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## **POSITION OF HUMAN TRAFFICKING VICTIMS IN COURT PROCEEDINGS**

### **- Analysis of judicial practice for 2013 -**

#### **I Introduction**

ASTRA – Anti Trafficking Action, as an organization which for more than ten years now, have been providing direct assistance and support to the persons who survived human trafficking, continue with their efforts to promote the position of human trafficking victims through annual analysis of judicial practice in Serbia, with an aim to realize the full scope of these persons' guaranteed rights. Position of human trafficking victims, and respect for their rights in judicial proceedings are important not only in the context of each individual case and position of victims in general, but they are also indicators of the strength of democracy and respect for human rights, as well as of the willingness of the state to combat human trafficking adequately.

Therefore, continuation of monitoring and analysis of judicial practice in 2013, by supervising court proceedings and analysing court decisions, represents a necessary extension of the efforts invested thus far in improving the position of human trafficking victims in court proceedings. Continuous analysis of the practice in the field enables monitoring of the changes in implementation of the existing legislative framework, harmonization of the domestic legislation with international standards in the field and efficiency of the existing legal norms, just as it represents the basis for further activities in improving the position of victims in court proceedings. Providing that the analysis of judicial practice in previous years indicated that the position of victims in court proceedings was still not in line with international standards in the field, continuation of monitoring and analysis of judicial practice in this field enables identification of the key challenges and obstacles in human trafficking victims' realization of rights.

The aim of monitoring the situation in practice with a special emphasis on the position of victims in court proceedings is not only related to consideration of the problem, but also serves to provide foundation for further activities in order to fix the existing flaws and identify the crucial areas where the improvement of the existing legislative solutions is needed, or activities are required to facilitate a more consistent implementation of the existing legislation. Provision of an efficient system of protection for human trafficking victims and available mechanisms for realization of their rights must be treated as a high priority question both by the state, and civil society organizations, given that the consequences

suffered by human trafficking victims are alarmingly serious. Protection of privacy, timely information and counselling, safety of victims and respect for their dignity, as well as adequate compensation must be prioritized in the system of judiciary protection.

Just as in 2011 and 2012, in order to provide for comprehensive overview of the position of human trafficking victims, the monitoring of judicial practice included monitoring of court proceedings, as well as collection and analysis of court decisions. Even though the number of the proceedings that were subject to monitoring was significantly lower than in the previous years (the total of 5 court proceedings were monitored), thus not providing a sufficient basis for statistical analysis, this type of monitoring of judicial practice is indeed important, since it allows direct insight into the course of the proceedings and position of victims prior to and in the course of the proceedings, as well as into all the aspects relevant for victim's position. Contrastingly, the second part of the analysis, which pertains to the analysis of court decisions, is based on a higher number of decisions, which were adopted in first instance and appeal procedures exclusively in 2013 (the total of 39 court decisions), and provide a comprehensive overview of the yearly changes in the position of victims and penal policy.

Analysis of judicial practice for 2013 does not indicate any significant improvement in the approach to the protection of interests and rights of victims in court proceedings. Realization of the rights of human trafficking victims to the scope which is guaranteed by the ratified international documents is still far from the situation in practice. The victims still fail to receive adequate protection in court proceedings, they are exposed to secondary victimization and required to give evidence about the traumatic events they survived many times, in the presence of perpetrators, while no significant improvements were identified in the sphere of penal policy. Realization of one's right to compensation is, as a rule, still not decided on in criminal proceedings, so victims are still forced to realize this right under civil legal protection, where only one case of legally awarded and paid compensation has been evidenced. Obstacles in realizing full protection by human trafficking victims in criminal proceedings most frequently occur due to inconsistent implementation of the existing legal framework in the field of victims' protection, implementation of procedures and penal policy. The issue of compensation to the victims of human trafficking certainly demands amendments to the existing legislative solutions, as well as the activities with the purpose of establishing a guarantee fund which would help in developing an efficient solution to this aspect of victims' rights.

## **II Monitoring and analysis of judicial practice: aims and methodology**

Results and insights obtained by monitoring and analysis of judicial practice in 2011 and 2012 indicated that there were substantial flaws and challenges in implementing the existing legal norms, as well as the need for the existing legislation to be improved. In order to further improve the positions of human trafficking victims, in accordance with the assumed obligations pertaining to the ratified international documents in the field, the monitoring and analysis of judicial practice was continued throughout 2013. Like in the previous years, monitoring of judicial practice was implemented through supervision of court proceedings and compiling the reports from the supervised hearings by ASTRA researchers, as well as through collection and analysis of the court decisions in the cases related to human trafficking. During

2013, a significantly lower number of proceedings were supervised, while the analysis of court decisions was performed on the first and second instance court decisions adopted in 2013, providing that the number of decisions adopted within the year constituted a representative sample for the analysis.

Basic aim of the analysis was still to overview the position of human trafficking victims in court proceedings, in order to be able to estimate the state of coordination of domestic legislation with international standards in the field, efficiency and implementation of the existing legislation in practice, uniformity of judicial practice, as well as the effect of the implemented trainings for judiciary employees, all with the purpose of improving the position of human trafficking victims in court proceedings. Continuation of the monitoring and analysis of judicial practice is targeted at continuous supervision and objective consideration of the problem in practice, as the basis for future improvements of the efficiency of legal protection for human trafficking victims.

Monitoring of judicial practice is organized primarily as monitoring of the selected court proceedings for the crime of human trafficking, before competent courts in Serbia, that is, before locally authorized Higher Court in each particular case. Monitoring of court proceedings was undertaken in five different criminal court proceedings, in the period between April and November 2013, in three towns – Belgrade, Novi Sad and Vranje. The proceedings were monitored by ASTRA researchers attending the sessions as general public. Furthermore, the researchers were in direct contact with the victims, victims' representatives, that is, their attorneys in the proceedings, and had immediate insight in the course of the court proceedings, as well as the activities of the remaining parties to the proceedings. For the purpose of a quality monitoring of the proceedings, a questionnaire was used, made in the form of the proceedings report which could enable full overview of the position and protection of the victim in the proceedings, and which the researchers filled in after the conclusion of the hearings they monitored.

The second part of the analysis of judicial practice is based on quantitative and qualitative analysis of court decisions issued in the course of 2013 in criminal court proceedings, either by first or second instance courts. The total of 39 criminal courts' decisions were analysed which, among other things, dealt with human trafficking, 16 of which being first instance judgements and 23 appellate courts' judgements. In analysing court decisions, the parameters crucial for the assessment of victims' position were used, with the emphasis on the data on the victim and his/her hearing, decision on compensation claims, as well as the type and severity of penalties. Special attention in this section of the analysis was given to a final decision adopted in civil proceedings, which was the basis for the first ever compensation claim awarded and paid to a human trafficking victim in our country.

The entire analysis of judicial practice was targeted, as in the previous years, at making an overview which is as comprehensive as possible, of the position and realization of the rights of human trafficking victims in court proceedings, in relation to basic standards of protection and realization of the rights of and assistance to human trafficking victims proposed by the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime dating from 2000<sup>1</sup> (Palermo Protocol) and Council of Europe's Convention on Action against Trafficking in Human Beings from 2005<sup>2</sup>. The aforementioned international standards pay special attention to the measures of securing assistance and protection to

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<sup>1</sup> "Official Journal of FRY – International Treaties", no. 6/2001.

<sup>2</sup> "Official Gazette of RS – International Treaties", no. 19/09.

victims in order to improve their position, such as *protection of privacy and identity of victim* (Article 6 of the Palermo Protocol and Article 11 of the CoE Convention on Action against Trafficking in Human Beings), *assistance to victims – providing information and assistance in realizing rights and interests of victim in court proceedings and measures of victim's safety* (Article 6 of the Palermo Protocol and Article 12 and 15 of the CoE Convention on Action against Trafficking in Human Beings) and compensation for damages (Article 6 of the Palermo Protocol and Article 15 of the CoE Convention on Action against Trafficking in Human Beings).

The aim of the analysis is to expose the problems occurring in judicial practice, in relation to the major results and findings pertaining to the position and rights of victims in court proceedings compared to the minimal standard envisaged by international documents. These problems may occur due to the deficiencies of domestic legislation, or inconsistent implementation of the existing legislative solutions in the area of criminal justice protection or civil proceedings for compensation of damages. Particularly considered were the possibilities and legislative solutions envisaged by the Criminal Code<sup>3</sup>, previous Criminal Procedure Code<sup>4</sup> (applied until 1<sup>st</sup> October 2013) and new Criminal Procedure Code<sup>5</sup> whose application in all the proceedings commenced on 1<sup>st</sup> October 2013, except when it came to the proceedings for the acts of organized crime or war crimes tried before the special departments of the competent courts, in cases of which it was applied since 15<sup>th</sup> January 2012. It is important to note that the amendments to the Criminal Code made in 2009 abolished the possibility of imposing a sentence below the statutory minimum for this crime, providing that one of the cases from the analysed decisions pertained to application of the law before these amendments. Bearing in mind that the new Criminal Procedure Code came into force in October 2013, that is, towards the end of the year for which judicial practice was analysed, it is important to emphasize that the implications of implementation of significant amendments inherent to the Code, which may contribute to the improved position of human trafficking victims, such as the provisions pertaining to particularly sensitive witnesses, still cannot be perceived in their entirety.

For human trafficking victims and victims of related crimes which are subject to the analysis, the text accordingly uses the following terms: "human trafficking victim", "victim", "injured party", "injured person". The term "defendant" was used as a general term for the suspected, accused and sentenced persons, in the sense inherent to the Criminal Procedure Code.

### **III Monitoring of Court Proceedings**

#### **1. General Data on the Supervised Proceedings**

After the continuous monitoring of the court proceedings in 2011 and 2012, ASTRA continued to monitor the court proceedings which pertained to human trafficking throughout 2013. In the period

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<sup>3</sup> "Official Gazette of RS", no. 85/05, 88/05, 107/05, 72/09, 111/09 & 121/12.

<sup>4</sup> "Official Journal of FRY", no. 70/01 & 68/02 and "Official Gazette of RS", no. 58/04, 85/05, 115/05, 49/07, 20/09 & 72/09.

<sup>5</sup> "Official Gazette of RS" no. 72/2011, 101/2011 & 121/2012.

between April and November 2013, ASTRA researchers monitored criminal proceedings in the cases of human trafficking (in one of the cases the competent prosecutor's office qualified the act as mediation in prostitution). The total of 5 proceedings before competent courts (Higher Court in this particular case) was monitored, in three Serbian towns – Belgrade, Novi Sad and Vranje. The researchers attended 7 hearings/sessions, with two of the proceedings having two hearings held each, while the remaining proceedings having one hearing held each. Even though the number of monitored hearings was lower than in the previous years of judicial practice monitoring, this aspect of monitoring is nevertheless an important indicator of the situation in practice, providing that it allows immediate insight into the position of victims immediately before and in the course of court proceedings.

All the monitored sessions were hearings in the first instance criminal proceedings. The researchers who monitored the proceedings were allowed unhindered access to the court hearings. Public was not excluded from the hearings, except in one case when the victim was giving evidence as an injured party via video link. Out of the total number of the monitored sessions, 3 hearings were not held due to various reasons (1 hearing was postponed due to the victim's failure to respond to the summons for expert examination, 1 due to the absence of the judge, while the remaining hearing was not held without the reason for it being specified).

General data on the defendants in the monitored proceedings indicate that out of the total number of 11 defendants, 9 were male and 2 female. Out of the total number of 5 monitored proceedings, all the defendants were detained in 3, the defendant was released from detention in 1 and the defendant was detained for another criminal offence in 1 case. Relatives of the defendants were present in two court hearings, within the same court proceedings. General data on the victims indicate that human trafficking victims are still largely female, so in the monitored proceedings it was noted that all 6 injured parties were female. In just one of the hearings victim was giving evidence via video link in the competent court in her place of residence, which was decided upon the proposal of her attorney in order to avoid further traumatization of the victim. In the remaining cases there were no testimonies by the injured.

In three of the cases the victims were represented by the attorneys who had been specially trained to work with human trafficking victims by ASTRA, and in those cases, prior to proceedings, victims were informed by their lawyer on the course of the proceedings, their position and rights in the proceedings, together with the prior counselling support provided by psychologist. In 3 of the cases, victims had the support by their family members who were present at the hearings, while in all the cases ASTRA researchers were present, and joined on one occasion by a representative of the NGO Atina.

## **2. Position and Rights of Victims**

In assessing the position of human trafficking victims in court proceedings one needs to bear in mind the basic standards of protection and realization of rights and assistance to human trafficking victims presented by the relevant international documents in the field, such as the Protocol to Prevent, Suppress, and Punish trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime dating from 2000 (Palermo Protocol) and Council of Europe's Convention on Action against Trafficking in Human Beings from 2005. The

aforementioned international standards pay particular attention to the measures of providing assistance and protecting victims in order to improve their position, such as protection of privacy and identity of victim, assistance to victims – providing information and assistance in realizing the rights and interests of victim in court proceedings and measures of victim's safety, as well as compensation. In order for these guaranteed rights to be realized in practice, it is necessary for all the participants in the proceedings to cooperate, starting from victim's representative and organization which provides them with assistance and support, to competent prosecutor's offices and courts.

According to the data gathered by means of the court proceedings monitoring questionnaires, it is of some relevance to note that in one of the cases it has been reported that public was excluded from the hearing, while the victim was giving evidence via video link at the court in her place of residence. There were no exclusions of public in the remaining hearings. Apart from the representatives of ASTRA in all the monitored hearings, and presence of a representative of NGO Atina in one of the hearings, relatives of the defendants were the only public present at the hearings, as not even representatives of the media were in attendance. Full respect for victim's rights is especially important when it comes to victims' testimonies in court proceedings, in order to avoid secondary victimization as much as possible.

Thus Prosecutors' and courts' actions need to be targeted at providing security and safety of victims, especially during their testimony, in order to protect their rights and avoid secondary victimization, but simultaneously to secure a high quality testimony in the interest of proper conduct of the proceedings and establishment of criminal responsibility. Data from the analyzed questionnaires indicate that the postponement of hearings obviously still presents a serious challenge which needs to be dealt with, providing that each court attendance represents additional stress to victims and a potential source of secondary victimization, because victims are thereby forced to face defendants and their relatives and friends on more occasions than necessary, and on those occasions they are often exposed to pressure, threats and insults, immediately before the hearing, in front of the courtroom, as well as during the hearing itself.

Another important aspect in considering the position of victims in court proceedings is the assistance to victims, that is, providing information and assistance in realizing the rights and interests of victim in court proceedings, so in the proceedings that were immediately monitored special attention was paid to the provision of support to victims, familiarity of victims with their rights in the proceedings and provision of legal assistance free of charge. Analysis of the data from the questionnaires indicates that the realization of victims' right to counselling and informing still depends exclusively on the engagements of nongovernmental organizations such as ASTRA, which provide victims not only with legal assistance, but also support and accompaniment at the hearings. In this way, victims received help in realizing their rights in court proceedings, together with psychological counselling, to provide them with additional security and timely information on the course of the proceedings. The system of institutional support and assistance to victims in the area of counselling and informing is still far from fulfilling minimal standards, thus the system of timely, high quality and free legal assistance is still one of the priorities when it comes to realization of victims' rights in court proceedings.

Just like in 2012, supervision of judicial practice through the monitoring of court trials indicates that there is still disproportionate ratio between the number of criminal and civil proceedings and that judicial practice lacks civil proceedings for compensation to human trafficking victims. Providing that in practice compensation claims of human trafficking victims as injured parties are almost never decided

on within criminal proceedings, the victims must wait for the adoption of final judgment in criminal proceedings to initiate civil proceedings in which they can claim compensation for the damage caused by the perpetrator. In this field, when compared to the previous year, one case was recorded in which a human trafficking victim was awarded and paid compensation, a detailed account of which may be found in the chapter dealing with the analysis of judgments, in the section about compensation for damages.

Providing that monitoring of court proceedings was performed up until November 2013, while full application of the new Criminal Proceedings Code began only one month earlier, this part of judicial practice analysis cannot provide relevant indicators as to whether the implementation of the new legal solutions would contribute to the improvement of the position of human trafficking victims. What may be particularly important for this field are special rules of taking evidence from a person with the status of particularly sensitive witness (such as treatment with special attention, questioning with the assistance of psychologist or social worker, hearing by using technical equipment without the presence of other parties, hearing in one's apartment or other authorized institution, prohibition of confrontation without the consent of particularly sensitive witness); improved measures which may be ordered during the proceedings, such as prohibition of approaching, meeting and communicating with the specific person, supervision of which is maintained by the police; amendments which pertain to realization of compensation claims and provide a basis for deciding on it within the criminal proceedings. Thus it is important to continue the monitoring of the court proceedings in the future, more thoroughly than ever before, in order to be able to further supervise judicial practice in the field.

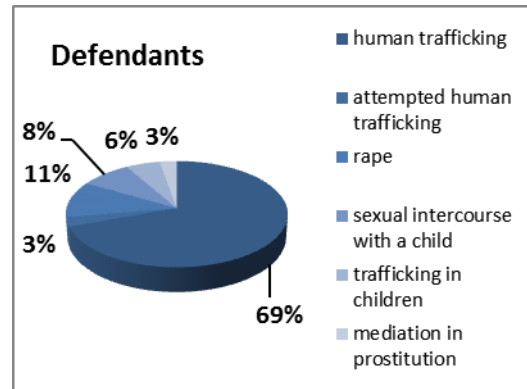
## **IV Analysis of Court Judgments**

### **1. General data**

Analysis of judicial practice in the second section of this report pertains to the first and second instance court decisions which were adopted in 2013, providing that the number of analysed decisions constitutes a representative sample for analysis. The analysed sample consisted of 39 decisions in total, which were adopted in criminal proceedings, and among other things pertained to human trafficking, 16 of which being first instance judgments and 23 being appellate court judgments. Out of the total number of second instance judgments, 10 were adopted apropos first instance judgments which were also adopted in 2013 and included in the analysis. The analysis included 34 defendants and 19 injured parties. Subject to special analysis was the civil proceeding for compensation, which was related to the first and second instance court decisions under which a victim was awarded compensation for damages, and this will be further explained in this chapter, in the section dealing with compensation.

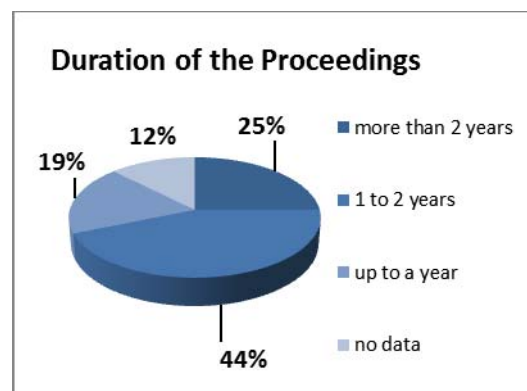
The court decisions mainly pertain to the crime of human trafficking (69% of the defendants), while in individual cases some other acts of crime were added to this one. Twenty-five defendants were prosecuted for the crime of human trafficking, 5 of which simultaneously accused of some other crimes, while one person was accused of two acts of human trafficking. One person was accused of attempted

act of human trafficking (and was acquitted), 4 persons of the act of rape, 3 persons of the act of sexual intercourse with a child, 2 persons of the crime of trafficking in children for the purpose of adoption (and were acquitted) and one person of the crime of mediation in prostitution (simultaneously accused of the act of human trafficking).



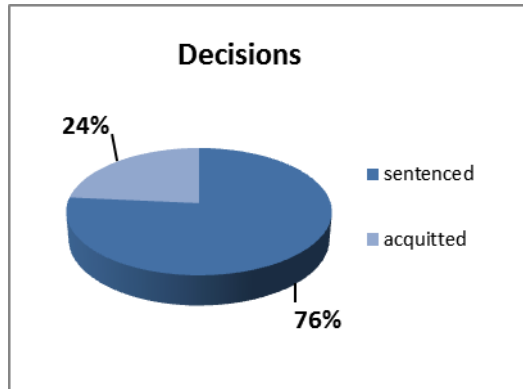
Duration of the proceedings was analysed in relation to the time period that passed from indictment to sentencing. According to the given criteria, the longest proceedings lasted for 5 years and 9 months; average length was 2 years and 2 months, while only three court proceedings were finalized within a year. In 44% of cases the proceedings lasted for more than 2 years. These data indicate that the length of court proceedings is still verging on unreasonable, given the criteria for trial within reasonable time.

Out of 23 appellate court decisions that were analysed, first instance decisions were confirmed in 15 cases. In one of the cases, the sentence was confirmed for human trafficking, but was revised when it came to another act of crime. In six of the cases first instance sentences were modified in relation to the severity of sentence, where the original sentences were mitigated in 5 cases, while in one of the cases first instance sentence was made to be more severe by the appellate court.

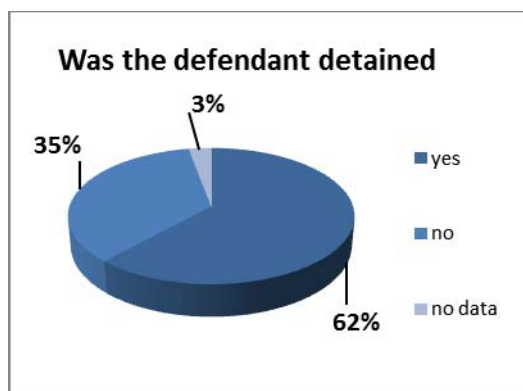
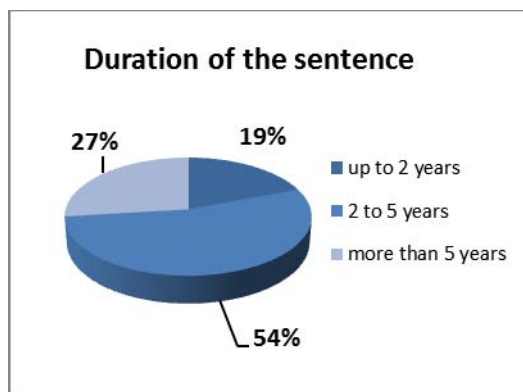


The data obtained by statistical processing of court decisions indicate that out of the total number of the defendants, guilt was confirmed by the sentence for 76% of them. The total of 26 persons were convicted, 17 of whom for the crime of human trafficking, while in 8 cases acquittals were adopted, five of which for the crime of human trafficking. Three of the accused who were firstly prosecuted for human trafficking were finally sentenced for mediation in prostitution. One sentence was adopted based on the agreement on the admission of crime.

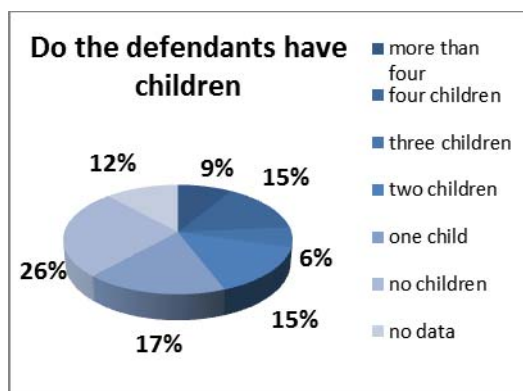
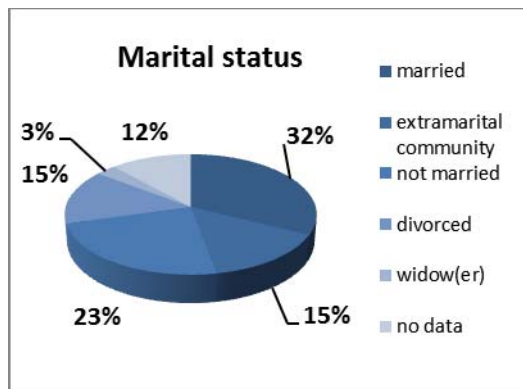
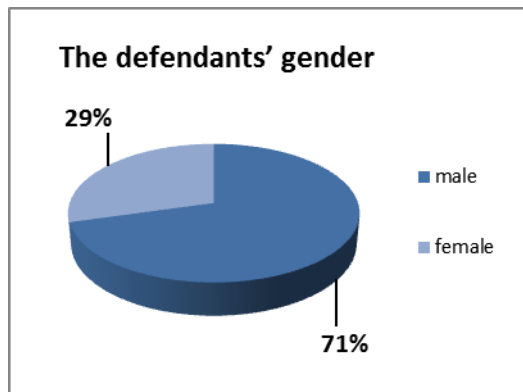




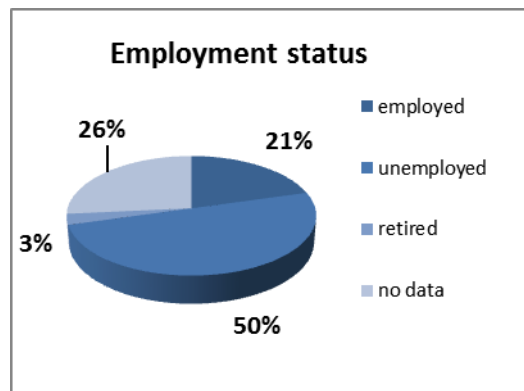
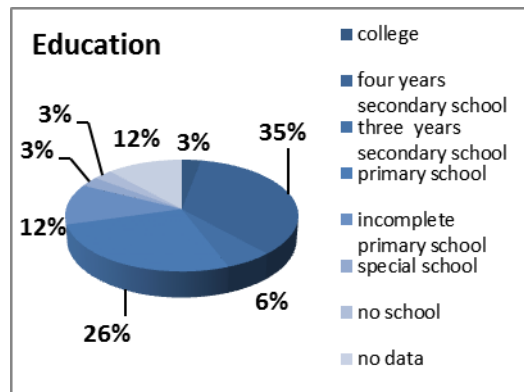
When it comes to the severity of the adopted sentences, majority of the defendants were sentenced to 2-5 years of imprisonment (14 defendants, or 54%), 5 defendants (19%) were sentenced to up to two years of imprisonment, while 7 defendants (27%) were sentenced to more than 5 years of prison. The longest adopted sentence was 8 years for the crime of rape, while for the crime of human trafficking, the longest adopted sentence was 6 years and 2 months. The shortest adopted sentence for the act of human trafficking was 8 months which was below legally stipulated minimum, since in this case it was possible to apply older criminal code, before the adoption of the legal amendments which abolished the possibility of mitigating the sentence for this act of crime, so especially mitigating circumstances were applied, while in the rest of the cases the sentences for this crime ranged from 3 to 5 years. Statistical data indicate that the average sentence for the crime of human trafficking was 4 years, while the average length of the adopted sentences for all crimes was 4 years and 2 months. During the court proceedings, 21 of the defendants spent time in detention.



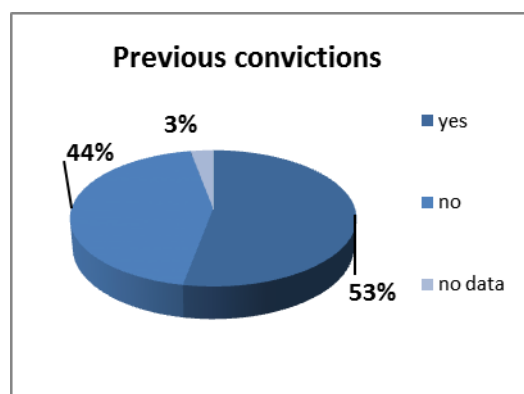
Analysis of the defendants' personal data led to the conclusion that these were mainly male (71%) Serbian citizens (33 of the defendants) while the total of 29% of the defendants were female. These data do not diverge significantly from the results of the previous analysis for 2012. Age distribution of the defendants at the time when the crime was committed indicates that the majority of them belong to the age group of 26-35 year olds, while the youngest defendant was 19 and the oldest 60 years old. When it comes to marital status, 33% of the defendants were married, while 62% had children (assessed by the court to be a mitigating circumstance which allowed for shortest sentences in 11 of the cases).



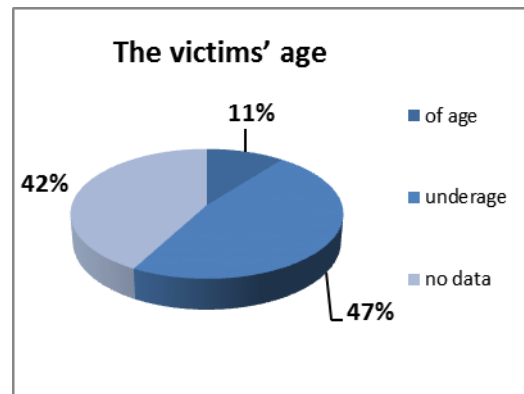
Statistical analysis of education and employment status of the defendants indicate lower educational level and high rate of unemployment. 36% of the defendants have finished high school, 27% primary school, while 12% of the defendants have not finished primary school. 50% of the defendants were unemployed.



When it comes to previous convictions, statistical data of the analysed judgments indicate that 53% of the defendants had previously been convicted (18 persons, 16 of them with multiple convictions and all of them male). These data do not differ from the data gathered in the previous year. For 11 of the defendants, these previous convictions were taken by the court to be an aggravating circumstance in sentencing.



Out of the total number of 19 human trafficking victims that had the status of injured parties in the analysed court decisions, all were female (the data are missing for one person only). When it comes to the victims' age, it is important to note that a high percentage of the victims were underage at the time when the crime was committed, almost half of them (47% of all the injured parties for whom the data exist), with the youngest injured party being only 12 years old at the time when the crime was committed.



Based on the general data and statistical analysis of the court decisions, the next section of the analysis will deal with the aspects of the position and rights of victim in court proceedings, especially with the aspect of hearing victims in criminal proceedings, issue of victims' realization of the right to compensation, as well as with the specifics of penal policy in 2013.

## 2. Position and Rights of Victim

### 2.1. Hearing

Analysis of the position of victims in court (criminal) proceedings, based on the analysed judgments indicates that the results and problems were similar as in the previous years. Thus it can be concluded that the position of victims in criminal proceedings remained unchanged and that the aspects of rights of human trafficking victims, such as informing, protection of privacy and safety are still far from the standards envisaged by the ratified international documents in the field.

The analysed judgments, 16 of which being first instance court decisions and 23 second instance court decisions, involved the total of 19 human trafficking victims with the status of injured parties. Out of the total number of injured parties, 9 were underage at the time when the crime was committed. According to the data from the decisions, in only 2 cases it was noted that public was excluded from the hearings, for the purpose of protecting the interest of underage injured parties, by referencing to the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles.

In one of the cases, underage injured girl who gave her testimony during investigation, was questioned once again at the main hearing under a second instance court's order, while the first instance court in the reasoning of their decision specifically referred to the provisions of Special Protocol on the Procedure of Judicial Authorities in Protecting Underage Persons from Abuse and Neglect which had been adopted by the Ministry of Justice, as well as to the provisions pertaining to hearings of underage

persons from article 150 of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles. In another case, after the indictment, an underage injured girl, instead on the main hearing, gave evidence to an investigating judge in her place of residence, where the court referred to the provisions from article 102 of the Criminal Proceedings Code pertaining to exercising caution in dealing with the hearing of underage injured parties in order to avoid harmful consequences to their psychological state, as well as the provisions of article 152 of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, and explained that this mode of hearing would be less stressful to her than the testimony at the main hearing.

In two court proceedings it was noted that the injured parties had been confronted with the defendants and witnesses. In one case, which represents a drastic example of inadequate treatment in practice and disrespect for the rights of the injured party, in the reasoning of the decision it was noted that the injured was forced at the main hearing to recount the events and what she had been forced to do since the defendant had threatened to kill her family, after which “the minutes note that the hearing was suspended for 30 minutes because the injured got sick so she had to be taken to the court infirmary, from where she returned to the courtroom accompanied by the medical doctor who explained that she was given a tranquilizer and that now the hearing may be continued.” After this main hearing, the injured (who was underage at the time when the crime was committed) was forced to give evidence once again at the main hearing, only to be confronted with three witnesses during three different sessions. In the same court proceedings, the other injured woman gave evidence during investigation, at two main hearings, only to be confronting a witness at the third hearing.

In only one case it was recorded that the court had rejected the proposal of the defence for the underage injured girl to be confronted with the defendants, stating that the injured was giving evidence with difficulties at the main hearing, taking into account that the injured had problems with her testimony as she “was tearful and sobbing” while doing so. Such decision of the court was based on the proposal of the competent care authority which opined that the injured party’s confrontation with the defendants might jeopardize her “further development and growth”, so in this case an additional trauma for the victim was avoided to certain extent.

It is evident that, just like in the decisions analysed in 2011 and 2012, in majority of the cases which were subject to the analysis a dominant practice was for a human trafficking victim to give evidence in the presence of the defendants. Judicial practice in 2013 indicates that apart from accurate assessment by the court and adequate engagement of prosecutor offices, the manner of hearing of victims and prevention of secondary victimization often depend on the opinions of court experts and care authorities, but that the full respect of victims’ rights cannot be achieved without coordinated activities of all the actors in the proceedings.

The sense of fear and insecurity that victim has when giving evidence in the presence of defendants influences not only her/his psychological state, but also the verisimilitude of the testimony, so the protection of victim’s safety during the hearing is in general interest of the proceedings. The data from the analysed first instance court decisions indicate that at least four of the victims changed their testimony in the course of the proceedings, from the investigation to main hearing, due to the pressure they were exposed to. In one of the cases, changed testimony by the underage victim at the main hearing led to the acquittal. In case of changed or inconsistent testimony by underage victims, highly

important are the reports of expert witnesses and care authorities, pertaining to the victims' emotional stability, change of opinion and tendency to confabulate.

Changed testimonies by the victims are directly linked to their safety. Apart from the fact that it is in general interest for the injured party to provide credible testimony in order for the truth to be established, it is necessary to pay more attention to the aspect of security of the human trafficking victims with the status of injured parties in court proceedings. Monitored and analysed judicial practice in the field, in 2013 as well as in the previous two years of monitoring, indicates that the problem of victims' safety still fails to call forth an adequate response. The victims, who are often exposed to pressure and threats by the defendants, their friends and families, and often the pressure within their communities, are denied systematic protection and support before and in the course of court proceedings. Immediate risk to injured parties was reported in two cases, while the decisions in the cases do not indicate that any legal measures were implemented in order to provide security for the victims. In one of the cases, the victim said during the hearing that she was scared for herself and for her children "because she received threats from the defendant's friends to prevent her from giving evidence against him". In the other example, the victims who did not participate in the case against the defendant changed their testimony at the hearing saying that they were intimidated by the defendant and his family.

Inconsistent implementation of the existing legislation is also evidenced by different examples from the analysed judicial practice, so it is evident that respect and development of the victims' position in criminal proceedings largely depends on adequate implementation of regulations, familiarity with international standards and understanding of the specific position of human trafficking victims by courts and prosecutor's offices. Legal possibilities provided by the new Criminal Code with its advanced solutions and institution of especially vulnerable witness, the full implementation of which has only started on 1<sup>st</sup> October 2013, might significantly contribute to the improvement of this segment of victims' rights, if consistently implemented. This also applies to the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles<sup>6</sup> which envisages the possibility of underage persons' giving evidence via technical equipment for the transmission of sound and vision, i.e. hearing without the presence of the parties and other actors in the proceedings (Article 152.), which are rarely used in practice.

## 2.2. Compensation

The existence of an appropriate legal framework which would guarantee realization of the right to compensation for damages to human trafficking victims is undeniable, both on international and national legislative level. The ratified documents such as the UN Convention against Transnational Organized Crime, Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, CoE Convention on Action against Trafficking in Human Beings, as well as the rights guaranteed by the Constitution of the Republic of Serbia provide courts with more than sufficient basis for the improvement of judicial practice.

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<sup>6</sup> "Official Gazette of RS" no. 85/2005.

The analysis of judicial practice in 2013 indicates that the state of affairs in this area did not significantly change when compared to the previous years. Out of the total number of the analysed court decisions, there was only one adopted in civil proceedings pertaining to compensation for the damages resulting from the crime of human trafficking. In criminal proceedings, when the victims acting as injured parties submit their compensation claims, the court still does not decide on these claims but instructs the victims to realize these claims through civil proceedings. Victims submitted their compensation claims in the majority of the cases, but in none of the cases it was demanded that the claim is fully or partially decided on in the criminal court decision. The existence of efficient and accessible mechanisms for realization of this right would certainly encourage victims to claim compensation in all cases, as well as their attorneys to demand that the compensation is decided on within criminal proceedings.

The Criminal Proceedings Code which was implemented by 1<sup>st</sup> October 2013 envisaged that the compensation claim resulting from an act of crime would be discussed within criminal proceedings at the request of the authorized person only if this would not significantly prolong the proceedings (Article 201). The law envisages possibility of the court awarding the amount of compensation claim partially or in full as a part of the judgment under which the defendant was pronounced to be guilty, except when the data gathered in the criminal proceedings fail to provide reliable foundation for either partial or full award of compensation (Article 206). The existing legal framework was largely improved by the adoption of the new Criminal Proceedings Code, the implementation of which started in all criminal proceedings on 1<sup>st</sup> October 2013, except in the proceedings for the acts of organized crime or war crimes processed by the special departments of the competent courts, in cases of which the Code has been applied since 15<sup>th</sup> January 2012. The amendments which pertain to realization of compensation/property claims (Articles 256-258) provide better legal basis for deciding on these claims within criminal proceedings themselves. Thus, there is a possibility within criminal proceedings, under the provisions of the law regulating the procedure of enforcement and securing, to adopt interim measures to secure compensation claims arising from the acts of crime. It is stipulated that the court will award compensation claim partially or in full, as a part of the sentence against defendant, while the claimant would be instructed to claim the remaining amount in civil proceedings, except when the data gathered in the criminal proceedings fail to provide reliable foundation for either partial or full award of compensation, when the court instructs the authorized person to claim the full amount of the compensation in civil proceedings. Providing that the application of the new CPC did not start until the second half of the year, the assessment of the new provisions' implementation is not fully visible in the analysed decisions adopted in 2013.

The results of the analyses so far indicate that it is necessary to modify the practice in order to begin solving compensation claims within criminal proceedings, in order to avoid lengthy and costly procedures before civil courts and spare victims from additional proceedings, with all their testifying and medical expertise. In this way, and especially through education and training of the employees in judiciary who deal with criminal matter, the present focus on the victim as an injured party who can provide insight into the circumstances of a crime would be shifted to victims truly being treated as injured parties whose rights in the proceedings need to be fully respected. Analysis of the judgments indicate that realization of the right of a victim to be adequately indemnified within criminal proceedings may be the right solution, especially bearing in mind that judicial and medical expertise of the victim's condition is required during criminal proceedings, while the reports of court experts include

enough data on the suffered non-material damage and harmful consequences which, providing that the aim of the expertise is widened to identify the types of non-material damage suffered, could serve as a basis for awarding at least a partial amount of the compensation, without causing the proceedings to be especially prolonged.

Furthermore, it is important to emphasize that accessibility of compensation mechanisms and improved position of victims in these trials in order to secure full respect for their guaranteed rights, certainly require the adoption of additional legislation, as well as solving of the issue of guarantee fund, in order for the victims not to be forced to use civil proceedings as their only resort, since civil proceedings are quite expensive (court taxes, costs of expertise) and lengthy in practice.

Among the judgments which were subject to the analysis, especially interesting is the only judgment adopted in a compensation civil proceeding. Through the final judgment in the proceedings against five persons who had previously been pronounced guilty for the crime of human trafficking in the criminal proceedings, the victim was awarded the total of 1,000,000.00 RSD for non-material damages, 80,000.00 of which for emotional pains suffered due to the violation of honour, respect, freedom, personal rights and dignity, as well as 200,000.00 RSD for the suffered fear. This was the first final judgment to award the compensation to a human trafficking victim which has been executed. Even though it represents an example of good practice when it comes to reasoning for the first and second instance court decisions, this case also exposes the shortcomings of this legal resource in the context of realization and protection of human trafficking victims' rights.

Even though the crime of human trafficking was introduced into the national legislation as early as 2003, while the right of compensation to victims is guaranteed by the Constitution, laws and ratified international conventions, ten years had to pass for compensation to be awarded and paid to a human trafficking victims for the first time. This piece of data is more than indicative of inexistence of an efficient system for compensating victims. Providing that in the course of the criminal proceeding, which lasted for 4 years, the victim was instructed to initiate a civil proceeding in order to claim compensation for the damages suffered, she was forced to initiate another proceeding upon the finalization of the criminal one, in order to be able to realize her rights, and this litigation lasted for another 3 years. In this way, the human trafficking victim had, for a long time, been repeatedly exposed to hearings and expert examinations, as well as to constant reminding about traumatic events and exposure of the details of her private life, all of which unavoidably led to secondary victimization and prolonged her recovery. Furthermore, the issue of civil proceedings being quite costly cannot be neglected either, since it is virtually impossible for a victim to bear the costs without the support and assistance of associations like, in this case, ASTRA. Apart from the costs of lawyer and expertise, quite high court fees need to be counted in too, and in this case (as in almost all other cases in practice) the demand to be freed from the costs of the proceedings was denied, so the court fee, for only filing the claim and receiving the first instance decision, amounted to more than 100,000 RSD.

In the course of presentation of evidence before the first instance court, the victim was questioned as the plaintiff and medical expert examination was performed with the aim of identifying non-material damages suffered, while the court refused the proposal of the defendant for "the moral notions and ideas of honour of the plaintiff to be determined by expertise". Hearing of the defendants was not conducted, since the court believed that the responsibility of the defendants was undeniable, since they



were pronounced to be guilty in the final criminal sentence, so the remaining relevant facts were identified by hearing the plaintiff and the report of the expert witness, which included the question of the plaintiff's potential contribution to the infliction and scope of the damage and the existence and intensity of emotional pain and fear. When deciding on the amount that would be awarded, the court took into account the application of the provisions from articles 200 and 202 of the Law of Contracts and Torts, as well as the fact that the plaintiff was the victim of human trafficking committed by the organized group when she was 15 years old.

Reasoning of the decision, especially the one of the second instance court, contains a highly comprehensive account of the specific position of human trafficking victims in general and in this specific case, of the violated rights of the victim – plaintiff. The reasoning specifically notes that, by the actions of the defendants which constituted the crime of human trafficking, the personal sphere of the plaintiff was violated on multiple levels, beginning with the violation of her freedom by the act of keeping her in custody by using illegal force. She was further forced to engage in prostitution “by which her human dignity, as a feeling inherent to each human being, and foundation and precondition for human rights providing that it is rooted in man's essence, was violated, while its protection is guaranteed by the Constitution as the supreme legal act.” The reasoning of the second instance judgment notes that: “It is undeniable that forcing the plaintiff to unwillingly sell her body constituted violation of the plaintiff's honour, as it hindered her assessment of personal value, minimized to the point of being virtually inexistent in human trafficking victims. Undermining self-appreciation of a person and forcing one into the position of denying any value of one's identity and existence, is the method to control human trafficking victims and keep them in the state of complete submission, as it enables human traffickers to manipulate and exploit the victims and to use and abuse their lives and bodies. The position into which the plaintiff was unwillingly placed, and out of which she attempted to escape and distance herself, has evidently inspired the community in which she lived not to look kindly on her, as the usual relationships were deteriorated to reflect derision and disapproval. This has most certainly constituted the undermining of her personality in the context of respect, as a sort of social memory related to the person and her/his value, which forced the plaintiff to relocate from her original community. Since the illegal actions of the defendants caused the plaintiff as a trafficking victim to be deprived of the basic safety and dignity, it is undoubted that due to the fact that her basic rights were being violated, she experienced emotional pains which deserve to be rightfully compensated in accordance with the scope of the damages suffered.” It must be especially emphasized, as a good practice example, that the second instance court in their reasoning especially addressed the issues of preventing slavery, human trafficking and forced labour under the provisions of the article 26 of the Serbian Constitution, as well as under the Strategy to Combat Trafficking in Human Beings in the Republic of Serbia and international legal framework contained in the UN Convention against Transnational Organized Crime and Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, Especially Women and Children.

### 3. Penal Policy

The data gathered in statistical analysis of the court decisions indicate that out of the total number of the defendants, 76% were found to be guilty. The total of 26 persons were convicted, 17 of them for the crime of human trafficking, while acquittal was pronounced in 8 cases, 5 of which for the charges of human trafficking. Three persons initially charged with human trafficking were subsequently sentenced for the crime of mediation in prostitution. By comparing the data from the analysis of judicial practice in 2012, which covered a longer time period within which the sentences were being pronounced, it is noticed that the percentage of the convicted persons was lower in 2013, since it was 95% in 2012, while in 2013 it decreased by almost 20 percentage points.

When it comes to the severity of the adopted sentences, majority of the defendants were sentenced to 2-5 years of imprisonment (14 defendants, or 54%), 5 defendants (19%) were sentenced to up to two years of imprisonment, while 7 defendants (27%) were sentenced to more than 5 years of prison. These data do not significantly deviate from the data gathered in the previous years. The longest adopted sentence was 8 years for the crime of rape, while for the crime of human trafficking the longest adopted sentence was 6 years and 2 months. The shortest adopted sentence for the act of human trafficking was 8 months, way below legally stipulated minimum. In this case it was possible to apply older criminal code, before the legal amendments were adopted which abolished the possibility of pronouncing the sentence below stipulated minimum for this offence by applying especially mitigating circumstances. In the remaining cases, the sentences for this crime ranged from 3 to 5 years. Statistical data indicate that the average sentence for the crime of human trafficking was 4 years, while the average length of the adopted sentences for all crimes was 4 years and 2 months, which indicates the longer average sentences when compared to the judicial practice analysis for 2012.

Decisions on appeals by the second instance courts usually resulted in shorter sentences, so that the first instance court decisions were modified in 6 cases, 5 of these modifications resulting in shorter sentences, while in only one of the cases the Court of Appeal modified the original sentence and adopted a longer sentence. Providing that the average court sentence pronounced for the crime of human trafficking was 4 years, while legally stipulated minimum is 3 years, it may be concluded that in spite of a certain improvement (in the 2012 analysis the average sentence was less than 2 years), our judiciary still adopts mild sentences close to legally stipulated minimum, while particularly concerning is the fact that appellate courts' decisions involved shortening of the original sentences in 5 out of 6 cases. Due to the passage of time, previously available possibility of sentencing defendants to the punishments lower than legally stipulated minimum<sup>7</sup> for the crime of human trafficking was recorded in only one case, while the 2012 analysis recorded that by implementing the institute of mitigating punishments, courts had adopted the punishments below legal minimum in 6 judgments, for the total of 20 defendants.

According to the provisions of the Criminal Code, court decides on the punishment within the legally prescribed limits, taking into account aggravating and mitigating circumstances and especially the rate of guilt, intentions, intensity of jeopardizing one's wellbeing, circumstances, previous life of the

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<sup>7</sup> Up until the adoption of the Amendments to the Criminal Code in August of 2009.

perpetrator, personal circumstances, behaviour after the crime was committed, and especially his/her relation with the victim and other circumstances pertaining to the perpetrators personality (Article 54). Analysis of the decisions adopted in 2013 indicates that mitigating circumstances in sentencing still mainly include personal circumstances of perpetrators, such as their family life and underage children, health condition, rather than their poor material conditions and lack of previous convictions. The circumstances stipulated by the law such as intensity of jeopardizing one's wellbeing, circumstances, behaviour after the crime was committed, and especially the relation with the victim, had not been assessed accordingly in the first and second instance court decisions that were analysed.

What is particularly alarming is the fact, also evidenced in judicial practice analyses for 2011 and 2012, that courts do not pay enough attention to the nature of crime and injured persons when deliberating sentences and assessing mitigating circumstances. It is still almost automatically noted that the defendant is "married, family man/woman", "father/mother of underage children", "unemployed", even though these are only few of the circumstances that the court may take into consideration and these particular circumstances cannot be observed as being mitigating in the cases of trafficking in human beings and especially children. The list of aggravating and mitigating circumstances stipulated by the law is extensive and not definite, so the court is obliged to make overview of the entire situation pertaining to the defendant. Unfortunately, it is common in judicial practice to always state family status when listing mitigating circumstances, even when these circumstances are contradictory to the crime itself. Of all the analysed decisions, in only one case the first instance court took the fact that the defendant was the father of underage children as being aggravating factor due to the nature of the crime, yet second instance court unfortunately shortened the sentence, believing that these circumstances had not been valued properly.

The importance of proper application of legislative provisions pertaining to sentencing is best illustrated by the examples from judicial practice. These examples indicate that there are still cases in which the fact that the defendant is the father of underage children is taken to be a mitigating circumstance, even though the person in question might be accused of the crime of mediating in prostitution committed against 14 years old girl. What was also recorded was a case in which the competent prosecutor's office noted in their appeal that the first instance court inflated the importance of the fact that the defendant was a family man in choosing the type and duration of the punishment, yet the second instance court decided that these complaints were unfounded. Furthermore, one of the sentences pronounced was below legally stipulated minimal duration, in the situation when the time of the crime allowed for the older legal provisions to be applied, and this decision was, among other things, motivated by the fact that the defendant was the mother of six underage children and living on the breadline, which was assessed to be particularly mitigating, in spite of the fact that the crime was committed against an underage person.

Assessment of mitigating and aggravating circumstances by first instance courts was often inadequately performed and applied, when underage status of the victim was taken to be an aggravating circumstance, even though, in that concrete case, it represented the inherent characteristic of the crime. In sentencing and assessing mitigating circumstances, the nature of the crime and injured parties are still not paid enough attention, not only when it comes to assessing personal and family circumstances, but also financial situation of defendants, so it was recorded that in one of the cases the fact that the defendant was "unemployed and a social assistance beneficiary" was taken to be a mitigating circumstance, even though the sentence simultaneously prescribes that for the crime of

human trafficking the same person be confiscated proceeds of the crime worth 1,400,000 RSD, while aggravating circumstances that were taken into account were “his previous sentences and persistence in committing the crimes of human trafficking and mediation in prostitution”.

In few of the cases, the remarks by the courts in reasoning of their first and second instance decisions reflect their evident failure to understand and prejudices against the position of human trafficking victims, as well as their lack of knowledge of not only domestic legislation, but also of the ratified international documents in the field of human trafficking and protection of underage persons in criminal proceedings. In one of the decisions by a second instance court, when assessing the circumstances that influenced the duration of the sentence, the court unfoundedly referred to the contribution of the underage victim (14 years old) to the crime, noting that “one has to take into account the injured party’s contribution, providing that she consented to living out of wedlock with the defendant who was already married and had two children”. In another example of a second instance court decision, in a case in which the defendants were accused of human trafficking, rape and sexual intercourse with a child, the first instance court has taken into account the aggravating circumstances of grave consequences to the health and life of the injured party – child, ruthlessness and absence of remorse in the defendants, while the second instance court modified the sentence by shortening the pronounced punishments noting that ruthlessness in committing the crime and consequences to the underage injured party cannot be taken into account, since the injured party “herself stated that she had already started to be (sexually) active before the event in question”. Then it was stated that the absence of remorse demonstrated by the defendants and consequences to the health of the injured party “are not aggravating circumstances as assessed by the Appellate Court”. In reasoning of these shorter sentences, it was noted as mitigating circumstances that one of the defendants “(had) diabetes”, while other defendant had “the mother who is a mental patient and the father with a heart condition”.

Such practice indicates that in spite of the increase in the average duration of the sentences, the position of human trafficking victims in court proceedings is still not perceived in the right way, and that the changes in the penal policy which would reflect strategic position of the state pertaining to combating human trafficking, are still not implemented adequately fast.

## **V Concluding Remarks and Recommendations**

Results of the judicial practice analysis indicate that the position of human trafficking victims in court proceedings has not been significantly improved compared to what was evidenced by the 2011-2012 analyses, as there are still substantial challenges in realizing full protection of and respect for the rights of the victims before court. Legislation in the field of prosecution and criminal proceedings, largely harmonized with international standards, does not achieve its full and consistent implementation in practice. Basic rights of victims, such as the right to protection of privacy, right to assistance, counselling and informing about the rights and entitlement to free legal aid, as well as right to safety and compensation are still not realized to the extent which would provide minimum standard of protection to the victims of this serious crime.

Human trafficking victims are exposed to long lasting court proceedings, multiple hearings usually in the presence of defendants, confrontations with defendants and witnesses, without due understanding of their specific position as victims, or response aimed at protecting their safety and integrity. Penal policy in the cases of the crime of human trafficking is mild and does not reflect the expected reaction of the state to this crime, so the adopted sentences, though they are stricter on average than in the previous years, are insignificantly above legally stipulated minimum. The attitude of the judiciary towards the position of victims and this crime in general, indicates that the full understanding of the human trafficking phenomenon is still lacking, in spite of numerous trainings in this field. While these problems may be solved by insisting on consistent application of the existing legislation and further trainings for the judiciary, the absence of systematic support to human trafficking victims and the issue of compensation to the victims as a recurrent challenge in practice require new legal solutions and serious dedication of the state to finding solutions for these problems. Otherwise, the issues of free legal aid, social and health care, as well as of guarantee fund, support and assistance to victims would continue to be dependent on the capacities and possibilities of NGOs, while the victims would remain deprived of their basic rights, especially the right to be compensated for the violation of rights they suffered.

The right of a victim to legal counselling and informing about the rights is practically unattainable through institutional support. Specific position of human trafficking victims in court proceedings demands that victims have lawyers from the very beginning of the court proceedings, to represent and inform them about the proceedings, while simultaneously fully understanding and respecting their rights. The unsolved issue of free legal aid leads to the situation in which, according to the results of the analysis, the victims receive free legal aid and counselling, as well as psychological support, exclusively from non-governmental organizations, such as ASTRA.

The situation has not significantly changed either when it comes to the protection of victims' privacy, or their security and safety. Public is still rarely excluded from hearings, while victims are often exposed to pressure and threats of the defendants and their relatives/friends. The sense of insecurity and fear not only leads to secondary victimization but it also significantly contributes to changes in victims' testimonies, to the extent that there are still some cases in which a victim, fearing for her safety, changes her testimony and does not press charges against the defendants.

Even though the crucial factors in preventing secondary victimization are avoiding of unnecessary repeating of the victims' hearings and protection from unwarranted confrontations with the defendants, the data indicate that the practice of victims' testifying in the presence of the defendants is still unchanged, and that in certain cases victims are still confronted with the defendants and witnesses. The data gathered in the monitored hearings, or by analysing court decisions clearly indicate that public is rarely excluded when victims testify, while testimonies without the presence of the defendants, via video link, or in the court of the victim's place of residence are only exceptionally applied, while there was only one case in which the court did not allow the confrontation between the injured party and the defendant, due to the previous recommendation of the guardian authority. This aspect of victims' rights is one of the key problems in practice, bearing in mind the sense of fear and insecurity that victims experience when they are forced to testify in the presence of defendants influences not only the victims' psychological state, but also verisimilitude of their testimony, thus making the protection of victims' safety during hearings an issue of general interest. It needs to be emphasized that the situation is worthy of concern, providing that almost half of the injured parties are still underage at the time when the crime is committed.

Results of the analysis pertaining to penal policy indicate the rise in the duration of the average prison sentence when compared to previous years, yet these sentences are still verging on legally stipulated minimum, while it needs to be noted that the number of the decisions under which perpetrators were pronounced to be guilty has fallen by 1/5. The structure of perpetrators is almost unchanged, and it is important to note that half of the perpetrators are still previously convicted persons. The analysis of the court decisions adopted in 2013 indicate that the circumstances which are taken to be mitigating while sentencing perpetrators are still those related to the personal circumstances of perpetrators, such as family life, underage children and health condition. The circumstances stipulated by the law, such as intensity of jeopardizing one's wellbeing, behaviour after the crime was committed, and especially the relation with the victim, were not valued properly in the analysed decisions of first and second instance courts, which indicates the lack of understanding of the very crime of human trafficking, as well as of the position of its victims.

The right to compensation for human trafficking victims, as an important element of access to justice, is still the one which is hardest to realize in practice and needs to be paid additional attention. The analysis of 2013 judicial practice indicates that the circumstances in the field have not changed significantly in comparison to the previous years, so out of the total number of the analysed court decisions, there was only one civil case related to compensation claim for the damages resulting from the crime of human trafficking. The practice of criminal courts not to decide on compensation claims but refer injured parties to civil proceedings represents a major obstacle in realization of one's right to compensation. Without deciding on compensation in criminal proceedings, or some other efficient and accessible mechanisms for realization of this right, victim will most often end up discouraged due to the lengthy and costly civil proceedings, and deprived of their right to be compensated for the damages suffered.

Inconsistent application of the existing legal norms and provisions of the ratified international documents when it comes to the position and rights of human trafficking victims, as well as the lack of the free legal aid system and efficient mechanisms for compensating victims still represent crucial challenges indicated by the analysis of judicial practice. Providing that in 2013, no significant changes or improvement in the position of victims in court proceedings were evidenced, the activities of improving implementation of the existing legal provisions and introducing new legislative and institutional solutions need to be continued. In order to provide human trafficking victims with systematic assistance and support, as well as create an efficacious and comprehensive system of protection together with coordinated cooperation between all the relevant actors, the continuation of the following measures and activities is recommended:

- Consistent implementation of the existing legislation in criminal proceedings, especially in the area of the protection of safety and integrity of victims in hearings and confrontations with defendants in court proceedings, simultaneously making penal policy more strict;
- Improvement of the domestic legal framework and its harmonization with international standards in the field of human trafficking victims' protection, especially when it comes to free legal aid and realization of one's right to compensation;

- Establishment of the standards of professional operation for the employees of state authorities through their on-going education and training and adoption of the protocols of dealing with human trafficking victims in the areas in which special protocols have not been adopted;
- Continuous cooperation of victim assistance non-governmental organizations and competent state bodies in order to establish a more efficient network of victim support and thus secure timely legal assistance and representation, as well as psychological and medical assistance;
- Allocation of additional funds out of the state budget to finance the activities of the specialized NGOs which provide free legal aid and support to human trafficking victims;
- Continuous monitoring of judicial practice and implementation of the existing legal provisions for the protection of victims' rights, especially juveniles, in order to secure full implementation of legal provisions and introduce a harsher penal policy.