



IOM International Organization for Migration

MECHANISM FOR THE MONITORING OF TRAFFICKING IN HUMAN BEINGS PHENOMENON

Bosnia i Hercegovina, Croatia, Serbia



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Bosnia and Herzegovina, Croatia, Serbia

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IOM is committed to the principle that humane and orderly migration benefits migrants and society. IOM acts with its partners in the international community to: assist in meeting operational challenges of migration; advance understanding of migration issues; encourage social and economic developments through migration; and work towards effective respect of human dignity and well-being of migrants.

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Introduction

The International Organization for Migration (IOM) started the implementation of the project “Establishment of Temporary Residence Permit Mechanisms for Victims of Trafficking and Witnesses in the Balkans” in August 2003. The project was inaugurated at the initiative of the Task Force on Trafficking in Human Beings of the Stability Pact for South East Europe. This Project has been managed by the IOM Mission in Belgrade with the assistance of IOM Missions in the Balkan Region. The final phase of the project will be concluded at the end of May 2006. The cornerstone of the project is *The Tirana Statement of Commitments on the Legalization of the Status of Trafficked Victims*, a document signed on December 2002 in Tirana .

The *United Nations’ Protocol to Prevent, Suppress and Punish Trafficking in Persons*, is the first international legal document to raise the issue of legalizing the status of foreign victims of trafficking¹.

Following the signing of the Protocol, the Task Force on Trafficking in Human Beings of the Stability Pact for South East Europe took action to ensure the institutionalization of TRP in South East Europe. In Tirana, on December 2002, government representatives from the Region² signed the *Statement on Commitments on the Legalization of the Status of Trafficked Persons*. Thus, the States acknowledged their responsibility to address the challenges of trafficking, recognizing human trafficking both as law enforcement and a human rights issue, affirming that the legalization of the status of trafficked persons would encourage their cooperation with authorities and facilitate their recovery. The signatories have also agreed that temporary residence permits are a crucial element for any effective victim protection strategy and acknowledged that the provision of temporary residence permits to foreign victims of trafficking who have escaped the clutches of traffickers bring long-term benefits in terms of their prevention from re-trafficking.

The Tirana Statement signatories have committed themselves to:

1. Give the right to victims of trafficking to remain on the territory of their country, granting them a recovery period of up to 3 months in order to stabilize and reorient themselves; and

¹ Article 7 of the protocol recommends that "each state party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases".

² Signatories to the Tirana Commitments are: Albania, Bosnia and Herzegovina, Croatia, FYR of Macedonia, Hungary, Moldova, Serbia and Montenegro, and Turkey

2. Issue a temporary residence permit to foreign victims of trafficking for (a) the duration of legal proceedings in the event that they choose to testify, or (b) as deemed appropriate.

In addition, the European Commission adopted the Directive on Residence Permit³ in April 2004. This Directive stipulates that, by April 2006, each EU member state should undertake the following:

1. To ensure that third-country nationals are granted a reflection period allowing for protection and recovery from the oppression of perpetrators, in order for victims to make an informed decision regarding cooperation with responsible authorities. The duration and starting point of this period shall be determined according to national law. (Article 6:1);
2. The responsible authorities should decide on the issuance of a residence permit valid for at least six months or the need for renewal, should the appropriate conditions be fulfilled. (Article 8:3).

If the signatories to the Tirana Commitments wish to comply with both documents and be in line with EU recommendations, they must:

1. Issue a temporary residence permit for a period of 3 (three) months for purposes of protection and assistance to victims in the process of recovery;
2. Extend temporary residence permits for up to 6 (six) months, providing that the person concerned is a victim of trafficking in human beings and is willing to collaborate with State authorities in clarification of crimes and identification of perpetrators;
3. Extend temporary residence permits only if the person, victim of trafficking in human beings, takes active part in court proceedings as a witness or a damaged party, until the end of the legal proceedings, as well as, in cases when reasons of personal safety require it.

In order to assist the countries in the region, signatories of the Tirana Statement, to fulfill the agreed commitments, The IOM Regional TRP Project has been active in five areas:

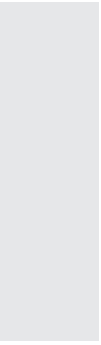
1. **Capacity Building of the Government Structures:** Implementation of Temporary Residence Permits and allocation of in-kind grants.
2. **Exchange of Information** via Study Tours/Expert Visits/ Regional Conferences.
3. **Skills-Oriented Seminars/Roundtables** for Government & NGO officials.
4. **Victim Support Fund** on a case-by-case basis for victims of trafficking who choose to testify.
5. **Capacity Building of the NGOs: Introduction of the NGO Watchdog mechanisms** in Bosnia-Herzegovina, Croatia and Serbia.

³ Council Directive on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, (14994/03).

The overall objective of the project was the institutionalization of temporary residence permits at the governmental level enhancing protection and assistance to victims of trafficking and strengthening regional institutional cooperation. This objective was fulfilled on six out of the seven project sites: Bosnia and Herzegovina adopted a law and a by-law on TRP; Serbia, Croatia, Montenegro and Macedonia have introduced a TRP Instruction enacted by the respective Ministries of the Interior; and Romania has introduced a Government Instruction which provides for a reflection period in addition to the existing temporary residency option.

By legalizing the status of foreign victims, temporary residence permits have become an essential pre-condition for assistance to victims and are a motivation for victims to come forward and seek protection. Without a TRP in place, the uncertainty of victims' status and the fact that there is potential for immediate deportation add to the anxiety of victims, who have often already been traumatized by their experience. The setting up of temporary residence permit mechanisms throughout Southeast Europe removes the prospect of immediate deportation of victims and considerably diminishes the risks of their re-entering trafficking networks. Temporary residence permits also provide the legal basis for NGOs to assist foreign victims of trafficking and facilitate the prosecution of traffickers. Without the appropriate mechanism in place, the foreign victims identified in the region without proper documentation are often treated as irregular migrants and are deported. Thus the possibility of denouncing traffickers or providing any kind of assistance is greatly reduced.

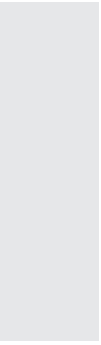
The introduction of the NGO Watchdog partners in Bosnia-Herzegovina, Croatia and Serbia was one of the sub-activities within this regional IOM project. In each of the three countries, the NGOs were tasked with assessing the situation in the field of temporary residence protection and collecting general data in regard to trafficking in persons. The three selected NGOs were: Medica Zenica for Bosnia-Herzegovina, Croatian Red Cross for Croatia and for Serbia The Victimology Society of Serbia. During the implementation phase, the three NGOs met twice to coordinate their activities and to learn from each other. As the NGO watchdogs have been almost non-existent in the field of THB in the SEE, the work of the three NGO partners is of pioneering character. Although all three NGOs are active in the field of combating trafficking, they differ in their backgrounds and areas of expertise. In this respect, and to the satisfaction of IOM, the Recommendations produced by the three NGOs and presented in this edition, differ in their methodology and structure. However, the general idea, which is to monitor the issuance of TRPs and data collected on THB cases, is common to all three. Each Recommendation is unquestionably an outcome of a successfully established regional cooperation and it presents valuable guidelines for future counter-trafficking activities.





BOSNIA AND HERZEGOVINA





COUNTER-TRAFFICKING SITUATION IN THE COUNTRY:

BOSNIA AND HERZEGOVINA

Since 1999, the Government of Bosnia and Herzegovina has taken significant steps to prevent and combat the phenomenon of trafficking in human beings (THB), in particular to assume shelter responsibility and provide direct assistance to victims of trafficking (VoTs). However, although numerous, these activities still remain modest and insufficient.

The second *National Action Plan for Combating Trafficking in Human Beings 2005-2007* (NAP) has recently been developed in close cooperation with IOM, other international organizations (IOs) and local non-governmental organizations (NGOs) involved in counter-trafficking efforts. Although the NAP contains effective strategies to counteract THB, the BiH government has not allocated the funding necessary to successfully implement the planned activities, but rather it still relies on funding from the international donors.

The BiH Ministry of Security (MoS), responsible for overall counter-trafficking efforts in BiH, is undergoing institutional restructuring. It is understaffed and lacks both the capacity and the funding to manage counter-trafficking activities. Although the establishment of the position of BiH State Coordinator for Anti-trafficking and Illegal Immigration in 2003 was a positive step, the political value and expertise of the MoS, as well as its technical and financial capacities need to be reinforced.

Over the past several years, counter-trafficking activities have predominantly been carried out by IOM and local NGOs. Although it was in 2004 that IOM transferred its responsibilities for the direct victim assistance to local NGOs, they are still not ready to take over the financial responsibilities for these activities. Although the signing of the *Protocol on Management of Shelters for Foreign Victims of trafficking in BiH* by the five local NGOs and the MoS in the beginning of 2005 was a major step forward, it did not provide any financial support, it placed NGOs into a position of a “service provider”, and it continued to lack a sustainable operational network.

In 2004, the *Rulebook on Protection of Aliens VoT in Persons was adopted as a by-law to the BiH Law on Movement and Stay of Aliens and Asylum. This was a step forward in the process of establishing a legislative framework for the protection of VoTs. A significant improvement was made*

to the National Referral Mechanism (NRM) with the signing of the Referral system (procedures) for treating victims of human trafficking in July 2005.

However, neither have legislative measures regarding the referral and assistance to the growing number of BiH nationals trafficked both internally and to Western European countries been introduced, nor has there been an adequate state response. In addition, the current counter-trafficking system does not meet the unique security and reintegration needs of BiH national VoTs.

Prevention and awareness raising activities in regard to trafficking have been, in the past, implemented by IOM and local NGOs. The State Coordinator has only recently become actively involved. The BiH education system is complicated as it is comprised of 13 Ministries of Education, which are heavily influenced by political and ethnic divisions, prejudices and traditional gender-based values found in BiH society. In such an educational environment, trafficking related issues are not seen as a priority. Thus, groups at risk, BiH children and youth, lack education regarding the current reality of THB and related issues such as sexually transmitted diseases and infections, and HIV/AIDS.

The number of identified and assisted VoTs in BiH appears to have decreased significantly in 2003. However, indicators show a change in pattern rather than an actual decrease in THB. Trafficking has shifted from public brothels and bars to private houses and apartments, making it more difficult to identify or locate victims, as law enforcement agencies still lack the institutionalized capacity to search private property. Traffickers have also developed new methods of exploitation - they either apply for asylum for VoTs or forcefully marry them, thereby falsely legalizing their status in BiH and ensuring a prolonged time period for further exploitation, as they wait for the applications to be rendered. As a result of these new methods, it is more difficult to identify trafficked victims, because they are legal residents in BiH.

Thus, to summarize, although the BiH government has made significant progress, counter-trafficking efforts remain dependent upon international support, predominantly financial. The changes introduced, especially those related to a new NRM for VoTs, contribute to the overall challenge of identifying the specific roles and responsibilities of counter-trafficking actors, ensuring their cooperation and information exchange, their capacity building and development, involvement in prevention and awareness raising, and ultimately building a comprehensive counter-trafficking network.

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Women's Association Medica Zenica, is registered at Zenica Dobož Canton Court as an Association of Citizens. This implies that Medica has legal status and that, in accordance with the legal regulations, it is authorised to execute activities presented within Articles of the Association on the territory of ZE/DO Canton, FBiH, and in Bosnia and Herzegovina as a whole.

Background

Since its establishing (April of 1993), during the time of aggression on Bosnia and Herzegovina, Medica opened its door to women who had suffered as victims of violence during the war. The project was primarily organised to assist women and children affected by war and its atrocities. In the initial stage, Medica's work was focused on providing psychological support and medical assistance to women who had survived rape as victims of war and to their dependants. Women's Therapy centre was organised to provide 24 hrs support to women who had experienced rape as war victims. The support was provided in the form of shelter, food, clothes and footwear, overall medical help and psychological and psychiatric support.

As time passed and the situation changed, Medica's work developed – from dealing with consequences of war traumas to therapy work with survivors of different forms of violence as well as work with women and children affected by many different problems.

Medica continued to provide psychosocial and medical care to women and children even in the post-war period. Women's therapy centre, with all its services, is still available to women and children.

The fact that Medica is orientation towards women and their problems is exhibited through its educational work as well: professional education is the base for women's social and economical independence. Medica's members share their knowledge with others through different trainings in field of trauma, policy advocacy, leadership in NGO-s, organizational development, gender, conflict resolution...

The Mission and the Vision of the Organisation

Medica's Vision

Women's equality and the life of women (and children) free of violence and discrimination

Medica's Mission

Medica's general mission is improvement of the life quality of women in Bosnia and Herzegovina through the promotion and the direct protection of the human rights of women (and children), the raising of the awareness of women in regard to her values, her value within the family, in partner relations, at working place, community, and in the society.

The improvement of the quality of life of women would reflect itself on the quality of life of her family and the community well being in general.

Mission achievement

Our mission is achieved through provision of adequate, promptly, free of charge services to women and their children, through providing help and support when they are most needed - when the woman is traumatized by the situation in the society (war), or the circumstances within the family (domestic violence), or/and when she suffers some other psychosomatic and social problems. At the same time we advocate for changes within the society, which would bring governmental institutions closer to the real needs of women and children.

Medica realizes its mission by:

- Being present and existing as a unique organization with a different approach to women – approaching women as, primarily, human beings. Medica's approach to woman is humane, holy, and respectful.
- Providing professional and free of charge medical services oriented towards specific women's needs.
- Providing adequate daily care for children of our clients
- Supporting women in their strive for economical independence through formal education and courses.
- Informing and educating women (by counselling, and through publications and media) regarding the consequences of trauma or violence, and their human rights.
- Raising the awareness of the community for problems of trauma and violence against women and children both war-related and in daily life. The aim of this is to prevent deeper psychological crises as consequence of survived trauma or violence, and transmitting trauma to future generations.
- Raising of awareness in regard to mental health and health issues in general through seminars and platforms on the topic of: symptoms, types of assistance and self-assistance, and about prevention of deeper crises. We are thus supporting the Mental Health Protection Reform in

BH, which is in accordance with the Community Based Mental Health principles.

- Working towards establishing a firm network of helpers in the field of mental health protection of women and children who had suffered violence, making connections with governmental institutions and NGOs who deal with problems of women and children violence survivors. Besides agreeing on direct cooperation and contacts, we also work on providing professional education in those institutions (police, judiciary, health and education institutions, centers for social work...) in the field of trauma and violence.
- Researching issues of violence against women and children, women's organizing and other fields of woman's life, and publishing.
- Connecting, networking and exchanging experiences with other women's organizations, similar NGOs and civil initiatives both in the BH and the world.

MONITORING RESIDENTIAL STATUSES OF AND COURT PROCEEDINGS FOR ALIENS VICTIMS OF TRAFFICKING IN BOSNIA-HERZEGOVINA WOMEN'S ASSOCIATION MEDICA ZENICA

Monitoring the residential statuses of and the court proceedings for alien persons victims of trafficking means monitoring the implementation of the procedures set for aliens victims of trafficking, and monitoring the implementation of the regulations that enable an alien person to achieve his/her rights before jurisdictional bodies, meaning courts and prosecutors' offices, through specific jurisdictions of the institutions involved in the project, their jurisdictions and the competitions defined by laws and authorisations for procedures.

The above said also defines the project goals. Answers to the questionnaires that were distributed to the institutions involved in the project, provide the data regarding a number of cases treated before individual institutions. It also reveals whether the ordinances of the Regulations on procedures and the rights of trafficking victims have been implemented in recorded cases and if they were followed. It reveals the difficulties that the institutions face in their work, and measures for improvements of the procedures regarding alien trafficking victims which the institutions that deal with alien trafficking victims could undertake.

Thus to summarize, the project goals were:

- To treat ordinances of valid regulations on issues of residential status and status in court procedures for alien persons victims of trafficking.
- To determine the number of recored cases.
- To analyse the implementation of the listed regulations regarding the procedures and the rights of trafficking victims in recorded cases.
- To give their characteristics
- To make an overview of the difficulties faced by the institutions or other organisations dealing with trafficking victims in relation to making decisions or performing actions within the framework of the defined jurisdiction in order to enable the overcoming of those obstacles in the future.
- To propose measures for improvement of procedures on alien persons, victims of trafficking in all the institutions that are in charge of running the procedures, and/or other organisations that deal with alien persons victims of trafficking.

1. Treating ordinances of valid regulations on issues of residential status and status in court proceedings for alien trafficking victims.

Treating ordinances of valid regulations on issues of residential status and status in court procedures for alien trafficking victims means elaborating and presenting ordinances of:

- Law on movement and residence of aliens and the asylum(Official gazette of BiH No:29/03)
- Rulebook on protection of alien victims of trafficking(Official gazette-of BiH No:33/04)
- Rulebook on asylum(Official gazette of BiH No:26/04)
- Family law of F BiH(Official gazette of F BiH No:35/05))
- Family law of Republic Srpska(Official gazette of RS No:54/02)

whose regulation relates to the residential status, and:

- Law on protection of witnesses under treats and vulnerable witnesses(Official gazette of BiH No:21/03)
- Law on protection of witnesses under treats and vulnerable witnesses(Official gazette of F BiH No: 36/03)
- Law on protection of witnesses in criminal court proceedings(Official gazette of RS No: 48/03)
- Law on criminal court proceedings in BiH (Official gazette of BH No: 36/03, 26/04)
- Law on criminal court proceedings in F BiH (Official gazette of F BiH No: 35/03)
- Law on criminal court proceedings in RS

whose regulations relates to the status of alien persons victims of trafficking in legal proceedings.

Treating ordinances of valid regulations on issues of residential status for alien victims of trafficking means elaborating and presenting following ordinances which read:

- Establishing of personal records of trafficking victims, in accordance with the regulations on the protection of personal data, has been set as an obligatory measure for the purpose of protecting the identity of the victims of trafficking (Article 3, Paragraph 2 of the Rulebook on protection of alien trafficking victims).
- Rule of confidentiality is to be respected in order to insure protection of privacy and identity of the alien trafficking victim(Article 3, Paragraph 1 of the Rulebook on protection of alien trafficking victims)
- A victim of trafficking must not be discriminated on bases of gender, race, colour, language, religion, political and/or other believes, national and social background, national minority background, property and material status, age, psychological or physical invalidity, congenital

status or any other status(Article 5 of the Rulebook on protection of alien trafficking victims)

- In all phases of the proceedings the alien person who is a victim of trafficking is to be informed of his/her rights and obligations in accordance with the laws: the right to appeal, all potential requirements for amends, and of all needed conditions for exercising their rights (Article 8, Paragraph 2 of Law on movement and residence of aliens, and asylum).
- An alien person, a victim of trafficking, has the right to adequate and safe accommodation, health care, and legal support during criminal and other proceedings through which he/she achieves his/her rights; he/she has the right to information on how to access diplomacy-consular offices of the country of origin or country of residence, information on options and repatriation procedures; and has the right to different trainings and education, depending on financial capacities.
- The alien person, whose age can not be precisely determined and there are reasons to suspect that the person in question is a child, is entitled to be treated as a child (a minor/ underage person). Should this prove to be the case, the competent authorities are obliged to promptly and efficiently undertake all the necessary measures in order to provide the best protection for such persons.(Article 11, Paragraph 3 and Article 19, Paragraph 5 of the Rulebook on protection of alien trafficking victims)
- The authority in charge of running the procedure is obliged to enable the alien person, a victim of trafficking, to follow the procedure. In case that the alien person is not in command of the local language used in the procedure communication, the authority should provide an interpreter (Article 8, Paragraph 3 of Law on movement and residence of aliens, and asylum)
- The authority in charge of the identification of trafficking victims is obliged to respect indicators of: self-identification(declaring);place and conditions under which the alien person- a suspected trafficking victim, has been found; limitation of personal freedom, psychological and physical condition of the person; age; the reason for entering BIH and the way of entering BIH; status; movement and the residence(s) of the person in BIH; possession of travel document/ID/ passport; possession of financial means, and other conditions relevant for right identification (Article 8, Paragraph 2 of the Rulebook on protection of alien trafficking victims)
- The authority in charge of running the procedure would not start procedures against alien victims of trafficking for actions of :illegal entrance and stay in BIH; involvement in prostitution; and possession or use of false IDs if these acts were exercised in direct linkage with trafficking in human beings.(Article 4 of the Rulebook on protection of alien victims of trafficking).

- An alien person a victim of trafficking is entitled to a 3 month temporary BIH residence with possibility of extension for humanitarian reasons and for the purpose of provision of protection and assistance in the process of recovery and return to the country of origin or habitual residence. (Article 6, Paragraphs 1 and 2 of Rulebook on protection of alien victims of trafficking, and in relation to Article 35, Paragraph 1, bullet a) of Law on movement and residence of aliens, and asylum)
- A person that is justifiably suspected to be a trafficking victim is entitled to a 15 days reflection period during which the person is granted a status of a protected person. The reflection period gives the person the time to think about making a decision on filing a request for receiving a humanitarian reasons-based residence permit.(Article 11 of Rulebook on protection of alien victims of trafficking)
- Alien person, justifiably suspected to be a trafficking victim, if consents, is entitled to accommodation in shelters.(Article 11, Paragraph 1 of the Rulebook on protection of alien victims of trafficking)
- Shelter management is obliged to ensure that the sheltered alien person beneficiary is able to exercise the rights prescribed by the Rulebook on protection of alien victims of trafficking.(Article11, Paragraph 5 of the Rulebook on protection of alien victims of trafficking)

Guaranties in procedures that are exercised on all asylum seekers, are also implemented in cases of trafficking victims seeking the asylum in BIH, therefore:

- Alien victim of trafficking who has been granted temporarily residence in BIH for humanitarian reasons, who files an asylum request(asylum seeker) and/or receives the approval of asylum, would be entitled to protection of the state based on the principle of disabled return if it is determined that such a person, if returned or expelled, would be in danger of torture or exposure to other inhuman or humiliating treatment or punishment, and/or if the life and/or freedom of such person would be jeopardised due to his/her race, religion, nationality, belonging to certain social group, or political opinion(Article 2, Paragraph1, bullet c) of the Rulebook on asylum in BIH, related to Articles 60 and 79 of Law on movement and residence of aliens, and asylum). Alien persons-victims of trafficking, with the above described status, are entitled to freedom of movement and protection against discrimination and are obliged to respect the constitutional establishment of the BIH, BIH State regulations , BIH entity level and Brčko District level regulations, and are under obligation to be in possession of the Identification Documentation/ID. (Article 4, Paragraphs 1 and 2 of the Rulebook on asylum in BIH)
- Authorities that are in charge of asylum- requests' proceedings are obliged to inform the alien person-trafficking victim and asylum seeker about: asylum approval conditions and proceedings; relevant bodies;

such person's rights and duties; possibilities of contacting the UNHCR and NGOs who offer assistance to asylum seekers; and to provide all information necessary to facilitate the residence of a person in BIH during the proceedings (Article 8, Paragraph 1 of the Rulebook on asylum in BIH)

- An alien person –a trafficking victim and asylum seeker- with respect to his/her religious, cultural, or other reasons, has a right to require that the proceedings of the asylum request and the translation works are performed and cared for by a person of the same sex.(article 10 of Rulebook on asylum in BIH)
- An alien person –a trafficking victim and asylum seeker who intends to leave the asylum centre, is obliged to prove that he/she is in a possession of means sufficient for supporting independent living or to submit the guarantee of a BIH citizen or a foreign person with permanent BH residence that they are undertaking the responsibility to support the asylum seeker, and the address intended for temporarily residence (Article 21, Paragraph 2 of Rulebook on asylum in BIH)
- An alien person –a trafficking victim and asylum seeker is obliged to respect the constitutional establishment of BH, laws and decisions made by relevant authorities, to actively cooperate with relevant authorities throughout the whole proceedings upon the filing of a request for asylum, to behave in accordance with the asylum centre house rules, and to inform relevant authorities on every change of the address.(Article 33 of Rulebook on asylum in BIH)

Treating ordinances of valid regulations on issues of status of alien trafficking victims in court procedures means elaborating and presenting following ordinances which read:

- An alien person –a trafficking victim is entitled to protection against discrimination and protection and respect of his/her personal life in legal proceedings, during testifying. (Provisions of European convention on human rights).
- If, due to involvement in legal proceedings before a relevant court,the personal safety of an alien person a trafficking victim is endangered and/or his/her family is in danger and/or is threatened; or if the person is severely physically or psychologically traumatised by the conditions under which the criminal act had been performed; or if the person suffers from serious psychological disorders that makes the person extremely vulnerable; or if the person is a child or of a minor age, such an alien person a trafficking victim is entitled to protection during testimony giving procedures and is entitled to receive measures set for witness protection (enabled support of social protection and welfare organ and/or psychological support; alternated order of presentation of evidences and testimonial of such witness at main hearing; court-controlled questioning procedures of vulnerable witness with purpose to protect the person from disturbance and confusing; questioning of the

witness using technical devices for audio and video transfer to avoid presence of the defender and the opposite party in the same room; removing of the defendant from the court-room during the deposition; witness may be excused from the direct testifying at conducted inquest by reading of affidavit given in interrogation procedure, limitation of rights of the defendant and his defender to see in to acts and documentation, and additional measures providing anonymity to the witness such as: witness' personal data remain confidential, deposition given behind the screen or using electronic devices for changing voice and/or an image of the witness, use of electronic devices for transfer of sound and picture, application of procedures for hearing of the protected witness (Articles 6 to 13 and 15 to 23- Law on protection of witnesses under threat and vulnerable witnesses of BIH; Articles 7 to 14 and 16 to 24 - Law on protection of witnesses under threat and vulnerable witnesses of F BIH).

- The court, the prosecutor, and other organs in the proceedings are obliged to instruct the witness under threat or vulnerable witnesses of witness protection measures prescribed by law (Article 5, Paragraph 1 of- Law on protection of witnesses under threat and vulnerable witnesses of BIH; Article 6, Paragraph 1 of Law on protection of witnesses under threat and vulnerable witnesses of F BIH).
- An alien person –a victim of trafficking in the role of a witness in criminal court proceedings is entitled to communicate in her/his mother tongue and is entitled to an interpreter (Article 8, paragraph 2 of Law on Criminal court proceedings of BIH; Article 9, paragraph 9 of Law on Criminal court proceedings off F BIH).
- An alien person –a victim of trafficking, in the role of a witness in criminal court proceedings, must not be subject to forcible extraction of admission or any other statement. (Article 10, Paragraph 1 of Law on Criminal court proceedings of BIH; Article 11, Paragraph 1 of Law on Criminal court proceedings off F BIH).
- Court decision can not be founded on a testimony of an alien person –a victim of trafficking if such was given under circumstances that violate human rights prescribed by the constitution and international acts ratified by BIH (Article 10, Paragraph 2 of Law on Criminal court proceedings of BIH; Article 11, Paragraph 2 of Law on Criminal court proceedings off F BIH)

The questionnaire content was arranged in such a way that institutions were required to give answers on implementation of the above mentioned regulations in specific recorded cases of trafficking in humans in a way that reveals both data on number of cases and the implementation of the regulations and gives insight in to residential and status in legal proceedings of trafficking victims.

The data of period researched refers to the timeframe of January 1st 2003 to June 30th of 2005.

Thirty-one (31) institutions were submitted the questionnaire on the implementation of the above mentioned regulations referring to residential and status in legal proceedings of alien trafficking victims.

Out of the total number, **30 institutions filled in the questionnaire** while 1 institution did not.

The state-level institutions surveyed:

- Ministry of security of Bosnia and Herzegovina
- Court of Bosnia and Herzegovina
- Public Prosecutor's Office of Bosnia and Herzegovina

BH Federation Entity surveyed institutions:

At cantonal level:

- Cantonal courts in Zenica, Travnik, and Mostar
- Cantonal Prosecutor's Offices in Zenica-Doboj, Middle-Bosnian, and Herzegovina-Neretva Cantons;
- Cantonal Minor Offence Courts at Zenica, Travnik, and Mostar;
- Ministry of Interior/Department for Foreigners at Zenica-Doboj, Middle-Bosnian, and Herzegovina-Neretva Cantons;

At municipal level:

- Municipal courts in Zenica, Travnik, and Mostar
- Municipal Minor Offence Courts at Zenica, Travnik, and Mostar
- Centres for social work and welfare at Zenica, Travnik, and Mostar.

Republic Srpska Entity surveyed institutions in Bjeljina:

- Ministry of Interior of RS/Centre of Public security in Bjeljina/ Department for Foreigners
- Regional court in Bjeljina
- Regional Prosecutor's Office Bjeljina
- Municipal court in Bjeljina
- Minor Offence Court in Bjeljina
- Centre for Social work and welfare in Bjeljina

Questions posed to the **Ministry of security of Bosnia and Herzegovina** referred to the jurisdictions of the ministries, as set by *Law on ministries and other organs of administration in BiH*, in regards to creating and exercising of immigration and asylum policies and specific tasks determined by laws' and sub-law regulations concerning: design of procedures and methods of organising service for movement and residence of foreign persons in BiH; establishing and monitoring of shelters; repatriation to country of origin, and establishing database on personal records of trafficking victims.

Questions posed to the **Departments for Foreigners of Ministry of Interior** referred to the jurisdictions concerning movement and residence of foreign persons, as determined by ordinances of *Law on movement and residence of foreign persons, and asylum*, and other tasks performed until the establishment of organisational Units of Ministry of security.

Questions posed to the **Centres for social work and welfare** treated the role of the custody organ and concerned the tasks regarding the protection of foreign children who are victims of trafficking.

Questions posed to the **Courts and Prosecutors Offices at all levels** were related to criminal court and minor offence court proceedings against persons accused of criminal conducts and/or offenders, and treatment of alien persons victims of trafficking in role of witnesses or the offended party in proceedings.

2. Number of recorded/processed cases analyses the implementation of regulations on procedures and rights of alien persons victims of trafficking, the characteristics of individual cases(data received from answers to the questionnaires), and findings that refer cases and the implementation of the regulations.

According to the data gathered through questionnaires there was a total of 240 registered cases separated on bases of:

- Residential status,
- Status in legal proceedings, and
- Proceedings before Prosecutor's offices.

Residential status of alien persons who are victims of trafficking

Ministry of security of Bosnia and Herzegovina

There were 10 cases recorded at the Ministry of security of Bosnia and Herzegovina concerning treating of alien victims of trafficking. The data gathered through answers given in the questionnaire that was filled in at this institution reveals the following:

- In regards to the obligation of establishing a central database on foreign persons, there are tasks regarding the designing of the Manual concerning the central database on foreign persons in BiH. Besides this, we learned that the Ministry of security is in command of the databases **referring to foreign citizens who have been** granted permanent or temporary residence permits; the ones to whom the entrance was denied; the ones who have been expelled from the country; the ones whose stay was cancelled, terminated, and/or are banned to enter BiH again. They are also in command of data regarding measures taken concerning foreign citizens and of other records as set by ordinance of Article 91 of the Law on movement and residence of aliens, and asylum. These records were not systematically treated and are in need of informative and systematic processing.

- Ministries are positive in regards to the implementation of principles of non-discrimination and state there were no objections that would have related to violations of this principle.
- They are positive in regards to the obligation of enabling alien persons victims of trafficking, at all stages of the proceedings, to know and exercise its rights and duties, as resulting from Law on movement and residence of aliens, and asylum; especially respecting the fact that the obligation to instruct foreign persons with their rights set by laws and bylaws/rulebooks is set by all BiH law regulations for all(bodies) in charge for proceedings.
- In regards to the institution of independent/impartial legal support, the ministries underlines the fact that the Ministry of security has signed a Protocol on cooperation with NGO “Vaša Prava” that precisely describes the ways on how an alien person a victim of trafficking is to be enabled to enjoy legal assistance in all phases and with purpose to regulate their status issues. According to the data they have and the facts learned during the analyses of the requests for issuance of temporary residence received, the victims exercised this right and were in position to enjoy direct assistance of “Vaša Prava” staff.
- Analyses of cases treated before this ministry show that the majority of the victims were identified according to the indicators of: place and conditions under which the alien was detected, status, movement and residing in BiH, self-identification and similar.
- Out of total number of registered cases, 7 foreign persons victims of trafficking were in a possession of regular travel documentation whilst 3 persons were not.
- According to the data, registered alien persons victims of trafficking mostly entered BIH illegally or from the territory of countries that do not require a visa for entering BIH.
- In all 10 registered cases , the alien persons victims of trafficking filled an application for approval of residence for humanitarian reasons. By the time the questionnaires were returned to us and the project was terminated, there were 5 persons with granted approval of stay for humanitarian reasons, in 3 cases the proceedings were terminated as the applicants withdrew their applications; and in 2 cases the proceedings were still ongoing.
- There were no situations that alien persons, reasonably suspected to be victims of trafficking, were processed as offenders upon their identification and/or moment of being placed under the protection of Ministry of security.
- There was no measure of expelling of an alien person a victim of trafficking from the territory of BIH.
- In all 10 registered cases of alien persons victims of trafficking, the victims were received in several shelters who have the “Protocol on

cooperation in sheltering and caring for alien victims of trafficking” signed with the Ministry of Security. The victims, referred by the Ministry were sheltered in available capacities of NGOs: *Lara* in Bjeljina; *Medica Zenica*; *La Strada* in Mostar; *Međunarodni Forum-Doboj*; and *Žena BiH*-Mostar.

- Among the registered there were no minor persons or children.
- There were no situations that the age of alien person victim of trafficking could not be determined and that the person was entitled to treatment as if were a child.
- In regards to Ministry of security monitoring on work of the shelters the statement is that the abovementioned Protocol is clearly defying the rights and obligations of parties in cooperation. According to the content of the Protocol, the parties are equal partners in procedures of providing protection to alien victims of trafficking. There were no violations of the terms set by the Protocol because there is a system of internal control established in agreement with ordinances of the Protocol.
- There were no cases that the alien victim of trafficking was issued a travel document.
- Out of 10 registered cases of alien-persons victims of trafficking, 1 of the persons filed an application for asylum in BiH while 3 persons filed asylum applications before filing applications for temporary residence in BiH.
- All alien person victims of trafficking have been in contact with the UNHCR.
- From April 1st of 2004, when the Ministry of Security took over asylum procedures from the UNHCR, there were no cases that any alien person, reasonably suspected to be victim of trafficking, was granted refugee status in BiH.

Based upon the above mentioned, it is obvious that the Ministry of Security performs the tasks related to design, creating, and implementation of immigration and asylum policies, and specific tasks established by law and by by-law acts which concern the determination of procedures and models of organising services dealing with movement and residence of foreign persons, and the asylum issues; designing and monitoring the work of shelters; issues of repatriation to countries of origin; and establishing database of personal records of trafficking victims.

Ministries of Interior/Departments for foreign persons

There were total of 15 cases registered at Ministries of Interior/Departments for foreign persons who were required to fill in the questionnaires.

The records made upon received answers show that:

- The concerned institutions' actions are based in Law on movement and residence of alien persons, and asylum; Rulebook on protection of alien persons victims of trafficking in BIH; Vlašić Procedures on treatment of victims of trafficking in BIH; Criminal Codes of entities and Criminal Code of BIH; Rulebook on protection of alien persons victims of trafficking in BIH, Recommendations of the SZO for interviewing women victims of trafficking; and crime-police practices.
- They use international standards regarding these issues meaning righteous treatment and relevant assistance to alien person victim of trafficking is practiced.
- In all proceedings and interviews conducted, maximum discretion was provided in order to protect the privacy and the identity of the alien person victim of trafficking. It indicates that the rule on confidentiality, a precondition for ensuring privacy and the identity of an alien person a victim of trafficking, was not violated.
- The principle of non-discrimination was not violated, meaning that treatment of trafficking victim was free of prejudices in approach.
- Determining factors for identification of alien person victim of trafficking were: self-identification in 5 cases; limitation of personal freedom in 1 case; material conditions in 3 cases; and age of the person in rest of cases recorded (victims were all from 20 to 27 of age).
- Alien persons- victims of trafficking were provided with health care and information concerning their status, rights and obligations.
- Alien persons, victim of trafficking, were informed about the entitlement to independent legal support provided by "Vaša Prava" and "Lara" Bjeljina.
- In most of the treated cases, alien persons- victim of trafficking, were in command of one of official languages in BIH, and for those cases it was not necessary to provide language assistance they are entitled to; in cases where they required it and/or were not in command of the language used for communication in proceedings, the language assistance was provided
- In 9 cases, the alien person victim of trafficking was in a possession of valid travel documents while in 6 cases this was not so.
- There was no case that an alien person victim of trafficking had a residence granted in BIH.
- In one case the victim had accommodation arranged by a travel

- agency besides other conditions required for entering the state,
- Three alien persons victims of trafficking filed applications for temporary residence in BIH for humanitarian reasons.
 - Neither one alien person victim of trafficking was involved in legal proceedings in the role of a suspect for criminal or offence actions.
 - Neither one alien person victim of trafficking was exposed to expulsion from BIH territory measure.
 - There were no demands for offence proceedings against alien persons victims of trafficking.
 - There was 1 case in which the age of the alien person, a victim of trafficking, could not be determined and there was reasonable suspicion that the person in question was a minor, meaning person younger than 18.
 - 12 victims, out of whom are 2 minors, were sheltered.
 - There is a data that 2 alien persons, victims of trafficking, exercised the right to repatriation whilst for others there is no data on this issue.
 - There were no asylum applications filed by alien persons victim of trafficking.

According to the data received, we may conclude that the judicial body concerned treats victims of trafficking in accordance with valid regulations.

Alien persons, victims of trafficking, were provided with independent legal support by “Vaša Prava” and Lara Bjeljina (cases from Zenica, Mostar, and Bjeljina).

Furthermore the trafficking victims could follow the proceedings due to their command of language spoken (cases in Mostar and Bjeljina) and language assistant provided (case in Zenica).

Victims were provided with relevant health care (Mostar) and regular medical checks.

According to the numeric classification of the recorded cases, it is visible that indicators determined by Provision 8. Paragraph 2 Rulebook on protection of alien person victim of trafficking were respected during the victim identification process. (cases in Mostar, Zenica, and Bjeljina).

Trafficking victims were provided with accommodation; out of 15 recorded, 12 persons were sheltered in safe houses.

There were no cases of processing trafficking victims for offence of prostitution or criminal acts, which indicates the respect of regulation demanding that such actions are not to be processed if in direct connection with trafficking in humans. No cases of expulsion of foreign persons from BIH territory were registered in the observed period (data from Mostar, Zenica, and Bjeljina).

The fact that neither one of treated foreigners had the residence permit for BIH may indicate a case of organised crime.

Three alien persons exercised the right to file the application for issuance of temporarily residence in BIH for humanitarian reasons (Bjeljina cases).

All departments for foreign persons, included in the project, stated that their treatment of alien persons victims of trafficking was righteous and non discriminatory. However, we did not explore feedback information from the registered trafficking victims; therefore conclusions are not to be made without such data.

Centres for social work and welfare

There were total of 2 cases registered at Centres for social work and welfare who were required to fill in the questionnaires.

The records made upon answers received show that:

- Information on minor alien persons, victims of trafficking, was received by police.
- Procedures of custody over minor alien persons, victims of trafficking, are performed with maximum promptness.
- In one case, a minor alien persons, victim of trafficking in proceedings, upon receiving a temporary measure of accommodation was accommodated to a safe house.
- In one case a minor alien persons victims of trafficking was placed under custody of an official tutor entitled and responsible for the representation and the protection of rights of the minor beneficiary until the repatriation to the country of origin or permanent residence. The tutor is obliged to work on the safe and prompt return of the minor person. In one case, the tutorship was not required, for the minor person was escorted and handed over to its parents with the help of the Centre for Social work.
- The institutions explored claim that, from position of representation, minor age alien persons- victims of trafficking are thoroughly informed regarding all issues of interest throughout phases of proceedings.
- Rule of confidentiality as a precondition for protection of privacy and identity of minor alien persons, victims of trafficking, was fully respected.
- There were no cases that data for identification of minor alien persons, victims of trafficking was given or published in media by these state authorities.
- There were no cases in which the age of a victim could not be determined and there was no need for treatment of any persons as if they were minors .
- There was 1 minor alien person victim of trafficking without parental or tutorial escort.
- 1 minor alien person, victim of trafficking was accommodated in a safe house.
- The shelter capacity was provided by an NGO in the case.

- There were no problems concerning checking up of the data and establishing contact with relevant organs in country of origin for minor alien persons, victims of trafficking.
- A minor alien person victim of trafficking was returned to country of origin/permanent residence.

According to the data received, we may conclude that the custody organ concerned treats victims of trafficking promptly and in accordance with valid regulations (Mostar).

In one case, a minor alien person, a victim of trafficking was assigned an official tutor for purposes of best protection of rights of minor beneficiary (Mostar).

Procedures over minor alien persons, victims of trafficking, are performed at maximum promptness; the beneficiary was handed over to parents.

A minor alien person, victim of trafficking achieved the right to accommodation and repatriation and was accommodated in safe house(Mostar).

Status of alien persons, victims of trafficking, in legal proceedings

Courts

There were total of 102 cases registered at **courts** which were asked to take part in this project. Out of that number, 1 case was recorded at the Municipal Court in Zenica while 101 cases were recorded by the Court of BIH. Other courts did not have cases concerning trafficking in human beings.

The criminal law proceeding at the Municipal Court in Zenica was concerned with criminal act of mediation in prostitution.

The court of BIH enabled availability of data by providing us with the right to research files on completed proceedings and by providing data on number of cases in process for the period explored.

According to these data:

In year of 2003, the BIH Court had total of 15 cases relating to trafficking in humans out of which:

- 1 case for the establishing of slavery conditions and transportation of persons in slavery-according to Article 185 of Criminal Code of BH
- 1 criminal action case of trafficking in humans-according to Article 186 of the same law.
- 13 criminal action cases of smuggling persons-according to article 185 of the same law

In percentages, this is 38,64% of all cases(39) handled in year of 2003 before this court.

In year of 2004, the BIH Court had total of 57 cases related to trafficking in humans out of which:

- 2 cases for the establishing of slavery conditions and transportation of persons in slavery-according to Article 185 of Criminal Code of BH
- 2 criminal action cases of trafficking in humans-according to Article 186 of the same law.
- 3 criminal action cases of international wooing for purposes of prostitution according to Article 187 of the same law
- 50 criminal action cases of smuggling persons-according to article 185 of the same law

In percentages, this is 26,76% of all cases(213) handled in year of 2004 before this court.

In the first 6 months of 2005, the BIH Court had a total of 29 cases related to trafficking in humans out of which:

- 1 case for the establishing of slavery conditions and transportation of persons in slavery-according to Article 185 of Criminal Code of BH
- 7 criminal action cases of trafficking in humans-according to Article 186 of the same law.
- 1 criminal action cases of international wooing for purposes of prostitution according to Article 187 of the same law
- 20 criminal action cases of smuggling persons-according to article 185 of the same law

In percentages, this is 14,87% of all cases(195) before this court in the period observed.

The data provided show that in the legal proceedings before the BH Court:

- Alien persons victims of trafficking were protected in procedures of testifying in accordance with the Provisions of Law on protection of witnesses under threat and vulnerable witnesses of BH, by exercising measure of exclusion of the witness from direct testifying(by reading the affidavit)
- The victims were instructed, prior the proceedings, on witness protection measures prescribed by Law on protection of witnesses under threat and vulnerable witnesses of BH.
- In all the cases, alien persons, victims of trafficking who had the status of witness were enabled to speak their mother tongue during the proceedings and had language assistance.
- No legal proceedings were filed against any alien person, victim of trafficking

The data from the observed period indicates an increase of detected and processed cases of trafficking in humans.

In majority of cases the perpetrators were also accused of making alliances for the purpose of committing criminal conducts defined in Article 249 of BIH Criminal Code, and organised crime as defined in Article 250 of

the same law. This leads us to the conclusion that criminal conducts concerning trafficking of humans are performed by organised groups of people performing such actions.

In court cases with several persons charged, there was a tendency to separate cases in at the trials and proceedings against individual offenders wherever it was in agreement with separation reasons defined in article 26 of Law on criminal court proceedings.

Analysing individual cases, from the 52 court cases before the state court, out of which 37 refer to trafficking in humans, we learned the following:

- During the procedures before DGS (State Border Service) alien persons victims of trafficking, potential court witnesses, were offered the use of legal support even before the legal proceedings.
- 108 alien persons victims of trafficking were asked to give statements prior the proceedings due to the assumption of high probability that the persons would not be available during the trial process. The above mentioned statements and affidavits were later used as evidences before the court in cases of witness excused of direct testifying before the court. In cases where guilt was plagued and cases of consent, these statements were not read before the court.
- 28 alien persons witnesses were in command of the language used in proceedings and for 80 persons language assistance was provided through a court interpreter.
- Two persons testified directly before the court and their affidavits given previously were not used.
- One witness was illiterate.
- In 4 court cases whose purpose was the revealing of criminal organisations there were 52 protected witnesses.
- In two court cases for criminal acts of smuggling persons the victims were 5 minor age persons
- In several court cases the offenders (11) were from foreign countries.
- In 3 cases BH citizens appeared as witnesses.
- In most of the court cases the offenders concluded agreement on guilt which may indicate that the sufficient evidence was collected.
- The measures declared against the offenders was: penalty, penalty of conditional freedom/ probation, and jail imprisonment sentence of several months to several years.

It is obvious that the majority of foreign women victims of trafficking were forced to illegal migration in to BiH, exposed to sexual exploitation, forced to abortions, raped, exposed to humiliating sexual treatment, physically abused, their personal documents were confiscated, persons were given false medical records and results of testing on HIV/AIDS and STDs, and some were treated for forms of severe psychoses. This data illustrates the

complexity and the weight of criminal actions that the victims were exposed to and describes the consequences of these actions on physical and mental health of victims.

Public Prosecutor's Offices

There were total of 111 cases recorded at the public prosecutor's offices asked to take part in this project where alien persons- victims of trafficking gave statements for the purpose of collection of evidence against offenders and persons accused for criminal conduct of trafficking in humans or other actions that are related to it.

Out of the total number, with victims from countries other than BiH, there were 4 cases concerning criminal conduct of mediation for purposes of prostitution as defined in Criminal Code of FBiH and those were recorded at Cantonal Prosecutor's Office in Middle-Bosnian Canton.

Other 107 cases concerned criminal conducts of: trafficking in humans, establishing of slavery conditions and transportation of persons in slavery, international wooing for purposes of prostitution, denial of identification and other personal documentation, and smuggling persons all defined in Criminal Code of BiH. These cases were recorded at the BiH Public Prosecutor's Office.

Out of cases registered at cantonal level, two cases ended in with verdict which sentenced the offender to imprisonment, 1 case is in a procedure before the authorised court, whilst 1 case is in a phase of investigation.

Since August 1st of 2003, when Criminal Code of BiH was put in force, the investigation procedures have been conducted by the investigation judge and the relevant Prosecutors Office who would raise the indictment and file the investigation records to the court. In that period, the investigation judges were obliged to inform the affected party of their rights and prevent the discrimination against it. The opinion is that such procedures were utterly respected.

In regards to this, as far as the authorisation of the prosecution and the investigation judges is concerned, until August 1st of 2003, the standing point was that the investigation judges were obliged to enable the affected to decide themselves regarding their right to file an application for property, the use of their mother tongue, and the possibility to have an interpreter to follow the proceedings or give statements to the competent authorities . There is also opinion that there were no cases of forced statements nor were the affected persons additionally burdened with proceedings for offences.

The Public Prosecutor's office of BiH provided data for the period from January 1st 2003 to December 31st of 2005 which is longer than the period researched and established by the questionnaire.

The data received that relates to BiH Public Prosecutor's Office shows:

- In 107 criminal cases alien persons victims of trafficking gave statements in the process of collection of evidence against criminal offenders charged for trafficking in humans or criminal conducts that may be related to it. The number of witnesses-victims is significantly larger than the number of cases.
- International standards and righteous treatment of witnesses who are alien persons victims of trafficking victim was practiced. If such a person did not want to testify or was scared, then he/she was not proposed for a witness nor was he/she summoned by the court as a witness in trial; with the exception of the cases when the victim agreed to do the proposed under conditions of protected witness status.
- All alien persons victims of trafficking were instructed and informed about victim protection measures defined in Law on protection of witnesses under treats and vulnerable witnesses
- The right to respect of privacy and non discriminatory treatment, as defined in the European Convention on human rights, was respected in all cases of alien persons victims of trafficking.
- In all cases the affected alien person, victim of trafficking, was informed about his/her rights as the affected party.
- In all the cases, alien victims of trafficking were enabled to speak their mother tongue and were provided with a language assistant (professional translators and interpreters)
- There are no recorded cases that a victim had been forced to give a statement to the police or prosecutor. However, it has been recorded that in a few cases there were such attempts of the defence attorney and/or the defendant against the witness, used with the aim that the statement be withdrawn, terminated or changed.
- Alien victims of trafficking were not processed for offence.

We can conclude that the alien victims were protected in proceedings before the BiH Public Prosecutor's Office, having in mind that they were not forced to give statement nor testify at court. The ones that witnessed in legal proceedings were given the status of a protected witness. Alien VoTs were in a position to speak their mother tongue and were provided with language assistance of a court interpreter.

3. The problems encountered by institutions in the process of decision-making and proceedings

As far as the problems that institutions and organisations dealing with the issue of trafficking in humans encounter in the process of decision-making and proceedings are concerned, the following was said:

- The laws treating trafficking in humans are inadequate
- Witness protection measures are not sufficient and can not neutralise fear or threatening of victims
- There are no homes/facilities for accommodating minor age persons

- Language assistance issue. It is difficult to find interpreters in late night hours. It is difficult to arrange the engagement of such-if found.
- Shortage of regulations for this issue on cantonal level.
- Affected persons often cannot be found at known/reported addresses; new places of stay are unknown. It is hard to have them present for investigation and before the court. This disturbs the work of the prosecution and courts and is a a problem which has great impact, which creates high costs and creates uncertainties for reaching sanctions against the perpetrators and offenders.
- The victims distrust the police.
- Alien victims of trafficking are rarely available.
- The issue of acknowledgement of being a trafficking victim
- Neglect of psychological consequences suffered by victims during and after the trial, such as: emotional pain and shame.
- Statistic in institutions (centre for social work) does not reflect the reality. Trafficking victims are often enlisted under other categories like: neglected person, domestic violence cases, community violence cases, and offender.
- Prejudices of professionals in approaching victims of trafficking
- Incoherent data on number of trafficking cases in institutions and NGOs' files.
- The law is not in agreement with the reality. The law predicts the application of special investigation measures only in cases of suspicion of criminal actions with predicted minimal punishment of imprisonment over 3 years. The trafficking is in a category of minimum imprisonment of 1 year. It is therefore difficult to undertake all the investigation measures required.
- Canton 6 does not have a shelter for trafficking victims. Ministry of security would propose the one that is geographically close. Accommodation of suspected trafficking victim in a shelter requires the consent of the person. This is a problem as the suspected victims often deny the consent and therefore must simply be released. Then they usually return to places where they have worked before. The procedures on residence status are too long and slow; two months are too long for these cases.
- There is no asylum centre in BH
- There is a problem of covering the cost and the expenses created by the trafficking victim being sheltered in a safe house.
- Bjeljina has an increasing issue of Roma children organised in begging in streets. By many this form of organised crime is being neglected as a serious one. Such cases, being an organised crime, should be processed before the state or regional Prosecutor's Office. Many Roma children do not have birth certificates and are not registered in the registrar book of births. This complicates the determining of their origin,

age and other data including the population census. The persons, who run the begging, if caught, are charged with 30 BAM penalty; they pay it and are back in business.

- Prosecutor's actions were not adequate.
- The state does not provide adequate financial support to asylum seekers.
- Asylum granting procedure upon filled application takes too long.
- Asylum seekers, aliens trafficking victims, take advantage of their status by returning to bars and places where found.

4. Recommendations for improving the processing in institutions and in organisations dealing with alien persons victims of trafficking

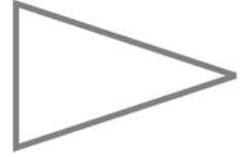
In order to achieve improving the processing in institutions and organisations dealing with alien persons victims of trafficking, the participants to this project proposed:

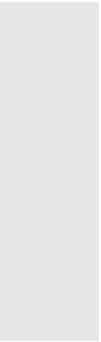
- Better cooperation of police, NGOs, and institutions from countries of origin of the victims.
- Education of police and other professionals working in this field.
- Purchase of equipment and tools for processing bodies.
- Better liaison of police and state institutions
- Passing of laws with better and detailed regulation of methods for treating and processing trafficking victims that enables better work in investigation and in court. The regulation should be made for proceedings at cantonal level.
- Respect of judgement of every woman in regard to her position, safety and risks and making interviews with trafficking victims in utmost professional manner.
- The interpreter should be of the same sex as the affected party.
- Making regulations which would speed up the proceedings; especially if minor persons are affected and where prompt reactions are required.
- Promptness in resolving return or sheltering issues for victims.
- Faster processing of prosecution bodies and respecting procedures for processing.
- Termination of neglect of psychological consequences suffered by victims during and after the processes.
- Confiscation of goods and property of the accused suspected for trafficking in humans-as it is the practice in legal proceedings of many modern countries.
- Statistic data and reports of institutions should have the category of trafficking victims.
- Enforcing regular obligatory education for all persons working on issues of trafficking in human beings in order to ease the identification of the victims.
- To organise seminars for employees of the institution in order to introduce them to new regulations concerning trafficking in humans.

- Work on prevention should target also families and schools due to the recorded increasing tendency of BIH persons being trafficked inside the country.
- Education of staff working with persons with special needs because they are extremely vulnerable to wooing.
- Centres for education of prosecutors and judges should give more education on trafficking in humans.
- Establishing regulations defining trafficking in Bosnian citizens which would define treatment of domestic victims of trafficking.
- Establishing regulations that would punish the users of services provided by trafficking victims.
- Establishing regulations that would treat organised begging.
- Making of an asylum centre at state level in order to resolve the sheltering issue of persons until permanent solution for status is found.
- Improvement of cooperation with health services in order to have faster access to data on potential victims and enable preventive measures to be taken.
- Prosecution of organised begging of Roma children at state or regional level prosecutor's office due to the fact that it is organised crime that in current conditions is neglected as such.
- Definition of term "Promptly/Urgently" in proceedings of centres of social work when dealing with children victims of trafficking. Currently, the term may be interpreted in many ways. It has been proposed that this term means IMMEDIATELY if there is a case involving children.
- Night bars and other facilities should be inspected more frequently by sanitary, labour, market and other inspections.
- Media should have more sensibility when discussing trafficking issues. Sometimes they create the picture that the sexual industry and exploitation are an easy way for one to make money. The media should speak in public about the issue, but not in a way that almost promotes it.
- Cooperation with police could be increased in order to get more information of criminal chains in BIH and Serbia.
- Improve the cooperation of NGOs and Departments for foreign persons in all BIH.
- Establishing centre for sheltering trafficking victims. The centre should function on high standards in order to give a better response to the issue of protection of trafficking victims.
- Amendments to the Law on movement, residence, and asylum of foreign persons in order to harmonize it with the EU Aquis standards. Introducing rule of dual level in procedures resolving issues of temporary residence in BIH for humanitarian purposes filled by alien persons victims of trafficking.
- Coordinate existing personal data on trafficking victims.
- Start work on the implementation of Law on services for foreign persons.



CROATIA





COUNTER-TRAFFICKING SITUATION IN THE COUNTRY:

CROATIA

Croatia, like other Southeast European countries, has been going through a prolonged social, political and economic transition, which has in turn created a 'favorable environment' for the trafficking phenomenon. In terms of trafficking patterns, Croatia is pre-dominantly a transit country for trafficking but growing evidence points to the fact that it is becoming a country of destination and origin as well. Croatia is also a country which is seeing increased trafficking within its own borders (internal trafficking).

During the first half of the 90s, trafficking mainly catered to international and domestic military personnel, as well as to the local political and economic elite. At the end of the 90s, significant changes occurred with regards to both the organizational and operative aspects of trafficking in Croatia. There are now clear indications that trafficking is developing into a seasonal operation along the lines of international sex tourism. Moreover and most problematically, with these developments, the line between trafficking and voluntary prostitution is becoming increasingly blurred. Evidence gathered does bring IOM to state that more and more women are temporarily trafficked – or rotated in and out of Bosnia. This is most likely a tactic designed by traffickers to evade detection by the police, but it is also a 'supply' scheme meant to accommodate the periodic 'demands' brought about by the tourist season.

During the late 90s and early 2000 the counter trafficking activities have predominantly been carried out by IOM and a few local NGOs. During the years 2001 and 2002 IOM Zagreb in partnership with national NGO Center for Study of Transition and Civil Society, conducted the first ever field research in order to determine the pattern, scale and dimension of trafficking in Croatia. Research findings served as the basis for the development of national policy as well as for further counter trafficking activities and project development.

Since 2002, the Croatian government has placed the fight against trafficking on its list of priorities. In July 2002 a National Commission for Combating Trafficking in Human Beings was established and in November same year the first National Plan of Action on Combating Trafficking in Human Beings was enacted. Members of National Commission are representatives of relevant government institutions, national NGOs and

media while IOM has signed Memorandum of Understanding with Government Office for Human Rights and have a consultative status. The President of the National Commission is Deputy Prime Minister and coordinator is a Head of Government Office for Human Rights. The Croatian Government Office for Human Rights works as secretariat of the National Commission and coordinates counter trafficking activities among the competent institutions in Croatia and also works on the promotion of human rights. The Office provides funding for NGOs that develop programs for combating trafficking in human beings. In December 2004 the National Strategy for Combating Trafficking in Human Beings 2005 - 2008 was adopted by the Croatian Government based on which the Operational Yearly Plan is prepared. Within the National Commission, a Subgroup for Combating Trafficking in Children has been established and a National Plan of Combating Trafficking in Children was adopted in October 2005.

The assistance, protection, return and reintegration of victims of trafficking, has been developing step by step through capacity building of government institutions and non-governmental organizations until the establishment of a system for the protection of victims of trafficking and the functional establishment of the National referral system. Referral system provides for one police officer to be on duty for 24 hours and, in addition, for 26 police officers to come from different areas of the country to conduct preliminary interviews upon which members of mobile teams for identification are called to perform interviews. Members of Mobile teams (Croatian Red Cross and other NGO staff) are trained to act as a quick response team to protect and assist victims in four different regions of Croatia. Victims are brought to a shelter (run by NGO), or one of three temporary reception centers (run by Croatia Red Cross) located on a secret address and receive the following types of assistance: medical, psychosocial, legal, pre-departure, security, and return assistance. According to the NAP, the Croatian Ministry of Health and Social Welfare (MoHSW) is the responsible institution for overall protection and assistance of the VoT in Croatia but it lacks the capacity to manage counter-trafficking activities assigned to them. Although the establishment of the Operational Team for Suppression of Trafficking in Persons, chaired by the National Coordinator and consisting of service providers takes session regularly, in order to improve the assistance, the expertise of the MoHSW, as well as its technical and financial capacities need to be reinforced.

The Republic Croatia facilitates and accepts the repatriation of victims of trafficking who are Croatian nationals or holders of permanent residence permits. Also it is guaranteed in the Constitutional right of the citizens to return to the country of citizenship. What still needs to be developed and organized are the special programs for their reintegration upon return.

The changes in Penal Code in July 2004, showed the progress made towards a legislative framework for the protection of VoTs, and in particular the improvements in the protection of VoTs regulating their status with the

“Instruction on the procedure for regulating the residence of victims of trafficking”. However, specific provisions are still to be incorporated in the national legislation to improve the protection of foreign victims.

Although a lot of trainings regarding the prevention and combating of trafficking has already taken place there is an ongoing need for further training of all actors involved in combating trafficking in human beings including judges, prosecutors, police officers, diplomatic and consular staff, social service providers and NGOs.

Recognizing prevention and awareness raising activities as essential steps towards combating trafficking in human beings several mass media and information campaigns have been implemented since 2003 by IOM, Government Office for Human Rights and national NGOs. In addition, a few smaller local campaigns were conducted by local NGOs in their communities, especially targeting youth in adolescent age.

The Ministry of Science, Education and Sports recognized the need to increase their capacity in order to act preventively and so influence the young people. In cooperation with IOM Ministry has incorporated educational module on counter trafficking into the Croatian high school curriculum. For the school years 2004/2005 and 2005/2006 the Ministry gave the priority to the counter trafficking topic within the specialized education of preventive programs. During the school year 2005/2006 they have started to develop and implement educational counter trafficking module into pre- and primary school curriculum. Besides regular education the Ministry is also developing cooperation with national NGOs that are authorized to carry out trainings.

At the end we can conclude that the Croatian government has made significant progress to prevent and combat trafficking in human beings. Despite the positive achievements it is obvious that there are still gaps within specific national structures that need to know about trafficking as a matter of priority. Harmonization of intersectoral cooperation should be strengthened as the existing remains insufficient to cope with all the challenges. Government of Croatia has secured state funding for counter trafficking activities but it is not sufficient and so they still relies on partial funding from international donors.

THE CROATIAN RED CROSS SOCIETY

Founded in 1878, the Croatian Red Cross is the National Red Cross Society in the Republic of Croatia. It is recognized by the Croatian Government and, since 1993, by the International Committee of the Red Cross (ICRC).

The Croatian Red Cross organizational structure is comprised of the National Headquarters and 130 branch organizations, legal entities on county, city and municipality level adapted to state administrative units. The Croatian Red Cross is an independent, non-governmental organization (NGO). Its humanitarian activities encompass providing assistance to vulnerable population involving volunteers or/and professional staff in compliance with the seven fundamental principles of the International Committee of the Red Cross (ICRC) and efficient and successful integration of policies, programs, and activities.

- Main activities:

- Health (First Aid, Blood donations, Harm reduction programs, TBC, HIV/AIDS & STD preventions)
- Social services (Assistance in local community, water wells purification, tracing)
- Disaster and emergencies (disaster preparedness and response)
- Advocacy (RC Principles, IHL, Humanitarian values, HR)
- Education and training (home care, first aid - different programs, mine awareness, water life saving, tracing service, youth, awareness on issues pertinent to trafficking in human beings)
- Population Movement programs (for returnees, internally displaced persons, refugees, asylum seekers, victims of trafficking in human beings)

- Number of members 358.328 (youth 109.549)

The involvement of the Croatian Red Cross in anti-trafficking programs

In the recent years, the Croatian Red Cross has been strongly committed to provision of various types of assistance to thousands of refugees, displaced persons, returnees (post-Dayton) and other vulnerable members of society. With experience gained, CRC endeavors to build-up sustainable capacities to address the needs of the displaced and to strengthen its advocacy role on behalf of vulnerable groups, including also asylum seekers and irregular migrants.

Regional Population Movement program launched in 2001, supported by the IFRC, aims at enhancing the capacity and the know-how of the National Societies in Croatia, Bosnia-Herzegovina, and Serbia and Montenegro to provide assistance and protection to displaced persons including asylum seekers and irregular migrants through programming interventions.

As of 2003, the CRC further expanded its activities related to population movement and took over the responsibility for organizing care and maintenance of the Asylum Home, financially supported by UNHCR.

The result of extensive networking and advocacy activities towards governmental and international organizations was the initiative to involve the CRC in activities related to assistance to the victims of trafficking.

As of October 2003, CRC participates in the work of the Operational Team for Suppression of Trafficking, a working group established within the National Committee.

Within the National Action Plan for Suppression of Trafficking, CRC is considered to be an implementing partner for some of the foreseen activities.

NGO WATCH-DOG MECHANISM IN CROATIA

Croatian Red Cross

Summary

Trafficking in human beings has been on the agenda in Croatia the last four to five years. Since then, Croatia has made significant progress and many positive actions have been implemented in cooperation with the government organizations, non-governmental organizations and international organizations. Besides the positive achievements, it is necessary to invest additional efforts at different levels to achieve satisfactory standard of protection of victims of trafficking in human beings.

The Croatian Red Cross with the financial support of International Organization for Migration (IOM) and in close co-operation with the Ministry of Interior of the Republic of Croatia, as the main partner, as well as with other state institutions and relevant national non-governmental organizations, has conducted the project «Watchdog Mechanism».

The project, being a part of a regional project, encompassed Serbia and Monte Negro and Bosnia and Herzegovina and addressed the institutional capacity building of state institutions, but also influenced the civil sector.

The main objective of the project was to develop the mechanisms for the monitoring of THB cases in Croatia, the issuance of the TRP to victims of trafficking and judicial processing of THB cases in Croatia, in order to establish a legal basis for protecting foreign victims of trafficking in Croatia and further throughout South East Europe.

The information gathered through different activities, was used for the production of the compiled data and the preparation of a database for following the issuance of the temporary permits. The following activities were organized: meetings, round table, interviews, data collection and analysis database developed.

Through the conducted project activities a good co-operation was established with the Mol, and the cooperation with NGO's - assistance providers improved.

In order to obtain a comprehensive approach to the resolution of complex problems, it is always necessary to include issues arising from

practice as well as issues arising at the legislative level. Therefore, we consider it important to devote a part of this presentation to the cases themselves. Prior to the putting into force of the new Aliens Act, we had a procedure for issuing residence permits to VoT. It was the result of a good co-operation of assistance providers (in specific IOM, CRC, OIP), and the Ministry of Interior, so each victim in the program was granted a legal status. The process was completed through the joint effort of Department of Organized Crime and Department of Illegal Migration of Police Directorate.

The approach to human trafficking must be systematic and well planned because results can be achieved only through continuous work on that problem area. In regard to this, we would like to emphasize that improving of legal institutions has to become a recognizable source for the protection of the victims.

Project Description

The project was initiated to ensure that the mechanism for issuing TRP remained functional in this stage of governmental implementation. It was crucial for the concept to become firmly rooted within the Ministry of Interior and to gain sustainability. During the reporting period, the CRC was monitoring the issuance of TRP to victims. The CRC was closely involved in the TRP application process as well as the judicial processing in Croatia.

The Development of a unique mechanism for monitoring of THB cases in Croatia and obtaining relevant data regarding the same is necessary in order to avoid partial collection of data and dependence upon unofficial sources for obtaining statistics on criminal prosecutions. The institutionalization of the Watchdog mechanisms in Croatia was further strengthening the capacities of the CRC, in terms of providing protection and assistance to victims of trafficking, especially those opting to testify in prosecution, in order to ensure the victims' security and physical/psychological well-being. This project also facilitated and encouraged institutional communication and cooperation between the project countries and the other signatories of the Tirana Declaration to ensure the build-up of a regional approach to combat trafficking.

Results

Upon initial meetings with the Ministry of Interior, the project co-ordination structure was established and the bases for the collection of the data on the prosecuted THB cases and issued TRP were developed.

Through the exchange of information and experiences, regional links were established with relevant organizations in the region (Bosnia and Herzegovina and Serbia).

During the reported period, data was collected on regular basis from the MOI and the Ministry of Justice, a database was developed in the Croatian Red Cross and the Project coordinator was trained to update the database. (Annex 1)

We compared the collected data and on the basis of that it was determined how the TRP status affected the quality of victim's protection. (Annex 2).

An inside perspective of the application process was obtained through Interviews with representatives of the Ministry of Justice, State Prosecutor's Office, Ministry of Interior, Counter Trafficking National Committee and other NGOs who support legal counseling & representation in court for victims of trafficking.

The mechanism for issuance of TRP and the judicial processing in Croatia, which would enable better access to information on the THB cases, was discussed with our partners, and the procedure established in Croatia was based on the good practice. (Annex 3)

CRC presented this project: to the National Committee for the Suppression of Trafficking in Human Beings in Croatia, to the representatives of the Mol, during some seminars and at the organized round table. An overview of the best practice was presented. (Annex 4)

Activities

a. Preparation

The Watchdog mechanism project started to organize and plan its activities more intensively as of the end of July 2005. In the preparation period, the existing resources were identified, as well as those required for the implementation to take place. Upon discussions with the representatives of IOM and the Ministry of Interior, the project structure was designed. An experienced member of the CRC was assigned as the CRC Coordinator to the Project from 1st September 2005.

b. Data collection

Initial data on victims was collected from IOM. In particular the information regarding the victims assisted during the year 2004 and the first half of the 2005.

The aim of the CRC activities was to collect data on VoT during the project period, so we continued to do that on regular basis, gathering information from IOM, the Mol and the Ministry of Justice. An overview was obtained, and it was on the basis of this that it was decided which data should be collected in the future. The database was developed within the CRC capacities. The Project coordinator was trained in October, and he updates the database regularly.

c. *Capacity Building through meetings, seminars, conferences and round table*

c.1. developing the mechanism for monitoring issuance of TRPs to victims of THB in Croatia.

Meetings with representatives of IOM were held during the months of July and August. The main goal was to obtain the update to the application of the Instruction on the manner in which the residence of the victims of trafficking of persons” was regulated in the past period. In addition, several other meetings were organized with the Ministry of Interior and the Office for Human Rights – Government of Croatia. The project idea was presented to them, and the manner in which the project is to be implemented, was discussed. All participants expressed great interest in contributing to the project.

In order to inform them about the project, its objectives and the expected results, the CRC presented the project to the National Team. We took the opportunity to make it during the Session of the National Committee for the Suppression of Trafficking in Human Beings in Croatia, on 29th July 2005.

During the July – December project period, CRC held regular meetings, interviews and communicated by telephone with the Ministry of Interior, Croatian Law Center, Center for Human Rights, Office for Human Rights – Government of Croatia, National Committee for the Suppression of Trafficking in Human Beings in Croatia, Office of the Attorney General and Ministry of Justice, UNHCR and several NGOs. Apart from that, on September 29th 2005, CRC interviewed the Head of the department for Foreigners and Asylum at the Ministry of Interior.

Two CRC’s representatives attended the Seminar in Tuheljske Toplice, which was organized from 26th June to 02nd July by IOM and the MoI for 30 MoI police officers of the Organized crime departments and the 10 NGO representatives from all over Croatia. As the participants were those who are in first contact with the victims, CRC further sensitized the participants through the joint exercise that was a practical case simulation. Our representatives pointed out the importance of the temporary residence permit. They, emphasized its role in the situation in which the victim is explained her rights with the aim of increasing her confidence, but also taking the opportunity to promote that form of protection.

The round table organized on the topic “Victims of Trafficking and their protection” in Orahovica on 05th December 2005. Together with the representative of the International Organization for Migration, the main actors were the representative from the Croatian Ministry of Interior and the NGOs representative. The aim was to inform the participants on the recent Counter Trafficking activities related to the provision of assistance to the victims, and in particular, to draw their attention to the Temporary Residence Permit’s institute.

CRC has regularly participated at the monthly meetings of the Operational Team. Discussions during the meetings addressed problems related to complicated cases and common concerns that contributed to the exchanging of information and solving different situations regarding provision of assistance and protection of the victims.

Three representatives of the CRC attended the Cavtat International Conference “Stop Trafficking in Humans” held from 18th - 20th of October 2005. One CRC representative was a moderator of a working group, and it was a great opportunity for the stakeholders to meet, discuss, present and obtain knowledge on the existing mechanisms for the suppression of trafficking in persons that have been developed during the past five years including the field of legislation and protection.

c.2. monitor judicial processing of THB cases and issuance of TRPs to victims of THB

The legislative dealing with this issue has recently been characterized by a prominent dynamics both in terms of the amending of existing regulations and in terms of the adoption (enactment) of completely new regulations such as:

1. the Aliens Act came into force on 1st January 2004;
2. the Witness Protection Act came into force on 1st January 2004;
3. the Asylum Act came into force on 1st July 2004;
4. the most significant is the role for the prosecution of the perpetrators in national legislation has the Criminal Code that is in force as of 1st October 2004 and in particular
5. the Instruction on the procedure for regulating the residence of victims of trafficking in December 2004

Two victims of trafficking were granted temporary residence permits during the year 2005, but prior to the start of the project.

CRC therefore only compared the issuance of temporary residence permits. Both victims were foreign citizens and the TRPs were issued in accordance with the “Instructions on the manner of regulating the residence of the victims of trafficking of persons.

During the year 2005, and in relation to the 5 victims of trafficking, 5 criminal charges were submitted against 7 perpetrators. All charges were from the Penal Code, article 175. (Trafficking in Human Beings and Slavery). Against one still ongoing police investigation against four persons, the attorney’s office in charge requested the investigation that is still ongoing, against one – pending court procedure for article 175 and against one - charges rejected.

In addition, no judicial processing occurred during the program implementation period, and therefore no monitoring of the judicial processing took place. Due to that, the evaluation of the impact of the issuance of TRP during the criminal procedures (in which victims are usually witnesses) was not possible.

c.3. liaise with other Watchdog partners in BiH and SCG.

CRC Representatives attended the 1st Regional meeting on Watchdog mechanism in Belgrade on 27th July 2005, This presented a great opportunity for project partners to meet, and discuss the project ideas and develop the regional links with Watchdog partner organizations in the region.

Constraints and Actions Taken

Based on the collected data, we wanted to determine how the TRP status affects court procedures in respect to victims/witness protection and identify what percentage of victims holding TRP testify in court. It was difficult due to the following:

In July 2005 one victim of trafficking was assessed and offered the assistance. No victims were identified in August 2005. One victim of trafficking was identified in September and one victim was identified in November 2005. No victims were identified in December 2005. All three victims identified during the reporting period were Croatian citizens with regular residence.

Therefore, CRC did not have a real opportunity to exercise the monitoring of the procedure of providing the victim with temporary residence

Apart from that, the communication with our counterparts was satisfactory and no major obstacles were encountered.

Conclusions

During this reporting period, the project was presented to relevant stakeholders in close cooperation with IOM. Meetings and interviews were held and regular meetings were arranged with relevant stakeholders. Regional links were established with relevant organizations in the region (Bosnia and Herzegovina and Serbia) and information and experiences were exchanged. The number of VoTHB as well as number of criminal procedures was identified.

RECOMMENDATIONS

Croatia issues temporary residence permits for foreign victims of trafficking through internal instructions given by the Ministry of Interior. Recognizing that this kind of approach is only acceptable as a temporary solution, it is **recommended** that the procedure for regulating the issuing of residence permits to victims of trafficking should be incorporated into the national legislation.

At the moment, the permission to issue a TRP for a period of 1 year to VoT on humanitarian grounds, is granted by Article 37 of the Law on Foreigners, and is further elaborated in the Instruction stating with *"...VoT have 90 days from the date of their entry into the territory of the RoC to apply for the approval of the temporary residence permit."* It is our **recommendation** that this should be changed and should read *"...or at the*

latest within 90 days of the identification as victim of trafficking in human beings.”

Croatia fulfils the minimum standards required for the provision of protection and assistance to victims of trafficking, but there is no regulation in the law. In order to improve the protection of the VoT it is our **recommendation** to introduce specific legal provisions in the national legislation, on the measures regulating the following: Confidentiality, Basic safety and security, Provision of information on legal proceedings involving traffickers, Assistance to the victims in court representing the case, Subsistence, Medical care and Social assistance.

Victims of trafficking who have obtained a temporary residence permit do not currently have access to the labour market, vocational training, or education. We recognize the need and **recommend** inserting in the national law certain provisions giving the victims of trafficking the possibility of deciding whether to return to the country of origin, or to stay in country where she/he was exploited, or to move to a third country.

The Republic of Croatia has signed and ratified the UN Convention on the Rights of the Child, However Croatia’s adherence to this Convention is not well reflected in the Law of Foreigners, which does not at all regulate the problem of children who are victims of trafficking. While children in general are entitled to access to education, the right is currently not guaranteed to children who are found in a situation of illegal migration or to victims of trafficking. We **recommend** that the special vulnerability of children should be attended to by incorporating the specific legal provisions reflecting the protection of the best interest of minors and unaccompanied minors.

Annex 1

DATABASE ELEMENTS

Date of assistance

Name (initials)

Date of Birth

Age

GENDER

CITIZENSHIP

Legal cross

Legal docs

Docs obtained by

WITNESS

Legal Ass. Provided

TRP requested by

Docs for TRP obtained by

TRP issued

Date of TRP issue

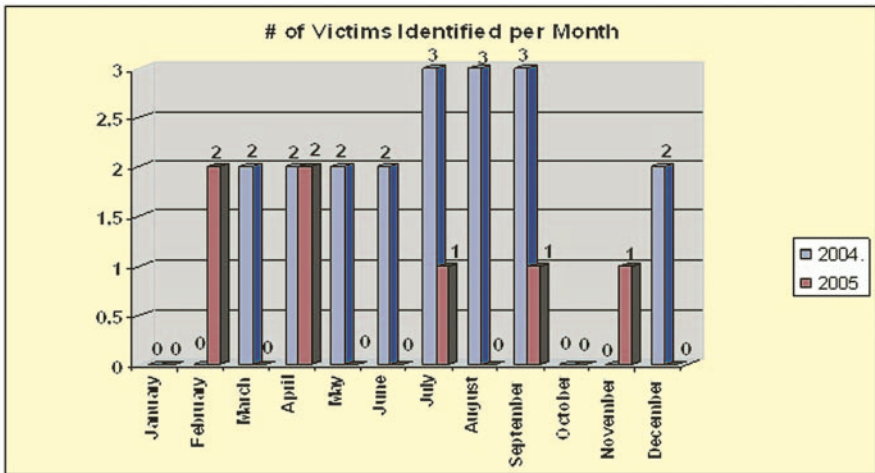
Date of TRP exp

Date of TRP extension

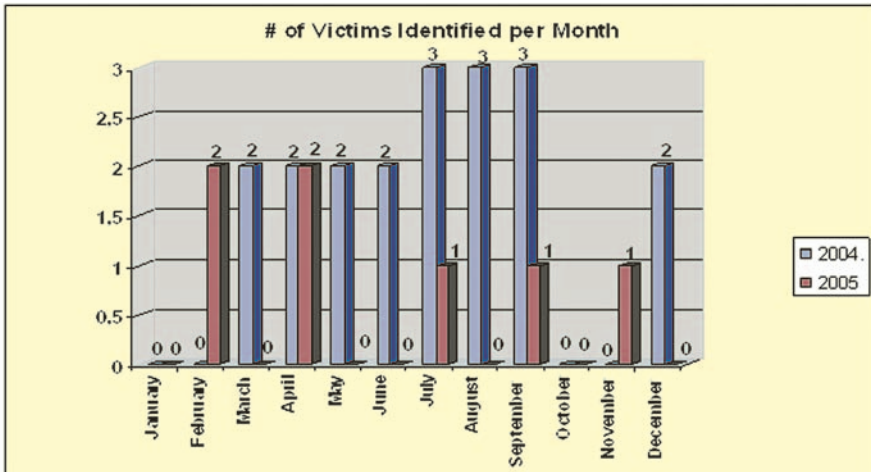
Annex 2

The following profile represents the victims assisted during the year 2004 (19 victims were identified) and 2005 (7 victims). They were provided with professional assistance by IOM, NGOs and CRC, which includes safe accommodation in the temporary centers or in safe shelter, medical, psychosocial and legal assistance. Some were hospitalized due to a complex medical condition. For some documentation was provided. Most of the foreign victims were returned to their home countries.

**Three victims (two female and one male found in labour exploitation) were identified during the project period July-December 2005.*



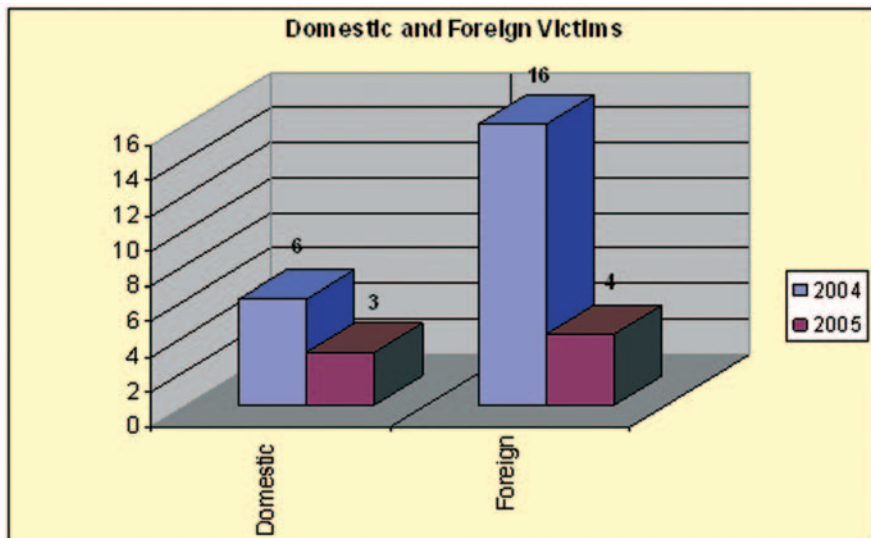
Most of the victims were female adults (between 18 and 25 years).



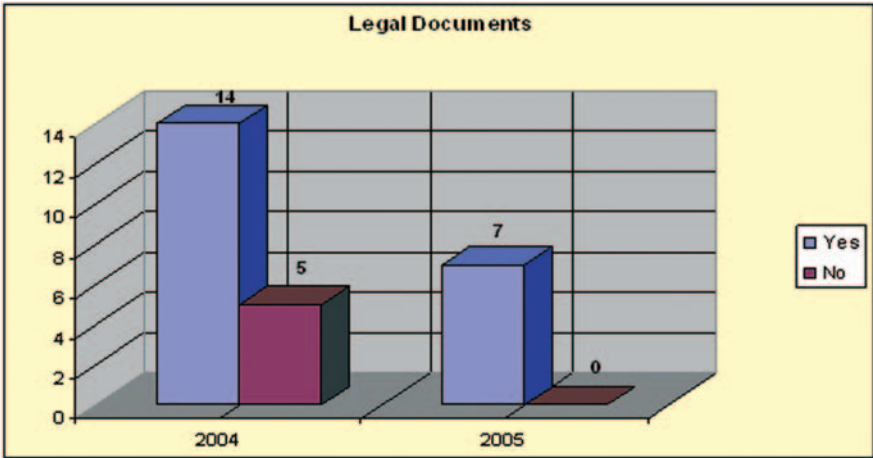
In 2004, six victims were Croatian citizens and all other were foreigners. The recent trend of an increased number of victims holding Croatian citizenship continued in 2005. Four (4) out of seven VoT, which makes 57%, is a significant increase in the number of domestic victims proving that Croatia is also a country of origin.

Two foreign victims were identified in January 2005, and both were returned to their home countries by IOM.

**No foreign victim identified during the project period July-December 2005.*

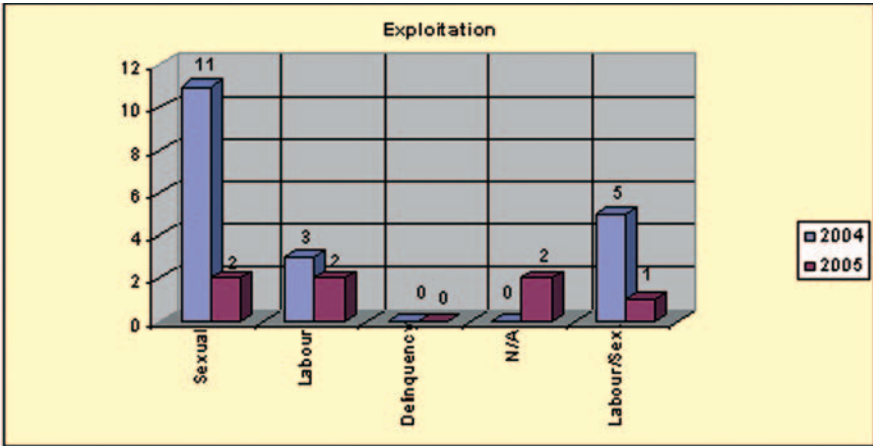


According to data collected, the majority of victims crossed the border legally, usually holding their original documents.

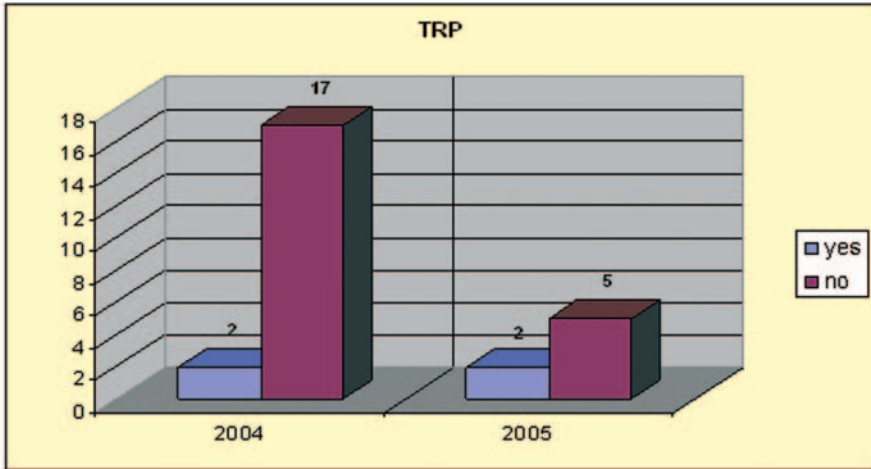


Most of the victims in 2004-2005 were forced to sexual exploitation or suffered a combination of sexual and labor exploitation. When differentiating victims per type of exploitation, again, most of them, 72% were sexually exploited (19 out of 26). Six victims unfortunately experienced both types, labor and sexual exploitation, and five were forced to labor.

**During the reporting period (July-December 2005), CRC provided assistance to one male victim of trafficking that suffered labour exploitation.*



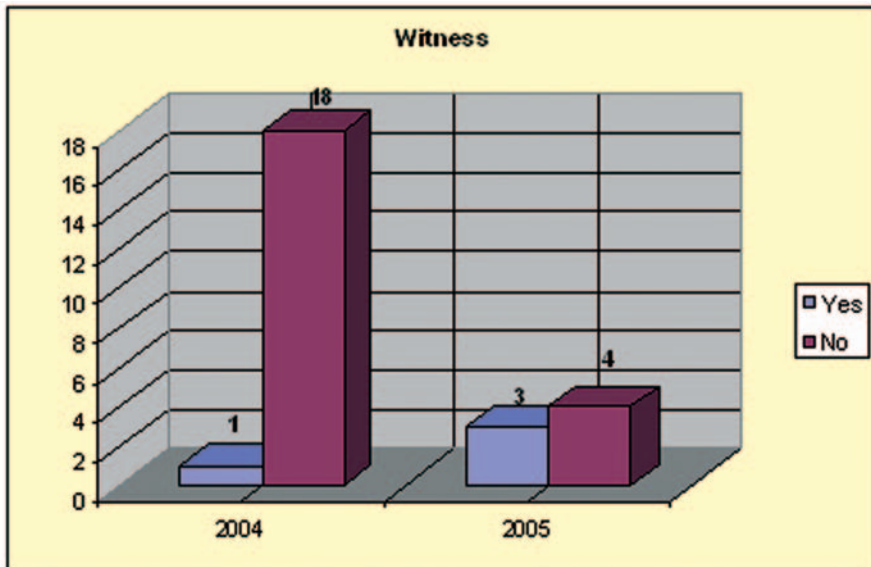
Two temporary residence permits (TRP) were issued in 2004 (one for domestic victim without regular residence and one to a victim without citizenship). Also two TRPs were issued in 2005 (one to the victim without an ID and one was extended to the victim without citizenship).



Issuance of all TRPs was based on Directives on the manner of regulating the residence of the victims of trafficking in persons”.

**During this reporting period no Temporary residence permits issued*

Issuance of TRP was not automatically implemented, and the VoT had to apply for TRP. Issuance of TRP is not conditioned by testifying.



Two VoTs from 2004 were in a continuous reintegration package within this program during the whole of 2005: accommodation, medical, psychosocial, legal and education.

Annex 3

On the basis of article 37 of the Law on Foreigners (“Narodne Novine” number 109/03) and on the basis of the liabilities originating from the UN Convention Protocol on preventing, curbing and penalizing trafficking in human beings especially women and children (“Narodne Novine” International Contracts, no. 14/02), and from the Declaration of liability signed in Tirana on 11.12. 2002 at the 3rd Regional Ministerial Forum of the Stability Pact, from the Declaration of liability signed in Sofia on 10 Dec 2003 at the 4th Regional Ministerial Forum of the Stability Pact, the Minister of Interior is passing the following

DIRECTION ON THE PROCEDURE FOR REGULATING THE RESIDENCE OF VICTIMS OF TRAFFICKING

This instruction regulates the manner in which the residence of victims of trafficking in human beings, as a form of assistance and protection within the framework of execution of the global national strategy of combating trafficking in human beings, is managed.

The term “residence of identified victims of trafficking in human beings” in this instruction implies the approval of temporary residence to foreign citizens and the resolving of residence and stay of citizens of the Republic of Croatia.

In accordance with the adopted national procedure on acting in the process of identifying the victims of trafficking in human beings, the Police district will inform the Criminal Police Department of the Ministry of Interior, of the identified victim of trafficking in human beings. The Criminal Police Department will submit the data on the victim to the Inspection and the Administrative Affairs Department of the Ministry of Interior. Further activities to be undertaken depend on whether the victim of trafficking in human beings is a foreigner or a citizen of the Republic of Croatia.

Victim – a foreign citizen

For a victim of trafficking in human beings who entered the Republic of Croatia illegally, or is illegally residing in the Republic of Croatia, it is necessary that the police, during the process of identifying the victim, determine the facts and circumstances that exclude or reduce the penal liability.

In case that the victim is a foreign citizen, the Inspection and the Administrative affairs department will issue an order to the relevant police district to approve temporary residence for humanitarian reasons and to issue an identity card for foreigners. The identity card for foreigners is issued in the manner prescribed by the Law on Foreigners and the sub-legal acts.

The victim of trafficking in human beings personally files a request for the issuing of the temporary residence permit in the presence of a legal representative offering assistance and protection (i.e. the International Organization for Migration or non-governmental organizations) or the Ministry for Health and Insurance, if the victim is a child or a minor. In any case, the application form for the issuing of the temporary residence permit must be signed by the victim of trafficking in human beings or the guardian of a child or a minor.

The application for the issuing of a temporary residence permit must contain a photograph, a copy of the travel document or other identification document as well as the communication from the legal person offering assistance and protection to the victim.

In cases when the victim of trafficking does not possess identification documents, or in case when his/her identity is doubtful, his/her personal data, which the victim him/herself provided, is used in the process (name, last name and other), until facts are established.

In case that the age of the victim of trafficking cannot be ascertained with certainty, and there is justifiable doubt that the person in question is a child or a minor, the procedure is conducted as if it is a minor or a child, for the purpose of providing special protection.

Temporary residence for humanitarian reasons will be approved for a period of up to one year in accordance with article 35 of the Law on Foreigners.

It is to be noted that, the provisions of articles 18, 31 and 34 of the Law on Foreigners apply to this category. Thus, the application for the approval of the temporary residence permit is filed immediately, or at the latest within 90 days from the day of entry into the Republic of Croatia.

The procedure, in which a child or a minor is to take part, is considered an urgent procedure.

Approval of temporary residence is recorded in the travel document of a foreigner in the form of a sticker, and if the foreigner does not possess a valid travel document, residence approval is issued in a form of a certificate.

The request for the extension of the approval of temporary residence is filed before the expiry of the valid temporary residence permit. The request for the extension of a temporary residence permit is processed in the same manner as the first temporary residence application.

In case when the presence of a foreigner in the process is no longer necessary, the police will issue a travel document for foreigners for the return to the mother country. This is applied in cases when the victim of trafficking in human beings does not possess a valid travel document, and the state, whose national he/she is, does not have a diplomatic mission, that is a consular office in the Republic of Croatia, nor are the interests of the state represented by another state. Thus, a travel document for foreigners can be issued to another foreigner if justified reasons exist. The foreigner is to personally apply for the travel document in the presence of the legal representative providing assistance and protection, that is the Ministry of Health and Social Insurance in case that the victim is a child or a minor.

With the aim of ensuring confidentiality and protecting the identity of the victim of trafficking in all proceedings in which the victim of trafficking takes part, the confidentiality act must be implemented.

The relevant police district shall immediately inform the Inspection and the Administrative Affairs Department of all facts and circumstances that are of significance for the determining of the status of the victim of trafficking. The Inspection and the Administrative Affairs Department will order the extension of the validity of the status or its termination.

Annex 4

GOOD PRACTICE - CASE STUDIES - OVERVIEW

In order to obtain a comprehensive approach to the resolution of complex problems, it is always necessary to include issues arising from practice as well as issues arising at the legislative level.. Therefore, we consider it important to devote part of this presentation to the cases themselves. Prior to the putting into force of the New Alien's Act, we had a procedure for issuing residence permits to VoT. It was the result of good co-operation of assistance providers (in specific IOM, CRC, OIP), and the Ministry of Interior, so each victim in the program was granted a legal status. The procedure was conducted through the joint effort of Department of Organised Crime and Department of Illegal Migration of Police Directorate.

The victim - before the Mol's "Instruction" was adopted

In September 2003, the Croatian police, in accordance with the national referral system identified a victim of trafficking and invited IOM to coordinate and conduct an interview with the person. Upon receiving the initial assistance provided, (psychosocial, medical, legal, social worker) the victim herself made a decision to testify at court. The Ministry legalized her status in Croatia and granted her a «one year residence permit». This criminal case was sentenced to the first-degree and the perpetrator was accused. This case is an example of a good practice. The victim was granted a one-year permit although the law that was in force at that time did not prescribe that possibility.

The victim - a Croatian citizen

During August 2004, the Croatian Red Cross together with IOM and other NGOs, assisted a victim of trafficking who was a Croatian citizen without residence in Croatia and who did not possess an ID card. In cooperation with the Inspection and the Administrative Affairs Department who ordered the relevant police district to register the residence of the person at a certain address, the identity card was issued to the person who continued their education in Croatia.

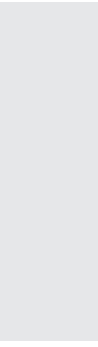
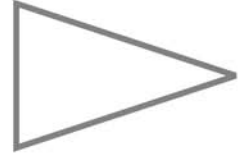
The victim without ID - several permits granted

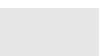
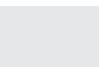
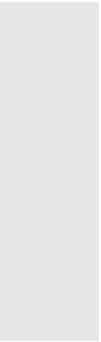
One victim was identified and entered the assistance program in the course of the year 2004. Her identity was not confirmed, but in spite of that, the Mol issued a temporary residence permit on the basis of her statement regarding her identity. It was issued several times, always upon the report of the NGO that provided the direct assistance to the victim. Up to now, the same victim had been granted the temporary permit 4 times and the validity of each was 3 to 6 months. The victim's identity was finally proven (by INTERPOL, in November 2005), and the residence permit was adjusted accordingly.

Apart from the mentioned case, we would like to note that from the moment that the National Referral System was put in force, each identified victim was granted a legal status in accordance with the good law enforcement practice. In order to avoid secondary persecution, the identified victims were not processed as illegal migrants or prostitutes.



SERBIA





COUNTER-TRAFFICKING SITUATION IN THE COUNTRY

SERBIA

The authorities in Serbia are aware of the problem of human trafficking and are co-operating with the international community to combat the phenomenon. Some important steps have already been taken, but much remains to be done to effectively counter the problem, especially in terms of provision of assistance to victims. The same is still provided by the international organizations and the local NGOs supported by the international donors

In 2001, the State Union of Serbia and Montenegro had signed and ratified the UN Convention against Transnational Organized Crime and its two Protocols - the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol against Smuggling in Migrants.

In May 2002 the Serbian Team for Combating Trafficking in Human Beings was set up on the republican level. The team is divided into four working groups devoted to: 1) Victim assistance through the establishment of victim protection mechanisms (group coordinator - Ministry of Labour, Employment and Social Policy - MoLESP), 2) Prevention and education (group coordinator - ASTRA), 3) Child trafficking (group coordinator - NGO Beosupport) and 4) Law enforcement (group coordinator - Ministry of Justice). The National Team is headed by the National Coordinator, who is a high official of the Serbian Ministry of Interior, head of the Border Police Directorate.

In 2002, IOM, in co-ordination with the National Team for CT, addressed the need to accommodate and assist foreign and national victims of trafficking identified on the territory. They set up a shelter and established mechanisms to allow local and international counterparts to perform their counter trafficking activities in a more systematic and coordinated manner. The first Shelter for VoTs opened in Belgrade, in February 2002, through IOM's active involvement, and has been managed by a local NGO ever since.

In April 2003, the article criminalizing THB was introduced into the Criminal Code (article 111b) of Serbia. In January 2006, the Criminal Code was revised and in addition to trafficking in persons (art. 388), several other articles were inserted. The following are amongst them: trafficking in

children for the purpose of adoption (art.389), and illegal crossing of the state border and smuggling of persons (art. 350).

In February 2004, the National Coordinator set up an Advisory Body for combating human trafficking. It includes: the National Coordinator and his staff, coordinators of all working groups, representatives of IOM Belgrade (CT unit), OSCE and UNICEF.

In March 2004, a State body was established in order to coordinate the identification process and the process of providing assistance to VoTs in Serbia - the Agency for Coordination of Victim Protection (Agency). The Agency was a part of the MoLESP and was supported by the OSCE until June 2005, when it became fully supported by the MoLESP.

In June 2004, IOM supported the opening of the second shelter for victims of trafficking managed by a local NGO. This shelter – Transition House – was established to facilitate the reintegration of predominantly national victims, and is an open-type facility.

In July 2004, through the technical assistance of IOM, the Minister of the Interior adopted an Instruction legalizing the stay of foreigners, victims of trafficking. The Instruction is fully in compliance both with the Tirana Statement on Commitments and the EU Directive 2004/81/EC and regulates a three-month reflection period followed by optional six and twelve months residence permits.

In October 2004, the Government of Serbia established the Government Council for CT comprised of the following Ministers: Minister of the Interior, Minister of Justice, Minister of Labour, Employment and Social Policy, Minister of Health, Minister of Education and Sport, and Minister of Finance. Currently, the Minister of the Interior is chairing the Council. Further instructions regarding operational steps and guidance from the Council are expected and needed.

In 2005, the National Team, drafted a National Action Plan to Combat Trafficking and the appropriate Strategy for 2005-2008. Both documents are pending final Government adoption. IOM actively participated in the creation of both documents.

In the Republic of Serbia, the National mechanisms for coordination of the activities and design of the policy for CT was introduced. Such national referral mechanisms (NRM) include comprehensive victim identification, assistance, and protection mechanisms and involve governmental and non-governmental actors. The INRM was introduced upon the OSCE Mission's initiative, with the support provided by other IOs involved in direct assistance to victims of trafficking, such as IOM. NRM mechanisms are comprised of two levels - Strategic and Operational. The Strategic component encompasses the work of four different bodies: Government Council for CT, National Coordinator for CT, Republican Team for CT and Advisory body of the Republican CT Team. The Operational component

relies on Law enforcement agencies (the Police department for combating organized crime/UBOPOK, and the Border Police Specialized Anti-trafficking Teams which are located in 26 police secretariats within Serbia), and the Mechanism for protection of human rights of the victims of trafficking (Agency, two Shelters managed by the local NGOs and funded by IOM and other foreign donors and other IOM CT programmes). Existing NRMs are partially operational thanks to the generous support of the international donors.

At the moment, there exists a clear need to ensure that the Government of Serbia, in cooperation with the local civil society, continues to build upon the progress made and to gradually overtake the protection of victims. It is hoped that the Government will contribute financially to supporting direct assistance programs, in order to ensure national ownership, non-dependence on diminishing foreign donor contributions, as well as a level of sustainability.

VICTIMOLOGY SOCIETY OF SERBIA (VDS)

The Victimology Society of Serbia (VDS) is an independent, non-profitable and non-governmental organization, founded on 12th November 1997, with the aim to gather together as many researchers, experts and human rights activists as possible, who are interested to work on the development of victimology and promotion and protection of rights of victims of crime, war and violation of human rights, regardless victims' gender, religious beliefs, political views or other features. VDS is a member of the World Society of Victimology, European Forum for Victim Services, and ISPAC (International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme). It is also a member of the Serbian Team for Combating against Trafficking in Human Beings.

The main aim of VDS is to work on the development of protection of rights of victims of crime in general, and women and children as victims of domestic violence and trafficking in human beings in particular. VDS is also committed to developing research and theoretical knowledge on victims of crime in Serbia. The mission of VDS is best seen in its main activities, which include policy oriented research, drafting of laws and advocacy, victim support (through its victim support service *VDS info and victim support*), awareness raising (on victims' status, rights, problems, and needs) and education. In order to achieve these aims and goals, VDS is organizing seminars, lectures, conferences, round tables, trainings and similar events (on domestic violence, trafficking in human beings, truth and reconciliation, victims of war etc.). It publishes the *Temida* – a journal on victimization, human rights and gender, books (on domestic violence, trafficking in people, truth and reconciliation), as well as different informative materials (such as brochures on victims of crime and their rights, available victim support services, position of victims and witnesses in the criminal justice system etc.) etc.

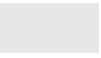
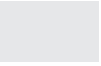
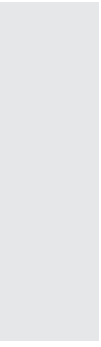
Main activities and achievements related to the issue of trafficking in human beings are:

- Advocacy for legal and policy reforms: as a result of the VDS advocacy campaign, the criminal offence of trafficking in human beings was entered into the Criminal Code of Serbia in April 2003 at the proposal of the VDS working group. VDS also proposed amendments to the Law on

foreigners in terms of granting temporary residence permit to victims of trafficking and offering certain forms of support, assistance and protection to them.

- Monitoring of trials related to trafficking in human beings and organized crime in general, with the aim of realizing the advantages and the shortcomings of the usage of relevant acts in practice and advocating for further changes in terms of improvement of the position of victims/witnesses in the criminal justice system.
- Research: VDS has conducted two surveys on trafficking in human beings.⁴⁷¹ In 2003, VDS carried out the survey on prevalence, structure and characteristics of trafficking in human beings in Serbia. It researched the factors that are contributing to this form of crime and the level of professionalism of attitudes regarding this issue and the way both state and (international and local) non-governmental organizations are dealing with this problem. During 2004, in cooperation with Fafo Institute for Applied International Studies and Sør-Trøndelag University College, Norway, VDS carried out research on human rights based approach to rehabilitation of victims of sex trafficking in Serbia. This gave a detailed insight into experiences of victims of sex trafficking and the consequences of victimization on victims and the connection between domestic violence, sexual violence and trafficking in humans, as well as into difficulties and challenges faced by those who are protecting and assisting them.
- During 2004 and 2005, as a partner to ICMPD from Vienna, to NGO Ženska soba from Croatia, and to LaStrada Moldova, VDS was involved in a project on enhancing the implementation of strategies for the National Anti-Trafficking Action Plans in the countries of the region. The aim was to support national teams for combating trafficking in human beings and the civil society in drafting and implementing national action plans as a national response to this form of organized crime.
- In 2005, VDS experts, using their long-term advocacy and research experience, developed both the curriculum and the manual for the specialized course for social workers on trafficking in human beings, which should serve as the basis for strategic and sustainable development of victim's rights trainings in Serbia in more general terms as well.
- Finally, in 2005, in cooperation with the IOM Mission in Serbia and Montenegro, VDS carried out a project *Developing mechanisms for monitoring and judicial processing of trafficking in human beings cases in Serbia*, the results of which are presented in this publication.

⁴ Results of both surveys were published in both Serbian and English in: Nikolić-Ristanović, V., Čopić, S., Miliivojević, S., Simeunović-Patić, B., Mihić, B. (2004) *Trgovina ljudima u Srbiji/Trafficking in people in Serbia*. Beograd: OEBS i Viktimološko društvo Srbije. Bjerkan, L. (ur.) (2005) *Samo moj život - rehabilitacija žrtava trgovine ljudima u cilju seksualne eksploatacije*. Beograd: Viktimološko društvo Srbije i Prometej-Beograd/ Bjerkan, L. (ed.) (2005) *The life on one's own: human rights based approach to rehabilitation of victims of sex trafficking*. Oslo: Fafo, report 477.



Mechanism for the Monitoring of Trafficking in Human Beings in Serbia

with a particular focus on the monitoring of the processing of cases of trafficking in human beings and the procedure for issuing temporary residence permits to the victims of trafficking in human beings

Introduction

One of the key preconditions for creating an appropriate policy against trafficking in human beings and finding out optimal solutions, is getting to know the scope, structure and characteristics of this type of organised crime in a specific period of time in a specific region. In that sense, development of a structured system for the monitoring of trafficking in human beings, i.e. providing systematic collection of quantitative and qualitative data on this phenomenon, appears to be important at the national as well as at the regional and international level. This system of monitoring would create the basis for the assessment and the quantification of this form of crime and could provide a picture of the situation relating to the harmonisation of the practice in our country with the UN Protocol on prevention, suppression and punishment of trafficking in human beings, especially in women and children. It is one of the reasons why the Victimology Society of Serbia, in cooperation with the Office of the International Organisation for Migration from Belgrade, in the second half of 2005, carried out the project *“Developing mechanisms for monitoring the issuance of the temporary residence permits to victims of trafficking and judicial processing of trafficking in human beings cases in Serbia”*.

The aim of the project was to develop a proposal of the mechanism for the monitoring of trafficking in human beings, with a special focus on monitoring the procedure of issuing temporary residence permits to victims of trafficking in human beings and the processing of cases of trafficking in human beings in Serbia. The proposed mechanism, explained in this text, is based on data and findings that we have obtained during the research made within the scope of this project. The aim of this research was collecting the following data:

⁵ Sanja Copic, MA is the President of the Executive Board and Researcher in the Victimology Society of Serbia (VSS), as well as Associate Researcher at the Institute for Criminology and Sociology Research in Belgrade. E-mail: scopic@Eunet.yu
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1. Existing records on trafficking in human beings, i.e. on cases of trafficking in human beings in Serbia and the processing of such cases.
2. Data on the procedure for issuing temporary residence permits to foreign citizens who are victims of trafficking in human beings in Serbia and the number of issued permits.
3. Data on the existing legal regulations regarding statistical research, record keeping and the possibility of monitoring criminal proceedings of trafficking in human beings.
4. Data on the existing legal regulations regarding the issuing of the temporary residence permits to foreign citizens as victims of trafficking in human beings.

One of the key preconditions for carrying out the research was the cooperation of the Victimology Society of Serbia and the relevant state agencies/institutions and domestic non-governmental organisations, mostly members of the National Team for Combating Trafficking in Human Beings, for which we assumed that they maintain records of trafficking in human beings such as: Serbian Ministry of Interior; Serbian Ministry of Labour, Employment and Social Policy; Serbian Statistics Office; Serbian Public Prosecutor's Office; Agency for Coordination of the Protection of Victims of Trafficking; NGO ASTRA, NGO Atina and Counselling Centre Against Domestic Violence.⁶

Data was collected from several sources during the research. Most data was collected through interviews with the representatives of the above mentioned institutions and organisations. In addition, the following sources were used:

- Data from state agencies and institutions (for example, the report on Trafficking in Human Beings of the Serbian Ministry of Interior for 2004 – the report of the National Coordinator for Combating against Trafficking in Human Beings; data from the Agency for coordination of the protection of victims of trafficking; data from the Serbian Statistics Office published in their reports etc);
- Data from domestic non-governmental organisations (for example, the report on the work of the Shelter for Trafficked Victims, managed by the Counselling against domestic violence, for the period from 1 January 2002 until 30 June 2005);
- Other publications (for example, II Annual Report of the Regional Clearing Point on the Victims of Trafficking in Southern Eastern Europe for 2005, relevant legal acts etc.)
- The reports of the Victimology Society of Serbia on the monitoring of trials for the criminal offence of trafficking in human beings before the Special Department of District Court for Organised Crime in Belgrade.

The aforementioned material was collected independently and also during interviews.

⁶ We would like to use this occasion to say thank you to all representatives of the aforementioned institutions/organisations for the cooperation and help provided during the realization of the project.

Two semi-structured questionnaires were made for the purpose of collecting data during interviews with the representatives of relevant institutions and organisations. The questions, prepared in advance, served more as guidelines. The order and the form of the questions could be changed, depending on the direction in which the discussions with the respondents went. The aim being to understand the replies and the complete story of the persons interviewed.⁷ One questionnaire referred to the collecting, the keeping and the distributing of the data of the cases of trafficking in human beings while the other questionnaire referred to the collecting of data on the procedure for issuing temporary residence permits to foreign citizens in Serbia. Interviews were carried out in Belgrade in the period from October until the end of December 2005.

Interviews were conducted with 13 persons: 4 persons from the Serbian Ministry of Interior (Directorate of the Border Police – Department for Suppressing Cross Border Crime and Criminal-Intelligence Affairs; Directorate for Foreigners of the Belgrade Secretariat of Internal Affairs – Department for Suppressing Illegal Migrations and Trafficking in Human Beings; Directorate for Analytics, and Reception Centre for Foreigners), 2 persons from the Serbian Ministry of Justice – Department for International Cooperation and European Integration, 1 person from Serbian Public Prosecutor's Office, 1 person from Serbian Statistics Office, Agency for coordination of the protection of victims of trafficking in human beings, 1 person from International Organisation for Migration Belgrade, 1 person from NGO ASTRA, 1 person from NGO Atina, and with 1 lawyer who is not from any of the aforementioned organisations.

Among the 13 interviewed persons 9 were women and 4 were men. In terms of professions: 10 lawyers, 1 political analyst, 1 social worker and 1 special educator - speech therapist.

All 13 respondents were interviewed about collecting data, record keeping and the distribution of data on trafficking cases, whereas the interview regarding the issuing of the temporary residence permit for the victims of trafficking in human beings was carried out with only 6 persons, who are employees of the institutions/organisations dealing directly with this problem. Interviews regarding the issuing of the temporary residence permit were carried out with the representatives of Serbian Ministry of Interior, Directorate for Foreigners of the Belgrade Secretariat – Department for Suppressing Illegal Migrations and Trafficking in Human Beings; NGO ASTRA; NGO Atina; Agency for coordination of the protection of victims of trafficking; International Organisation for Migration Belgrade and the lawyer.

The following is the review and the analysis of the data obtained from the research.

⁷ More about this way of collecting data can be found out in: Kvale, S. (1996) Interviews: an introduction to qualitative research interviewing, Thousand Oaks, California: Sage: page 126.

Existing Reports on Trafficking in Human Beings: Research Results

By analyzing the data collected during research, primarily through interviews, we found out that the following institutions/organizations have data on trafficking in human beings at their disposal: the Serbian Ministry of Interior, including Directorate of the Border Police – Department for Suppressing Cross-Border Crime and Criminal-Intelligence Affairs, Directorate for Foreigners of the Belgrade Secretariat – Department for Suppressing Illegal Migrations and Trafficking in Human Beings and Directorate for Analytics; Serbian Statistics Office; Agency for coordination of the protection of victims of trafficking, International Organisation for Migration Belgrade, NGO ASTRA and NGO Atina.

In the records of the Serbian Public Prosecutor's Office, data on processed cases of trafficking in human beings is not separately analysed and presented, but rather figures within the data relating to other criminal offences provided in the same group of criminal offences in the Criminal Code of Serbia, i.e. within crimes against personal dignity and morals (in conformity with the regulations valid until 1 January 2006), or against humanity and other human rights under the protection of the international law (as per Criminal Code which came into force on 1 January 2006). As a consequence, in the annual reports of this institution, the criminal offence of trafficking in human beings can be found under the category "other criminal offences", which is explained by a small number of processed cases.

On the other hand, the Reception centre for Foreigners of the Serbian Ministry of Interior, Serbian Ministry of Justice and the lawyer, who is not in any of these aforementioned organisations/institutions, did not have any data regarding this criminal offence.

In this part of the paper, we will give a description of the reports of trafficking in human beings found in our country in order to be able to give an assessment of the current situation in Serbia and to be able to propose a mechanism which may be used for monitoring trafficking in human beings.

Serbian Statistics Office

The Serbian Statistics Office has at its disposal the data on crimes committed by adults and minors including the data on trafficking in human beings. The data which is available at this institution is used to compile official state crime statistics. The data is obtained through regular statistical research, which encompasses all perpetrators for whom the criminal reports were filed at the competent public prosecutor's office, accused perpetrators and those for whom criminal proceedings were validly concluded. In other words, the Statistical Office has data on reported, accused and convicted adult and minor perpetrators.

The Statistical Office has at its disposal data about known adult perpetrators for whom proceedings have been concluded and are recorded in the criminal report, as well as the data regarding the pre-trial procedure, regarding the age, the sex, the criminal offence, the time of committed crime, the property damaged by criminal offence, the person who filed the criminal report and the way of its submission, the type of decision (rejected criminal report, interrupted investigation, halted investigation, pressed charge), the duration of custody and duration of the criminal proceedings. Data about unknown perpetrators is also kept in the records. As to the reported minors, there is data regarding the minor's age, sex, previous sentences, family circumstances and the type of decision of public prosecutor's office.

For accused adult perpetrators, the Statistical Office has at its disposal data on age, sex, criminal offence, time and place of commitment of criminal offence, property damaged by criminal offence, the duration of custody and duration of the criminal proceedings as well as data on the type of decision (rejected private charge, halted criminal proceedings or charge rejected, free of accusation, pronounced security measure without pronouncing sentence and finding guilty). On the other hand, for the accused minors there is data on criminal offence, type of decision, person who reported criminal offence and the way of submitting it, year when criminal offence was committed, property damaged by criminal offence, duration of custody and duration of criminal proceedings.

Finally, as to the convicted persons, there is data regarding the criminal offences, property damaged by criminal offence, pronounced criminal sanctions, persons who are found guilty but released from sentence, depriving of property benefits, previous sentences as well as data about his/her profession, age, sex, education, nationality, citizenship, civil status, complicity and similar data; data on the pronounced sentence. For the minor perpetrators, data on corrective-educational and security measures, depriving of property benefits, previous sentence as well as the basic socio-demographic data and family circumstances is kept in the records.

Statistical research by the Serbian Statistics Office is carried out on the basis of a unique methodology, applying a uniform procedure and standardized forms or questionnaires which are filled in by reporting units. The reporting units are, in this case, the courts and the public prosecutor's offices on the territory of the Republic of Serbia (excluding Kosovo and Vojvodina). In these reporting units the following forms are filled in: forms for the accused and the convicted adults (forms SK-1 and SK-2) and minors (forms SK-3 and SK-4). Forms on the accused persons i.e. the persons with concluded criminal proceedings as per criminal report as well as with concluded pre-trial procedure, contain data about the perpetrator, criminal offence, criminal proceedings and its duration, whereas forms on convicted persons have, in addition, data about the court decision and pronounced sanctions. Data on reported persons is taken from the questionnaires filled

in at the public prosecutor's offices i.e. on the basis of questionnaires of the persons with concluded criminal proceedings as per criminal report as well as with concluded pre-trial procedure.

The completed forms are sent by post to the Statistical Office at the end of each month. These forms, depending on the type of criminal offence, are coded in the Serbian Statistics Office. The codes are entered into the computer by a special programme, and later a logical control check is made. In case that the form is incomplete or illogical, the competent court or public prosecutor's office is contacted and asked to correct errors. When the logical control check is completed, the data is processed by mixing the different types of data and getting the whole range of tables which are presented in the reports, bulletins, annual book and other publications of the Statistical Office. The data of the Serbian Statistics Office is processed annually.

Data which is published in the annual book, reports, bulletins, on the Internet page, is available to a broad range of users. Besides, the Serbian Statistics Office distributes certain publications (reports, statements) to other agencies/institutions – courts, public prosecutor's offices, assembly's entities, law faculties, Serbian Ministry of Justice and similar institutions.

In conformity with the data of the Serbian Statistics Office, in 2003, 10 criminal reports for the criminal offence of trafficking in human beings were filed (as per Article 111b of the Serbian Criminal Code which was valid at that time), against 7 adult perpetrators, among which were 3 women. In 2 cases criminal reports were rejected; in 1 case the investigation was halted; in 4 cases persons were accused; but no sentence was pronounced. On the other hand, in 2004,⁸ 69 criminal reports were filed (60 on the territory of Central Serbia and 9 in Vojvodina), against 69 known adult persons, out of which 9 were women. In 9 cases criminal reports were rejected; in 2 cases the investigation was stopped; in 7 cases investigation was halted; whilst in 51 cases persons were accused. In that year 2 prison sentences were pronounced: 1 sentence with duration between 3 and 5 years and the other between 6 and 12 months.

Serbian Ministry of Interior

Directorate for Analytics

The Directorate for Analytics of the Serbian Ministry of Interior has at its disposal the data on trafficking in human beings. It is categorized by crime, perpetrators and victims, i.e. parties injured by criminal offence for which criminal reports were filed. In that sense, this Directorate has the following data: total number of criminal cases of trafficking in human beings for the specific period for which criminal reports were filed,⁹ total number of criminal reports filed for trafficking in human beings, number of reported persons as per Secretariats of Internal Affairs, sex, age, citizenship, number

⁸ Statement No 272 dated 8 November 2005, Serbian Statistics Office, Statistical Office of the Ministry of Justice, available on www.statserb.sr.gov.yu

⁹ Besides this criminal offence, there is also data for the following criminal offences: seduction, abuse of minors for pornography, neglecting and abusing juveniles, illicit border crossing, intermediation in the exercise of prostitution (procuring), etc.

of the persons deprived of freedom and total number of detained persons, number of filed criminal reports as per Article 14 of the Serbian Law on Public Peace and Order relating to prostitution,¹⁰ number of injured parties, sex, age, citizenship, as well as the information on whether the victim of trafficking in human beings was placed in a shelter.

This data is collected from two basic sources: the form which has been filled in by regional Secretariats of Internal Affairs, but only from the departments for foreigners since 2003, and reports submitted by the Directorate for Information Technology and Systems of Serbian Ministry of Interior.

Regional Secretariats of Internal Affairs fill in the specific table annually and submit it by fax to the Directorate for Analytics, whereas the data from the Directorate for Information Technology and Systems is submitted each month. The data which Directorate for Analytics obtains from the Directorate for Information Technology and Systems is far more valid than the data received from the Secretariats of Internal Affairs. The reasons are the following: when the regional Secretariats of Internal Affairs are asked to submit the data on criminal reports for trafficking in human beings for the specific period, it refers only to the departments for foreigners, and so all other directorates and departments are excluded although they also can file criminal reports for trafficking in human beings. Furthermore, there is a possibility of unintentional errors in the sense that the information about some criminal report was not recorded. On the other hand, data received from the Directorate for Information Technology and Systems is data taken from the network system in which all directorates and departments of the Serbian Ministry of Interior are linked and have direct access from any Secretariat of Internal Affairs to this data base where there is data on each filed criminal report. Thus, it is possible to find criminal reports of trafficking in human beings submitted by the Department for Suppressing Organised Crime or some Departments for Public Peace and Order. In addition, the data that the Directorate for Analytics receives from the Directorate for Information Technology and Systems is used to check whether the tables filled in by regional Secretariats of Internal Affairs at the end of the year have been correctly filled in, i.e. whether all criminal reports were recorded and other required data completed. Should evidence show that in conformity with the report of Directorate for Information Technology and Systems there is the data that specific Secretariat of Internal Affairs submitted a criminal report, which was not recorded in the aforementioned table and which was sent at the end of the year, the related Secretariat of Internal Affairs is contacted and asked to complete the data, i.e. to send the following data: what happened, when, where and how, how the victim was found and whether he/she was placed in shelter etc.

When the data is collected, it is recorded in the computer. This Directorate does not have a specific data base, i.e. the programme for entering and processing of this data, but all data is entered in Excel, and

¹⁰ Article 14 of Law on Public Peace and Order says: One who is addicted to prostitution or who provides premises for prostitution shall be punished with 30 days prison sentence; one that provides the premises for prostitution by a minor shall be punished with 60 days prison sentence.

can be extracted for each month, quarterly and similar. The data of the Directorate for Analytics, in addition to the data collected in some other way, is used for writing annual reports by the National Coordinator for Combating against Trafficking in Human Beings and is thus made available both to general and professional public.

**Directorate of the Border Police
Department for Suppressing
Cross-Border Crime and Criminal-Intelligence Affairs**

The Department for Suppressing Cross-Border Crime and Criminal-Intelligence Affairs within the Directorate of the Border Police of the Serbian Ministry of Interior has at its disposal data of trafficking in human beings, but as stated by the representative of this Department who was interviewed, the data is not systematized, There is no data base where the data is recorded. The data they have refers to the number of criminal reports for trafficking in human beings, the number of criminal offences of trafficking in human beings committed during the specific period as per criminal reports, the number of persons for whom the criminal reports were filed and the number of the injured parties by this criminal offence.

The Department for Suppressing Cross-Border Crime and Criminal-Intelligence Affairs coordinates the work in the field, connecting regional secretariats who should work together on resolving each case. For that reason, the Secretariats of Internal Affairs, i.e. departments for foreigners, departments for suppressing illegal migration and trafficking in human beings are sending reports, notes and messages on the filed criminal reports for trafficking in human beings to this Department. The following data can be obtained from the criminal report: name and surname of the reported person, sex, age, profession, place of birth, place of residence, citizenship, and who and how was injured by criminal offence. Furthermore, the data on victims is submitted to the Department in the case if the victim is foreign citizen, but if one finds out or has assumption that a domestic citizen is the victim of trafficking in human beings and the criminal report has been filed against the suspected person, this Department will be informed about this case, too. They have only general data on victims: name and surname of the victim, from which the sex follows, followed by age, place of residence and citizenship.

The other way of collecting data on criminal offences, perpetrators and victims is the following: the Head of the Department sends annually a request to the regional Secretariats of Internal Affairs, asking them to submit data to the Directorate of the Border Police, or more precisely to the National Coordinator for Combating Trafficking in human beings. on the cases of trafficking in human beings as well as cases of other criminal offences and behaviour which might be an indicator of trafficking in human beings (data on missing persons, misuse and maltreatment of minors). In 2004 the data on trafficking in human beings was collected by means of questionnaires sent only to secretariats which filed criminal reports for

trafficking in human beings, whereas in 2005, questionnaires were given to all Secretariats of Internal Affairs, to fill in data that they may possess on any cases of trafficking in human beings. On the basis on this questionnaire we can get the following data: data regarding the criminal offence – category of criminal offence (sexual exploitation, labour exploitation, including begging, slavery relationship, trafficking in parts of human body/organs), time and place of criminal offence, phase of criminal proceeding, way of execution (*modus operandi*), the state where the criminal offence was committed (translational character), transport which was used, data on used telephone numbers, documents used during commitment of criminal offence, objects used for committing criminal offence, money transfers, the consequences of criminal offence, data on the perpetrator which in most cases corresponds to the criminal report data, data regarding the role of the person in the commitment of criminal offence, whether there are elements of organised crime, data on the previous criminal reports, status of the person in the criminal proceeding, data on property, civil status and other interesting questions for the security (affiliation to criminal groups, political parties, connections with the Government, police, Ministry of Justice etc.). Finally, there is data on the victims – the number of victims, citizenship, sex, age, nationality, what kind of assistance was provided to the victim (whether she was placed in shelter, referred to the institution for social care, humanitarian residence approved, special protection provided as witness or similar), information whether the victim participated in the criminal proceeding and whether she made a compensation claim. The data collected in this way is used among other things, for writing the annual report of the National Coordinator for Combating against Trafficking in human beings. Also, thus, the general data on perpetrators and victims is made available to the general public.

According to the Report of the Serbian Ministry of Interior on Trafficking in Human Beings for 2004 – Report of the National Coordinator for Combating against Trafficking in Human Beings there were 24 criminal reports filed in 2004 against 51 persons for trafficking in human beings, according to Article 111b of the Criminal Code of the Republic of Serbia (which was in force at that time), by which 35 victims were injured. This number of the criminal reports refers exclusively to the cases which were identified as trafficking in human beings while the cases which were qualified as trafficking, but were actually smuggling of people, were not comprised by this report (they were excluded).

Directorate for Foreigners of the Belgrade Secretariat of Internal Affairs Department for Suppressing Illegal Migration and Trafficking in Human Beings

Directorate for Foreigners of the Belgrade Secretariat of Internal Affairs – Department for Suppressing Illegal Migrations and Trafficking in human beings keeps records of perpetrators and victims of trafficking in human beings.

In the case of the records of perpetrators they have data regarding only those persons for whom the criminal reports were filed by this Department or provided there are some operative findings/suspicions that these persons are included in the chain of trafficking in human beings, but that the criminal report has not been submitted yet. In that sense, the following data is kept in the records: name and surname of the person, age, citizenship, number of identification card and some other characteristics which are important for the operative work of the employees of this Department (whether the person has mobile telephone, car etc.), and the comment which includes the description of the criminal offence, whether the victims were found in the specific case, who they are, data on perpetrator's residence, his/her parents, whether the criminal report was filed and when, the data on the qualifications of criminal offence, place and time of crime commitment, how the criminal proceedings had been completed if they had been started as well as all other data which is important for operative work. The photographs of the suspected persons, i.e. of persons who had been reported of having committed a crime are kept in the records.

This Department keeps special records on victims, i.e. injured parties categorized by criminal offences in the cases where the employees of this Department filed criminal reports or in the cases when the reports were not filed as the cases had been processed. Thus, the data of victims is usually connected to the data on the perpetrators. The records of victims of trafficking in human beings include the following data: name and surname of the victim, sex, age, citizenship, number of passport,¹¹ the way of entry in Serbia and Montenegro (legal/illegal), whether the person had visa or not, whether she/he came into the country through an invitation letter, data on the case itself, i.e. method of recruiting, form of transport and exploitation, whether the person was referred to a shelter, whether she/he had the temporary residence permit in Serbia and Montenegro and for how long, whether the person was returned to the country of origin, data on the participation of the victim in the court proceeding etc.

Special questionnaires are not used for collecting this data, but the data is recorded in the data base on the basis of the criminal reports if they had been filed, or on the basis of operative work findings. Data on the perpetrators and victims is recorded in two separate bases, which are internal. These data bases are not centralized and only employees of this Department have codes to access them. It is easy to search for the data and

¹¹ Taking into consideration that this Department is placed within the Directorate for Foreigners it works only with the foreign citizens, so when employees come into the contact with the domestic citizens who are the victims of trafficking in human beings they usually refer them to the Department for Public Peace and Order of the Belgrade Secretariat of Internal Affairs

they are used for the purposes of operative work. They are not published, as they are not meant to be available to the general public.

Agency for Coordination of the Protection of Victims of Trafficking

Agency for coordination of the protection of victims of trafficking has at its disposal data on the victims of trafficking in human beings who were provided assistance. In most cases, the Agency records the following data regarding the victims: basic data on victims - name, surname, nationality, sex, state, place and date of birth, state and place of residence, address, civil status, number of children, names of persons with whom the victim lived, surname and name of father/mother; number of passport, the entity which issued the passport, qualifications and work experience; data on victim's family; data on provided assistance, the way of identification and referral, cooperation with the police and justice entities, the method of recruiting, form of transport and exploitation, programme of providing assistance and further plans for work, reintegration etc.

A questionnaire, where all the above mentioned data, is recorded, is used for collecting data. Data is collected in the following way: when the authorised person of the Agency comes into contact with the victim or potential victim of trafficking in person. Then, as per rule, he/she is placed in shelter. Victims are usually first placed in the Shelter for women-victims of trafficking in human beings managed by the Counselling centre against domestic violence (especially in the case of foreign citizens) or, possibly, if they are domestic citizens, in the shelter managed by NGO Atina. An interview is conducted with the (potential) victim in the shelter. The psychologist, employee of the Shelter, conducts an interview with the victim, but only when the victim is ready to talk. On the basis of the victim's story, the questionnaire is filled in, which is later submitted to the Agency. The completed questionnaire is kept in the victim's file in the Agency and the data from the file is recorded in the computer. The Agency does not have either a special programme for entering data or a centralized data base, and the keeping of records is in electronic form.

The data which is at this institution's disposal is not published, so it is not directly available to the general public. However, when necessary, at the written request of organisation/institution dealing with the problem of trafficking in human beings, some general data can be taken from the records, like the total number of victims who received assistance in the specific period, their age, sex, citizenship and other general, social-demographic characteristics, number of issued temporary residence permits etc. In addition, the Agency annually submits the data to non-governmental organisations ASTRA, Atina and Counselling centre against domestic violence and International Office for Migration Belgrade.

According to the data of the Agency, in 2004, starting from 1 March when the Agency for coordination of the protection of victims of trafficking started to work, the Agency has identified 38 victims, out of which 31 victims were

referred to the shelter. Out of 38 victims, 20 were domestic and 18 foreign citizens, mainly from Romania (6), the Ukraine (6), Moldova (4), and 1 from Bulgaria and 1 from Iraq. Out of the total number of assisted victims, 18 were minors - 14 of female sex and 4 of male sex. In 2005, the Agency identified 54 victims; all women. Out of the total number, 11 were minors and all the rest adults; 33 domestic citizens and 21 foreigners. The foreign citizens were from Moldova (8), the Ukraine (6) and Romania (3), Russia (1), Bulgaria (1), Croatia (1) and Congo (1).

NGO ASTRA

In conformity with interview findings, non-governmental organisation ASTRA has at its disposal data on victims and some perpetrators, i.e. the persons suspected of being included in the chain of trafficking in human beings. All data is recorded in the computer data base for which there is a special programme. Searching the data base can be done per several criteria, i.e. per clients/victims or per traffickers, but also it is possible to mix data and find out a number of details and cross-section views can be obtained. Only four persons, employees of the organisation, have the access to the data base, with one general and other individual password for each of them.

In most cases, the records of victims have the following data: name and surname, sex, identification or some other document (number and the country where was issued), age, nationality, civil status, what was done (type of provided assistance), as well as the story of the victim (what, when, where and how it happened). The data is mostly collected through an interview with the victim (by phone– SOS line for the victims of trafficking in human beings or in direct contact with the victim whereas such a talk is always conducted outside the premises of this organisation). While talking to a victim, a volunteer notes only some basic data, trying to remember the remaining part of the story. On the basis of this, a questionnaire is filled in and it serves as the basis for entering the data in the computer data base. The data base possesses more data than the questionnaire. Data is also collected by getting criminal reports from the police, centres for social work and other institutions as well as from the citizens.

In terms of the data on perpetrators, this organisation mostly has at its disposal data on the person the victim mentioned during the interview, but also the data on the persons reported by some other people (for example, through the SOS line). The data base mostly has the following data: sex, age, citizenship, previous convictions, name and surname (if known), nickname etc.

The data is annually processed and published (only general data) in annual report, and can be also found in the reports of other organisations/institutions, international reports, articles and similar, making it thus available to the general public.

Thus, for example, in the Report for Trafficking in human beings of the Serbian Ministry of Interior for 2002 – Report of National Coordinator for Combating Trafficking in human beings, it is stated that since 2002 NGO ASTRA has provided assistance for 125 victims, out of which which 75 were provided assistance in 2004.

NGO ATINA

Non-governmental organisation Atina, which manages the shelter for (domestic) female citizens who are victims of trafficking in human beings, has at its disposal the data on victims who received assistance, i.e. who used the services of this organisation. Data on victims has been obtained from the Agency for coordination of the protection of victims of trafficking and the International Office for Migration in Belgrade. The authorised persons of these entities came into contact with the victim, they had an interview with him/her and completed a relevant questionnaire before the employees of the NGO Atina. Data on victims is recorded in one data base which is used internally only. Furthermore, this organisation has the data on criminal offences and perpetrators, but it only refers to the cases where victims who are the users of NGO Atina services have the status of injured parties. In these cases, findings on the perpetrators are based usually on the information obtained through an interview with the victim or relevant documentation, more precisely through calls the victims receives from the competent entities in the case. She/he should give the statement in pre-trial or criminal proceedings (as injured party or later as witness).

International Organization for Migration, Belgrade

The Office of International Organization for Migration in Belgrade has at their disposal the data on victims of trafficking in human beings, more precisely women with whom this organisation had come into contact, i.e. the persons who received adequate assistance (shelter accommodation, who were included in the reintegration programme, return or similar). Data is collected through an interview with the victim, which is made on the basis of a special questionnaire. The questionnaire is very extensive and contains a lot of details regarding: who and when made the interview with the victim, name and surname of the victim, sex, age, nationality, citizenship, date and place of birth, type of trafficking in human beings, whether the victim was in the shelter and how long; civil status, qualifications and work experience, way of recruitment, form of transport and exploitation, type of assistance, risk assessment i.e. security for returning the victim to the country of origin and including the victim in the reintegration programme. Data from the questionnaire is recorded in the electronic data base and only one person from this office who is directly involved in the assistance and support programme for the victims of trafficking in human beings, has the access to this data base. Data is processed and published (only general data) in the Regional Clearing Point Report and other reports and is available to the scientific, professional and general public on the IOM web site.

Assessment of the Current Situation on Keeping Records of Trafficking in Human Beings in Serbia

Taking into consideration the research results, we can notice that various state institutions have at their disposal data on trafficking in human beings whereas Serbian Statistics Office is the only state institution which organises statistic research and collects data on reported, accused and convicted persons¹². This is thus the only institution in Serbia which has a systematised data base on the cases of trafficking in human beings who were, in some way, subjects of reaction of the criminal justice agencies. In this sense, the Serbian Statistics Office has the statistics which represent state statistics where reported crimes, whose subjects have been accused and convicted, are recorded. As any statistics of this kind, it has specific limitations i.e. it does not have enough data on the real crime, but is more focused on (non)activity of the criminal prosecuting agency. This particularly applies to criminal offences, like trafficking in human beings, where there is a low level of reporting, i.e. there is a great dark figure.

The records of Serbian Statistics Office contain the criminal offence of trafficking in human beings since 2003. It was then that this kind of conduct was entered into the Criminal Code of the Republic of Serbia as a separate criminal offence¹³ (in the Article 111b).¹⁴ However, this does not mean that the problem of trafficking in human beings has not existed before in Serbia. Rather it shows that previously there had been no political will to describe

¹² According to the regulation of Law on Statistical Research (Official Gazette RS, No. 83/92, 53/93, 67/93, 48/94), specific statistical research may be carried out within the scope of their activities by Ministry of Interior and Ministry of Justice, which, unfortunately, they do not do.

¹³ "Official Gazette SRS", No. 26/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89, 21/90, "Official Gazette RS", No. 16/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/96, 10/2002, 11/2002, 80/2002, 39/2003, 67/2003.

¹⁴ Over past years significant steps were undertaken in terms of legal reform in order to provide appropriate legal frame for efficient fight against trafficking in human beings and protection of victims against this form of organised crime in Serbia. In connection with this fact we should mention that working group of the Victimology Society of Serbia worked on the proposal of changes and amendments of relevant acts in order to provide punishment of the perpetrators of trafficking in human beings and the protection of victims. A part of this proposal refers to incrimination of trafficking in human beings, which served as the basis to state this criminal offence in the Criminal Code of the Republic of Serbia, 2003. More about this in Nikolic-Ristanovic, V., Mrvic-Petrovc, N., Skulic, M., Copic, S. (2002) Novi model zakonskih rešenja o trgovini ljudskim bicima (New model of laws on trafficking in human beings), Belgrade: Victimology Society of Serbia (unpublished), and in Nikolic-Ristanovic, V., Copic, S., Milivojević, S., Simeunovic-Patic, B., Mihic, B. (2004) Trafficking in people in Serbia, Belgrade: Victimology Society of Serbia and OSCE; page 13-23., Bjerkan, L. (ed.) (2005) Samo moj život - rehabilitacija žrtava trgovine ljudima u cilju seksualne eksploatacije (The life on one's own - rehabilitation of the victims of trafficking in human beings for sexual exploitation), Belgrade: Victimology Society of Serbia and Prometej-Belgrade; page. 43-48.

With appropriate changes and amendments, the criminal offence of trafficking in human beings has found its place in Criminal Code of the Republic of Serbia which entered into force on 1 January, 2006 (Article 388) ("Official Gazette RS", No. 85/2005, 88/2005, 107/2005). Text of the provision is as follows:

- (1) Whoever by use of force or threat, bringing in error, abusing of power, confidence, dependence, difficult conditions of others, keeping personal identification documentation or giving or receiving money or other benefits, recruits, transports, transfers, delivers, buys, mediates in delivery or selling, harbours or holds another person for the purpose of labour exploitation, forced labour, committing criminal offences, prostitution or other kind of sexual exploitation, begging or use for pornography, establishing slavery relationship or some other similar relationship, for the purpose of taking out some parts of human bodies or for using in armed conflicts, shall be punished by imprisonment from 2 to 10 years.
- (2) If the offence defined in paragraph 1 of this article has been committed towards minor, the perpetrator shall be punished with the punishment provided in the par. 1. of this article even if no force, threat or any other method of enforcement has been used.
- (3) If the offence defined in paragraph 1 of this article has been committed towards minor, the perpetrator shall be punished at least with 3 years prison sentence.
- (4) If the offence defined in paragraphs 1 and 3 of this article resulted in grievous bodily injury of a person, the perpetrator shall be punished by imprisonment from 3 to 15 years.
- (5) If the offence defined in paragraphs 1 and 3 of this article resulted in a death of one or more persons, the perpetrator shall be punished by imprisonment of at least 10 years.
- (6) Whoever is dealing with commitment of the offence defined in paragraphs from 1 to 3 of this article or the criminal offence has been committed by organised group, the perpetrator shall be punished by imprisonment of at least with 5 years.

Furthermore, new Criminal Code envisages trafficking in children for the purpose of adoption as specific criminal offence, which provides special criminal-legal protection of children until 14 year against this form of trafficking in human beings.

this socially unacceptable behaviour as a crime. This may be supported by the results of research of trafficking in human beings in Serbia carried out by the Victimology Society of Serbia¹⁵ in 2003. Unfortunately, today when there is the specific incrimination of trafficking in human beings, it still happens that the cases of trafficking in human beings, particularly in women for the purpose of sexual exploitation, are treated as some other criminal offences.¹⁶ The consequence of this treatment is “fragmentarily criminal prosecution for specific criminal offences, i.e. for one or more minor criminal offences, which are not considered as a whole or in their interconnection, so there is no possibility for pronouncing sanctions, which are adequate for this social threat”.¹⁷

On the other hand, in practice, due to a lack of special incrimination, the cases of smuggling of people were mostly qualified as a criminal offence of trafficking in human beings.¹⁸ So, for example, according to the data of Serbian Statistics Office, 69 criminal reports were filed for trafficking in human beings in 2004 (as per Article 111b of the valid Criminal Code of the Republic of Serbia) and these included the cases of smuggling of people in addition to the cases of trafficking in human beings. However, according to the data of the Serbian Ministry of Interior stated in the Report of National Coordinator for Combating Trafficking in human beings, 24 criminal reports for trafficking in human beings were filed in 2004, but these criminal reports exclusively referred to the cases identified as trafficking in human beings, whereas the cases which were qualified as trafficking in human beings, but were actually smuggling of people, were not included in this analysis. We may conclude that this practice contributes to the creation of a wrong, “deformed” picture of the scope of trafficking in human beings from the perspective of official statistics. Taking this fact into consideration, we think that making a distinction of trafficking in human beings from smuggling of people in the legal sense presents a better basis for monitoring these criminal offences.¹⁹

However, we must be aware of the fact that the official state statistics do not reflect, in any country, so neither do they in ours, the real state of crime as a scope of both reported and non-reported crimes (meaning crimes which are not known to the police but objectively they have characteristics of the criminal offence). Criminal offences that have not been reported and remain unknown to the police make the so-called dark figure of the crime. In that sense, official state statistics may indicate some crime trends but they do not represent the actual state of crime on a specific territory in a specific period. Moreover, it is more of a reflection of a complex reaction of the citizens and police against crime.²⁰ In other words, official statistics

¹⁵ According to the research findings, 1134 victims of trafficking in human beings were identified by the respondents or the respondents had some indirect knowledge about them in the period of 2002 and first half of 2003. Out of that number, there were 940 women, 94 children and 100 men. More about it in: Nikolic-Ristanovic, V., Copic, S., Milivojevic, S., Simeunovic-Patic, B., Mihic, B. (2004) op. cit.

¹⁶ More about it: Nikolic-Ristanovic, V. (2005) “Trgovina ljudima u Srbiji: između moralne panike i društvene strategije” (“Trafficking in persons in Serbia: between moral panic and social strategy”). Beograd: Temida: No. 4: p. 5.

¹⁷ Nikolic-Ristanovic, V. (2005) op. cit. p. 7.

¹⁸ More about it in: Nikolic-Ristanovic, V. (2005): op. cit. p. 4-5.

¹⁹ Criminal Code of the Republic of Serbia, which entered into force on 1 January 2006 incriminates smuggling in people (Article 350 of the Criminal Code of Serbia).

²⁰ Koffman, L. (1996) Crime surveys and victims of crime. Cardiff: University of Wales Press: p. 3.

reflect the social response to crime which does not remain constant during the specific time.²¹ This is why an increase or a decrease in the number of the reported crimes, and later on in the number of the processed cases does not necessarily mean that there is an increase or a decrease in the number of the crimes that actually took place.

Keeping that in mind, state statistics can be viewed as an indicator of work and efficiency of the criminal justice system.²² For example, actualizing a specific problem (such as trafficking in human beings) and giving priority to its solving in the specific moment of one country, can cause one reinforced actions of the police to find the perpetrators of the specific criminal offences and two this can cause an increase in the filing of criminal reports.²³ However, the data on criminal reports can also be an indicator of (non)readiness of the citizens to report the crime, particularly some specific forms of criminal offences, to the police. Thus, it is possible that after certain public awareness raising campaigns on some specific problems or prevention programme, the number of reported crimes increases. However. this does not necessarily mean that there is in reality an increase in the number of crimes. On the other hand, in terms of some criminal offences like rape, domestic violence, trafficking in human beings and the similar, the status of the victim, her/his relationship with the perpetrator, a number of psychological and practical reasons, distrust in the work of the social control agencies or insecurity of the outcome of criminal proceedings may affect (non)reporting of criminal offences to the police.²⁴

In order to treat the problem of trafficking in human beings as a form of organised crime, which should be qualified as a specific criminal offence provided for in the certain legal provision, it is necessary to work on further perceptiveness of the professionals who apply these laws. Furthermore, taking into consideration the above mentioned limitations of state statistics, it is necessary to complete the existing data with the data obtained by some techniques of collecting data on dark side of crime, such as victimization surveys. It is necessary to conduct a victimization survey, which is a usual practice in most contemporary states, especially in the West, if we want to have a more realistic picture regarding crime in general, particularly of trafficking in human beings in which the dark side is especially emphasized.²⁵ These surveys refer to the interviews conducted with a group of persons, who were chosen in ad-hoc method. They are questioned about whether they had been victims of specific criminal offences, and if they had, which type of criminal offence it had been, i.e. they rely on the victims' testimony about the experience of victimization. The aim of all these victimization surveys is collecting data on the scope and nature of real crime, characteristics of perpetrators and victims, crime

²¹ Koffman, L. (1996) op. cit. p. 3.

²² Kangaspunta, K. (2005) "Collecting data on human trafficking", work presented at International Conference Measuring of trafficking in human beings and difficulties, Courmayeur Mont Blanc, Italy, 1-4. December 2005: p. 2.

²³ See example of Norway in: Tyldum, G., Tveit, M., Brunovskis, A. (2005) Taking Stock: A Review of the Existing Research on Trafficking for Sexual Exploitation. Fafo-report 493. Oslo: Fafo: p. 28.

²⁴ More about it in: Koffman, L. (1996) op. cit. p. 4-5.

²⁵ About techniques of finding out dark figure of criminal offences see in: Konstantinović-Vilić, S., Nikolic-Ristanovic, V. (2003) Kriminologija (Criminology). Nis: Centar za publikacije Pravnog fakulteta: p. 64-65.

reporting and the reasons for non-reporting etc. Examples of these surveys are national victimisation surveys as well as the International Crime Victim Survey, while the examples of the victimization surveys which can be used as the models for collecting data on trafficking in human beings, are national and international victimization surveys on violence against women and domestic violence.²⁶ Although the victimisation surveys have some disadvantages, they represent the most appropriate techniques of collecting data on real crime, and they are, in some way, a counterpart of classical statistics of criminal offences.²⁷ Finally, the research on trafficking in human beings in Serbia, carried out by the Victimology Society of Serbia in 2003, can be used as an example of collecting data on this phenomenon. Namely, the data was collected by the use of the so-called ethnography multi-method as a method for finding out a dark figure, which means that various sources of data were used - above all, persons who have some facts about this phenomenon, but also the data of state agencies, results of the researches, data of non-governmental and international organisations, other written materials and similar.²⁸

Apart from the fact that statistics do not show the real number of crimes committed, they were also criticized because of the possibility that some unintentional errors might have occurred and because of the fact that the data could be abused for political and other purposes. Nevertheless, as results of the research show, the records of Serbian Statistics Office are the only way of monitoring processed cases of trafficking in human beings in Serbia. However, the data of Serbian Statistics Office is annually processed and is to be waited for a long time. This problem needs to be overcome in some way and one way to overcome it would be to envisage, within the scope of the proposal of the reform of state statistics, that Serbian Statistics Office should have periodical data processing and analysis (publishing periodical bulletins).²⁹ The other possible way of overcoming this problem would be consistent application of Article 535 of Criminal Procedure Code of the Republic of Serbia.³⁰ This article envisages in the cases of specific criminal offences, explicitly including trafficking in human beings, that the agency, before which the criminal proceedings are conducted, must submit, without postponing, the data on criminal offence and the perpetrator to the Ministry of Interior, while the first-instance court must submit the valid conviction. In that sense, the Ministry of Interior should have this kind of the data at its disposal. In this way the processing of the cases of trafficking in human beings can be monitored at any moment and the number of submitted criminal reports, accusations and convictions would be known as well as the number of "live" subjects, i.e. the number of

²⁶ Survey on violence against women in Finland can be used as an example. More about it in: Heiskanen, M., Piispa, M. (1998) Faith, Hope, Battering - A Survey on Men's Violence over Women in Finland. Helsinki: Statistics Finland, Council of Europe, Equality between men and women SVT. Or survey on domestic violence in Serbia. More about it in: Nikolic-Ristanovic (ed.) (2002) Porodično nasilje u Srbiji (Domestic Violence in Serbia). Beograd: Victimology Society of Serbia and Prometj-Belgrade.

²⁷ Konstantinović-Vilić, S., Nikolic-Ristanovic, V. (2003) op. cit. p. 65

²⁸ More about it in: Nikolic-Ristanovic, V., Copic, S., Milivojevic, S., Simeunovic-Patic, B., Mihic, B. (2004) op. cit. p. 45-46.

²⁹ Criminal statistics of England and Wales can be used as an example. More about it in: Koffman, L. (1996) op. cit. p. 1.

³⁰ Official Gazette SRJ, No 70/2001, 68/2002, Official Gazette of Republic of Serbia, No 58/2004.

criminal proceedings which are in the process before the regular courts in Serbia. This is not possible at this moment.³¹

As in almost all states, so in Serbia as well, the same forms are used for collecting data (which makes official state statistics) disregarding the type of the criminal offence. As a result, these statistics do not possess specific data relating to specific criminal offences.³² This problem is especially interesting in regard to some criminal offences, trafficking in human beings among them. Namely, trafficking in human beings is a complex social problem which surfaces in the legal definition which is pretty complex and detailed, and which envisages a number of acts, remedies and goals to be achieved by the committing of the act. According to the legal definition, trafficking in human beings is a process comprising of recruitment of the victim, transport/transfer and exploitation. Therefore, the adopted legal definition encompassed various forms of trafficking, such as trafficking in women, men, and children; trafficking for the purposes of sexual and labour exploitation, trafficking in human beings for the purpose of begging, pornography, servitude, commitment of criminal offences, taking parts of the body or organs, as well as trafficking in children for the purpose of adoption. However, this cannot be seen from the official statistics. In that sense, for the purposes of monitoring this phenomenon, its research, measuring and quantification, there is a need for a more detailed operative definition of the existing legal definition.³³ In connection with this issue, the data bases of Serbian Ministry of Interior, Directorate for Foreigners of Belgrade Secretariat of Internal Affairs - Department for Suppressing Illegal Migrations and Trafficking in Human Beings can be used as the model for recording data on this phenomenon.

One of the disadvantages of the state statistics is their focus on perpetrators, whereas the data on victims almost does not exist. The number and the characteristics of the victims are an important basis for understanding trends of this phenomenon and getting more real assessment of the total number of persons who were in the chain of trafficking in human beings.³⁴ So there is no evidence on crime victims, i.e. injured parties³⁵ not even in the Serbian Statistics Office. Therefore, in this area, we usually use the data of the number of victims identified as such by

³¹ So, for example, during research we found out that the Ministry of Justice does not have any data on trafficking in human beings or other criminal offences, i.e. that this Ministry does not keep records of criminal offences, but only ad hoc, depending on the needs, collects data from specific entities or institutions.

³² Aromaa, K. (2005) "Trafficking in human beings: uniform definitions for better measuring and for effective counter-measures", work presented on International Conference: Measuring of trafficking in human beings: complexities and difficulties, Courmayeur Mont Blanc, Italy, 1-4 December 2005: p. 6.

³³ More about it in: Tyldum, G., Tveit, M. Brunovski, A. (2005) op. cit. p. 18-19.

³⁴ Aromaa, K. (2005) op. cit. p. 6.

³⁵ In criminal law and legislature of the Republic of Serbia the phenomenon "passive subject of criminal offence" (in criminal legal sense), or "injured party" (in the sense of criminal proceedings), is used instead of the term "victim". According to Article 221 of the Criminal Procedure Code of Serbia the injured party is considered the person with any personal or property right violated or threatened. It means that "injured party" is broader terms than "passive subject of criminal offence", or "victim" since under the specific circumstances of the criminal proceeding the person who was not the passive subject of criminal offence, i.e. victim (for example, in the case of murder) can appear as the injured party. More about it in Skulic, M. (2000) "Oštećeni u krivičnom postupku - kako poboljšati njegov položaj" ("Injured parties in criminal proceedings - how to improve his/her position"). Beograd: Temida: 3-4: p. 5-6.; Nikolic-Ristanovic, V. (1984) Uticaj žrtve na pojavu kriminaliteta (The influence of victims on the phenomenon of crime). Belgrade: IRO "Svetozar Markovic" and Institute for Criminological and Sociological Research: p. 24.

the police (stated in the annual reports of Serbian Ministry of Interior), or of those who received assistance from the Agency for coordination of the protection of victims of trafficking or who were in contact with non-governmental organisation, which are offering direct assistance to the victims of trafficking in human beings or to the victims of crime in general.

In connection with this issue, we can notice that the number of processed cases of trafficking in human beings is not proportionate to the number of the victims identified, or more precisely recognized as victims, by the above mentioned agencies/organisations. So, for example, in 2004, there were only two convictions for criminal offence of trafficking in human beings, whereas in the same year, according to the data of the Agency for coordination of the protection of victims of trafficking, 38 victims were recognized as victims, whereas the Second Annual Report of Regional Clearing Point³⁶ states that in 2004, 64 victims of trafficking in human beings were registered in Serbia. However, if we take into consideration that just the number of women who were not recognized as victims and referred to appropriate victim support services is ten times bigger than the number of those recognized and who received some kind of assistance,³⁷ this problem becomes much bigger. Here we come to the point of the definition of victim of trafficking in human beings. Who should be considered a victim of trafficking in human beings? We can notice that the reply to this question mostly depends on the person who is recognizing the victim as a victim, offering assistance and support, and the way he/she understands the concept of trafficking in human beings. In fact, there are no clear indicators for identifying the victims and unique methodology of recording the data on victims, which is particularly emphasized in the case of children as victims of trafficking in human beings.³⁸ The data on victims is collected in various ways, and very often is not supported by appropriate explanations on how the data had been obtained; data on specific victims is presented in the records of two or more organisations, which causes duplication of data and the fact that different institutions/organizations use different methodological approaches makes comparison of the data impossible, even the single summing of the data.³⁹ Furthermore, as some authors notice that in the regions where there are more non-governmental organisations dealing with this problem and the regions where people are more informed about

³⁶ Surtees, R. (2005) Second Annual Report on Victims of Trafficking in human beings, South-Eastern Europe 2005. Regional Clearing Point, IOM: p. 494.

³⁷ Counter-Trafficking Regional Clearing Point (2003) First Annual Report on Victims of Trafficking in South-Eastern Europe, Belgrade: IOM, Stability Pact for South Eastern Europe-Task Force on Trafficking in human beings and ICMC page 189.

³⁸ So, for example, from the interview with the representatives of NGO ASTRA we found out that these non-governmental organisation have at its disposal more data on victims than the Agency for Coordination of Protection of Victims of Trafficking in Human Beings or IOM in Belgrade since all cases where somebody reports victimisation of trafficking in human beings are recorded by ASTRA, no matter whether the victim is willing to give evidence in criminal procedure or whether she is placed in a shelter or similar, while the data of the Agency or IOM refer only to the victims who actually received assistance and were included in the reintegration programme. So, one might ask a question on where are the data on person who is a victim, but was not placed in a shelter, did not contact the Agency, the police did not submit criminal report against the perpetrator? These data can be, for example, found in the data base of NGO ASTRA, but they do not exist in the data bases of those who should coordinate assistance and protection of the victims, since, as mentioned by interviewed person, the Agency has only data on victims which the Agency itself deems as victims.

³⁹ Kangasputna, K. (2005) op. cit. p. 1

available forms of assistance, support and rehabilitation programmes, the registered number of victims will be higher.⁴⁰ Taking all these facts into consideration, we can conclude that the data regarding victims of trafficking in human beings is not reliable and it is often used or, more precisely, abused for various campaigns or for getting funds for some projects. In other words “non-critical usage or assessment which is not based on appropriate methodological technique and precise data may rather mislead us then inform, and it can also disable creating relevant policy for combating against it”.⁴¹

On the basis of the exposed assessment of the current situation regarding keeping records on trafficking in human beings in Serbia, the conclusion suggests that it is necessary to develop the system of systematic data collection on perpetrators and victims, including both cases registered by state agencies and those which were not. Such a system could, with the reform of state statistics, give a more realistic picture of the scope, structure and characteristics of trafficking in human beings in our country.

Possible Solutions: Participants’ Suggestions and Some World Experience

As some possible solutions to the specified problems and limitations, the participants identified: the existence of a centralized data base which would enable better coordination of the assistance and protection of the victims of trafficking in human beings as well as the prosecution of perpetrators and prevention; and the creation of a suitable, for example, legal information system, as well as the adherence to the Law on Free Access to Information of Public Importance (Official Gazette of the Republic of Serbia no. 120/2004).

When asked which agency/institution/organization should have a central place in managing records on human trafficking, the participants offered a few suggestions.

For example, Agency for coordination of the protection of victims of trafficking should be the central institution for collecting data on the victims of trafficking in human beings and it should maintain a data base on all trafficking victims that have been recognized as such, either by the Agency itself or other organizations/institutions. In relation to this, all organizations that come into contact with victims of trafficking in human beings should inform the Agency about the victim, regardless of whether the victim has been referred to the Agency at the same time, placed in a shelter or provided with some other assistance and support.

In regard to the records on human trafficking victims, one of the suggestions was also that the NGOs that are dealing with this problem could perhaps create a joint data base that should, in addition to the general, socio-demographic data, also contain data on trafficking routes, means of transport/transfer of victims, how the victims arrived onto the

⁴⁰ Tylдум. G., Tveit, M., Brunovskis, A. (2005) op. cit. p. 29.

⁴¹ Tylдум. G., Tveit, M., Brunovskis, A. (2005) op. cit. p. 23.

territory of our country, as well as details on the perpetrators specified by the victims in order to make a profile of the perpetrators and so on.

Another suggestion that was brought up is that, perhaps, there should be two central entities that would have data bases, of which one would be an NGO (a type of local resource centre) that would, above all, contain data on the victims, and the other would be a governmental institution (for example, Serbian Ministry of Interior) that would keep the central records on the perpetrators, criminal offences and their processing.

Pertaining to the processing of cases of trafficking in human beings, the suggestions took the following direction: a central agency that should maintain data on the perpetrators, criminal reports, accusations, convictions and so on could be Serbian Ministry of Interior, which would collect the necessary data from the courts and prosecutors' offices, but, in that part, data bases could also be made in the Supreme Court of Serbia and Serbian Public Prosecutor's Office where data from the entire territory of Serbia would be gathered, processed and then delivered to Serbian Ministry of Interior.

One of the respondents stated that the central data base on processed cases of trafficking in human beings should be managed by the Ministry of Justice or that the Ministry of Justice, as well as the Supreme Court of Serbia and Serbian Prosecutor's Office should have their data bases, which should comprise compatible and linked systems.

Another possibility would be that the Ministry of Justice would have an IT department where data on criminal reports, accusations and convictions would be processed. The data would previously be entered into a single centralized base that would serve as a network for all reporting units – the police, prosecutors' offices, courts. All data on the criminal offence, the perpetrator and the victim would be entered directly into the data base to which all reporting units should have access. However, taking into consideration the fact that this is a rather costly investment, until the conditions are created for it, the data collecting system as regards the trafficking in human beings could also be the following: the National Coordinator for Combating Trafficking in Human Beings should, through conversations with members of the National Team and other institutions/organizations engaged in this problem, determine which data collected is to be considered relevant. After that, a standardized questionnaire would be designed that would be filled out in specific time intervals, by all the relevant institutions/organizations and which would be delivered to the National Coordinator's Office where there would be a data base into which data would be entered and then processed. Those institutions/organizations that are reporting units should later have access to this data base using specific codes (passwords). What one can conclude is that such a model of statistical monitoring of trafficking in human beings would certainly require a foregoing reform of the coordination structure for combating trafficking in human beings in Serbia.

Nevertheless, when one, speaks of world experience in terms of managing records on trafficking in human beings, the global data base on human trafficking that has been established within the Global Programme against Trafficking in Human Beings of the UN Office on Drugs and Crime for collecting data on the trafficking in human beings, could serve as an interesting example of commendable practice.⁴² Namely, the main sources of qualitative and quantitative data that are entered into this base are government reports, research reports, conference materials and media reports.

Another interesting model of data collecting is the model that has been accepted in the Netherlands,⁴³ where the official (confidential) data base, the Central Register on the Victims of Trafficking in Human Beings, is directed by a non-governmental organization, the Fund against Trafficking in Women (STV). Thus, for example, the police are obliged to report to this organization on every victim they come across. The Fund maintains a data base that includes data such as the victim's age, sex, country of origin, the language he/she speaks, whether he/she has children, whether he/she has a passport, his/her address, the form of prostitution (if he/she has engaged in it), when he/she has been recruited, the legal assistance he/she has received in the Netherlands, the number of applications for asylum submitted, the funds designated for the victim, whether he/she has been returned to the country of origin, what type of assistance he/she has received, if he/she is in the Netherlands whether a request for compensation has been submitted, etc.

Before proceeding to the presentation of the model for the monitoring of trafficking in human beings used in Serbia, we shall refer to the results that have been obtained in the course of the realization of the project regarding the act of issuing temporary residence for the victims of trafficking in human beings.

Issuing of Temporary Residence Permits to the Victims of Trafficking in Human Beings: the Legal Framework and Research Results

The criminalization of trafficking in human beings is merely one of the preconditions for a successful combat against this form of organized crime. For an efficient struggle against this criminal offence, which also implies criminal prosecution of the perpetrators, it is necessary to ensure suitable protection for the victims prior to, in the course of and following the criminal proceedings, but also unrelated to them. This is, among other matters, particularly sustained by contemporary victimological conceptions, primarily for humanitarian reasons and the need to provide the victims with appropriate assistance, support and protection. Such an approach, among other matters, also indicates the postponing of instantaneous victim deportation and providing foreigners as victims of trafficking in human beings with temporary residence permits in the country where they are

⁴² Kangaspunta, K. (2003) "Mapping the inhuman trade: Preliminary findings of the data base on trafficking in human beings", UNODC: Forum on Crime and Society, Vol. 3, No. 1 and 2, as quoted in Kangaspunta, K. (2005) op. cit. p. 3.

⁴³ Aromaa, K. (2005) op. cit. p. 8.

positioned.⁴⁴ With the temporary residence permit, the victim is usually given time to recover and decide whether he/she will cooperate with the authorities or not (recovery and reflection period), after which that period is extended until the termination of the criminal proceedings, provided that the victim has settled on cooperation and the proceedings have been initiated.

Until mid-2004, foreign citizens as victims of trafficking in human beings, were not allowed to apply for and receive a temporary residence permit in Serbia for the purpose of "recovery and reflection," participation in court proceedings or for reasons of existing danger where their security could be jeopardized if they were to return to their country of origin.⁴⁵ However, on 5 July 2004, Serbian Minister of Interior passed the *Instruction on the conditions for approving temporary residence permits to foreign citizens as victims of trafficking*, which followed the commitments made by the signing of the UN Convention against Transnational Organized Crime and the Protocol on prevention, suppression and punishment of trafficking in human beings, especially in women and children,⁴⁶ as well as the Statement on the obligations which was signed at the 3rd Regional Ministerial Forum of the Stability Pact (Tirana, 2002) and the Statement on the protection of victim/witnesses which was signed at the 4th Regional Ministerial Forum of the Stability Pact (Sofia, 2003).

The Instruction provides for issuing of a temporary residence permit to foreign citizens, victims of trafficking in human beings, for humanitarian reasons, for a 3-month duration, with the aim of providing protection and assistance in the process of recovery and return to the country of origin or the country of previous residence (recovery and reflection period). Temporary residence in the duration of 3 months can be obtained by all foreign citizens who the Agency for coordination of the protection of victims of trafficking has assessed, need to be given protection and care as victims of trafficking in human beings. If the victim is prepared to cooperate with the authorities, temporary residence permit may be extended to six months. If, thus, the victim actively takes part in the legal proceedings as a witness or the injured party, or if this is required for reasons of security, this permit may be extended to a year.

In September 2004, the *Instructions for the procedure of approving temporary residence permits to foreign citizens as victims of trafficking in human beings* were passed.⁴⁷ According to the Instructions, the request for the issuing of temporary residence permit to a foreign citizen as a victim of trafficking in human beings is submitted by the authorized employees of Agency for coordination of the protection of victims of trafficking within seven days from the day of placing the foreigner in a shelter for victims of trafficking in human beings. The request is submitted to the authorized

⁴⁴ See more in: Mrvić-Petrović, N. (2002) "Trgovina ljudskim bićima kao specifična forma ženske migracije" ("Trafficking in persons as a specific form of female migration"), Belgrade: Temida: 1: p. 25-32.

⁴⁵ Bjerkan, L. (ur.) (2005) op. cit. p. 61.

⁴⁶ Official Gazette of FRY, International Treaties, no. 6/2001.

⁴⁷ The Instructions for the procedure of approving temporary residence permit to foreign citizens as victims of trafficking in human beings was passed by the Deputy Chief of the Directorate of the Border Police, for Foreigners and Administrative Issues of Serbian Ministry of Interior on 20 September 2004 (no. 26 - 1658/04).

Secretariat of Interior of the Serbian Ministry of Interior in accordance with the victim's place of residence. The request must be personally signed by the victim. The victims that have been placed in the Belgrade shelter, according to the Instruction, submit their request to the Ministry of Interior, Secretariat in Belgrade – Directorate of Border Police, for Foreigners and Administrative Issues, to the Department for Foreigners. The procedure for the issuing of temporary residence permits to victims of trafficking in human beings lasts three days, starting from the day when the request was submitted. When the procedure is terminated, the authorized employee of the Agency for coordination of the protection of victims of trafficking receives the passport (travelling document), or the document containing the decision, from the authorized agency of Serbian Ministry of Interior. These Instructions define the documentation to be submitted with the request.

Primarily through the analysis of the interviews conducted with the representatives of institutions/services that directly come across this problem in their work – the Serbian Ministry of Interior, Directorate for Foreigners of the Belgrade Secretariat - Department for Suppressing Illegal Migration and Human Trafficking, and Agency for coordination of the protection of victims of trafficking, learned that, from the moment that the Instruction was passed, a total of 12 temporary residence permits have been approved in Serbia for the victims of trafficking in human beings - one in 2004 and 11 in 2005. All 12 persons who received temporary residence permits for humanitarian reasons were women: 2 were underage while the remaining 11 were adults. The structure of the victims' citizenship was the following: Iraq (1), Romania (2), Moldova (4), and the Ukraine (5).

The requests for temporary residence permits for all victims were submitted by the authorized person of the Agency to the Directorate for Foreigners of the Belgrade Secretariat, taking into consideration that the address of the Agency is stated as the place of residence, and in accordance with the Instructions, the request is submitted to the Secretariat with the victim's place of residence. Such a decision can cause certain problems in practice, that is, it can prolong the procedure itself, especially when underage persons have been recognized as victims. Accordingly, in one case, the victim, who was underage, was registered as a victim in the region of another Secretariat of Interior (outside Belgrade) and thus, pursuant to the regulations, the guardian (regional centre for social work as the agency of guardianship) was to be allocated in that same region. As, at this moment, the Agency is the only authorized entity that presents the request for temporary residence permit on behalf of the victim, the application form that was filled out had to be sent to the regional centre for social work so that the authorized person could sign the form and return it to the Agency, which then submitted the same request to the Directorate for Foreigners of the Belgrade Secretariat. This problem, according to the respondent from the Department for Foreigners, could be resolved by the opening of local offices of the Agency in other places (for example, district

centres) in Serbia, that could on behalf of the victim, also submit this request to the authorities on their territories. That would, in addition, facilitate the work of the police and other authorities, because in the present situation the Agency has been given considerable authority, but insufficient attention has been dedicated to it in practice, that is, it is confronted with various problems. This opens up the issue of revising the organizational structure of the Agency, its authorities, the responsibilities of authorized persons, etc., which can serve as a discussion topic in some other report since the range of this one does not allow for it.

All victims that have until now received temporary residence permits have received them for humanitarian reasons. They have been found out by the police, which, after a brief conversation with the person (victim), contacted the Agency that should identify him/her as a victim and provide assistance and support. However, as the respondent from the Agency affirms, sometimes it is not easy to identify a person as a victim immediately (sometimes much more time is required, a few days), so the potential victim is placed in a shelter where he/she talks to a psychologist, and then, on the basis of the gathered data, an assessment is made on whether the person is a victim or not, that is, should a request be submitted for a temporary residence permit or not. Due to that, requests for temporary residence permits for these victims have, until now, not been submitted within seven days from the day of the victim's placement in a shelter, although that is the deadline specified in the Instruction. For this reason, according to the representative of the Agency, this deadline needs to be extended at least to 15 days. However, another issue surfaces here and that is the interpretation of the Instruction, that is, the Instructions. Namely, as has already been specified, the Instruction indicates that the request for the issuing of temporary residence permit for victims of trafficking in human beings is submitted if the Agency estimates that the victim needs assistance and support, while the Instructions explicitly state that the request is submitted within seven days from the day of the victim's placement in a shelter. Accordingly, we believe that it is not necessary that the person be identified as a victim since that is a problematic matter as well; it suffices for a suspicion to exist that he/she is a victim, and if he/she is placed in a shelter and is provided with assistance and support then there is no reason to wait to submit the request for the issuing of temporary residence and thus break the deadline specified in the Instructions.

The victim is informed about the possibilities of temporary residence permit by the police, but the authorized person from the Agency and persons who work in the shelter repeat them in more details. Yet, in all cases, the victims wished to go to the shelter and agreed to submit the request which they had to sign personally. However, according to the representative of the Directorate for Foreigners of the Belgrade Secretariat – Department for Suppressing Illegal Migration and Trafficking in Human Beings, the victims are mainly not aware of what the temporary residence permit signifies for them. The victims are, thus, told that, in that way their

stay in Serbia is made legal, that it prevents punishment for misdemeanour and also facilitates their subsequent return to the country of origin, obtaining of an exit visa, as well as the entrance into the reintegration program in their country.

The request for a temporary residence permit is submitted by filling a standard application form in which humanitarian reasons are stated as the reason for submitting the request. With the filled in application form the appropriate documents are also presented – a letter from the Agency for coordination of the protection of victims of trafficking where the need for approving temporary residence permit is explained for the person in question, a letter from the organization providing accommodation and protection for the trafficking victims that shows that the person has entered the reintegration program and a passport or other proof of identity. When the request is received, a dispatch is sent to the Serbian Ministry of Interior - Directorate of the Border Police, to check for any possible obstacles for the permit of temporary residence to be issued. Given that the Instructions specify a three-day deadline for the permit of temporary residence to be issued, in the event that this check-up cannot be completed so quickly, the Serbian Ministry of Interior, Directorate of the Border Police gives a verbal agreement that the victim be allowed this status, while a written agreement is subsequently delivered to the Directorate for Foreigners of the Belgrade Secretariat. After the agreement from the Serbian Ministry of Interior has been obtained, the decision on temporary residence permit is passed by the Department for Status Issues and Control of Movement and Stay of Foreigners of the Belgrade Secretariat. The temporary residence permit is then either entered into the passport of the victim, if he/she has one (the document is stamped with the dates that show from when and until when the victim may reside on the territory of Serbia), or a decision is issued regarding the approved temporary residence for humanitarian reasons where it is stated that the person is a victim of trafficking in human beings. The passport or the decision issued, are usually taken over by the authorized person from the Agency and he/she informs the victim about it. If, in a given case, the decision has been issued because the victim does not own a passport, he/she receives a card where the approved duration of stay is specified, which remains in the shelter and which the victim must have with him/her when he/she leaves the shelter because it serves as a proof of legal stay on the territory of our country.

Since July 2005, the issuing of a temporary residence permit has been tax-free. Prior to this the tax was paid (the tax had been paid in the first nine cases) by the International Organization for Migration Belgrade.

In all cases the victims' were approved a three-month stay (recovery and reflection period), which was not conditioned by cooperation with the authorities. From the viewpoint of certain respondents, this period suffices to provide the victim with assistance, support, protection and to attempt to find an adequate solution. In the event that the victim does not cooperate

with law enforcement or legal authorities and if the proceedings have not been initiated, then there is no foundation upon which to extend the residence period, except for reasons of the victim's security, that is, if his/her security is jeopardized when returning to the country of origin. Thus, of the 12 cases specified, only in two cases (2 women from the Ukraine) the residence was extended to 6 months on the basis of cooperation with law enforcement authorities.

Every authorized stay is accompanied by an entry and exit visa. In these cases, the exit visa is issued when it is known when the victim will leave our country, that is, when he/she will return to his/her country of origin. The office of the International Organization for Migration Belgrade informs the Directorate for Foreigners of the Belgrade Secretariat about it, and commonly two or three days prior to the planned journey someone from this Office comes to the Directorate for Foreigners of the Belgrade Secretariat to stamp the exit visa onto the passport of the victim, or to provide other documentation (travelling document) if the victim does not own a passport. All victims need this visa, regardless of the country they come from and whether a visa regime has been negotiated with that country because this is another type of visa.

In regard to participation in criminal proceedings of the victims that have received temporary residence permit until now, one may notice that none of them had participated/ testified in the main hearing, but 5 of them - 2 from the Ukraine and 3 from Moldova – were interrogated in the pre-trial or previous criminal proceedings and their statements were recorded. In the cases of the Ukrainian victims, the statements given in the previous proceedings were later used in the main hearing so that they were not called in as witnesses to the main hearing that took place before the Special department of the Belgrade District Court for organized crime, while the statements of the women from Moldova given in the pre-trial procedure are also to be used at the main hearing, but the proceedings have not yet been initiated.

In the opinion of individual respondents, the temporary residence permit did not have a major influence on the status of the victims before the authorities. That is, what partly alters the status of the victims of trafficking in human beings here is that they are now treated more like victims and they are generally not penalized;⁴⁸ they are less stigmatized and so on. Still, in spite of this, it happens that during the proceedings, the defence above all attempts to discredit the victim, treats him/ her with contempt, disrespect and stigmatizes her; the victims are threatened, intimidated, insulted and so on. For this reason, it is necessary to devote much more attention to victim

⁴⁸ However, according to the data of Agency for Coordination of Protection of Victims of Trafficking in Human Beings, in the period between 1 January and 15 July 2005, 5 victims were punished for illicit crossing of the Serbia and Montenegro border. Thus, 4 Moldavian women served a 20-day prison sentence after which they were placed in a shelter, while one Moldavian citizen received a 10-day prison sentence but, following the intervention of the Agency, the sentence was overturned and the victim was referred to the shelter. It is important to note here that the Instructions specify that, if the victim of trafficking in human beings had entered the country by illicit means or resides here illegally, the authorities are obliged to determine the facts and circumstances that exclude or reduce the criminal responsibility or responsibility for a misdemeanour of the victim of trafficking in human beings (determining elements of force, threat or coercion, that is exigency or necessary defence).

protection as well as to the utilization of technical and other possibilities that are available in terms of video links, the recording of statements and their reproduction at the main hearing, as well as, where foreigners are victims, enable them to be questioned in the country where they are positioned. This would reduce the secondary victimization of the persons who are usually frightened, insufficiently informed of their status in the proceedings, of what is expected of them, of the rights that they have, etc. Having that in mind, and also taking into account the fact that foreign citizens even as victims do not have to be present at every main hearing, that they do not necessarily have to remain in our country because of the proceedings, and that their reasons for staying are of a different nature. One respondent indicated that it should perhaps be provided that, in cases when it is necessary that the victim remains in our country for reasons of cooperation with legal authorities, the court issues a directive that he/she be given temporary residence permit and that, in this way, the entire existing procedure of temporary residence permit for victims of trafficking in human beings be shortened.

In the course of the previous practice of issuing a temporary residence permit, according to the majority of respondents who possess direct knowledge of this problem, no major problems or difficulties were encountered. However, the NGO ASTRA representative stated that there, nevertheless, exist certain doubts regarding which victims are, and in what manner, informed about the possibilities of obtaining this status. How the selection of those for whom the request for temporary residence permit is submitted is made and for which victims this is not done, that is, whether the request is submitted only for those victims “which can be of use” to the authorities.

Moreover, it was emphasized that the victims should be better informed about this possibility, that is, that the Instructions should be translated into languages that can be read and understood by the victims in the shelter. It was also specified that the Agency should, through regular reports on what has been done about this issue, what are the deficiencies and problems that have been identified in practice, etc., monitor the process of issuing temporary residence permits to victims of trafficking in human beings.

Finally, all respondents stressed that the issue of temporary residence to victims of trafficking in human beings for humanitarian reasons, should be regulated by a suitable law, because, as one of the respondents stated, “it is inadmissible that such matters are regulated by some internal act that does not hold the same force as the law”.

Mechanism for the Monitoring of Trafficking in Human Beings in Serbia

Starting from the current situation in Serbia regarding the managing of the records on trafficking in human beings, and having in mind the deficiencies and problems observed, we believe that it is necessary to build a mechanism that would monitor trafficking in human beings as a general phenomenon, including the matters of processing this criminal offence and issuing temporary residence permit to foreigners who are victims of trafficking. In relation to this, it seems essential to collect both quantitative and qualitative data from different sources – records of Serbian Statistics Office, reports of governmental agencies, institutions, non-governmental and international organizations, as well as research reports, media reports, etc. This implies the gathering of different types of data on the perpetrators, the criminal offence, and victims, while devoting special attention to children as victims of trafficking in human beings. Moreover, the records should contain other data collected through interviews with the victims, the operative work of the authorities, research, analysis of various reports and so on, which would refer to certain specificities of the trafficking in human beings as a phenomenon: methods of victim recruitment, their transportation, forms of control and exploitation, links with other forms of organized crime, etc.⁴⁹ All this put together could help to perceive the situation regarding trafficking in human beings in our country, to evaluate its extent and to develop and carry out measures for control and prevention of this criminal behaviour, that is, the appropriate forms of victim assistance and protection.

One of the fundamental preconditions for the implementation of any data-collecting model in regard to trafficking in human beings and its statistical monitoring is cooperation between government institutions and the civil sector. Hence, data bases should be maintained by two central organizations/institutions: Serbian Statistics Office and the referential research centre as the representative of the civil sector.

Namely, for the monitoring of processing pertaining to cases of trafficking in human beings the existing system of maintaining official government statistics should be used. This means that the main agency of data that refer to perpetrators and criminal offence is already being collected by Serbian Statistics Office, so that this system of monitoring of the processing of trafficking in human beings should really be preserved.

⁴⁹ More on this method of collecting data in Nikolić-Ristanović, V., Čopić, S., Milivojević, S., Simeunović-Patić, B., Mihić, B. (2004) op. cit.; Bjerkan, L. (ur.) (2005) op. cit.

However, a reform of the entire system of state statistics on crime is necessary in this domain, in the direction of entering more data on the crime itself, the perpetrator, as well as the victims, that is, the victim and the perpetrator relationship, more cross-referencing with the sex, etc. Serbian Statistics Office should also periodically conduct victimization surveys, whether general ones or in terms of specific criminal offences, including trafficking in human beings. Furthermore, data processing and analysis should be enabled, not only on an annual basis, but also in shorter time intervals (periodic bulletins).

The other data base should be managed by a referential research centre that deals with the problem of trafficking in human beings, but also with the issue of crime victims in general, including victims of trafficking in human beings. The research centre would serve as a kind of national resource centre. Its key role would be to gather data on victims of trafficking in human beings, on the assistance and support which the victims had received regardless of whether the perpetrator has been identified in a given case, whether criminal reports have been made, and proceedings started and so on. That would be done through occasional victimization surveys; data collecting on trafficking in human beings in general, work of government agencies/institutions and non-governmental organizations that are engaged in the control/prevention of this phenomenon, etc.

The data on victims and assistance forms would be given to the research centre, according to a methodology that should be defined in advance. Reporting units would be non-governmental organizations, social work centres, health services and all other institutions/organizations that come or may come into contact with victims of trafficking in human beings, which provide victims with certain forms of assistance, support and protection, etc. All collected and processed data would be analyzed by experts of the research centre, also keeping in mind the data of Serbian Statistics Office and other government institutions, organizations, research reports, media reports, conference materials, etc. All that would serve as a foundation for writing annual reports on the situation and movement of trafficking in human beings in Serbia, proposing reforms of both laws and practice, monitoring the implementation of national strategy and action plans, their evaluation and revision.⁵⁰

However, if such a system of monitoring of trafficking in human beings is to be established and if it is also to serve as a model for monitoring of other forms of crime, it is essential to generate conditions for its implementation. This, among other matters, implies the following:

⁵⁰ As an example of this type of collecting data, we could also take the Bureau of the Dutch National Rapporteur on Trafficking in human beings, which collects data from various sources, carrying out research and analyzing secondary sources of information, such as data from the police, prosecutors' offices, courts, then organizations that provide assistance to the victims, and information on temporary residence permits that have been issued, etc. More about this in Trafficking in persons - Third report of the Dutch National Rapporteur, The Hague, 2005.

- Establishing a single data collecting methodology (which includes identifying organizations/institutions that would serve as reporting units, establishing cooperation with them, defining basic concepts, developing data collecting instruments and data entry and processing programs, etc.)
- Reform of the statistical system of the government in general, including the segment that pertains to data on trafficking in human beings, and
- Reform of the entire coordination structure for combating trafficking in human beings, especially in the field of providing assistance and support to victims of trafficking in human beings.

These would, at the same time, serve as guidelines for further project activities that would represent the logical sequence of the project *“Developing mechanisms for monitoring the issuance of the temporary residence permits to victims of trafficking and judicial processing of trafficking in human beings cases in Serbia”*. In relation to this, we believe that the Victimology Society of Serbia, with respect to the accumulated knowledge and experience in this field, as well as in the field of victimology, criminology, criminal law and other disciplines, and the existing capacities and resources, could be the bearer of further activities in the establishment of foundations for the implementation of a mechanism for the monitoring of trafficking in human beings. In this respect, the role of the Victimology Society of Serbia would be the following:

- To set up a single methodology for collecting data;
- To adopt a consultative role in the domain of reforming official statistics on crime, especially in the part pertaining to the victims;
- To research and manage records on victims of trafficking in human beings in the role of an referential research centre, and
- To propose the formation of a coherent (national) system to care about victims of crime in general, as well as a more adequate coordination structure (mechanism) to combat trafficking in human beings.

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