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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE

Report of the Special Rapporteur on trafficking in persons, especially women and children, Sigma Huda

Addendum

MISSION TO BOSNIA AND HERZEGOVINA

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1. The Special Rapporteur on trafficking in persons, especially women and children, Sigma Huda, visited Bosnia and Herzegovina from 21 to 28 February 2005 at the invitation of the Government.

2. The Special Rapporteur was interested in learning about progress made in the fight against trafficking in the country, through legislative, administrative and other measures, as well as new trends and obstacles encountered. The purpose of the trip was twofold: to gather lessons learned from 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. At the outset, the Special Rapporteur would like to thank the Government of Bosnia and Herzegovina for the assistance and cooperation extended to her, as well as the office in Bosnia and Herzegovina of the Office of the United Nations High Commissioner for Human Rights for the valuable assistance and guidance provided during the mission.

4. In view of the time constraints, the present document is submitted as a note containing preliminary observations by the Special Rapporteur. A full report will be submitted to the Commission at its sixty-second session.

5. 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, the International Organization for Migration, the Organization for Security and Cooperation in Europe, the European Union Police Mission and the International Criminal Investigative Training Assistance Programme. She also met with representatives of non-governmental organizations (NGOs) and visited shelter homes for victims of trafficking.

6. Bosnia and Herzegovina is a post-conflict society that has witnessed a high incidence of trafficking for the purpose of sexual exploitation; it is also linked to the heavy international presence. The Special Rapporteur was informed that Bosnia and Herzegovina is increasingly becoming both a country of transit and of origin of trafficking and that there are cases of internal trafficking. The Special Rapporteur observed that efforts to combat trafficking have increased over the years and have brought significant improvement to the situation, although trafficking still exists.

7. In 2001 the National Action Plan to combat trafficking was formulated. The Plan provided the basis for an impressive effort to improve the legislative framework to combat and prevent trafficking and protect the human rights of its victims. A new Criminal Code and Criminal Procedure Code were enacted in March 2003, making trafficking in persons a federal-level crime punished by up to 10 years' imprisonment. A law on protection of witnesses under threat and vulnerable witnesses was also adopted, as well as a new law on the movement and stay of aliens and asylum. The Special Rapporteur was informed that the current legislation could be improved further to meet international standards, thus providing better protection to victims of trafficking. For example, the witness protection law provides for protection only until

the conclusion of the trial in which victims are involved as witnesses and does not continue till their repatriation or reintegration is secured. Also, the Special Rapporteur observed that the Criminal Procedure and the Criminal Codes have no provisions to confiscate the assets and property of traffickers upon conviction.

8. The Special Rapporteur was informed that there continue to exist inconsistencies between the federal laws of the State and the laws of the different Entities and cantons. This, coupled with issues of jurisdiction, creates an additional barrier to enforcement and effective prosecution. Whilst appreciating the Government's efforts to coordinate the different laws of the Entities and cantons, and recognizing the difficulties faced by such variations, the Special Rapporteur urges the Government to work towards the harmonization of all laws that impact upon trafficking.

9. The Special Rapporteur learned with concern that only a small number of trafficking cases have been successfully prosecuted and that upon conviction reduced sentences have been imposed that do not reflect the serious nature of the human rights violations suffered by the victims. The Special Rapporteur welcomes the training programmes on combating trafficking that have been offered to law enforcement officials. However, she was informed that often the police fail to fully investigate possible cases of trafficking. The Special Rapporteur notes that there are no instances of cases against traffickers of local women and children.

10. A number of anti-trafficking strategies and measures initiated within the framework of the National Action Plan appear to have had a positive impact on reducing the number of trafficking cases in Bosnia and Herzegovina. The border control, for example, has been strengthened and the border is now less porous than in the past. However, the Special Rapporteur was informed that traffickers have adopted new strategies to traffic persons into Bosnia and Herzegovina, including fake arranged marriages of citizens of Bosnia and Herzegovina to foreign women. Similarly, raids on nightclubs and bars resulted in a dramatic decrease in the number of trafficking victims referred to shelters. However, many argue that trafficking has not stopped, but that it rather went underground, with trafficked victims being shifted to private apartments, where they are denied any sort of protection.

11. The Special Rapporteur notes that there is an acute need for the State to set up separate facilities to protect and promote the specific rights of trafficked children.

12. The Special Rapporteur was impressed by the existence of a vibrant and well-organized civil society and by the work undertaken by several non-governmental organizations (NGOs) to provide support and assistance to the victims of trafficking. The Special Rapporteur believes that further efforts must be undertaken to strengthen the social protection system, including through increased funding and improved coordination between the Government and NGOs.

13. The shelter homes provide good temporary security for all trafficked victims. The Special Rapporteur believes that efforts should be increased to ensure that trafficked persons do not become vulnerable to re-trafficking. She has also noted that though the Government and NGOs have entered into a memorandum of understanding according to which rescued victims would be sheltered in homes set up by NGOs, there are no plans for the Government to set up its own shelters. Further, there are no provisions to provide temporary shelter to local victims of trafficking.

14. The Special Rapporteur learned with satisfaction about several awareness campaigns that have been undertaken in the country on trafficking-related issues. She recognizes that the media have a responsible role by raising awareness, which could be a deterrent to trafficking. The Special Rapporteur would like to stress that awareness campaigns become less effective in the face of poverty, unemployment and a market which supports a demand, by both the local and the international communities.

15. The Special Rapporteur noted the progress made through the Stability Pact and increased regional cooperation. The Special Rapporteur believes that cooperation amongst the States of South-Eastern Europe must be further strengthened in order to successfully combat trafficking in the region, especially in the context of follow-up with respect to the repatriated victims.