

## BOSNIA AND HERZEGOVINA

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child		1 Sep 1993 d	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	7 Sep 2000	4 Sep 2002	
Protocol to Prevent, Suppress and Punish Trafficking in Persons	12 Dec 2000	24 Apr 2002	
UN Optional Protocol on the Involvement of Children in Armed Conflict	7 Sep 2000	10 Oct 2003	
UN Convention for the Protection of All Persons from Enforced Disappearance	6 Feb 2007	30 Mar 2012	
Hague Convention on International Child Abduction		23 Aug 1993 d	6 Mar 1992 <sup>1</sup>

Bosnia and Herzegovina is comprised of two autonomous entities – the Federation of Bosnia and Herzegovina and the Republic of Srpska (Republika Srpska) – and a third self-governing administrative unit, the Brčko District. Thus, there are four criminal codes and criminal procedure codes for the state, entities, and district. Our research looked at the legislation for all three entities as well as the state.

The Criminal Code of Bosnia and Herzegovina and the Criminal Procedure Code of Bosnia and Herzegovina address crimes committed within the state. The Criminal Codes and Criminal Procedure Codes of both the Federation of Bosnia and Herzegovina and the Republika Srpska address crimes committed within the territory of each entity. And the Criminal Code and Criminal Procedure Code of Brčko District addresses criminal acts committed within the District.<sup>2</sup>

In Bosnia and Herzegovina, there are six laws that refer directly or indirectly to missing children:

1. (State) Criminal Code of Bosnia and Herzegovina of 2003, amended in 2015;
2. (State) Criminal Procedure Code of Bosnia and Herzegovina of 2003, amended in 2013;
3. (State) Law on Missing Persons of 2004;
4. (Entity) Criminal Code of the Federation of Bosnia and Herzegovina of 2003, amended 2016;
5. (Entity) Criminal Code of the Republika Srpska of 2003, amended in 2017; and
6. (District) Criminal Code of Brcko District of 2003, amended in 2016.

<sup>1</sup> See Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, *Status Table*, at <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24> (last visited Nov. 6, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>2</sup> For more information on the legal structure of Bosnia and Herzegovina, see [http://www.nyulawglobal.org/globalex/Bosnia\\_Herzegovina.html](http://www.nyulawglobal.org/globalex/Bosnia_Herzegovina.html) (last visited Nov. 29, 2017).

### General Child Protection

As the country is divided into three regions, the police forces also are divided into three levels with 16 police bodies; none of the units is superior or subordinate to another.<sup>3</sup> Most investigations of petty crimes are reviewed by the Ministry of the Interior of the Federation of Bosnia and Herzegovina and the Ministry of the Interior of the Republika Srpska.<sup>4</sup> More serious crimes, such as organized crimes, terrorism, trafficking of persons, and other criminal acts against humanity are investigated by the State Investigation and Protection Agency (SIPA) of the Ministry of Security of Bosnia and Herzegovina.<sup>5</sup>

Bosnia and Herzegovina adopted an Action Plan for Children 2015-2018 to implement the UN Convention on the Rights of the Child.<sup>6</sup> The Action Plan seeks to support the best interests of the child through initiatives including, but not limited to: providing alternative family situations and care placement; establishing a comprehensive national foster care system; facilitating the reunification of children with their biological families whenever possible; thoroughly and periodically reviewing placements of children in institutions and paying particular attention to signs of maltreatment; facilitating adoptions and streamlining the process; and creating programs to support the rehabilitation and reintegration of street children or those at risk of coming into street situations.<sup>7</sup>

### General Missing Child Issues

Many of the available resources are used to track displaced or missing persons related to the regional conflicts of the 1990s. The Bosnian Institute for Missing Persons and the International Commission on Missing Persons (ICMP) are the responsible institutions for tracking these cases and maintaining DNA databases.<sup>8</sup> The Bosnian Institute for Missing Persons is tasked with exhuming mass graves and acting as an intermediary to identify remains.<sup>9</sup> The ICMP has DNA labs in Tuzla, Sarajevo, and Banja Luka.<sup>10</sup> Each center gathers DNA from existing family members of those missing as a result of the regional conflicts; the centers also collect DNA samples from unidentified remains waiting to be matched with living relatives. Through these efforts, over 70% of those declared missing during the regional conflicts have been accounted for.

Each of the three regions of Bosnia and Herzegovina has legislation concerning kidnapping, maltreatment, abduction, and violation of family obligations.

The Ministry of Human Rights and Refugees of Bosnia and Herzegovina collaborates with organizations and institutions that search for missing persons through Article 12 of the Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina.<sup>11</sup>

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<sup>3</sup> Alma Kovačević (CSS) and Denis Hadžović, *Policing in Bosnia and Herzegovina*, POINT PULSE, Aug. 13, 2015, at <http://pointpulse.net/magazine/policing-in-bosnia-and-herzegovina/> (last visited Oct. 31, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* See also, State Investigation and Protection Agency (SIPA), *General Information – Mission*, at <http://www.sipa.gov.ba/en/about-us/general-info> (last visited Oct. 24, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>6</sup> Bosnia and Herzegovina Council of Ministers, *Action Plan for Children in Bosnia and Herzegovina 2015-2018*, Jun. 2015, at [https://www.unicef.org/bih/akcijski\\_plan\\_za\\_djecu\\_EN-web.pdf](https://www.unicef.org/bih/akcijski_plan_za_djecu_EN-web.pdf) (last visited Nov. 13, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>7</sup> *Id.*

<sup>8</sup> International Commission on Missing Persons, *Bosnia and Herzegovina*, at <http://www.icmp.int/where-we-work/europe/western-balkans/bosnia-and-herzegovina/> (last visited Nov. 7, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>9</sup> International Commission on Missing Persons, *Technical Assistance*, at <http://www.icmp.int/what-we-do/technical-assistance/> (last visited Oct. 27, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>10</sup> International Commission on Missing Persons, *ICMP works with police DNA specialists from the Philippines*, at <http://www.icmp.int/news/icmp-works-with-police-dna-specialists-from-the-philippines/> (last visited Oct. 27, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>11</sup> Council of Ministers of Bosnia and Herzegovina, *Ministry of Human Rights and Refugees of BiH*, at [http://www.vijeceministara.gov.ba/ministarstva/liudska\\_prava\\_i\\_izbjeglice/default.aspx?id=120&langTag=en-US](http://www.vijeceministara.gov.ba/ministarstva/liudska_prava_i_izbjeglice/default.aspx?id=120&langTag=en-US) (last visited Oct. 31, 2017) (on file with the International Centre for Missing & Exploited Children).

### Definition of “Missing Child”

None of the Criminal Codes of the three regions within Bosnia and Herzegovina include a specific definition for “missing child.” However, due to the regional conflicts, the country established the Law on Missing Persons of 2004, which provides an overview of how the country addresses persons missing as a result of conflict. Article 8 provides the following definition: “a missing person is specific to those whose whereabouts are unknown in connection to the regional conflicts between 30 April 1991 and 14 February 1996.”

### Abandonment

Abandonment is defined as “[leaving] a helpless person who has been entrusted to a [person’s] care without assistance in circumstances dangerous to life or death” in both the Criminal Code of Republika Srpska of 2003<sup>12</sup> and the Criminal Code of the Federation of Bosnia and Herzegovina of 2003.<sup>13</sup>

The Criminal Code of Republika Srpska of 2003 also allows for specific protection from neglect, where the child is still in the custody of their parent, guardian, or adoptive parent but is abused or neglected.<sup>14</sup>

### Kidnapping and Abduction

The Criminal Code of the Republika Srpska and the Criminal Code of the Federation of Bosnia and Herzegovina criminalize abduction of a child or juvenile through coercion and force.<sup>15</sup>

#### **Criminal Code of the Republika Srpska Article 165**

- (1) Whoever, by force, deceit or in some other way takes away or keeps another person with the intention of extorting money or some other material advantage or of coercing him or another person into doing or not doing or suffering something, shall be punished by imprisonment for a term between one and eight years.
- (2) Whoever commits the criminal offence referred to in Paragraph 1 of this Article against a child or minor or in a brutal manner or threatens to kill or inflict grievous bodily harm upon the abducted person or if he does so as a member of a group or an organized criminal group, shall be punished by imprisonment for a term between one and ten years.

#### **Criminal Code of the Federation of Bosnia and Herzegovina Article 217**

- (1) Whoever unlawfully takes a child or juvenile away from a parent, adoptive parent, guardian or a person to whom he has been entrusted; or whoever holds or prevents him from being with an entitled person; or whoever prevents the execution of an enforceable decision on a guardianship for a child or juvenile, shall be punished by imprisonment for a term not exceeding three years.

The Criminal Code for Bosnia and Herzegovina on the other hand criminalizes abduction as part of incidences involving trafficking of a person as well as forced disappearances.<sup>16</sup>

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<sup>12</sup> Criminal Code of the Republika Srpska of 2003, Article 160 – Abandonment of a Helpless Person (on file with the International Centre for Missing & Exploited Children).

<sup>13</sup> Criminal Code of the Federation of Bosnia and Herzegovina, Article 176 – Abandonment of a Helpless Person (on file with the International Centre for Missing & Exploited Children).

<sup>14</sup> Criminal Code of the Republika Srpska of 2014, Article 207 – Neglecting or Maltreating a Child or Juvenile (on file with the International Centre for Missing & Exploited Children).

<sup>15</sup> Criminal Code of the Republika Srpska of 2014, Article 165 – Abduction (on file with the International Centre for Missing & Exploited Children).

Criminal Code of the Federation of Bosnia and Herzegovina, Article 217 – Abduction of a Child or Juvenile (on file with the International Centre for Missing & Exploited Children).

<sup>16</sup> Criminal Code of Bosnia and Herzegovina, Article 186 – International Trafficking in Human Beings; Article 172(i) – Crimes Against Humanity (on file with the International Centre for Missing & Exploited Children).

### Parental Abduction

The Criminal Code of the Federation of Bosnia and Herzegovina references international abduction in Article 217 (2) without parental interference, which results in an automatic sentence of three months to five years of imprisonment.<sup>17</sup> Abduction by a parent who has lost parental rights or guardianship carries an automatic sentence of three months to three years of imprisonment per the Criminal Code of the Brcko District.<sup>18</sup> It is unclear whether the other regions criminalize parental abduction. However, the country is a signatory to the Hague Convention on International Child Abduction.

A passport for a child under 18 years will only be issued if the application is submitted by the parents or legal guardian(s) in the presence of the child. If one parent is unable to be physically present, written consent that is signed and notarized must be provided to the Ministry of Interior.<sup>19</sup> Both parents must be registered with a unique identification number unless they are not citizens of Bosnia and Herzegovina.<sup>20</sup> A court order also must be presented if the court has awarded custody of the child to one of the parents.<sup>21</sup>

### Reporting Mechanism

The International Forum of Solidarity (IFS) – EMMAUS – is a non-profit organization focused on providing assistance to vulnerable groups throughout the country. In 2012, IFS established a hotline to report abuse of children through information and communication technologies (ICTs) and became a member of INHOPE, an international network of hotlines for reporting illegal online content, including online child sexual abuse.<sup>22</sup> IFS also has begun to discuss the possibility of establishing or incorporating a hotline for missing children under the 116 000 initiative in Europe in partnership with the Bosnia and Herzegovina Ministry for Human Rights and Refugees and the Bosnia and Herzegovina Ministry of Security.<sup>23</sup>

Blue Phone, an anonymous helpline, allows the public to call when they are in need of help or advice while at home, in school, or on the streets.<sup>24</sup> The organization provides counseling and coordinates resources with other institutions to help protect vulnerable children.

In addition, there is an official reporting mechanism available to the family members of people missing or displaced as a result of the regional conflicts. Article 8 of the Law on Missing Persons of 2004 dictates that the Missing Persons Institute of Bosnia and Herzegovina can receive tracing requests.<sup>25</sup>

### Investigation of Missing Child Cases

Research was unable to confirm whether law enforcement in any of the three regions have specific policies or procedures on how to respond to a missing child case. While there is no standard regulation for the investigation of such cases, there appears to be an informal protocol to investigate as soon as possible.

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<sup>17</sup> Criminal Code of the Federation of Bosnia and Herzegovina, Article 217 (2) – Abduction of a Child or Juvenile (on file with the International Centre for Missing & Exploited Children).

<sup>18</sup> Criminal Code of the Brcko District of 2003, Article 214 – Abduction of Child or Juvenile (on file with the International Centre for Missing & Exploited Children).

<sup>19</sup> Embassy of Bosnia and Herzegovina Washington, D.C., *Issuance of passports of Bosnia and Herzegovina*, at <http://www.bhembassy.org/Consular%20services/Uputstva/Uputstvo%20-%20Izdavanje%20pasosa.pdf> (last visited on Oct. 24, 2017)

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Sigurno Dijete, at <http://sigurnodijete.ba/en/> (last visited Nov. 7, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>23</sup> Southeastern European Center for Missing and Exploited Children (SEEC), *Action Plan 2015*, Jan. 2015, at [http://www.hamogelo.gr/files/PDF/SEEK/SEEC\\_ACTION\\_PLAN.pdf](http://www.hamogelo.gr/files/PDF/SEEK/SEEC_ACTION_PLAN.pdf) (last visited Nov. 7, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>24</sup> Blue Phone, at <http://plavitelefon.ba/o-plavom-telefonu/> (last visited Nov. 14, 2017).

<sup>25</sup> Law on Missing Persons, Article 8 – Submitting Tracing Request (on file with the International Centre for Missing & Exploited Children).

All three regions in Bosnia and Herzegovina are regulated by their own respective laws and police departments. The Criminal Procedure Code of Bosnia and Herzegovina of 2003, amended in 2013, mentions that the search for a person is permitted if it is likely that the person has committed a criminal offense or that through a search some evidence relevant to a criminal proceeding will be found.<sup>26</sup> Additionally, it explains that a search should be carried out by a person of the same sex.<sup>27</sup>

ICMP and the Missing Persons Institute (MPI) of Bosnia and Herzegovina are responsible for investigations relating to those missing as a result of the regional conflicts. The collaboration of NGOs with government and local authorities in the region has resulted in a high rate of success for accounting for people missing from the conflicts.<sup>28</sup>

### Case Management System

Research was unable to confirm whether a case management system is in place.

### National Database

ICMP maintains a DNA database (Central Records on Missing Persons (CEN)) that serves as a central consolidated database of information on missing persons.<sup>29</sup> The creation of the CEN was mandated by the Law on Missing Persons enacted in 2004.<sup>30</sup> The CEN utilized a DNA-led identification process that applied wide-scale DNA testing unselectively – identification of unidentified remains resulted from “blind” computer-driven DNA matches between the DNA of unidentified human remains and that of family members of the missing.<sup>31</sup>

### Alert Mechanism

Currently there is no public notification system to alert the public about missing children.

### Awareness-Raising Initiatives

There is no specific awareness-raising initiative regarding missing children. However, in 2014 Bosnia and Herzegovina vowed to intensify the search for the people still unaccounted for after the regional conflicts. The Council of Ministers promised to invest “maximum effort in the process to solve the issue of missing persons.”<sup>32</sup>

### Trafficking

Bosnian women and girls are subjected to trafficking for sexual purposes, predominantly within the country, in private residences, motels, and gas stations, and in some European countries.<sup>33</sup> Conversely, girls from other European countries, including Croatia, France, Serbia, Slovenia, and Austria, may be vulnerable to sex trafficking within Bosnia and Herzegovina.<sup>34</sup> Children, namely economically-vulnerable Romani, also endure forced begging, involuntary domestic servitude, and

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<sup>26</sup> Criminal Procedure Code of Bosnia and Herzegovina of 2003, Article 52 – Search of Persons (on file with the International Centre for Missing & Exploited Children).

<sup>27</sup> *Id.*

<sup>28</sup> International Commission on Missing Persons, *West Balkans*, at <http://www.icmp.int/where-we-work/europe/western-balkans/> (last visited Nov. 7, 2017).

<sup>29</sup> International Commission on Missing Persons, *supra* note 8.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> International Commission on Missing Persons (ICMP), *Bosnia and Herzegovina, Croatia, Montenegro and Serbia Sign ICMP's Declaration on Missing Persons*, Aug. 29, 2014, at <http://www.icmp.int/press-releases/bosnia-and-herzegovina-croatia-montenegro-and-serbia-sign-icmps-declaration-on-missing-persons/> (last visited Nov. 6, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>33</sup> US Department of State, *Trafficking in Persons Report 2017 – Bosnia and Herzegovina* 96, at <https://www.state.gov/documents/organization/271341.pdf> (last visited Nov. 6, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>34</sup> *Id.*

forced marriage.<sup>35</sup> In 2016, the government identified 44 victims of trafficking, 10 of whom were children.<sup>36</sup>

The State Criminal Code of Bosnia and Herzegovina states that whoever takes part in the recruitment, transferring, harboring, or receipt of persons by means of force, fraud, or coercion for the purpose of exploiting them shall be punished by imprisonment for a minimum of five years.<sup>37</sup> If the crime is committed against a person under the age of 18, the punishment is more severe – imprisonment for at least 10 years.<sup>38</sup> Article 186 of the State Criminal Code prohibits sex trafficking and forced labor only if the victim is exploited in a country in which they do not reside or have citizenship with punishment of a minimum of five years imprisonment.<sup>39</sup> The other two jurisdictions, Republika Srpska and Brcko District, prohibit sex trafficking and forced labor with punishments of at least three years of imprisonment (Republika Srpska) and five years of imprisonment (Brcko District).<sup>40</sup>

Article 210a of the Criminal Code of the Federation of Bosnia and Herzegovina of 2003 criminalizes trafficking of a child with a minimum penalty of 10 years imprisonment and criminalizes the use of the services of a trafficking victim with a penalty of six months to five years imprisonment. Article 210b makes organized human trafficking a crime and provides for a penalty of imprisonment of at least 10 years.

In addition to legislative efforts, the government has maintained its efforts to implement the National Action Plan for the Suppression of Human Trafficking in Bosnia and Herzegovina 2016-2019,<sup>41</sup> including regular meetings of the nationwide interagency taskforce and regional monitoring teams, multidisciplinary training for labor inspectors, and the allocation of funds for NGOs for various activities. Public awareness campaigns focused on commercial sex trafficking also continued.<sup>42</sup>

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 95.

<sup>37</sup> Criminal Code of Bosnia and Herzegovina, Article 186(1) – International Trafficking in Human Beings (on file with the International Centre for Missing & Exploited Children).

<sup>38</sup> Criminal Code of Bosnia and Herzegovina, Article 186(2) – International Trafficking in Human Beings (on file with the International Centre for Missing & Exploited Children).

<sup>39</sup> US Department of State, *supra* note 33, at 94.

<sup>40</sup> *Id.*

<sup>41</sup> Bosnia and Herzegovina Council of Ministers, *National Action Plan for the Suppression of Human Trafficking in Bosnia and Herzegovina 2016-2019*, at [http://msb.gov.ba/PDF/AKCIONI\\_PLAN\\_2016-2019\\_30\\_12\\_2015.pdf](http://msb.gov.ba/PDF/AKCIONI_PLAN_2016-2019_30_12_2015.pdf) (last visited Nov. 11, 2017) (on file with the International Centre for Missing & Exploited Children).

<sup>42</sup> US Department of State, *supra* note 33, at 95.