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纳入妇女人权和性别公平观

贩卖人口，特别是妇女和儿童问题特别报告员

西格马·胡达的报告

增 编

对波斯尼亚和黑塞哥维那的访问*

* 本文件的内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以原文分发。

内容提要

特别报告员于 2005 年 2 月 21 日至 28 日访问了波斯尼亚和黑塞哥维那。此前，她曾提出请波斯尼亚和黑塞哥维那邀请他前往访问，以便了解在这个冲突后存在着大量国际人员的社会里人口贩运的情况，并了解该国通过立法、执法和其他措施打击人口贩运的斗争中取得的进展，同时还试图了解该国所面临的新趋势和新障碍。在访问中，特别报告员会见了政府官员、国际组织代表和非政府组织代表。她并访问了人口贩运受害者的收容所。

特别报告员指出，自从这一现象出现以来，波斯尼亚和黑塞哥维那政府在国际社会的援助下不遗余力地展开了打击该国人口贩运的斗争。显而易见的是，该国十分需要能自主掌管本国的立法和执法职能，一项重要目的在于保证实施各项措施的机制能够切实有效地运作。

自波斯尼亚和黑塞哥维那通过了《国家行动计划》以来，该国防止和制止人口贩运方面的情况已发生了巨大变化。曾经非法滞留该国的大批外籍妇女已经离去，很多酒吧已经关闭，而参与人口贩运的一些人入狱服刑。在处理人口贩运、执法、边境管制、人员辨认和援助受害者及惩处肇事者诸方面的立法和体制性构架已发生了重大变化。

但是，特别报告员注意到，所有这些方面仍然存在弱点，同时必须再接再厉在打破周而复始的人口贩运循环方面争取进一步的进展。涉及协调、整合、关于新法律和新程序的培训、为消除社会上性别及其他方面的成见而展开的的认识和教育活动、在执法和司法过程中力求敏感注意所涉对象特点，以及对受害者的援助和对证人的保护等诸如此类的问题，都已经在行动计划中提到，但是仍然需要受到密切关注。特别报告员注意到，在一些情况下，实施制止人口贩运的法律和行政指示受到了资源短缺的阻碍。

特别报告员指出，人口贩运的现象在其规模和性质上发生了变化。人口贩运分子鉴于该国政府通过的全面反贩运战略已相应调整了作案手法。因此，她认为，有必要继续审查这一战略的内容，以便保证战略不落后于人口贩运分子采用的新手法。

具体而言，特别报告员认为，必须对国内贩运的现象加以更密切注意，同时必须审查并调整为打击人口贩运和保护所涉有关人员而设置的机制，以便保证这些机制也

适用于本国国民，而且存在保护这些人的具体措施。此外，还需要为应对另一新的现象采取措施，这就是波斯尼亚和黑塞哥维那公民被贩运到其他国家的现象。

该国亟需为制止贩运儿童而设置独立的方式和结构，并向儿童提供其根据《儿童权利公约》所应有的保护。

特别报告员注意到，整个制止贩运的程序都是由国际社会发起和制订的；因此，波斯尼亚和黑塞哥维那在这方面最初没有发挥太大的作用。但是，特别报告员欢迎新的国家行动计划，并欢迎已经为此批准了适当的预算拨款。特别报告员并欢迎行动计划将重点放在防止上，而且该项计划顾及了国内人口贩运和儿童的贩运现象。

Annex**REPORT OF THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS,
ESPECIALLY WOMEN AND CHILDREN, SIGMA HUDA, ON HER MISSION
TO BOSNIA AND HERZEGOVINA, 21 TO 28 FEBRUARY 2005****CONTENTS**

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Introduction

1. By letter dated 23 November 2004, the Special Rapporteur on trafficking in persons, especially women and children, sought an invitation from the Government of Bosnia and Herzegovina to conduct an official mission to the country. By letter dated 18 January 2005, the Government responded favourably to this request. The Special Rapporteur visited the country from 21 to 28 February 2005. She takes this opportunity to thank the Government for its full assistance and cooperation, which greatly facilitated her task. She also thanks the Permanent Mission of Bosnia and Herzegovina to the United Nations Office at Geneva for its collaboration in preparing her visit. She further expresses her thanks to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Bosnia and Herzegovina for its very valuable support and cooperation prior to, during and after the mission, as well as to the numerous representatives of civil society and private individuals she was able to interview.

2. The Special Rapporteur decided to visit Bosnia and Herzegovina because she was interested in studying the situation of trafficking in a post-conflict society characterized by a heavy international presence and in learning about progress made in the fight against trafficking through legislative, administrative and other measures, as well as about new trends and obstacles encountered. The purpose of the trip was twofold: to gather lessons learned in combating trafficking and to study the current situation and formulate recommendations to assist the Government in addressing the root causes of trafficking and protecting the human rights of its victims.

3. During the visit, the Special Rapporteur met with government officials, including the Minister of Justice, the Minister of Security, the Deputy Minister for Foreign Affairs and the Head of the Consular Department of the Ministry for Foreign Affairs, the Director of the Human Rights Sector of the Ministry for Human Rights and Refugees and the State Coordinator for Measures against Trafficking in Human Beings and Illegal Migration. The Special Rapporteur further met with the head of the OHCHR country office; representatives of the United Nations Children's Fund (UNICEF), the International Organization for Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE), the European Union Police Mission (EUPM) and the International Criminal Investigative Training Assistance Programme (ICITAP). She also met with representatives of non-governmental organizations (NGOs) and visited shelters for victims of trafficking.

I. BACKGROUND

4. In order to understand the situation of trafficking in Bosnia and Herzegovina, it is necessary to briefly review how the phenomenon originated. On 21 November 1995, in Dayton, Ohio, United States of America, a peace agreement put an end to three years of inter-ethnic conflict. The Dayton Agreement created a joint multi-ethnic Government charged with conducting foreign, diplomatic and fiscal policy. A second tier of Government was also recognized, comprising two entities: the Bosniak/Croat Federation of Bosnia and Herzegovina (the Federation) and the Bosnian Serb-led Republika Srpska (RS), charged with overseeing most government functions and the autonomous district of Brcko. The Federation is further divided into 10 districts called cantons. Each entity has its own government and civil structures. There are therefore 13 political units, each possessing constitutional and legislative authority.^a

5. During the conflict inter-ethnic cooperation had developed to ensure the smuggling of necessary commodities, including weapons. Such cooperation continued after the war, moving from wartime commodities to post-conflict market needs. The post-war period saw the deployment of a complex and significant international presence in the country.^b This created the perception of a demand for sexual services. Traffickers therefore shifted practice to accommodate this perceived demand, and trafficking for the purpose of sexual exploitation started in Bosnia and Herzegovina.

6. The Special Rapporteur was informed that during 1997 what had been labelled prostitution started to be recognized as trafficking for sexual exploitation. NGOs and the International Police Task Force (IPTF) started to report some cases of women trafficked mainly from the Republic of Moldova, Romania and Bulgaria, with others coming from Ukraine, Belarus, the Russian Federation, the former Yugoslav Republic, Kazakhstan and Hungary. Reportedly, trafficking continued to be on the increase at least until the second half of 2001. According to official and unofficial sources, most women were lured into prostitution through promises of work as barmaids, dancers, or housekeepers.^c Since border controls were very weak, most of these women were initially smuggled in. Others had temporary work or residence permits, some of which were forged. The majority of victims of trafficking worked in bars and clubs. The perpetrators of trafficking came from a variety of backgrounds, and included freelance operators, local crime gangs and large international organized crime syndicates. Some employment, travel and tourist agencies also fronted for traffickers. It has been conceded in the early period that the majority of the clients were non-nationals. As the number of trafficked women in Bosnia and Herzegovina decreased, so did the percentage of international customers. The Special Rapporteur was told that at least 70 per cent of all profits from prostitution were estimated to come from non-nationals, who paid higher rates.

7. In 2001 the Government of Bosnia and Herzegovina signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Council of Ministries developed and adopted a National Plan of Action (NPA) to combat trafficking in persons in December 2001. The Plan focused on prevention, detection and prosecution of crimes related to human trafficking, as well as assistance and protection to victims. In the NPA the following were identified as the main measures for combating trafficking: establishment of the State Commission for the implementation of the NPA; establishment of shelters for victims, protection programmes, and assistance to and repatriation of victims; reform of the legal framework; training, education and other activities aimed at raising awareness of the issues; and prevention. The Protocol was ratified on 24 April 2002.

8. In 2004 a plan of activities for the implementation of the NPA was adopted and the NPA itself was revised in 2005 to cover the period 2005-2007 and to address new developments in trafficking in the country.

II. THE IMPLEMENTATION OF THE NATIONAL PLAN OF ACTION

A. Institutional arrangements

9. When the NPA was adopted, the Council of Ministers also decided to establish a State Commission for its implementation to ensure inter-ministerial cooperation. However, in October 2002 elections were held and the new Law on Ministries led to an increased number of ministries at the State level and changed their competencies. The issue of human trafficking passed from the responsibility of the Ministry for Human Rights and Refugees to that of the Ministry of Security. The Ministry for Human Rights and Refugees kept the responsibility for issues relating to asylum and the rights of refugees, while the Ministry of Security was entrusted with responsibility for the immigration and asylum policies of Bosnia and Herzegovina. The Special Rapporteur was informed that the shift had caused some problems due to the slow transfer of competencies from one ministry to another. Furthermore, as a result of these changes, the structure of the State Commission no longer reflected the structure and competencies of the ministries involved in the implementation of the NPA.

10. In view of these developments, in July 2003 the Council of Ministers adopted the Decision on Procedures and Ways to Coordinate Activities to Suppress Trafficking in Persons and Illegal Migration in Bosnia and Herzegovina, which established the function of State Coordinator responsible for: ensuring the coordination of activities relating to human trafficking with relevant domestic and international institutions; directing the activities of, and establishing contacts with, other ministries at the State and entity level; initiating meetings with all organizations and institutions involved in the suppression of human trafficking and illegal immigration and for collecting all relevant information for the purpose of preparing reports and for monitoring the implementation of the NPA. The Decision requested the Minister of Security, the Minister for Human Rights and Refugees, the Minister for Foreign Affairs, the Minister of Justice and the State Prosecutor to appoint State officials for the coordination of competencies within relevant ministries. The Decision further requested the State Coordinator, in cooperation with the appointed officials from the ministries and the Office of the State Prosecutor, to follow up and implement the NPA and to make quarterly suggestions on measures for its improvement; to organize and chair meetings with domestic and international organizations and institutions involved in activities to combat human trafficking; and to harmonize programmes and projects that were part of the implementation and goals of the NPA.

11. The Special Rapporteur was informed that, although the establishment of the post of State Coordinator was a positive step, the above-mentioned Decision led to replication of activities in areas such as the preparation of instructions for the treatment of victims, the establishment of shelters, the protection of victims and their repatriation; in effect, responsibility for the protection and assistance of victims was given to three different bodies.

12. In order to ensure better coordination, the Council of Ministers decided that representatives of relevant ministries should be appointed to form a group to discuss the implementation of the NPA. The group consists of seven members, including the State Coordinator and representatives from the Ministries for Human Rights and Refugees, Security, and Justice, and the State Prosecutor's Office. A subgroup was also established in March 2004 to deal with issues relating to children. It comprises entity and Brcko District members from relevant ministries, including education, labour and social affairs, as well as NGOs, UNICEF

and Save the Children Norway. The revised NPA foresees the institutionalization of a State Group to coordinate activities under the Plan itself and its extension to include representatives of newly formed institutions such as the State Investigation and Protection Agency (SIPA), as well as representatives of the Ministry of Civil Affairs.

B. Anti-trafficking interventions

13. The Special Rapporteur learned with interest about measures taken to combat trafficking and identify victims, as well as about the changing nature of the phenomenon.

14. In July 2001, UNMIBH launched the United Nations Special Trafficking Operation Programme (STOP) to combat trafficking through bar raids, under the management of the IPTF. Raids were conducted jointly by STOP teams and local police. According to the IPTF, from July 2001 until the end of 2002, STOP teams interviewed approximately 7,300 women during bar raids.^d According to IOM, during 2002, STOP teams brought to their shelters 255 women, of whom some 130 were repatriated, while the others refused assistance and left the shelter. The overall number of women brought to the shelter grew in 2002 compared with 2001, but the number of those repatriated decreased.

15. According to some sources, the STOP approach was not effective, in that many women who were brought to shelters subsequently returned to work in the same bars and often perceived the action of the police more as harassment than support. Most of the victims were in fact repatriated and sent back to the same situation that had made them vulnerable to trafficking in the first place, without protection from traffickers.

16. The NPA anticipated the establishment of one safe house near Sarajevo and four additional satellite centres in other parts of Bosnia and Herzegovina where victims could be accommodated for two to three days until their transfer to the main shelter in Sarajevo. The shelter project was presented in the NPA but was not implemented due to lack of resources. Initially the only organization which had developed an assistance programme for victims of trafficking was IOM. IOM would receive any woman found during the bar raids, even if she had not been trafficked, to facilitate identification. There was one shelter for high security cases (women testifying in court) where security was provided by the police. Over time, NGOs increased their capacity and, with the adoption of the Temporary Instruction^e and the signing of the Protocol of Cooperation with the Ministry for Human Rights and Refugees, a number of them started to provide assistance for victims. Reportedly, assistance was initially only provided to those women who accepted to be repatriated.

17. When EUPM took over functions of IPTF at the beginning of 2003 a new strategy towards trafficking was adopted, allowing local partners more initiative. According to EUPM, local police raided 85 establishments in the first four months of 2003, interviewed 198 women and girls and provided assistance to 17 by transferring them to shelters. Among those interviewed, 37 were sex workers with legitimate documents and 32 had forged documents or no documents at all. The majority of assisted women were from the Republic of Moldova, Ukraine and Romania. In the bars, they found women from Bosnia and Herzegovina and Croatia.^f The model of intervention was further changed in 2003 to favour gathering intelligence and finding

evidence of trafficking before taking police action and by restructuring the local police by creating units dealing with trafficking-related crimes. Fewer bar raids were conducted and only women requesting assistance were referred to shelters.

18. In October 2001, the Council of Ministers decided to establish the Strike Force for Combating Trafficking in Persons and Organized Illegal Migration (Strike Force) to coordinate high-level anti-trafficking operations. Special units were established within the police consisting of one representative of the key government actors at the State and entity levels. The Federation has an anti-trafficking unit in each canton, providing information to the Strike Force. In the RS, staff have been appointed in the headquarters of all police districts to investigate trafficking. A new structure was introduced in 2003 in order to accommodate the changes in the Criminal Code which gave authority to lead the investigation to the State Prosecutor. The Strike Force's effectiveness is reportedly hindered by a lack of cooperation with the prosecutors and with the relevant inspection units of the labour, taxes and public health sectors.

19. The Special Rapporteur was informed that, while the new approach had its advantages, the increased involvement of the local police produced a greater reluctance on the part of the victims of trafficking to come forward. Some police officers have been involved in trafficking or have been among the users of services provided by the victims. In fact, local police reportedly receive very low salaries and there are many reported cases of corruption. For example, there are reports of police giving information to bar owners about raids, giving protection to the bars and fraternizing with the bar owners.

C. Border controls

20. The Special Rapporteur was informed that the borders of Bosnia and Herzegovina are now legally under the complete control of the State Border Service (SBS), which is a unit of the Ministry of Security. As a result, data on the entry and exit of foreign nationals are more complete and the formerly large number of illegal border crossings has been reduced. However, there are technical, financial, staffing and other issues which prevent complete border coverage.

21. Information obtained by the SBS gives a snapshot of the movement of foreign female nationals in and out of Bosnia and Herzegovina, and may give an indication of the impact of anti-trafficking actions. The SBS should now in fact be able to determine whether any persons who left Bosnia and Herzegovina returned by different means. Irregular border crossing at the airport has been drastically reduced due to stricter controls. However, it appears that land border crossings are still not totally controlled and Bosnia and Herzegovina continues to be a transit country for the smuggling of migrants to Slovenia and Croatia and from there to the EU countries. Furthermore, the SBS database on aliens is not complete and not connected to the Ministry of Security; therefore, other law enforcement agencies do not have access to it. The Special Rapporteur was informed that IOM is working to establish a comprehensive database.

22. In a meeting with a representative of the Department of Consular Relations of the Ministry for Foreign Affairs, the Special Rapporteur was informed that cases of irregular border crossing from the Republic of Moldova, Romania, Ukraine and Pakistan dropped dramatically in the period 2003-2004. However, this decrease can be interpreted in different ways.

23. When visas expire the aliens concerned become irregular. If Bosnia and Herzegovina has an agreement with the country of origin, as in the case of Croatia, irregular aliens are returned. In some cases, however, they disappear after the expiry of their visas. Also, it was reported that many women from the Republic of Moldova, Ukraine and Romania often arrive with a visa for Serbia and Montenegro and then cross into Bosnia and Herzegovina illegally through the RS (Bosnia and Herzegovina has an agreement with Serbia and Montenegro whereby it is possible to enter the country simply by showing an identity card of either country, which can be much more easily forged than a visa). Also, when an order of repatriation is issued, aliens, including possibly victims of trafficking, can move or are moved to a different canton under a different jurisdiction, making the enforcement of the deportation order impossible.

24. The Special Rapporteur was further informed that in spite of all the measures put in place to combat trafficking, traffickers are always one step ahead of the law. Reportedly, there have been reports of fake marriages between men from Bosnia with women from the Republic of Moldova, Romania and other countries. However, after marriage many of these women found themselves obliged to work as prostitutes in bars and nightclubs. The Special Rapporteur was informed about efforts to combat these new practices, such as the decision in some cases not to approve visa requests for some women on the assumption that if their marriages to Bosnian men were genuine they would try again six months later. The Special Rapporteur welcomes all efforts to prevent trafficking and protect possible victims; however, she wishes to stress that there is a need to ensure that such measures do not negatively impact on the enjoyment of other human rights, such as the right to family life.

25. The Special Rapporteur was informed that through the database it is possible to check authorized visas. Some cases raise natural suspicions. For example, in Moscow tourist visas were issued for 39 applicants, all young women (20-25 years) from Ukraine, for a 14-day visit to Medjugorje, Bosnia and Herzegovina. Instructions were given for them to be followed so that if they were not going to the declared destination they could be intercepted and deported. In case of suspicion of trafficking, relevant NGOs and government organizations are contacted to provide adequate protection and undertake necessary investigations. The Special Rapporteur was advised that the assessment was made by the officials involved according to his/her experience and on a case-by-case basis.

26. Reportedly, coordination between the SBS and other law enforcement agencies remains a problem, especially between the entity Ministries of the Interior, the Brcko District, the Ministry for Foreign Affairs and Interpol. Since the entry into force of the Law on Movement and Stay of Aliens and Asylum there has been a marked improvement in border control. Problems remain, however, due to the lack of rule books and procedures to give effect to various parts of the new law. For example, there are no instructions on how to deal with a situation where there are mere suspicions that a person is crossing illegally either into or out of the country, and there are many instances when the SBS merely registers individuals as being "suspected" illegal immigrants.

D. Identification of and assistance to victims

27. The Special Rapporteur was informed that in the past two years the number of referrals decreased dramatically and at the time of the visit shelters were almost empty. There are different opinions on the reasons for this. Some argue that numbers have not dropped, but fewer victims are identified, while others believe that the incidence of trafficking has been reduced.

The State Coordinator and other sources suggested, for example, that market demand had decreased with the departure of large sections of the international community. However, many said that the majority of clients had always been locals.⁸

28. Many argue that the smaller numbers of victims identified is due to a change in the modus operandi of traffickers. It was reported that the exploitation of trafficked women and girls for prostitution moved from public establishments to private apartments and secluded houses. Reportedly, the large-scale raids by IPTF contributed to pushing the phenomenon underground. Traffickers now use more local women and women from Serbia who are in the country legally and often have contracts as waitresses or dancers. Identification of local women is more difficult as all the structures in place were created for the identification of foreigners. Furthermore, now that trafficking in persons is highly criminalized, traffickers have reportedly started to treat trafficked victims better, including providing them with salaries and imposing less restriction of their freedom. In the locations known to the police, this seems to be especially true and women have started to declare that they work voluntarily in the sex industry. Often, however, women who receive salaries are obliged to spend them in the bar to pay for meals and accommodation, or to purchase drugs and condoms sold by the traffickers. They reportedly also have separate lodgings and no longer live in the bars where they work. An increasing number of victims are addicted to drugs or alcohol or are subjected to other forms of control by traffickers. In an environment in which corruption is highly developed, it has also become easy for organized crime to obtain travel documents, residence and work permits and visas, thus making identification and interception more difficult.

29. Victims are still subjected to intimidation and threats, and female pimps or traffickers from the same country as the victim are used more frequently as a way of exercising control. Victims often believe that if they come forward to denounce their situation they will be obliged to cooperate with the police and they fear for themselves and their families; they therefore prefer to declare that they are engaging in prostitution voluntarily.

30. The majority of international assisted victims continue to be Moldavians and Romanians, with Ukrainians making a third, much smaller, group. According to information received by the Special Rapporteur, the victims seem to be older, but this could be due to the fact that they agree to be assisted only after they have spent several years in Bosnia and Herzegovina. The percentage of victims from rural areas has increased considerably, which could indicate a change in methods of recruitment, such as through newspaper advertisements which are more accessible in urban areas. There was also reportedly an increase in the number of Bosnian recruiters and former victims of trafficking becoming involved in the recruitment and control of new victims. An increasing number of victims reportedly knew that they would be working in Bosnia and Herzegovina, but the majority were not aware that the job involved sexual services. Many of them were physically abused while being trafficked and some have become addicted to drugs or alcohol given to them as a means of control.

31. According to some information, Bosnia and Herzegovina was also emerging as a country of origin for Bosnian victims trafficked from within and outside its borders, mainly for sexual exploitation, reportedly to other countries in Europe. Reportedly, traffickers organize passports and visas and use legal means to transport victims to their destination. Many victims are trapped through debt bondage and expected to pay back the cost of their travel, documents and other services such as accommodation, food and condoms.

32. There is a problem in identifying national victims of trafficking because all the protection measures adopted so far have been only for foreigners. The limitation of the protection measures also make it difficult to identify victims who are exploited for purposes other than sex, for example children trafficked for the purpose of begging.

33. Reportedly, the identification of victims also became difficult because the women believed repatriation was the only available option and preferred not to come forward. They in fact know that they cannot be protected from traffickers once they are back home, as they come from small communities and can easily be traced, punished or re-trafficked. The impossibility of sustaining themselves and their families and the issue of the stigma attached to being a victim of trafficking are also strong factors preventing women from seeking assistance. Self-identification by victims is rare, unless or until they are in a shelter and receiving assistance. In order to address this problem the Ministry of Security adopted a Rule Book on the Treatment of Trafficking Victims. According to the current legislation victims should remain for 10 days in a temporary shelter where they can recover and decide on their future course of action. They have the option of applying for a humanitarian visa and remaining in the country for a further three months; this is not conditional upon giving evidence to or cooperating with the police. During this period they are provided with health care, counselling and general support. This approach ensures that victims are kept out of police custody and given a reflection period away from the police, whom they usually do not trust. However, the Special Rapporteur was informed that the police are often not aware of the procedures to follow when they identify a victim of trafficking.

34. The Special Rapporteur is concerned that the Rule Book does not address the issue of internal trafficking and trafficking for purposes other than prostitution, and there is no regulation governing the protection of victims of trafficking from Bosnia and Herzegovina to third countries. Under the new National Plan of Action it is foreseen that assistance will be provided to national victims, although it is not clear whether by NGOs or the relevant government ministries.

35. An additional difficulty is that the majority of officials working on the front line to prevent and suppress trafficking, including in the law enforcement agencies, are men. A hotline was established that women can call to get assistance.

36. The Ministry for Human Rights and Refugees stressed that the legal framework is in place, but there are problems of implementation due to the lack of financial resources; Bosnia and Herzegovina depends heavily on donations from the international community and there is reportedly a lack of resources in particular for long-term protection of and assistance to victims. The Special Rapporteur believes that cost-sharing schemes with countries of origin might be one solution.

37. According to some NGOs, more legal than social assistance is sought. If the women have been designated as victims, they are reimbursed for shelter, medical assistance and other expenses.

38. The Special Rapporteur was further informed that access to health care is provided only for foreigners coming from countries with which Bosnia and Herzegovina has an agreement. The majority of victims of trafficking do not come from these countries and have access only to emergency health care.

39. NGOs running shelters expressed concern at the lack of information on follow-up to victims' repatriation.

E. Awareness-raising

40. Several programmes of awareness-raising were implemented in schools and through the media. However, there was little effort to assess the impact of such campaigns. The Deputy Minister for Foreign Affairs informed the Special Rapporteur that after the implementation of advocacy programmes much progress was achieved, and the majority of citizens (men and women) were informed and aware of the problem. However, other interlocutors stated that the problems were perception and prejudice. The Special Rapporteur was also informed that there is a high level of awareness in urban areas but not necessarily in rural areas, and that most people think trafficking involves foreign women but not nationals.

F. Legislative reform

41. Bosnia and Herzegovina has ratified the main human rights instruments.^h The Dayton Agreement ensured that the highest level of internationally recognized human rights protections would apply by, inter alia, making the Convention for the Protection of Human Rights and Fundamental Freedoms directly applicable. Chapter III of the Constitution defines human and civil rights and freedoms in such a way that they cannot be removed or limited. Bosnia and Herzegovina and both its entities have committed themselves to ensuring the highest level of protection of economic, social and cultural rights through the implementation of domestic and international regulations. The Constitutions of Bosnia and Herzegovina and both entities prohibit discrimination on any ground.ⁱ

42. The Special Rapporteur learned about the extensive legislative reform undergone by Bosnia and Herzegovina. The Government implemented a new Criminal Code and Criminal Procedure Code in March 2003, making trafficking in persons a State-level crime punishable by up to 10 years' imprisonment. The RS and the Federation began harmonizing their criminal codes in July and August 2003. A Law on Protection of Witnesses under Threat and Vulnerable Witnesses was also imposed by OHR. A new Law on the Movement and Stay of Aliens and Asylum was imposed in October 2003.

43. Article 186 of the new Criminal Code, defines the criminal act of "trafficking in persons"^j while other trafficking-related criminal acts are contained in separate articles: 185 - Establishment of slavery and transport of slaves;^k 187 - International procuring for prostitution; 188 - Unlawful withholding of identity papers; 189 - Smuggling of persons.

44. Article 187 defines the international procurement of a person for the purposes of prostitution as a criminal act. Paragraph 1 of this article stipulates that "whoever procures, entices or leads away another person to offer sexual services for profit within a state excluding the one in which the person has residence or of which he/she is a citizen, is committing a crime". Some of the Special Rapporteur's interlocutors pointed out that this activity should be prosecuted as trafficking. However, there is no clarity as to jurisdiction and to what is meant by "international procurement for prostitution". If this offence is perpetrated against a child or a juvenile, the perpetrator may be punished by imprisonment for between 1 and 10 years, which is less than in the case of trafficking in children under article 186, where the sentence prescribed is

no less than 5 years. The definition also raises the issue of how to treat international recruitment for the purpose of other forms of exploitation - such as forced begging or labour exploitation - which is not addressed by the Criminal Code of Bosnia and Herzegovina.

45. The Witness Protection law and the Witness Protection Programme were adopted at State and entity levels and cover two categories of witnesses: witnesses under threat and vulnerable witnesses, the latter including children witnesses. They are entitled to psychological and social assistance and professional help and other protection measures governing the presentation of evidence and testimony, including measures to protect anonymity. The Special Rapporteur was informed that this law is unfortunately not being effectively implemented due to a lack of resources.

G. Prosecution

46. Before the new Criminal Code, prosecutors most frequently used article 228, Procuring and pandering, and article 229, Mediation in (or promoting) prostitution, to prosecute trafficking cases. These two provisions targeted “pimping” rather than trafficking and carried minimal penalties. The crime of trafficking, involving organized crime, should be prosecuted at State level. Unfortunately, in the process of harmonization, the entities have retained responsibility over some criminal acts that relate to trafficking.

47. Due to changes in the Code of Criminal Procedure the investigation procedure is now the responsibility of the prosecutor rather than the investigating judge. According to information received by the Special Rapporteur, when there is a suspected case of trafficking the police have to inform the prosecutor’s office, which undertakes an investigation. Law enforcement agencies initially did not receive training on the new procedure. The State Prosecutor in early 2003 requested all prosecutors to be notified of cases falling within the competency of the State court. However, it was not clear under what circumstances a case should be referred to the State court as a trafficking case and when it should be tried at the local level.

48. Almost all law enforcement is organized at entity level. Often there is confusion as to what criteria and at what stage the State Prosecutor would move the case to State level. The Special Rapporteur was informed that, as a result, there are divergent court practices, unequal treatment of victims and defendants, unnecessary delays and ineffective prosecutions.

49. Data provided by the prosecutor’s office reveal that during the period when the reform was getting under way, a number of criminal prosecutors relating to human trafficking and smuggling were at various stages, but only a handful of these were cases of trafficking.

50. It can be concluded from the length of time it takes for cases to be brought before the courts that the procedures take too long; they frequently end in light sentences.

51. According to information received by the Special Rapporteur, there is a lack of cooperation between agencies responsible for combating trafficking, a lack of cooperation between the entities, especially between their law enforcement organs, and a lack of investigators at the State level, which result in the low number of prosecutions.

52. Also, according to information received by the Special Rapporteur, prosecutors often do not press the police to conduct better investigations or to complete the investigations, and have a tendency to pursue bar owners for lesser charges such as possession of stolen/forged passports. Even if the prosecution is successful, sentences are very light. The Special Rapporteur was also informed that cases are poorly argued and for this reason often dismissed. Furthermore, the evidence gathered by police is sometimes insufficient and it is up to the prosecutor to call the police to testify in court. Reportedly, police officers rarely testify in trafficking cases.

53. The State Criminal Intelligence Investigation Agency (SIPA) investigates State-level crime. At the time of the visit there were nine criminal investigators specializing in trafficking. More were in the process of being recruited. However, there were complaints of a poor flow of information between the different levels of the police. A tax investigation unit for related financial investigations was established in December 2004.

54. Since prosecutions rely largely on testimony by victims, securing convictions is difficult. Victims may be reluctant to give evidence because they either are or feel threatened or intimidated and are afraid of being prosecuted. The existing legal framework in fact provides for the possibility of prosecuting the users of sexual services, as well as those engaged in selling sex; unfortunately, the common practice among the police is reportedly to submit reports only on those who provide sexual services. According to information received by the Special Rapporteur, victims who refuse to give evidence run the risk of being prosecuted for prostitution. The State Prosecutor confirmed that there had been cases of women who did not claim to be victims of trafficking being arrested and prosecuted for prostitution.

55. The Special Rapporteur was informed that the Law on Protection of Witnesses under Threat and Vulnerable Witnesses guarantees protection only before and during the trial, to ensure that the identity of the victim is not disclosed. However, communities are small and there are problems of corruption, and victims do not feel sufficiently protected to come forward and testify. The Minister of Justice informed the Special Rapporteur that in theory, after the trial the victim can be protected for up to 30 years at the request of the lawyer; however, in practice protection cannot be guaranteed. There is no adequate recourse for victims or provision for prosecuting those who violate the law. It makes no special provision for relocation of a protected witness. The Special Rapporteur was informed that the Ministry of Security did not even have funds to provide for transportation of the witnesses.

56. The Special Rapporteur noted with satisfaction that the new entity codes of criminal procedure contain specific provisions allowing testimony to be taken from victims, in the presence of defence counsel, before a preliminary hearing judge. In this way, the defendant's due process rights can be respected and crucial testimony can be admitted at the trial. However, the Special Rapporteur is concerned that in practice the preservation of evidence is hampered by the extremely high standard required to prove that a witness is "unavailable": as presently drafted the relevant provision states that witnesses will be deemed unavailable only when the proponent of the evidence can prove that he/she has made every effort to secure the witness's presence at main trial; a preferable definition of unavailability would include, at a minimum, situations where the proponent of the evidence has made an effort in good faith. Moreover, the definition should explicitly acknowledge that victim-witnesses can be rendered unavailable through fear and should not be subject to subpoena or arrest and/or detention as a material witness.

57. Victims can seek compensation under the Civil Code, but this is reportedly time-consuming, and in the meanwhile they need shelter and legal assistance, which are not always available. Compensation is not automatically awarded upon conviction and there is no provision in the legislation concerning the confiscation of assets and illegally obtained property, which could be used for that purpose.

H. Trafficking of children

58. According to the information received by the Special Rapporteur, in 2002 about 10 per cent of trafficked victims interviewed by STOP teams were girls under 18. In 2003, the percentage reportedly decreased to 5 per cent. However, the Special Rapporteur was informed that the grounds on which the police estimated the ages of the girls without documents or with false documents were not clear or coherent. Furthermore, statistics referred to the ages of victims when they first came into contact with law enforcement or assistance and not at the time they were trafficked. According to the data, the majority of foreign children trafficked for sexual exploitation came from Romania and the majority were girls over 14. Many trafficked children had forged papers so precise identification is very difficult.

59. According to the 2003 UNICEF Guidelines for Protection of the Rights of Children Victims of Trafficking, children victims of trafficking, according to the Convention on the Rights of the Child, are entitled to special protection measures for their recovery and reintegration. Children separated from their parents and family environment are entitled to special protection and assistance provided by the State. In all actions concerning children victims of trafficking, whether undertaken by public or social welfare institutions, police courts of law, administrative authorities or legislative bodies, the best interest of the child should be a primary consideration. A child victim who is capable of forming his or her views enjoy the right to express those views freely in all matters affecting him or her, for example, in decisions concerning his or her possible return to the family or country of origin. The views of the child need to be given due weight in accordance with his/her age, maturity and best interests. Child victims must be provided with information in a language they understand about, for example, their situation, their entitlements, services available and the family reunification and/or repatriation process. Children are entitled to confidentiality and all necessary measures must be taken to protect the privacy and identity of child victims.¹

60. The Special Rapporteur was informed that in practice law enforcement officials and service providers reportedly apply the same procedures and standards to children and adults. IOM and NGOs running shelters reportedly do not have special standard procedures to deal with children. In particular, the Special Rapporteur was informed that children are accommodated in shelters together with adults and there are no specific forms of counselling for them. Social services rarely get involved in cases of foreign trafficked victims, in spite of the fact that social protection legislation assigns concrete guardianship of all separated children and children in need of special protection and related monitoring tasks to the Centres for Social Work. There is normally no administrative procedure for appointing a guardian, reportedly due to lack of resources. The Special Rapporteur was informed that when children are identified, the social services are informed and encouraged to contact the families of the children, who are subsequently sent back home. The Law on Social Protection provides the framework for the protection of children from abuse and violence. However, the implementation of the law is poor.

61. The first NPA provided that a Government-funded shelter would have to be created for longer stay of children who had been trafficked by their families and could not therefore be repatriated, where they could receive special care. However, this provision was reportedly not implemented and there was little or virtually no cooperation between local services for children and agencies assisting victims of trafficking.
62. The first cases of internal trafficking of children emerged in 2002. According to several interlocutors, a significant percentage of victims of internal trafficking are minors. When the Special Rapporteur visited a “high risk” shelter in Sarajevo, she found there a 13-year-old girl from Bosnia and Herzegovina who had been sold for sexual exploitation, and was told that the girl’s sister had been sold for begging. The shelter does not have temporary custody over minors.
63. According to UNICEF, there is an overall lack of outreach work and efforts to gather information on underage victims through regular control of and visits to places used for commercial sexual exploitation.
64. The Special Rapporteur was informed of many cases of children begging in the street. Trafficking of children for begging involves mainly local children and a very few children from Serbia and Montenegro. Whether they are defined as trafficked depends on the interpretation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children supplementing the United Nations Convention on Transnational Organized Crime. A few reports refer to children being organized by adults, often their parents, sometimes moved across borders and often obliged to give their earnings to adults. However, the line between trafficking and the struggle for survival is in this case blurred. What can be asserted without doubt is that these children are often in a situation of forced labour and are very vulnerable to exploitation by criminal gangs. The Special Rapporteur believes that there should be a systematic approach to dealing with children living and working in the street in order to protect them against forced labour and trafficking. However, their situation is reportedly often blamed on their culture - a reference to the Roma - and they are often recorded as delinquents.
65. The police claimed that there was a lack of material and personnel resources to combat child trafficking. The National Plan of Action for Children in Bosnia and Herzegovina includes trafficking as a special protection issue and states that protection measures will be planned in agreement with the NPA on trafficking. At the time of the visit, reportedly no such activities had been implemented. The National Plan of Action for Children also raises the issue of child labour and the need to reduce the number of children in Bosnia and Herzegovina involved in labour activities.
66. The Special Rapporteur was informed of sporadic and unconfirmed reports that would indicate that Bosnia and Herzegovina is becoming a country of origin of trafficking of children. No data or estimates are available on this phenomenon.
67. The Special Rapporteur was informed about projects such as the BatCom Project of the Star Network World Learning devoted to raising awareness about cases of internal trafficking, working in particular with schoolchildren. Reportedly, children are aware of the problem, but if they are approached by traffickers there are concerns that they might not know how to react.

Competitions for children on their understanding of trafficking are also organized. In a painting competition many children depicted scenes of violence at home, a situation that may make children more vulnerable to trafficking. The Special Rapporteur was informed that a new law had been passed, under which in cases of domestic violence the perpetrator - usually the father - had to leave the house rather than the family, but there is a need to educate judges and prosecutors on the new law. The Special Rapporteur was informed of plans to establish a community watch to report suspicious practices and behaviour. However, many people are reportedly afraid to report traffickers. Often the families and the community are involved, especially in the case of exploitation of children for begging. UNICEF also works on issues of domestic and sexual violence to build sustainable programmes to empower women and children and prevent child trafficking. IOM also works towards strengthening the social protection system. With regard to begging and the issue of the Roma culture, UNICEF has tried to make schools more accessible to Roma children and to educate law enforcement and social services agencies.

III. CONCLUSIONS

68. The Special Rapporteur notes that since the emergence of the phenomenon of trafficking in persons, the Government of Bosnia and Herzegovina, with the assistance of the international community, has spared no effort to combat it. There is clearly a need for national ownership of the legislative and administrative functions, not least to ensure that the mechanisms for implementation can operate in a practical and effective manner.

69. The situation in the area of prevention and suppression of trafficking in Bosnia and Herzegovina has changed substantially since the adoption of the NPA. A large number of foreign women who were illegally in Bosnia and Herzegovina have left, many bars have closed and several persons involved in trafficking are serving prison sentences. Major changes have occurred in the legislation and the institutional setting to deal with trafficking, law enforcement, border control, identification of and assistance to victims and prosecution of perpetrators.

70. The Special Rapporteur notes, however, that weaknesses persist in all these areas and that efforts must continue to achieve further progress towards breaking the trafficking cycle. Issues of coordination, harmonization, training on the new legislation and procedures, awareness-raising and education to eliminate existing gender and other stereotypes, sensitization of law enforcement officials and the judiciary, assistance to victims and witness protection, which are all addressed under the NPA, still need close attention. The Special Rapporteur observes that in some cases, laws and administrative instructions put in place to combat trafficking suffer from a lack of resources and have therefore not been implemented.

71. The Special Rapporteurs notes that the phenomenon of trafficking has changed in magnitude and nature. Traffickers have adapted their modus operandi to the overall anti-trafficking strategy adopted by the Government. The Special Rapporteur considers that there is a need to continuously review the elements of that strategy to ensure that it remains abreast of the new methodologies adopted by traffickers.

72. In particular, the Special Rapporteur believes that increased attention must be paid to the emerging phenomenon of internal trafficking and that the mechanisms in place to combat trafficking and protect the persons involved must be reviewed and adapted so as to ensure that they properly cover nationals and that specific measures exist for their protection. Measures are also needed to address another emerging phenomenon: trafficking of citizens of Bosnia and Herzegovina to third countries.

73. There is also a dire need to establish separate methodologies and structures to combat trafficking in children and to provide them with the protection they are entitled to under the Convention on the Rights of the Child.

74. The Special Rapporteur notes that the entire anti-trafficking agenda was initiated and developed by the international community, and that the role of Bosnia and Herzegovina in that regard was limited. However, the Special Rapporteur welcomes the new NPA and the fact that it has provided for budgetary allocations. The Special Rapporteur also welcomes the fact that the NPA focuses on prevention and that it addresses internal trafficking and trafficking of children.

IV. RECOMMENDATIONS

75. The Special Rapporteur addresses a number of recommendations to the Government, the civil society and the international community to support their efforts to combat trafficking and protect its victims. The Special Rapporteur is aware that some of the following recommendations have financial implications and recommends that all relevant actors cooperate in their implementation and, when appropriate, that the international community lend its support.

76. The Special Rapporteur welcomes the revision of the NPA and encourages the Government to take the lead in its implementation, including in supporting shelters and rehabilitation programmes, and to use it as a tool to sustain efforts to combat trafficking, also drawing on the recommendations contained in this report.

A. Coordination

77. The Special Rapporteur welcomes the efforts at coordination undertaken by the Government, including through the appointment of the State Coordinator, and encourages the Government to achieve further progress along this path.

B. Legislative reform

78. The impressive legislative reform accomplished in Bosnia and Herzegovina has provided a framework for the prevention of trafficking and the prosecution of perpetrators. However, the Special Rapporteur notes that there are still weaknesses and recommends further efforts to harmonize the provisions of entity-level criminal laws with the State criminal law. In this context, she recommends that further reforms be undertaken to ensure that the crime under article 187 of the Criminal Code is prosecuted as trafficking and that issues of jurisdiction be clarified. The Special Rapporteur further recommends necessary legislative reforms to ensure that prostitutes are not criminalized and that assets and illegally obtained property are confiscated, and that the proceeds go directly into a compensation fund for victims.

79. The Special Rapporteur believes that reforms are necessary on issues such as the employment of aliens and their access to health and social rights, so as to ensure that they do not become vulnerable to trafficking.

C. Law enforcement, identification of and assistance to victims

80. The Special Rapporteur welcomes the strengthened border controls and the fact that the State Border Service has developed the capacity to keep track of foreigners within the territory of the State. In this connection, she wishes to recommend that measures be taken to ensure better control of the border with Serbia and to prevent the misuse of the right to cross the border only with an identity card. She also recommends that when irregular aliens are intercepted, efforts be undertaken to determine their situation individually and to ensure that they have access to asylum procedures, if relevant, and that if they are victims of trafficking they receive adequate assistance and are not immediately deported. The Special Rapporteur recommends that further training be given to SBS officers on the identification of the victims of trafficking, on the Rule Book and the UNICEF Guidelines for the Protection of the Rights of Children Victims of Trafficking.

81. The Special Rapporteur further recommends that the identification of victims not be left totally to the discretion of SBS officers and other law enforcement officials, but that specific guidelines be developed. In defining guidelines for identification of victims, the Special Rapporteur recommends that the relevant chapter of the Legal Manual on Protection of Victims of Trafficking in Persons in Bosnia and Herzegovina prepared by the OHCHR Office in Bosnia and Herzegovina be taken into account. Rule books and procedures should also be developed on issues such as how to act in case of suspicion that a person is crossing the border irregularly.

82. The Special Rapporteur recommends greater coordination between the SBS and other law enforcement agencies, especially in the exchange of intelligence, including through joint training on the prevention of trafficking and assistance to victims. More training for law enforcement officials on the Rule Book is also necessary. The Special Rapporteur recommends that the Rule Book be revised to ensure that it addresses the question of protection of national victims and victims of trafficking for purposes other than prostitution. Measures should be taken to address the problem of corruption of local police, including introducing higher salaries, promoting internal mechanisms to report cases of corruption and ensuring that internal disciplinary measures are taken in cases of corruption.

83. The Special Rapporteur recommends that measures be considered to achieve gender balance among officials, in particular those in law enforcement, working to prevent and suppress trafficking, so as to encourage and facilitate identification of victims.

84. The Special Rapporteur also strongly recommends that steps be taken to ensure the existence of organized legal counselling, to be made available to victims upon identification so that they are aware of the alternatives at their disposal. The Special Rapporteur recommends that legal assistance be made available to victims so that they can seek compensation under the civil procedure, while being accommodated in shelters and provided with assistance, training and rehabilitation.

85. The Special Rapporteur further recommends greater coordination between the Government, NGOs and IOM to ensure that data are made available on the situation of victims after repatriation, so as to enable better assessment of the impact of identification, referral, assistance and repatriation programmes.

86. The Special Rapporteur recommends further efforts in the implementation of the new criminal procedure codes so as to clarify which crimes are to be prosecuted at the State level as trafficking rather than in the entity courts as offences carrying lesser penalties. In particular, law enforcement officials should receive training on when, how and at what stage to transmit a case to the State prosecutor. Training on investigative methods of gathering evidence should also be implemented for the police. Prosecutors should be sensitized to the need to conduct thorough investigations and to avoid precipitous prosecution for offences carrying lesser penalties. State investigations should also be strengthened, as well as cooperation between different levels of law enforcement. The Special Rapporteur strongly recommends that training be undertaken for law enforcement officials in detecting and properly investigating acts of trafficking. Steps should also be taken to increase cooperation among law enforcement agencies and between them and the prosecutors' offices so as to improve cooperation and information exchange and therefore achieve more effective prosecution.

87. In order to ensure effective prosecution, the Special Rapporteur further recommends that measures be taken to amend the standards required to prove that the victim-witness are genuinely unavailable at trial and to ensure that the definition of unavailability recognizes that the victim-witness can also be rendered unavailable through fear and that she should therefore not be subject to subpoena or arrest and/or detention as a material witness.

D. Victim-witness protection

88. The Special Rapporteur believes that proper protection must be provided to the victims who decide to cooperate with the prosecution so that they do not feel threatened or intimidated. The Special Rapporteur recommends that protection of victims be provided not only during trial but also before and afterwards. It should include temporary leave to remain in the country for the duration of civil proceedings and work permits. Agreements on relocation to third countries should also be sought. Proper allocations should be secured to ensure the implementation of the witness protection law and the Witness Protection Programme. The Special Rapporteur recommends that agreements be sought with the countries of origin of the victims on cost-sharing schemes in order to provide strengthened assistance to the victims.

E. Prevention

89. The Special Rapporteur believes that greater attention should be devoted to addressing the root causes of trafficking in persons into Bosnia and Herzegovina. In this context, the Special Rapporteur encourages initiatives in the countries of origin of trafficked victims, such as supporting the development of women's cooperatives, promoting women's entrepreneurship, and supporting the creation of women's economic networks to provide advocacy, training and information to businesswomen, unemployed women and women in agriculture, among others. Long-term prevention should also include anti-discrimination measures, job opportunities for women, legal migration projects targeting women, awareness-raising and programmes targeting violence against women.

90. The Special Rapporteur recommends that awareness-raising programmes be undertaken, especially in rural areas, in the main countries of origin of victims by the respective Governments, the civil society and the international community.

91. The Special Rapporteur recommends that increased attention be devoted to prevention of internal trafficking and trafficking from Bosnia and Herzegovina to other countries, with particular attention to the root causes of the phenomenon. In particular, the Special Rapporteur believes that measures to combat trafficking should take into account the Law on Gender Equality and the Poverty Reduction Strategy, as gender-based discrimination and poverty can turn Bosnia and Herzegovina into a country of origin of trafficking and foster internal trafficking.

F. Trafficking in children

92. The Special Rapporteur recommends increased efforts to combat international and internal trafficking of children, including through the allocation of funds specifically for this purpose. The Special Rapporteur further recommends increased regular surveillance of premises suspected of harbouring trafficked children and intensified efforts to detect and identify child victims. Special training on trafficking of children and the protection to which they are entitled under national and international law, as well as child-focused methods of intervention, detection, identification, assistance should be provided to all relevant actors (social workers, NGOs, the media, the judiciary). The Special Rapporteur further recommends that needs in terms of shelters and structures for child victims of trafficking be analysed and measures taken to ensure that children receive the assistance and protection to which they are entitled.

93. The Special Rapporteur endorses the recommendations of UNICEF concerning the need to increase general prevention measures to identify children vulnerable to becoming victims of trafficking and to make use of the Guidelines for the Protection of the Rights of Children Victims of Trafficking concerning detection, registration, referral, shelter, protection and follow-up for children from Bosnia and Herzegovina and from other countries. The Special Rapporteur recommends increased efforts to sensitize potential users of services provided by trafficked children about the human suffering of the victims, as well as teenage girls about the risks related to trafficking. Also, public campaigns with children and youth in rural areas are recommended to prevent them from becoming victims of trafficking.

94. The Special Rapporteur further recommends that police methods for dealing with children living or working in the streets, children in conflict with the law and children who are victims of crime be modernized through greater focus on proactive outreach work, confidence-building measures and cooperation with social services. The Special Rapporteur recommends outreach assistance for children living and working in the streets and members of high-risk groups, as well as the investigation of the involvement of criminal networks in begging. Professionals coming into contact with children living or working in the streets, as well as the general population, should be sensitized to the Roma culture and child protection.

95. The Special Rapporteur welcomes community watch programmes, as well as programmes undertaken by NGOs, UNICEF and IOM to tackle domestic violence and address the root causes of trafficking in children.

Notes

^a The Office of the High Representative (OHR), was established by the Security Council to oversee the implementation of the civilian aspects of the agreement and coordinate all international organizations in Bosnia and Herzegovina. OHR has the authority to intervene and adopt binding decisions.

^b In 1995/96, a NATO-led international peacekeeping force (IFOR) of 60,000 troops was deployed in Bosnia and Herzegovina to implement and monitor the military aspects of the Agreement. IFOR was succeeded by a smaller, NATO-led Stabilization Force (SFOR) with the mission of deterring renewed hostilities. European Union peacekeeping troops (EUFOR) replaced SFOR in December 2004 with the mission of maintaining peace and stability throughout the country. The United Nations Mission in Bosnia and Herzegovina (UNMIBH) was mandated by the Security Council to contribute to the establishment of the rule of law in Bosnia and Herzegovina and to assist civilian law enforcement agencies to operate in accordance with international police and human rights standards. UNMIBH ended its mission in December 2002 and the European Union Police Mission (EUPM) took over the task of police monitoring in Bosnia and Herzegovina from January 2003. The International Police Task Force (IPTF), comprised of international civilian police officers from States Members of the United Nations, was responsible for assisting in the restructuring and training of law enforcement agencies. The Bosnia and Herzegovina Mission of the Organization for Security and Cooperation in Europe (OSCE) was established in December 1995 under the Dayton Agreement with the mandate of promoting democratic values, monitoring and furthering the development of human rights, and organizing and supervising elections, as well as implementing arms control and security-building measures.

^c See UNICEF, OHCHR, OSCE/ODIHR, *Trafficking in Human Beings in South Eastern Europe*, 2003.

^d However, the Special Rapporteur was informed that some bars were raided repeatedly and the same women interviewed several times.

^e In September 2002, the Ministry for Human Rights and Refugees introduced Temporary Instructions on treatment of trafficking victims, based on the following principles: all persons found in places in which there is a question of illegal activity taking place are given the status of a protected person for a period of up to 10 days. During this period it is necessary to determine their identity and age and whether or not they had been trafficked; a protected person is immediately accommodated in a shelter (safe house), run by a local NGO which has signed a Protocol of Cooperation with the Ministry; if it is determined that a person has been trafficked, the person is automatically given temporary residency for humanitarian reasons for a period of up to three months, which can be extended under certain conditions. Minor victims of trafficking should receive special protection and treatment.

^f See *op. cit.* at note c.

^g IOM, *Changing Patterns and Trends of Trafficking in Persons in the Balkan Region*, July 2004.

^h The International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the United Nations Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime; and the Rome Statute of the International Court.

ⁱ See HRI/CORE/1/Add.89/Rev.1, 9 June 2004.

^j Trafficking in Persons, article 186: “(1) Whoever takes part in the recruitment, transfer, harboring 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 obtain the consent of a person having control over another person, for the purpose of exploitation, shall be punished by imprisonment for a term between one and ten years. (2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article against a juvenile, shall be punished by imprisonment for a term not less than five years. (3) Whoever organizes a group of people with an aim of perpetrating the criminal offence referred to in paragraphs 1 and 2 of this Article, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment. (4) Whoever acting out of negligence facilitates the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, shall be punished by imprisonment for a term between six months and five years.”

^k Establishment of Slavery and Transport of Slaves, article 185: “(1) Whoever, in violation of the rules of international law, places another in slavery or in a similar status or keeps him in such a status, buys, sells, hands over to another person or mediates the purchase, sale or handing over of such a person or induces someone else to sell his freedom or the freedom of the person he provides for or takes care of, shall be punished by imprisonment for a term between one and ten years. (2) Whoever, in violation of the rules of international law, buys, sells, hands over to another person or mediates in the purchase, sale or handing over a child or a juvenile for the purpose of adoption, transplantation of organs, exploitation by labour or for other illicit purposes, shall be punished by imprisonment for a term not less than five years. (3) Whoever, in violation of the rules of international law, transports persons who are in a position of slavery or in similar status, shall be punished by imprisonment for a term between six months and five years.”

^l See also UNICEF and Save the Children Norway, Research on Child Trafficking in Bosnia and Herzegovina, October 2004.
