.S. Department of State, *Country Reports- 2002: Bosnia and Herzegovina*, Section 6f.

<sup>539</sup> U.S. Embassy- Sarajevo, electronic communication.

<sup>540</sup> In 2002, 26 local police officers were decertified by the United Nations Mission in Bosnia and Herzegovina as a result of investigations related to trafficking, and another 25 police officers are under investigation by the Interior Ministry. In addition, 10 members of the Stabilization Force were detained in a raid on a Sarajevo bar. See U.S. Department of State, *Country Reports- 2002: Bosnia and Herzegovina*, Section 6f.

<sup>541</sup> ILO, *Ratifications by Country*, in ILOLEX, [database online] [cited July 9, 2003]; available from <http://www.ilo.org/ilolex/english/newratframeE.htm>