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**Gender analysis related to the Horizontal Facility action (HF20):
“Preventing and Combating Trafficking in Human Beings in Bosnia and
Herzegovina”**

Summary and Recommendations

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EXECUTIVE SUMMARY

Labour exploitation, from a gender perspective, remains underregulated (laws and bylaws), underrepresented (strategic and action documents), and consequently marginalised in practice. Victims are not visible as women and men or girls and boys, except in sexual exploitation, where victims are predominantly women. Some data implies that labour exploitation may actually be more prevalent than sex trafficking but has likely been comparatively under-detected so far, and thus is underrepresented in official statistics. In understanding the need for integrating agender dimension into the fight against labour and sexual exploitation, it has to be emphasised that trafficking in human beings (THB) crimes are based on unequal power relations and thus require a gendered response.

It is difficult to determinate gender tendencies in labour exploitation due to poor, not systematic and fragmented data collection. THB is grounded on unfair labour, gender and class relations. Yet, anti-trafficking measures have failed to address the causes of vulnerability, particularly for women and girls in the informal sector. Same applies for men – lack of reported, identified male victims lead to the erroneous belief that men are strong and less exposed to labour exploitation. This prevents the use of efficient tools, knowledge, and activities to avert and combat labour and sexual exploitation. Gender-based discrimination is also present in access to safe accommodation for men.

In line with the available data, labour exploitation in Bosnia and Herzegovina (BiH) has a female face. Women are most exposed to labour exploitation as a form of THB, even girls dominate the statistics of victims of labour exploitation. Labour exploitation is not recognized (neither by institutions nor by victims) and is considered to occur exclusively 'across the border' and not in BiH. Given the general position of women in BiH society, the prevalence of this form of THB for women is not surprising. However, it is worrying how many perfidious, personal and intimate circumstances put women in the position of victims of labour exploitation, as well as the fact that labour and sexual exploitation are often much intertwined. Women from a position of a 'vulnerable group' in society based on economic, social, traditional dependence are becoming easy targets for THB. Not only that: the complexity of the whole occurrence of THB makes it much more difficult for women to get out. This is due to economic, social, traditional, and moral assumptions that, in combination with the slow and inefficient legal procedures, make it difficult for the victim to reintegrate and recover. The position of men as potential victims is still mostly unknown, and they are not been perceived as particularly vulnerable to labour and sexual exploitation. Traditional gender roles are reflecting here too, but from different viewpoint – masculinity. Stereotyping hampers victims' credibility, hindering their access to identification, protection, support and justice.

Legal proceedings take a long time and are not effective. The positions of the victim and the perpetrator of THB are still unacceptably treated in legal proceedings. The principle of impunity for the victim is not respected, low penalties are imposed for the perpetrators, no compensation is awarded in criminal proceedings; instead victims are referred to civil upon termination of criminal proceedings. Women and men, boys and girls have been denied the subsidiary role of the prosecutor in criminal proceedings, further weakening the victim's position. There is a lack of gender sensitive legal provisions on witness protection and assistance, and a low level of awareness exposes victims to additional traumatization and victimization. The particularly grave acts of labour and sexual exploitation to which women and girls are exposed are not sufficiently understood by society and institutions to accommodate the victims and thematise causes in addition to consequences. Prevention is mainly carried out by the civil sector and campaigns conducted by the state should be more than one-off events, clearer, more useful and understandable for potential victims. The poor state of women's

labour rights in BiH actually obscures labour exploitation as a form of THB, which requires greater involvement and accountability from the trade union and the private and business sectors.

INTRODUCTION

This gender analysis is focused on trafficking in human beings (THB) in Bosnia and Herzegovina (BiH), in particular in respect of labour exploitation and child trafficking. Gender analysis provides additional information to the Council of Europe (CoE) to identify current gender inequalities in the anti-trafficking field and to detect differences at all levels (at grass root, institutional and national policies level). Such analysis aims to further help to propose enhanced tailor-made measures during the implementation stage and to enhance gender equality between women and men through the planned intervention. This analysis provides a set of concrete gender-specific recommendations to support the CoE HF20 action and beneficiary institutions in the implementation of the selected GRETA recommendations relevant to the scope of the HF20 action in a holistic approach to human rights.

In accordance with the CoE *Convention on Action against Trafficking in Human Beings*, GRETA report (2017) and BiH's legal framework, gender analysis provides information and data necessary to integrate a gender perspective into policies, programmes and activities regarding THB in BiH. The purpose of gender analysis is to identify and address gender inequalities, by (1) ensuring that the different needs of women and men are clearly identified and addressed at all stages of the policy cycle; (2) recognising that policies, programmes and projects can have different effects on women and men; (3) seeking and articulating the viewpoints of women and men and making their contribution a critical part of developing policies, programmes and projects; and (4) promoting better informed, gender-responsive and effective interventions.

The gender analysis brings to the light (1) Existing legal and policy framework on THB, in particular for the purpose of labour exploitation and trafficking in children, and the extent to which it takes into account gender perspective and focuses on differences in needs of women, men, girls and boys; (2) Relevant actions/measures taken by the government, national institutions and agencies, to address gender inequalities, gaps and vulnerabilities in the given field; (3) Situation of women and men and existing differences in the roles, situation, conditions, needs, participation, access to resources, control of assets, decision-making powers etc. within the context and purpose of labour exploitation and child trafficking, as well the existing national capacities to respond to the gender inequalities or vulnerabilities associated with anti-trafficking that the action should address; and (4) Information on systemic causes of trafficking in human beings for the purpose of labour exploitation and child trafficking from a gender perspective.¹

METHODOLOGY

Methodology used in this research study included:

(1) *Desk review* of quantitative and qualitative information on the topic permitting to understand the current situation of women, men, boys and girls related to trafficking in human beings in Bosnia and Herzegovina, in particular trafficking for the purpose of labour exploitation and child trafficking, and possible inequalities to be addressed through the action and

¹Terms of Reference: Gender analysis related to the Horizontal Facility action (HF20) "Preventing and Combating Trafficking in Human Beings in Bosnia and Herzegovina".

(2) Semi-structured *interviews* with the following types of respondents, using interview guides that will measure knowledge, attitudes, and experiences (a. Institutions responsible for implementing the relevant legal framework in BiH regarding their knowledge, attitudes and experiences in drafting policies incl. strategies, law implementing, data collection. b. CSOs working in the field (data, experience, knowledge). c. other relevant stakeholder (comparative practice, education, experience, data collection).

Sampling for interviews included relevant institutions and non-institutional stakeholders in accordance with assignment. In determining the sample, the following parameters were taken into account: territorial representation, representation by jurisdiction, representation by sector.

Recommendations

Conducted Gender Analysis provided a set of concrete gender-specific recommendations. These recommendations are providing suggestions of remedial actions related to various aspects and areas of impact that are related to gender perspective. Specific recommendations are as follows:

Legal Framework

- Revise regulations, from a gender perspective, that have the effect of exempting domestic workplaces entirely from inspections and improve the system for reporting of labour exploitation cases (including anonymous reporting).
- Raising awareness campaigns on risks posed by false employment agencies for working abroad, supporting the identification of risks and reporting suspicious ads (especially for young women and men).
- Advocate for the introduction into the laws of a criminal procedure of the injured party/victims as a subsidiary prosecutor.
- Strategic and action documents in terms of labour exploitation should be developed based on an evaluation of their implementation for previous periods and follow findings related to forms and gender dimension of cases. Gendered forms of labour exploitation should be reflected in aims as well as measures.
- Provide a gender-based assessment and evaluation of action plans implementation with measurable effects of activities and success of measures referring to 4.3. and 2.4. section of *2020-2023 Strategy for combating trafficking in human beings*.
- National action plans on THB should be gender sensitive and contain indicators, benchmarks, timeframes and specific budgets which can be monitored and evaluated from a gender perspective.
- All anti-trafficking measures in relation to identification, support and assistance and access to justice, should be specific and appropriate to the specific needs of women and men, boys and girls.
- Raising awareness on the importance of including a gender sensitive approach and legislation among institutional stakeholders.

Prevalence

- Provide sex-disaggregated data in official reports, strategies and action plans for each form of THB registered for reporting period.

- Collect and provide data on BiH victims of THB to foreign countries; secure sex-disaggregated data for each form of THB.
- Usage of data on prevalence to create gender sensitive measures and indicators for preventing and combating labour exploitation.
- Usage of data on prevalence to develop and/or improve a gender sensitive approach in the identification, communication and assistance to victims by different institutions.
- Develop systematic sex-disaggregated data collection for previously identified at-risk groups and/or intersection discrimination (Roma, people with disabilities, young women and men).

Institutional response and role of CSOs

- An awareness of gender-specific needs should be highlighted in all relevant regulations treating assistance, witnessing, and treatment of victims of THB, for all stakeholders.
- Provided efficient legal assistance is based on an early legal intervention model. It should be available to victims immediately after their initial contact with the authorities. It should be provided by a person with appropriate training and expertise, including gender-expertise.
- All interviews with female and male victims should be conducted in a gender sensitive manner involving minimum: conducted by an interviewer of the chosen gender of the interviewee, gender of an interpreter (where applicable), minimises the risk of secondary harm to victims (for example by minimising the number of interviews that victims must undertake).
- Gender-based discrimination in access to accommodation must be eliminated.

Reintegration and recovery programmes for victims

- Any discontinuation of services could have a significantly negative impact on the women and men, boys and girls victims of labour and sexual exploitation, and make them more vulnerable to re-trafficking. Support and follow ups should be provided especially in cases where limited assistance is provided (particularly for begging and sexual exploitation cases).
- Budget planning should be gender-responsible by taking into account shortcomings and tendencies in reintegration and recovery programmes.
- Help and assistance to victims must involve gender sensitive professionals, treatments, vocation trainings.

Implementation of the legal framework

- Introduce gender sensitive indicators in tools for identification of victims. Support with qualified training for relevant institutions/staff.
- Raise awareness of consequences for victims of not applying compensations in criminal proceedings for judiciary.
- Necessary to secure access to shelters for men, in different parts of BiH.
- Specialized trainings for judiciary focused on positive legislation, secondary victimisation, and exchange good practice examples. Those trainings must involve strong gender approach.

Lack of knowledge and low level of awareness

- Gender sensitive training on labour exploitation, sexual exploitation and begging including introduction of gender sensitive indicators for identification.
- Assistance to victims should be improved by providing an understanding of specific needs of women and men, boys and girls victims of THB. Gender-based training accompanied with best practices examples would help to improve trust in formal procedures. CSOs would need specific training on men victims of labour exploitation.
- For labour inspectorates, basic gender sensitive training on gender and labour and the differences between illegal labour and THB and how gender is important in it is needed. Also, better connection with other institution on gendered forms of labour exploitation should be established.
- Provide continuous gender-based training with certification aiming to have educated and permanent staff for THB/labour exploitation within the police, familiar with gender aspect.
- Include a section on gender stereotypes, stigmatisation of victims of THB and gender-based discrimination in THB tools (guidelines, manuals) for institutions. Also, include these same topics in official training modules for labour exploitation. Same applies for planning campaigns and raising awareness actions. Topics should involve position of women, men, boys, girls, marginalised groups and multiple discrimination. Provide training for media on same topics.

Lack of cooperation among stakeholders

- Members of RMT should have specialised joint training dealing with the gender dimension of labour and sexual exploitation and encourage a knowledge and experience transfer. Gender focal points in each team may produce better focus on gender aspect of dealing with THB.
- Roma representatives (including CSOs) should be involved in task forces, strategic planning, raising awareness campaigns, disseminations of programmes for labour exploitation respecting findings on prevalence of Roma women and men, boys and girls. Gender stereotypes must be addressed regarding this group.
- CSOs working on THB should be more actively involved during evaluation and preparation of strategic and action documents. CSOs have valuable gendered data on labour exploitation and knowledge regarding the gender-based approach.

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