



**Analysis on the legislative and on the application of  
the Standard Operating Procedures for Treatment  
of Victims of Trafficking in Human Beings through  
case study**



march 2020

## **Analysis on the legislative and on the application of the Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings through case study**

The analysis is funded by a grant program in North Macedonia under Phase III of the regional project BAN III - The Balkans Acts (Against the Crime of Human Trafficking) Now! funded by the EU and implemented by the Association for Action against Violence and Trafficking in Human Beings Open Gate (North Macedonia).

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This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of the Beneficiary and can under no circumstances be regarded as reflecting the position of EU.



Project Balkans ACT (Against Crime of Trafficking) Now! is funded by the European Union Instrument for Pre-accession Assistance (IPA) Consolidating Regional Thematic Networks of Civil Society Organizations

Call ID: EuropeAid/154870/DH/ACT/Multi; Contract No: 2017/394-348

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# About the project

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Since January 2018, Open Gate together with ASTRA (Serbia) EMMAUS (Bosnia and Herzegovina), Center for Women's Rights (Montenegro), Center for Legal Civic Initiatives (Albania) and the Dutch Helsinki Committee are implementing Phase III of Project B - The Balkans Act (against the crime of trafficking in human beings) now!. The project is financially supported by the European Union. The Western Balkans (WB) is a region of origin, destination and transit when it comes to human trafficking and applies to all countries participating in this project. In addition, all WB co-applicants in this project are leaders in the field of combating human trafficking and fighting organized crime in their countries. They are active participants in developing the strategies and action plans of their governments, implementing policy changes, policy monitoring, and at the same time providing direct support to victims. The project approach has a strong regional ownership component and focuses on specific interventions designed to build the capacity of CSOs and their local partners to analyze the situation on the ground, propose new solutions, monitor and report on the work of the justice sector.

The grant program in North Macedonia was implemented in the period of May 2019 - February 2020. The key objective of this call is to expand the Balkan Act Now! Network, by involving other CSOs from North Macedonia in monitoring and advocacy actions on human trafficking prevention and victim protection.. The priority of the program is to support civil society initiatives to collect data, analyze and independently monitor the human trafficking situation and specific cases by competently using the monitoring tool, and influencing policy.

The Association for Action Against Violence and Trafficking in Human Beings - Open Gate Open Gate is the national coordinator for North Macedonia in all three phases of BAN project since year 2012. The organization has been working for 20 years on prevention, education, assistance and support, as well as advocating for victims of trafficking and sexual violence. Open Gate represents victims of trafficking and has an active role in creating national policies by participating in the Secretariat of the National Commission for Combating Trafficking in Human Beings and Illegal Migration. Moreover Open Gate has been working towards establishing a comprehensive support and protection system for trafficked persons. More precisely, Open Gate runs the state Center for victims of trafficking and sexual violence by providing direct assistance and support to victims, and is part of the mobile anti-trafficking team at operational level.

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# Abbreviations

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**NUSTIHB** – National Unit for Suppressing Trafficking in Illegal Immigrants and Human Beings

**MLSP** – Ministry of Labor and Social Policy

**MOI** – Ministry of Interior

**IOM** – International Organization for Migration

**UN** – United Nations

**SWC** – Social Welfare Center

**IAS** – Internal Affairs Sector

**NFR** – National Referral Mechanism for combating organized crime – Basic Public Prosecutor's office for Prosecuting Organized Crime and Corruption

**The Fund** – Fund for Assisting Victims of Trafficking in Human Beings, from the IOM Project

**The Mobile team** – Mobile team for identification of vulnerable groups, including victims of trafficking in human beings

**The Center** - Center for victims of trafficking in human beings and sexual violence

# Introduction

In 2018, the National Unit for Suppressing Trafficking in Illegal Immigrants and Human Beings (NUSTIHB) was formed for the aim of increasing the capacities of the institutions for handling the trafficking in human beings phenomena. This National Unit has been officially incorporated through signing of the Memorandum of Understanding on cooperation in the area of suppressing organized forms of illegal immigration, concluded between the Ministry of Interior and the Public Prosecution of Republic of North Macedonia. The National Unit is being led by a Public prosecutor from the Basic Public Prosecutor's office for Prosecuting Organized Crime and Corruption, which directs the activities of the NUSTIHB for more efficient investigations against the perpetrators.

On the other hand, in order to improve the identification through field visits at a local level, the Ministry of Labor and Social Policy formed Mobile teams for identification of vulnerable groups, including victims of trafficking in human beings (Mobile teams)<sup>1</sup>. The Mobile teams were formed in five cities: Skopje, Bitola, Gevgelija, Tetovo and Kumanovo, and are composed of NUSTIHB members, social workers and representatives from the NGO sector<sup>2</sup>. The support from the NGO sector and their participation in the mobile teams is regulated with a Decision reached by the MLSP on the incorporation of mobile teams for identification of vulnerable groups, including victims of trafficking with human beings from the 5th of February 2018. These mobile teams operate in accordance with the Program reached by MLSP and MOI, prepared for a two-year period, supported by the International Organization for Migration (IOM).

As per the latest amendments, introduced to strengthen the capacities for combating the trafficking in human beings, as well as in accordance with the National strategy and Action plan for combating trafficking in human beings and illegal migration (2017-2020), on 13.12.2018 the new Standard Operating Procedures for treating victims of trafficking in human beings were adopted, which closely regulate the procedures and manner of treatment of all parties involved in the combat against trafficking in human beings, including the cooperation with the mobile teams. The Program on Mobile Teams prescribes their proactive approach on field in several municipalities, inclusion in the process of direct identification and initial contact with the vulnerable categories and victims of trafficking in human beings, early risk assessment, identification, providing information and help from the Fund for Assisting Victims, legal aid, etc.

This document shall serve to provide initial assessment and analysis of the solutions and actions undertaken by the country against the trafficking in human beings in the past two years, while focusing on the functioning of the mobile teams and their cooperation with the other institutions. The first part of this Analysis shall provide assessment of the national legislative and the need for harmonization with the international law and standards, in order to provide better protection of the victims of trafficking in human beings. This part shows the findings from the desktop research on international and national standards for prevention from trafficking in human beings and identification and protection of the victims of trafficking in human beings, including children, as well as the rate of harmonization with the standards prescribed with the international and regional documents as a grounds for the efficient de facto protection of the victims of trafficking in human beings.

The second part includes assessment of the functionality and application of the Standard Operative Procedures for treatment of victims of trafficking in human beings in the period from March 2018-December 2019. Due to the sensitivity of the subject, it is necessary to provide high level of protection of the victims of trafficking in human beings, as well as of the potential victims and their families, so, when elaborating the cases, we will amend the personal data, and we will use only data which is considered as relevant and sufficient for conducting a comprehensive case analysis.

Additionally, this Analysis shall help to determine the level and degree of communication and coordination between the institutions and mobile teams, the obstacles during actions, as well as to show the advantages and disadvantages which shall be of main focus for the country in the following period, for achieving more efficient combat against the trafficking in human beings.

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<sup>1</sup> The Mobile team is composed of two representatives from the SWC, two representatives from the National Unit for Suppressing Trafficking in Illegal Immigrants and Human Beings and two representatives from the NGO sector. In some teams there are no representatives from the National Unit for Suppressing Trafficking in Illegal Immigrants and Human Beings, instead there are representatives from the local IAS/MOI.

<sup>2</sup> The non-governmental organizations Macedonian Young Lawyers Association and Open Gate are selected to appoint their members in the mobile teams.

# Part one

## Harmonization of the national legislative with the international standards on prevention and protection of victims of trafficking with human beings

The attempts to handle the trafficking with human beings at an international level date from the beginning of the 20th century, i.e. from the reaching of the Slavery Convention (1926)<sup>3</sup>, which defines slavery and practices similar to slavery, such as slavery for debt and practices discriminating against women in regards to marriage. Since 2000, the world notes intensifying of the activities for prevention against trafficking in human beings and strengthening the protection of victims of trafficking in human beings. At international level, most significant document for combating the trafficking in human beings is the Palermo Protocol from 2002; a document which is an addendum to the UN Convention against Transnational Crime from 2002 (hereinafter referred to as: The UN Protocol)<sup>4</sup>. Under the UN Protocol, the trafficking in human beings is composed of three elements: the action (what has been done); the assets (which were used to conduct the action) and the aim (what is the primary aim of the perpetrator). At regional level, in 2005 the Council of Europe has adopted the Convention on Action against Trafficking in Human Beings<sup>5</sup> (hereinafter: CoE Convention), as a result of several recommendations and resolutions previously adopted by the Committee of Ministers of the Council of Europe member countries<sup>6</sup>, the Parliamentary Assembly of the Council of Europe<sup>7</sup> and the Council of the European Union<sup>8</sup>. The CoE Convention is a newer document, based on all of the previous international and regional standards for handling the problem with trafficking in human beings, and goes one step further in strengthening the protection of the victims.

<sup>3</sup> League of Nations, Convention to Suppress the Slave Trade and Slavery, 25 September 1926, 60 LNTS 253, Registered No. 1414, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx>.

<sup>4</sup> UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.

<sup>5</sup>The Convention entered into force on the first of February 2008, and it has been ratified by Republic of North Macedonia in April 2009, when it became a part of its jurisdiction.

<sup>6</sup>The EU Council Framework Decision from 19th of July 2002 on combating trafficking in human beings; EU Council Framework Decision from 15th of March 2001 on the standing of victims in criminal proceedings; EU Council Directive from 29th of April 2004 on residence permit issued to victims of human trafficking from third countries.

<sup>7</sup> Recommendation 1325 (1997) on traffic in women and forced prostitution in the Council of Europe Countries; Recommendation 1450 (2000) on violence against women in Europe; Recommendation 1545 (2002) on campaign against trafficking in women; Recommendation 1610 (2003) on migration connected with trafficking in women and prostitution; Recommendation 1611 (2003) on trafficking in organs in Europe; Recommendation 1663 (2004) on domestic slavery.

<sup>8</sup> EU Council Framework Decision from 19th of July on combating trafficking in human beings; EU Council Framework Decision from 15th of March 2001 on the status of victims in criminal proceedings; EU Council Directive from 29th of April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings.

The context in which the UN Protocol is applied is more efficient handling of the transnational organized crime. It is not a coincidence that the CoE Convention forces the human rights based approach in order to equally address prevention and protection of the victims, as well as chasing perpetrators. An approach which has the needs of the victims in its center requires serious efforts and uninterrupted cooperation between the decision-makers, prosecutors, police, services and representatives of the victims.

Similarly to the UN Protocol<sup>9</sup>, the CoE Convention defines the trafficking through the three key elements: activity: recruitment, transportation, transfer, harboring or receipt of persons; by use of force: threat, use of force or other forms of coercion, of abduction, fraud, deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person; **for the purpose of exploitation**: exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

The definition on trafficking in human beings is incorporated in the Criminal code, with its amendments in 2002, when the trafficking in human beings has been incorporated for the first time in Macedonia, i.e. whosoever "by force, serious threat or other forms of coercion, kidnapping, deceit and abuse of his own position and abusing the pregnancy or the position of weakness of somebody else, or the physical or mental disability of another, or by giving or receiving money or other benefits in order to obtain agreement of the person that has control over another person, or in any other persuades, transports, transfers, buys, sells, harbors or accepts persons for the purpose of exploitation through prostitution or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced pregnancy, unlawful adoption or similar relations to it, begging or exploitation for purposes forbidden by law, or illicit transplantation of human organs, shall be sentenced to imprisonment of at least four years."<sup>10</sup>

The UN Protocol emphasizes that the recruitment, transportation, transfer, harboring or receiving a child for the purposes of exploitation shall be deemed as trafficking in human beings, even if none of the methods entailed with the provision defining trafficking in human beings are used. Additionally, the Convention on the Rights of the Child (1989)<sup>11</sup> and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)<sup>12</sup>, prohibit trafficking in children for any reason, including exploitation and forced work.

<sup>9</sup> Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

<sup>10</sup> Official Gazette of Republic of Macedonia 4/2002. Law amending the Criminal Code, Article 5, by which a new Article 418-a is being introduced.

<sup>11</sup> UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>12</sup> UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000, available at: <https://www.ohchr.org/en/professionalinterest/pages/opaccrc.aspx>.

The Convention on the Rights of the Child obliges the member states, inter alia, to undertake all of the necessary measures for physical and psychological recovery and social reintegration of the children victims of any form of neglect, exploitation or maltreatment, while the Optional Protocol prescribes obligation for providing specific protection and help for the child victims. The ILO Convention on Worst Forms of Child Labor (Convention n.182 from 1999)<sup>13</sup> prohibits using children for slavery or practices similar to slavery, trafficking in children, slavery for debt, forced labor or prostitution.

As a result of this, in 2008, the Criminal Code was amended with the crime Trafficking a child (Article 418-d), which prescribes sentence of at least eight years of imprisonment for everyone that induces a child to sexual activities or enables sexual activities with a child or persuades, transports, transfers, buys, sells or offers for sale, obtains, supplies, harbors or accepts a child for the purpose of exploiting it in sexual activities for money or other forms of compensation or other forms of sexual exploitation, pornography, forced work or servicing, begging or exploitation for an activity prohibited by law, slavery, forced marriages, forced fertilization, illegal adoption, or forces consent as a mediator for child adoption or illegally transplants human organs.<sup>14</sup> If these actions are conducted by the use of force, serious threat, delusion or other form of forcing, kidnapping, defraud, abuse of the position of powerlessness or physical or mental disability of the victim, or by giving and receiving money of other benefit for the purpose of obtaining consent of a person controlling the victim, a more severe sentence is prescribed: imprisonment of minimum ten years. The consent (or lack of it) given by a minor is irrelevant for the existence of the elements of the crime described above. This crime provides separate incrimination of the use of sexual services from minors, for which the perpetrator knew or was obliged to know that is a victim of trafficking in human beings.

As per the UN Protocol and the CoE Convention, exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. When it comes to the forms of exploitation, the national legislative was harmonized with the international standards by amending the Criminal Code. In 2014, the crime Trafficking in Human Beings under Article 418-a was amended with new forms of trafficking in human beings which were recognized by the legislator as a problem for which the institutions should undertake specific measures for identification and handling with "begging or exploitation for the purposes of activities prohibited by Law".

<sup>13</sup> International Labour Organization (ILO), Worst Forms of Child Labour Convention, C182, 17 June 1999, C182, available at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182).

<sup>14</sup> Official Gazette of Republic of Macedonia, 7/2008, Law amending the Criminal Code, Article 23, by which a new Article 418-d is being introduced.

The existing provision, apart from the purposes for trafficking in human beings, as prescribed by the UN Protocol, also includes other purposes, such as, including persons in production of pornography, forced marriage and forced pregnancy.

The provisions from the Criminal Code are also harmonized with the UN Protocol and the CoE Convention in the area of measures regarding trafficking with adults, such as by force or serious threat, deception or any other form of coercion, of abduction, fraud, of the abuse of official duty or abuse of pregnancy, weakness, physical or psychological inability of other person or of the giving or receiving of payments or benefits to achieve the consent of a another person. The consent of the victim is irrelevant and cannot free from liability the perpetrators which have fulfilled the elements of the crime trafficking in human beings.

The amendments to the Criminal code from 2014 were conducted, inter alia, with the purpose of harmonization of the terminology used in the Law with the Convention to the Rights of the Child, so that the words “minor” were amended with “child”, so, the Article 418-d was renamed into Trafficking a child.<sup>15</sup> These amendments also introduced seizure of property, means for transportation and other object used for conduction of the crime – trafficking in human beings and trafficking a child. The national legislative gives comprehensive authorization to the state authorities for conducting activities for finding the perpetrators and initiating a criminal procedure against the perpetrators of crimes in relation to trafficking in human beings. The persecution can be conducted against any perpetrator, regardless whether this person is a citizen of Republic of North Macedonia or has residence permit, which is at the territory of Republic of North Macedonia, at a boat sealing under the flag of the Republic of North Macedonia or in an aircraft registered under the Macedonian laws. In regards to the punishments, both the UN Protocol and the CoE Convention require that the domestic laws prescribe effective and proportionate punishments for the perpetrators of crimes – trafficking in human beings and trafficking a child. Bearing in mind the general punishment policy for the crimes prescribed in the Criminal code, the crimes related to trafficking in adults give possibility for pronouncing high sentences, i.e. a minimum of four years. If there are engraving circumstances regarding the manner of conduction of the crime, the judges, when announcing the amount of the punishment may reach as high as the general legal maximum, and grant the perpetrator sentence of 20 years of imprisonment. The legislator has anticipated even higher punishments in cases where the victim is a child, i.e. for a minor with 14 years of age, the lowest sentence is eight years of imprisonment, and if the victim is under 14 years of age, the lowest sentence is ten years of imprisonment.

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<sup>15</sup> Official Gazette of Republic of Macedonia 27/2014. Law amending the Criminal Code, Article 85 and 86.

In these cases also, depending on the case circumstances, the court may pronounce sentence of up to 20 years of imprisonment. In September 2009, amendments to the Articles 418-a, b and d of the Criminal code were introduced, which incorporated a qualificatory element, i.e. if the crime is conducted by official persons while conducting service. For the official persons, a sentence of imprisonment of at least eight years was prescribed, which is a higher punishment than the one that is prescribed for the other perpetrators that were not conducting service while conducting the crime.<sup>16</sup>

Approximately ten years after the application of these provisions, without any grounded explanation for the reasons of its amendment, nor evidence for the aim achieved with the previous punishment, an amendment was adopted to the provision prohibiting trafficking in human beings. The legislator has decreased the punishment for the perpetrators of trafficking in human beings which conducted the crime in the capacity of an official person, so instead of eight, the sentence has now a minimum of five years of imprisonment. Bearing in mind the high level of corruption in Republic of North Macedonia,<sup>17</sup> the decrease of the punishments for the official persons is contrary to the standards for prescribing effective and proportionate sanctions for the perpetrators of crimes in relation to the trafficking in human beings.

In the focus of the CoE Convention are the human rights of the victims and respect to their dignity, so the states are obliged to incorporate fast mechanism for identifying victims, protection and help for the identified victims of trafficking in human beings and compensation for the sufferings of the victims. The scope of application of the CoE Convention is wide, it encompasses all forms of trafficking in human beings, regardless whether it is happening on national or transnational level, and it protects all victims of trafficking in human beings, regardless whether they are women, men or children. The forms of exploitation which are protected are sexual exploitation, forced labor, slavery and removal of organs.

The Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, defines the term “victim” as a natural person which suffered damaged, including physical, psychological or emotional damage or economic loss which was caused directly by the crime, and the family members of a person whose death was directly caused by a crime and which have suffered damages as a result of the death of the person<sup>18</sup>. In 2008, the Criminal Code was amended with a definition of a crime victim, i.e. the term crime victim refers to any person who

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<sup>16</sup> Official Gazette of Republic of Macedonia 114/2009, Law amending the Criminal Code, Article 117,118 and 119.

<sup>17</sup> As per the Corruption Index 2018, Republic of Macedonia was at the 93rd place out of 180 countries, which puts the country in the category of countries with high corruption rate. More info at: <https://www.transparency.org/cpi2018>.

<sup>18</sup> Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2011/220/JHA, Article 2.

has suffered damage, including physical or mental injuries, emotional suffering, material loss or other injury or threat of his basic freedoms and rights as a consequence of a committed crime, while a child-crime victim shall refer to a juvenile, younger than the age of 18<sup>19</sup>.

The term “victim” in the criminal procedure refers to any person who suffered damages because of the crime, such as, parent of a child who has been exploited for begging; owner of a vehicle which has been damaged while conducting the crime trafficking in human beings or trafficking a child.

The CoE Convention and the European Parliament and Council Directive on preventing and combating trafficking in human beings and protecting its victims from 2011, obliges the states to incriminate the activities by which individuals are put into a state of exploitation, and on the other hand to protect the victims from further victimization due to forced involvement in conducting a crime, which is essentially related to their victim status. So, the more precise definition of the term “victim” aims towards separating the situations in which the principle of non-punishment of people which conducted a crime while being victims of trafficking in human beings.

With the latest amendments to the Criminal code in 2018, an additional paragraph in the existing crimes is included, by which the trafficking in human beings and trafficking a child are incriminated, and which prescribes non-punishment of a victim of trafficking in human beings who has been forced to conduct a crime or other punishable crime, which is directly connected to its position of a victim, shall not be punished<sup>20</sup>.

The justice for crime victims, in the case of trafficking in human beings, means satisfaction of procedural aspects, such as, conducting an efficient investigation, while the victims have the possibility to be included in the procedure and to give significant contribution<sup>21</sup>.

Regarding to the outcome of the procedure, it is important for the victims that the truth is determined; that the perpetrator is sentenced and is serving its sentence; as well as that the victim receives appropriate compensation for the suffered material and non-material damage. In the Law on Criminal Procedure, there is a whole chapter dedicated to the rights of the victims and aggrieved parties in the procedures, and a separate procedural protection is being provided for the vulnerable categories of victims. The Court is obliged to determine separate measures for procedural protection in cases when the victim is a child that requires special care and protection, or if the child is a victim of trafficking in human beings, violence and sexual abuse<sup>22</sup>.

<sup>19</sup> Official Gazette of Republic of Macedonia n.7/2008, Law amending the Criminal Code, Article 1 (amendment to Article 122).

<sup>20</sup> Official Gazette of Republic of Macedonia n.248/2018, Law amending the Criminal Code, Article 34 and 36.

<sup>21</sup> European Union Agency for Fundamental Rights. Victim's rights as standards of criminal justice, page. 35.

<sup>22</sup> Official Gazette of Republic of Macedonia n.150/2010, Criminal code, Article 54.

The Law also prescribes that the victim of a crime for which a sentence of at least four years of imprisonment is prescribed, is entitled to material and non-material indemnification from the state fund, if the coverage cannot be provided by the convicted. The procedure for realization of this right is additionally regulated with the Law on Justice for Children, stating that the assets are provided by the separate Program of the Ministry of Justice<sup>23</sup>.

The Law on Free Legal Aid from 2009 and 2019 warrants the victims of trafficking in human beings right to a free legal aid and representation in the procedures for protection of their rights, as well as in the indemnification procedures for crime victims. Bearing in mind that the Law on Criminal Procedure regulates the access to attorney during the investigation and criminal procedure, the Law on Free Legal Aid warrants the victims with attorney as a proxy representative during the civil or other procedure necessary for gaining the indemnification as a crime victim. There are ongoing procedures for indemnification of victim of trafficking in children, but until now, no amount has been paid to the victim due to procedural obstacles for realization of the right. There is a complete lack of a mechanism prescribed by law for indemnification of the adult victims of trafficking in human beings in case when they cannot realize their property and legal claims from the convicted perpetrator of a crime related to trafficking in human beings.

Complementary to the provisions for protection of children victims of trafficking in human beings is the separate chapter on guardianship for children victims of trafficking in human beings from the Family Law, which provides protection of children. Each time when the Social Welfare Center receives a notification by the Ministry of Interior that a minor-victim of trafficking in human beings has been identified, the SWC is obliged to undertake measures for protection of the personality, rights and interest of the child, and to put it under guardianship<sup>24</sup>.

The CoE Convention obliges the states to provide residence for the victims whose condition requires so, or, if it is necessary for the victims to cooperate with the institutions authorized for the investigation and criminal procedure against the perpetrator/s. The right to regulation of the residence of the victims of trafficking in human beings is regulated with the latest Law on Foreigners from 2018.<sup>25</sup>

The entry of a foreigner who is reasonably suspected to be a victim of trafficking in human beings will not be treated as illegal if the foreigner entered the state because of the crime trafficking in human beings. The victims of trafficking in human beings are entitled to a temporary stay due to humanitarian reasons, if there are grounds for suspecting that they are victims of the crimes related to trafficking in human beings.

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22 Official Gazette of Republic of Macedonia n.150/2010, Criminal code, Article 54.

23 Official Gazette of Republic of Macedonia n.148/2013, Law on Justice for Children, Article 145.

24 Official Gazette of Republic of Macedonia n. 84/2008, Law amending the Family Law.

25 Official Gazette of Republic of Macedonia n.97/2018, Law on Foreigners.

The novelty in the Law on Foreigners is the regulation of the period for recovery and reflection, which had previously been regulated with the Standard Operative Procedures<sup>26</sup> and is integrated in the Standard Operative Procedures for treating victims of trafficking in human beings from 2018<sup>27</sup>.

As per the Law on Foreigners, a foreigner who is reasonably suspected to be a victim of trafficking in human beings shall be granted a period for recovery and reflection in duration of two months in order to provide her/him with protection and help in the recovery and in the avoiding of the impact of the perpetrators of the crime trafficking in human beings. In this period, the foreigner who is a victim of trafficking in human beings shall decide whether s/he will cooperate with the authorized state bodies in the revelation of the crimes and prosecuting their perpetrators, or will he return to the country whose citizen s/he is, or where s/he has legal stay. The temporary stay of the victim shall be approved by the Ministry of Interior as soon as possible, but the approval may not exceed five days. In case of children victims of trafficking in human beings, the period for recovery and reflection can be prolonged if it is in the best interest of the child. During the period of recovery and reflection, the victims have additional rights, such as, safe accommodation, medical and psychosocial aid, legal aid in language the child understands.

Apart from the trafficking in human beings, the Criminal code anticipates other crimes which are significant to the combat against trafficking in human beings, such as, founding slavery and transportation of persons in slavery (Article 418); trafficking of migrants (Article 418-b); Organizing a group and instigating performance of crimes of human trafficking, trafficking in juveniles and migrants (Article-c). The legal framework is clear when it comes to separating the activities which fulfill the elements of the trafficking in human beings from the activities which direct towards the remaining incriminated activities. It is necessary that the institutions authorized to act in cases of trafficking in human beings and trafficking in migrants at operative level to provide trained personnel with knowledge, skills and experience for understanding the differences between these crimes and to charge the perpetrators accordingly.

To supplement the legal framework, the Government of Republic of North Macedonia in 2018 adopted the Standard Operative Procedures for treating victims of trafficking in human beings (hereinafter referred to: the SOP). The SOP aim towards providing coordinated acting and partnership with all institutions and organizations included in the combat against trafficking in human beings at local, national and international level.

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<sup>26</sup> Government of Republic of Macedonia, National Commission for combating trafficking in human beings and illegal migration, Standard Operating procedures for treatment of victims of trafficking in human beings, 2010.

<sup>27</sup> Government of Republic of Macedonia, National Commission for combating trafficking in human beings and illegal migration, Standard Operating procedures for treatment of victims of trafficking in human beings, 2018

SOP gives directions for the actions and measures which shall be undertaken for identification and guiding the victims of trafficking in human beings; coordinate aid and support to the victims of trafficking in human beings; re-socialization and reintegration; return of the victim and the criminal procedure.

Under the SOP, the procedure for identification of the victims is urgent and requires fast reaction for determining the identity of the victim; risk assessment; providing information for the victim in language that the victim understands, so that he can comprehend the meaning of the actions that need to be undertaken, and to give informed consent for inclusion in the program for help and protection. The period for recovery and reflection, determined with the Law on Foreigners, is also inscribed in the new SOP from 2018.

After the identification, the authorized institutions and organizations are obliged to focus on helping and supporting the victim through identifying the specific needs of the victim and preparation of an individual help plan, which shall be approved by the victim, and which plan can be amended in future.

The measures for re-socialization and reintegration anticipate activities for preparing the victim of trafficking in human beings for repeated integration in the previous or new surrounding through preparation of a plan, in which preparation and conduction, the victim will be also included. If the victim does not want to be included in the program for re-socialization and reintegration, the authorized bodies are obliged to provide the victim with information on the available measures which can help the victim in its easier return to normal life.

For the victims, for which an assessment has been made that it is safe to return in their country of origin, a plan shall be prepared for voluntary, dignified and safe return of the victim, which includes preparation, transport and acceptance of the victim in the country of origin or third countries.

SOP, apart from the laws regarding the participation of the victim in the criminal procedure, describes in detail the interventions that need to be undertaken for help and support of the victim during the criminal procedure. During the initial conversation, the victim is entitled to have the conversation with a person from the same sex, and if there are elements of the crime trafficking in human beings, Minutes shall be prepared for receiving criminal charges, signed by the victim. Further, in the procedure, the victim has the right to consultations with a lawyer in the key phases of the criminal procedure, including the hearing before an authorized court and during the procedure for indemnification.

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The Analysis of the legal framework in relation to the UN Protocol, CoE Convention and EU Directives, shows that the framework is clear, comprehensive and mostly harmonized with the standards. The overview of the national legislative and of the practice of the institutions authorized to act in cases of trafficking in human beings show that Republic of North Macedonia approaches this issue solely from the aspect of criminal law, while lacking dedication to other issues which can be significant when handling the problem. It is necessary to adopt a law which will provide indemnification of the victims of trafficking in human beings from the state fund, when there is no possibility for payment of the property and legal claims from the perpetrator of the crime. At the same time with the preparation of this Analysis, the Ministry of Justice prepared a draft-Law on payment of a monetary compensation to crime victims.

Nonetheless, the quality and efficiency of the legal framework can be best evaluated through monitoring of the conduction of the laws and measures prescribed with the SOP through measuring the effects on the decreasing of the number of cases of trafficking in human beings; adequate identification of the victims and protection of the victim through providing just indemnification to the consequences of the crime.

# Part two

## Application of the Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings – Case study

### Case 1

#### A child with intellectual disability – victim of trafficking

##### Initial referral and determining the identity of the potential victim

The mobile team conducted a conversation with the mother of the victim, which stated that her daughter was 17 and had not returned home for 7 days. As per the statement of the mother, the last time she saw her daughter was when they visited her cousin together. She told her that she would go to the store, and had not contacted her ever since. The mother failed to report this to the police until now, because she thought that her daughter would return, but she got concerned that maybe something happened to her. The mobile team contacted the father of the potential victim, who stated that he did not know where his daughter was and showed no concern, regardless of the fact that the mobile team told him that he was supposed to report this to the police immediately. He stated that he had been searching her throughout the village for several times and that he reported to the police when she did not return home, this was not her first time to disappear. Bearing in mind that the mother of the victim was with intellectual disabilities, and the father failed to report the case in the police, the mobile team decided to report this case to the IAS through a SWC representative. After the report, they prepared Minutes for reported missing person with the police officer.

The mobile team received the information from the SWC representative, who had once before talked to the victim, but still had not determined the indicators which could lead to the person being a victim of trafficking in human beings. The person for which it was believed that it was sexually abused, as per the initial assessment of the SWC, had mild intellectual disability and came from a family with bad financial standing.

The victim was found the following day by the police, in a village near to the municipality where she resided, and was taken to the police department in the village, and the members of NUSTIHB were informed by the mobile team. The representative of the NUSTIHB informed the mobile team that the potential victim was found and an initial conversation had been conducted. They initially confirmed her identity; it was a 17-year old child and it was the same person which was reported to be missing. Since it was a child, the mobile team summoned her parent. The conversation was led by a female social worker, which knew the mother tongue of the victim.

## **Statement given by the victim to the mobile team in the first phase**

During the conversation, the child stated and confirmed that she ran away from her home because she had misunderstandings with her family, more precisely, with her father. When she ran from home, she met N.M. (a trafficker), which took her to her apartment, where she lived with her husband, and kept her locked in the apartment. The husband of N.M. had sexually abused her on the first day in their apartment. Afterwards, they took her in some hotel in which other unknown persons arrived, with which she had sexual relations, and the girl noticed that these unknown men paid money to N.M. When she told N.M. that she did not want to have sexual relations, she was beaten and maltreated by her. They were returning her from the hotel to the apartment in which the two of them lived, and they kept her locked so she could not escape. In the late evening hours, she managed to escape when she saw an opportunity for it, but she was very afraid that if they catch her, they would beat her badly. This was happening for six days, and during that period, she was forced for many times to give sexual services to unknown persons both in the apartment and in the hotel in which she was taken. She also mentioned her friend N.N. (a trafficker) with whom they begged on the street. Previously, she also sheltered her in some house, and forced her to have sexual relations with unknown persons, for which she received money. Due to this, her father had threatened her to stop befriending N.N., and he even physically attacked N.N., because she continued to use the victim for begging.

## **Assessment by the mobile team**

After the initial conversation, during early risk assessment, from the statement of the child, the circumstances in which she was found, as well as her intellectual state of powerlessness which it is believed to be known by the perpetrators, it was determined that there is reasonable suspicion that the child was a potential victim of trafficking in human beings, for which the NRM was informed, i.e. the coordinator of the mobile teams and the head of the NUSTIHB. The mobile team received a feedback that the NUSTIHB would inform the Public prosecutor from the Basic Public Prosecutor's office for Prosecuting Organized Crime and Corruption for the case. In addition to this, regarding all of the circumstances, especially the mild intellectual disability of the victim was especially taken into consideration, which condition was noted by the SWC during the first meeting with the victim, but no assessment had been made by an authorized health institution on her psychological standing.

## **Accommodation in a Center for victims of human trafficking and sexual violence**

From the conversation with the victim, it was determined that she feared that the perpetrators would attack her and her family, due to which she stated that she wanted to be accommodated at another safe place. In coordination with the NRM, the victim was informed by the SWC that she would be accommodated in the Center for victims of trafficking in human beings and sexual violence. Regarding the accommodation, the victim was informed that there she would receive all of the necessary information, she would have her basic needs satisfied, she would receive food, clothes, hygienic products, necessary medical examinations, she would be provided with legal aid and that she would receive psycho-social help and support.

The mobile team explained to the child and her mother that it was a safe location and that it was crucial that she decides on her own whether she would help the police to charge the perpetrators for what they have done to her. The team also explained to her that she was entitled to a legal aid and explanation for the whole procedure, that she was entitled to require compensation to the court because she was maltreated and sexually abused by the perpetrators.

During the same day, she was taken to the Center in presence of a guardian which is a member of the mobile team, for which a Decision for appointing special guardian was reached by the SWC.

### **Victim's family assessment**

The victim came from a dysfunctional family, with low income, and there were no registered beneficiaries of social welfare when the mobile team visited the family. The mother of the victim was in bad health condition. She was a mother of four; two of the children with intermediate intellectual disability. The general impression of the mobile team during the visit was that the children were in bad psychophysical condition; they were timid and looked insufficiently developed for their age. The two children were not included in the educational process. When asked if the mother used social benefits or child support benefit, she stated that they had no income. The social worker explained to them that in order to receive social aid, they had to receive medical appointment record from their primary care physician, and then specialist examination needed to be conducted in order to estimate the children. She stated that she did not know where to go, and their material condition did not allow it. Regarding the income they had, they only had the little money earned by her husband, and that was not enough for feeding them all.

## **Material aid from the Fund for assisting victims of trafficking in human beings**

The Fund for assisting victims of trafficking in human beings approved alimentary products, clothing, hygienic products and material assets for health protection of the mother. For the children, financial assets were approved for estimation of their intellectual ability and were taken to the Mental Health Institute by the mobile team. After the assessment, they determined mental retardation of the children, as per which the SWC approved separate benefit for the two children.

### **Criminal procedure**

The NUSTIHB filed criminal report against one person, and later against two other persons for the crime Trafficking a child under Article 418 –d from the Criminal code. After the report filed to the Basic Public Prosecutor's office for Prosecuting Organized Crime and Corruption, an investigation procedure was conducted for gathering evidence for the case.

A Bill of Indictment was filed against two persons:

- Against I.K. for the crime Trafficking a Child under 418 d para.1 in relation to Article 22
- Against Z.K. for the crime Trafficking a Child under 418 d para.1 in relation to Article 22 and for the crime Trafficking a Child under 418 d para.3 in relation to Article 22

A Verdict was reached by the Criminal court for convicting the two persons, the first person to an imprisonment of 8 years and the second person to an imprisonment of 10 years.

Also, a Bill of Indictment was filed against a third person, N.N. for the crime Trafficking a Child under 418 d para.1, and she admitted to be guilty during the main hearing, and was sentenced to 4 years and 6 months of imprisonment. In the Verdict of the Criminal court, the victim, as an aggrieved party, was referred to realize her right to a compensation in a civil procedure, due to lack of evidence.

### **Re-socialization and reintegration**

The planning of the process started by the social worker, in cooperation with a psychologist and other professional staff of the Center and mobile team, since the moment of accommodation of the victim in the Center.

Conversations were made with the victim for her further inclusion in her surroundings after she is returned to her home or to other safe place, and the victim was informed that such accommodation was temporary, until she was stabilized. Nonetheless, she had to feel safe, but also she agreed that she wanted to return to her home. Conversations were also made with her family regarding the need for her inclusion in the education process or in other activities corresponding to the needs and desires of the person. The mobile team faced obstacles by the father of the victim, who disagreed that the victim should attend any activities after returning home. Several conversations were made with the hairdresser's studio which accepted to provide practice for the victim there, and the victim agreed to that, but the father was not convinced that it was good for her. Upon the return of the victim to her home, it was still uncertain whether the father would agree to these measures for re-socialization. After a certain period, the mobile team was informed that the father would not agree, and the person was constantly at home under strict supervision by her father with threats not to leave the house.

### **Victimization due to unsuccessful measures for re-socialization and reintegration**

After a certain period, the social worker from the mobile team sent information to the team that the victim ran away again from her home, and was noticed in another city. The mobile team called her, but her statements showed insufficient elements and there were no evidence gathered to lead towards trafficking in human beings, despite the fact that she stated that she resided with a person which took care of her and bought her presents. She stated that this person did not force her, did not sell her to give sexual services. Meanwhile, the person became an adult and the care from the social institutions for the inclusion of adults in activities related to trafficking in human beings was omitted.

### **Conclusions and recommendations for the case**

- The mobile team may report a missing person to the police station if this has not been done by the parents or closer relatives.
- The coordination between the mobile team, NUSTIHB and NRM and their quick response were crucial when it comes the conduction of the initial conversation and determination of the identity of the victim, early risk assessment and urgent accommodation of the victim in a safe place.
- The support received by the Fund was highly significant in the process of protection of the victim, which support, despite providing the essential products, provided coverage of the costs for the assessment of the health condition of the victim and her family.

After the conducted assessment for mild intellectual disability, some of the family members of the victim gained separate social benefits under the Law on Social Protection, which they did not enjoy previously due to lack of documentation.

- There is no practice in sharing information regarding the case by the PP for Prosecuting Organized Crime or by NUSTIHB with the mobile team, the guardian and representative from the Center for the criminal procedure, which is significant for informing the victim and making her feel safer.
- The Court acted correctly in this case, while respecting the special procedural measures for protection of children victims, under which a child must not be heard more than twice. In this case, the statement of the aggrieved party, upon request by the Public Prosecutor for Prosecuting Organized Crime, was examined at the main hearing through a CD reproduction of the audio and video recording of the child.
- The issues of re-socialization and the needs of the victim were not treated with the necessary attention. After a certain time, the victim was returned to her home because she became an adult and it was not taken into consideration that the reasons for her fleeing from home were the misunderstandings with her father, who, upon her return, banned her from attending practice in the hairdresser's studio. An additionally engraving is the circumstance that there were no other accommodating capacities where the victim could be sheltered. The omission in the process of re-socialization contributed towards her repeated flee from the home and the circumstances which lead to repeated use of the position of powerlessness of the victim.

## Case 2

### **A child victim of trafficking in human beings caught during a police action in a coffee bar**

#### **Initial referral and determining the identity of the potential victim**

The Mobile team received the following data from the Juvenile Delinquency Inspector: the potential victim of trafficking in human beings was found by the police during police search, consuming alcohol together with two friends. Because they found a child consuming alcohol after 23:00 hrs in a coffee bar, and due to suspicious circumstances which led to believing that in the coffee bar there were guests enjoying sexual services from minors, she was called for a conversation, together with her so called aunt. The Juvenile Delinquency Inspector asked permission from the aunt to speak with the girl in private, after which the girl immediately admitted that she faced problems because the aunt was not her real aunt, and she was afraid of her. She was selling her to unknown persons

and they abused her sexually. She was forced to give sexual services at various locations for a longer period (around a year). Shortly after, the aunt left the police station and went to an unknown direction.

### **Statement given by the victim to the mobile team in the first phase**

The victim stated that she was 15 and more than one year ago left her home due to misunderstandings with her mother. She decided to reside temporarily with her friend who was living with her mother, which presented herself to the police as her aunt F.T. (a trafficker). At the beginning they took really good care of her, provided her with food and clothes and they were helping her, but afterwards they started forcing her to give sexual services, arranged by F.T. The trafficker F.T., i.e. the mother of the friend, told the victim that she needed to contribute for the food and accommodation they were providing for her, and this was the way to do it.

The victim was found in a coffee bar during police control. She stated that, together with her friend with whom she lived, went to the coffee bar at 21:00 hrs, where they met their two other friends, at the same age, and had champagne. After a while, the two other girls left, and they were alone. When the police came, she initially gave false data, instructed by F.T. – if the police ask her, to give her sister's data instead of her own.

She met her friend (the daughter of the Trafficker) two years ago, they befriended each other, and she often visited their house. During that period, the mother of the victim got ill and was under a surgery, after which the trafficker paid her a visit and realized that the victim had no father, and started using her vulnerability. Her relatives knew the trafficker and knew that she was included in criminal activities, and told her not to go with her. The victim thought that the trafficker was helping her, and continued to visit their home, which resulted with her mother expelling her from home. At the beginning, she received complete protection in the home, but afterwards the trafficker was bringing unknown persons and was forcing her to have sexual relations with them. F.T. for that received monetary award, and the victim saw it. For the whole period while she was there, she was not physically maltreated by her, but the period of sexual exploitation was continuing. The unknown persons for which she was forced to provide sexual services were either coming to the trafficker's house, or the victim was going to some hotel. Quite often, she was taken to the hotel by a friend of the Trafficker. The victim stated that all of her personal belongings were in the apartment of the trafficker. The victim stated that she was constantly afraid from the threats of the trafficker as to what would happen if anybody understood what was going on, or that if she reported her that she

would kill her. The victim was afraid when stating both the address of residence of the trafficker and of the hotel where she usually was sexually abused by unknown persons.

### **Assessment by the mobile team**

The mobile team, from the statement given by the victim in the initial phase, agreed that there was a reason to suspect existence of trafficking a child, and they contacted the National Unit for Suppressing Trafficking in Illegal Immigrants and Human Beings and the NM, i.e. the mobile teams' coordinator.

Here, after the notification, the Basic Public Prosecutor's office for Prosecuting Organized Crime and Corruption acted immediately on the case and as soon as potential issued an order to the NUSTIHB/IAS for providing evidence. Upon order of the PPO for Prosecuting Organized Crime, the mobile team, accompanied by NUSTIHB the before taking the victim to the Center, took her to a gynecological examination in the Judicial Medicine Department. At the same time, the mobile team contacted the NGO regarding the need for accommodation of a child victim of trafficking in human beings. The mobile team was informed by the Center that they had a problem, since their accommodating capacities were exhausted.

As per her statement, the victim was informed about her right to cooperate with the police and she decided immediately, during the first interview, through a social worker from the SCA to file criminal report against the trafficker for the crime Trafficking a child under Article 418-d.

### **Accommodation in a Center for victims of human trafficking and sexual violence**

During the initial conversation, the mobile team notified the victim that she could be accommodated at a safe place, for which they received her consent. The team, accompanied by a guardian from the SWC, was taken to the Center, and she was accepted by a representative of the non-governmental organization. The Center decided that during the procedure, the guardian set by the SWC should be responsible for the victim.

## **Victim's family assessment**

The victim came from a poor family with four children. They lived in substandard conditions, in one premise; they had their toilet outside the living area. The father died when she was five, due to cardiovascular disease, and the mother had inconsistent behavior, she was aggressive towards the children, and controlled their behavior. The mother was sick and in hospital for some time.

## **Material aid from the Fund for assisting victims of trafficking in human beings**

During her stay, food and other product necessary for satisfying the basic needs of the victim were provided by the Fund for assisting victims of trafficking in human beings. The mother of the victim was not registered as a beneficiary of social welfare even though she was unemployed and there were no information as to whether she generated any income.

## **Criminal procedure**

The victim filed criminal report against F.T. for the crime Trafficking a child under Article 418-d from the CC. The report was filed in the police station and through the social worker.

The proxy of the aggrieved party gave information that the victim in June 2019 gave a statement before the Public Prosecutor's office for Prosecuting Organized Crime and Corruption, for which there were video and audio recordings. She claimed monetary and legal request in the phase of giving a statement before the Public prosecutor.

There is no information as to whether charges were initiated by the Public Prosecutor's office for Prosecuting Organized Crime against the perpetrators.

## **Re-socialization and reintegration**

During the period for rest and reflection of the victim, an individual plan had been prepared, in which special focus was given to the accommodation of the victim, because she had nowhere to return, and didn't want to return to her mother. Due to this, after the 5-month stay in the Center, the victim through her guardian was accommodated in another safe location. The victim was included in the education process.

## Conclusions and recommendations for the case

- The police officers had correct application of the indicators for identifying child victims and, due to suspicion of sexual abuse of the child, informed the NUSTIHB for the case.
- When a victim of trafficking in human beings – a child is identified, it is necessary to provide urgent shelter and protection for the victim, so that the process of recovery and reflection would start as soon as possible. The protection of the victim shall not be conditioned by the criminal procedure against the perpetrators. The positive practice from this case is in the acting of the Public Prosecutor's office for Prosecuting Organized Crime, which was included as soon as potential and issued an order for providing evidence to the NUSTIHB/IAS, due to which, the victim, after the gynecological examination was urgently accommodated in the Center.
- It is a positive aspect that the victim was informed and she practiced her right to monetary compensation claim. Through her proxy representative, the aggrieved party filed a request for procedural protection of the victims for their statements to be reproduced in the court procedure, in order to prevent her from victimization.
- The mobile team was initially notified that there was no possibility for accommodating the victims due to full capacities.

### Case 3

## Labor exploitation of a child victim and forced marriage

### Initial referral and determining the identity of the potential victim

The victim reported to the SWC that her father forced her to live out of wedlock with several people in the past. This was arranged by her father, who received money from these people for several times. The SWC informed that the victim had no documentation and had visible injuries on her face and neck, which led to the assumption that she suffered violence. The SWC took the victim to receive medical care, where they did not prescribe her any therapy or medications. After the report, the SWC provided the victim with a temporary residence at another location.

The following day, representatives from the SWC took the victim to another city where she had registered residence, by which the case was given to the authorization of another SWC. After the initial conversation and determining of her identity upon given statement, due to reasonable suspicion of conclusion of forced marriage with a child, the mobile team for responding in cases with victims of trafficking in human beings.

## Statement given by the victim to the mobile team in the first phase

The victim claimed to be minor and that she had no documentation (no Birth certificate or any other document which could help with the determination of her identity). The victim stated that her mother died one month ago.

As per the statement of the victim, she was born in a hospital, and lived with her father until she was 13, during which time, she was sold to unknown persons on several occasions, forced to live with them out of wedlock against her will. As per her statement, the first time she was sold when she turned 13; she was sold to some man (she could not recall his name), with whom she lived for 3 months. The victim claimed that for this deal, her father received 300 Euro. Since she was crying and making problems, the victim was expelled by this person to return home to her father, where she resided for only 20 days. During this time, her father was looking to conclude another marriage for her with another man. The victim saw when the person with whom she was supposed to live out of wedlock gave her father 300 Euro. The victim claimed that all of these persons that came for her during that period are now abroad. The last time when she was sold, she stayed with the person for 2 years.

In order to protect herself, she decided to go to another city and another person, that she had met through her sister, that was married and living in that city with her husband. The person she was living with was a long-time narcotic abuser. She stayed with him for 2 years, during which period she was physically abused, especially the last time when she was tied and beaten with a cable. The victim had visible injuries and bruises on her hands, around her neck and on her face. The victim claimed that during the last two years, apart from being physically abused, she was forced by her out-of-wedlock husband to beg, and fed her occasionally. His mother also maltreated her physically, and his father did not encourage her to flee the house and save herself.

During these two years out-of-wedlock, the victim was in no position to report the maltreatment and abuse, because she was locked in the house with limited mobility. During the whole stay, the victim worked together with the family of her out-of-wedlock husband, they collected sour cherries, sometimes up to 14 hours, and she was constantly under surveillance.

The last time she was working in the garden, helped by a friend living nearby, she managed to escape and to come and report the case. Previously, the victim had once managed to escape, and tried to report the case in the SWC and requested accommodation on another location. But she was told that they did not have where to accommodate her, and advised her that it was best for her go back to her husband, even though she had visible bruises and signs of injuries on her body.

The victim was confused and upset and claimed that she does not correctly remember the timeline as to when was she sold and how much money did her father, who was at that time abroad, earn.

### **Assessment by the mobile team**

The mobile team determined that these indicators were enough to lead towards conduction of a crime Trafficking a child, and decided to notify the mobile teams' coordinator and the head of NUSTIHB for the case. After the approval of the mobile teams' coordinator, the mobile team went to transfer the child to the Center for victims of trafficking in human beings. Meanwhile, the NUSTIHB informed the mobile team that they need to wait for the decision of the Public Prosecutor's office for Prosecuting Organized Crime regarding the further activities that should be undertaken by the team.

### **Accommodation in a Center for victims of human trafficking and sexual violence**

The victim was taken and accommodated in the Center, in a manner that the SWC reached a Decision for accommodating the victim, for which special guardian was appointed – social worker, who at the same time was a member of the mobile team. Upon accommodation in the Center, the basic needs of the victim were satisfied: psychosocial counseling, food, clothing, hygienic products, medical examinations and medicaments, free legal aid, phone contacts with her guardian, psychotherapy treatment, dental examination and interventions, regular psychiatric check-ups, creative workshops, occupational workshops, educational workshops, etc. During her stay, the professional team from the Center in cooperation with the guardian prepared intervening individual plan for help and support, which included various activities for stabilization and rehabilitation of the victim.

### **Victim's family assessment**

The victim came from dysfunctional family; she lived with her parents and her younger siblings. They were 9 children in total; two of the brothers were married, living close to the family. Two of the sisters were also married, in different cities. The mother made her beg since earliest age, and they were physically maltreated by the father, chronic heavy drinker, who often returned home drunk.

## **Material aid from the Fund for assisting victims of trafficking in human beings**

During her stay, the Assistance Fund provided alimentary and non-alimentary products for satisfying the basic needs of the victim.

### **Criminal procedure**

The NUSTIHB filed criminal report to the Public Prosecutor's office for Prosecuting Organized Crime against 4 persons for the crime Trafficking a child under Article 418 d from the Criminal Code. The victim had a proxy representative who explained her rights to her, and represented her when she was giving statement before the Public Prosecutor's office for Prosecuting Organized Crime.

Until the moment of preparing this document, there is no information about the procedure, i.e. whether a Bill of Indictment has been filed by the Public Prosecutor's office for Prosecuting Organized Crime to the Criminal court.

### **Re-socialization and reintegration**

During the period for rest and reflection of the victim, an individual plan had been prepared with a focus on accommodation of the victim, since she was not allowed to return home, where she was initially abused by her father. Due to this, through her guardian, the victim was accommodated in a foster home. An assessment of the foster home has been conducted by the SWC from which it had been determined that the basic needs of the victim will be satisfied. The guardian should monitor the condition of the victim and should pay occasional visits to her foster home. She had been included in the regular education process.

### **Conclusions and recommendations for the case**

The SWC should react and examine every case reported to them without any partiality, regardless of the accommodating capacities of the state. It is unacceptable to advise a person reporting maltreatment and abuse (and having visible injuries) to return home because the state has no accommodation capacities and premises. The SWC shall, without any delay, examine all statements and indications received by clients or other persons especially in case of children which are exploited and forced to work against their will for financial benefit of third parties.

## Case 4

### Waitress victim of trafficking in human beings

#### Initial referral and determining the identity of the potential victim

The mobile team received information for reasonable suspicion of labor and sexual exploitation of a person working in a bar in one village as a waitress. Upon received information, the mobile team conducted field visit and had initial conversation with the potential victim of trafficking in human beings. Before the start of the initial conversation, the victim was provided with information on the role of mobile teams, the aims of the conversation, information on protection, further steps for referral and decision-making period as well as information regarding legal aid. The victim had been offered to be accommodated in the Center for victims of trafficking in human beings and sexual violence, but she stated that she felt safe and did not want to be accommodated elsewhere. The mobile team conducted additional conversation with her out-of-wedlock husband and the parents of the potential victim.

The victim, an adult girl, came from a marital union. The victim lived out of wedlock with an older man, working in construction. The out-of-wedlock husband stated that due to the nature of his work, he was mostly out of home. During his travels, he noted several times that the victim had “checked in” in some bar in a village.

The parents of the victim accused the out-of-wedlock husband as a direct reason for everything that happened to their daughter. They confirmed that their daughter was living for two years with the out-of-wedlock husband. The financial condition of the victims’ family was very bad, since the father of the victim had intellectual disability and was in no condition to work.

#### Statement given by the victim to the mobile team in the first phase

The victim stated that one year ago she was sexually exploited throughout several months by several persons from the bar in which she was working. She was recruited by her friend and worked as a waitress due to her bad financial situation. Without any suspicion, she voluntarily accepted the job and worked as a waitress at the beginning. After several months, she slowly started to be sexually exploited. During the day, she was at home, and in the evenings, she was transported to the bar. After some time the victim managed to get rid of such work. In the bar, according to the statement of the victim, there were around ten rooms and several girls (children amongst them) at the first floor.

The bar was under control of the suspect. The suspect was sending taxi for her which was taking her to the bar where she was forced to give sexual services to several persons. Sometimes she was kept to stay for several nights, for which she was paid around 6000-7000 denars. The victim also showed video recordings from the bar from which it could be seen what was happening in short sequences. The victim stated that the bar was also visited by persons employed in the IAS, but could not confirm these statements with evidence.

### **Assessment by the mobile team**

Upon the initial conversation and at the risk assessment, it was determined that the statement of the victim was sufficient for a suspicion of trafficking in human beings, after which, the NUSTIHB and the National Referral Mechanism were informed. Due to the suspicion that IAS employees were included, the NUSTIHB delivered the case and the evidence to the Public Prosecutor for Organized Crime.

### **Victim's condition assessment**

The victim had decreased self confidence, was emotionally unstable and it was evident that she was afraid from the situation. During the conversation, she trusted no one, including the institutions. She showed certain degree of aggression towards her parents, blaming them for her state. She was tied to her out-of-wedlock husband, whom she trusted very much. The statement given by the victim showed that the out-of-wedlock husband had complete control over the victim.

The victim was provided with psychosocial help and support by the Center, and underwent an additional psychiatric treatment. The social worker summoned the multi-sector professional team, while the SWC prepared individual plan for services and support.

The victim was recruited by deceit, i.e. by providing half true information. The initial contact with the suspect was voluntary. The victim was forced to prostitution, and she received a certain amount of money for that. The victim was held isolated with other persons in the bar. During the stay, as per her statement, she was raped several times. During the conversation with the officials, the victim had no visible injuries on her body, i.e. traces of violence.

### **Material aid from the Fund for assisting victims of trafficking in human beings**

The mobile team provided the victim aid through the Fund, including alimentary products, clothes,

hygienic products as well as other help necessary for urgent aid for the victim.

The mobile team offered the victim with psychosocial support given by professionals from the SWC. The victim was provided with psychiatric examination, health care from a health care institution, as well assisting in the process of graduating from high school and receiving a diploma necessary for using some of the active measures for employment offered by the Employment Agency.

The condition of the victim is continuously monitored, and measures are undertaken for preventive actions, i.e. from prevention from repeated exposure of the victim to these and/or similar activities.

### **Criminal procedure**

For this case, the Public Prosecutor for Prosecuting Organized Crime did not raise charges, stating that there was lack of material evidence. In addition to this, the mobile team was informed that a longer period expired since these activities, and it was not possible to gather relevant evidence for the case.

### **Conclusions and recommendations for the case**

- The multi-sector treatment is the key for fast and effective response in the cases of trafficking in human beings. This cooperation between the state institutions and the NGO sector is successful in the part of early risk assessment, sheltering the victim, re-socialization and referral.
- The state must conduct effective investigation and to fully examine the statement of the victim leading towards involvement of IAS/MOI members in the conduction of the crime Trafficking in human beings, since that would show that they put real efforts in the prevention and combating such type of organized crime.

## Case 5

### Sexual abuse of a child

#### Initial referral and determining the identity of the potential victim

One elementary school reported to the IAS a case with suspicion of maltreatment and sexual harassment of a child by her brother N.N. The IAS informed the SWC and the case was referred to the mobile team. The social worker, member of the mobile team conducted an initial conversation with the girl and her father.

The girl, a child less than 17-years old, came from a dysfunctional family. Her mother is deceased. After the death of her mother, the child lived in the village with her father and three brothers (one minor). The family was also composed of two sisters who were married, as well as two brothers and one sister which were with intellectual disabilities since birth and settled in an Institution. The family lived in an old, ruined house with bad hygiene, in substandard conditions, without sufficient assets for existence.

#### Statement given to the mobile team in the initial phase by the potential victim

The girl stated that for some time she faced emotional and physical abuse by her older brother. According to her, her younger brother faced the same abuse. During one weekend in October, the older brother tried to sexually abuse her; he took her clothes off and tried to rape her. She managed to push him and to escape the room. As per the statement of the girl, her older brother was friends with persons for which she believed to be included in criminal activities, which made her even more afraid for her safety.

#### Assessment by the mobile team

After the initial conversation, during the risk assessment, from the statement of the victim it was determined that there were justified reasons to be trusted that she was a girl from a vulnerable category of persons, which due to the circumstances may become victim of trafficking in human beings, due to which the mobile team determined that she was potential victim of trafficking in human beings. The girl was immediately taken to the Center for sexual abuse in the general hospital, where she was subjected to medical-gynecological examination. The mobile team informed the NUSTIHB and the National Referral Mechanism. The mobile team continues to monitor her condition.

## **Assessment of the conditions of the potential victim and her family**

The potential victim felt guilt for the whole situation, she completely lost her self confidence, and feared that the act would be repeated, and she was in a very bad emotional state. Meanwhile her father had died, which increased her vulnerability even more, as well as the vulnerability of the other children in the family.

## **Re-socialization and reintegration**

The girl and her younger brother were accommodated in a foster home and they continued their education in another elementary school. After the activities undertaken by the team, the behavior of the children improved, which was also seen from the improvement in their studies.

## **Material aid from the Fund for assisting victims of trafficking in human beings**

The mobile team provided the victim with help through the Fund: alimentary products, clothes, hygienic products, as well as other type of urgent help. The child was provided with psychosocial help by professionals from the SWC. The victim was provided with health care from a health care institution, while the Red Cross provided the brothers with additional help in clothes.

The condition of the victim is still actively monitored and preventive measures are being undertaken for prevention from repeated exposure of the victim to similar situations.

## **Conclusions and recommendations for the case**

- The initial referral and information to the authorized state bodies, in this case, notification by the elementary school as an educational institution, is crucial for timely identification and protection of the potential victims of trafficking in human beings.
- A functional mechanism for exchange of information needs to be established between the SWC and the educational institutions for providing support for children from vulnerable families, aiming towards timely detection and towards preventing them from becoming subject of exploitation by the traffickers.
- Regular communication channel needs to be established between the parties involved, instead of incorporating it only when the institution sees a certain problem. This can provide efficient prevention and combat against trafficking in human beings.

## Случај 6

### Potential victim of trafficking in human beings

#### Initial referral and determining the identity of the potential victim

The person N.N. reported her 20-year old daughter as missing in a police station. In the initial conversation conducted by the mobile team, the mother stated that her daughter left the home six days ago and never came back. She was found by the police, and her mother was informed about that, after which, with her mother's consent, she was taken to the psychiatric hospital, where she was previously treated. The girl had been diagnosed with epilepsy and a certain degree of intellectual disability.

The IAS contacted the mobile team due to indications that while the girl was away from her home, she resided with various men and they were suspected of abusing her powerlessness, i.e. her condition as a person with intellectual disability. She was noticed with various suspicious persons, and it was assumed that she had sexual relations with them for a small or no reward. As per the information received by the IAS, the victim was already known to the persecution bodies due to her problematic attitude and reports for burglaries in several schools in the municipality where she had lived.

The mother and father of the girl during the conversation with the mobile team stated that she was aggressive and often ran away from home and from school. They noticed that she befriended persons which were believed to be involved in criminal activities.

The family lived in poverty, without basic assets for life, which put the victim in even more vulnerable category.

#### Assessment by the mobile team

Upon the initial conversation and at the risk assessment, it was determined that the statement of the victim gave reasonable suspicion that she was a potential victim of trafficking in human beings, after which, the NUSTIHB and the National Referral Mechanism were informed. The NUSTIHB informed the PPO for prosecuting organized crime, but the Public prosecutor did not file charges due to lack of material evidence.

### **Statement given to the mobile team in the initial phase by the potential victim**

The girl confirmed that she left her home due to misunderstandings with her parents. During the interview, she gave little information, mostly not connected to the events in question. She did not confirm the information that she was sexually exploited. The potential victim was taken to a psychiatric examination immediately, so that she could recover easily. The social worker called the multi-sector professional team, while the SWC prepared individual plan for services and support.

### **Assessment by the mobile team**

After the initial conversation, during the risk assessment, from the statement of the potential victim it was determined that there were justified reasons to be trusted that she was a potential victim of trafficking in human beings, and due to the circumstances she might become victim of trafficking in human beings, and her condition would be monitored in future.

In this case, the mobile team did not find sufficient arguments and believed that there was no need to provide accommodation in the Center. The girl was returned to live with her parents.

### **Assessment of the conditions of the potential victim and her family**

The potential victim was often anxious, had violent behavior, lost self-confidence and was in a bad emotional state. The girl had been accepted in the Psychiatric clinic three times (the third time, she was accepted upon referral from the mobile team). A neurologist had determined that she had been treated with antiepileptic therapy for many years, and was subjected to regular check-ups. The first psychological changes occurred around three years ago due to discontinuance in the antiepileptic therapy. They have recommended regular check-ups and treatment with medications. The family was in bad financial situation, which additionally engraved the condition of the person.

### **Material aid from the Fund for assisting victims of trafficking in human beings**

The mobile team provided the victim with help through the Fund: alimentary products, clothes, hygienic products, medical treatment and medications as well as other type of urgent help for the needs of the victim. The mobile team offered the child with psychosocial support by the professionals from the SWC. The victim was provided with psychiatric examination as well as health care in a health care institution.

The condition of the victim is actively monitored and preventive measures are being undertaken for preventing from repeated exposure of the victim to similar situations.

### **Conclusions and recommendations for the case**

- The state shall provide appropriate treatment and care for persons with disabilities, especially when the persons with confirmed diagnosis have a history of problematic behavior in the community and there is a high risk of conducting misdemeanors and crimes. In such situation, the institutions must build mechanisms for appropriate protection of these persons due to their mental disabilities and if they find it necessary, to propose to the court to declare incapacity to contract after which the person would be accommodated in an institution where it can receive support and care from professionals.
- The SWC and other authorized institutions must undertake all of the necessary measures to protect the parents of children with intellectual disabilities, especially if in the past the child had shown increased aggression and violence and has history of violent behavior, for which the child was hospitalized in psychiatric centers for care and treatment.
- The SWC and the educational institutions should establish mechanism for informing and information exchange for prevention and providing appropriate care for persons with psychological problems which need special programs in the educational institutions and have deviant behavior in the educational centers.

## Case 7

### A child potential victim of trafficking in human beings

#### Initial referral and determining the identity of the potential victim

Upon previous information of SWC and MOI by the mobile team, a contact with a family was established, i.e. with a minor girl due to suspicion of trafficking in human beings for sexual exploitation. Upon statement of their family, the girl often left the home and would not return for which she was warned several times by her parents. Because she had not improved her behavior, the parents reported her to the SWC and MOI. Due to indicators leading towards the possibility for the girl to become victim of trafficking in human beings, the mobile team was also contacted, and later the mobile team conducted the initial conversation with the child.

#### Statement given to the mobile team in the initial phase by the potential victim

The potential victim stated that she left the home, went around another city and befriended persons whose identity she did not reveal, due to which their connection to the child could not be determined. The child in no moment stated that she was sexually exploited.

#### Assessment of the conditions of the potential victim and her family

The girl came from dysfunctional family. The living conditions in the family were substandard and the help they were receiving was insufficient for bare existence. No one from the family was employed and they had no regular income for covering their basic needs. These factors contribute towards increasing the risk from becoming victims of crimes related to trafficking in human beings.

Bearing in mind the condition of the family, it was determined that the parents were not involved with the escapes of the girl, and they desired to provide her with better living conditions within their capabilities. This led the mobile team to conclude that this family needed help, and they referred them to the SWC for further monitoring of the condition and providing help and support, while the child should return to the family. But after the return, the girl ran away again, and she was once again returned to the family.

## **Material aid from the Fund for assisting victims of trafficking in human beings**

The potential victim was provided with the basic products for several times. The Assistance Fund provided the minor with school supplies, which was the condition for her to start the education. The school supplies aid, provided for her to follow the educational process, decreases the possibilities for her to be exploited and to become a victim of trafficking in human beings.

### **Criminal procedure**

Upon determining the condition by the MOI representatives and the members of the mobile team, the NUSTIHB was notified about the case and the risk from trafficking in human beings. Another conversation was conducted with the minor in presence of the SWC and MOI representatives. Upon the conducted conversation, it was determined that she was not a victim of trafficking in human beings, and no further measures were undertaken for conducting a criminal procedure.

### **Re-socialization and reintegration**

During the time given to the child for rest, an individual plan was prepared with a focus on accommodation, i.e. whether the child wanted and had conditions to return with her family. The individual plan included re-inclusion of the child in the educational process, establishing communication in new surroundings and new methods of functioning in the surrounding for decrease of the risks and mingling with persons inappropriate for her age.

### **Conclusions and recommendations for the case**

- There is partial and incomplete examination of the indicators for trafficking in human beings which results with not recognizing of the real risk shown by the potential victim
- Better cooperation is needed between the SWC professionals which have mapped the local inhabitants, their level of vulnerability as well as the risk factors and the IAS/MOI as a body authorized to identify the victims of trafficking in human beings and to undertake measures for charging the perpetrators.

## Case 8

### Victim of trafficking in human beings

#### Initial referral and determining the identity of the potential victim

The SOI and member of the NUSTIHB called a social worker from SWC for conduction of an initial conversation with a minor due to reasonable suspicion of child labor exploitation. It was assumed that the labor exploitation was conducted by the father of the victim who forced her to begging for a longer period. The girl could be noticed for a longer period selling trifles throughout the city. The police noticed that the child was carried by her father and left on various locations to sell.

It is also worthy of stating that the victim was a part of the MOI police action in which many persons were found, mothers with children, and it was assumed that the children were maltreated for a longer period of time due to labor exploitation and trifles sale on public places.

After the conducted action, the SOI members called social worker to come at the place where these persons were temporarily accommodated after the action. Bearing in mind the huge number of revealed persons and their vulnerability (mothers with children), other SWC employees were also notified, in order to conduct surveillance and conversation with the persons in shifts. At the same time the MOI representatives who are included in the mobile team, were also informed.

Meanwhile, some of the persons found on the spot managed to escape. Only the oldest daughter from one family was accommodated in the Center. The mobile team members from MOI and SWC conducted the initial conversation with the victim and determined that as per the statement, the victim should be initially accommodated in a safe place. In the whole case, i.e. the police action conducted by the MOI, there was lack of coordination between the key involved parties, MOI, SWC and NUSTIHB.

#### Statement given by the victim to the mobile team in the first phase

As per the statement given by the child, she was 12 years old and sold trifles in the city. The victim was found during the police action in the place they used as their home. (The family lived in improvised houses – tents).

## **Accommodation in a Center for victims of human trafficking and sexual violence**

The social worker accommodated the victim in the Center for victims of trafficking in human beings and sexual violence. The person was accepted by the professional team in the Center. The necessary products for satisfaction of basic needs were provided: food, hygienic products, clothes, shoes, etc. She was provided with initial psychosocial help and support and was included in activities as per the prepared individual plan for the victim. More attention was given to the education which she lacked and the psychosocial development of the child, which was not corresponding to her age.

### **Victim's family assessment**

It was a several-member family living in extreme poverty, without sufficient means for existence. The mother lived out-of-wedlock with a man who was not the biological father of the victim. There were no indications for physical violence against the child. Neither the victim, nor her mother had any contact with the biological father. Their place of residence was in improvised houses – tents. The family received no monetary aid; the mother did not work.

### **Material aid from the Fund for assisting victims of trafficking in human beings**

During her stay and even after her reunification with the family, through the Assistance fund, alimentary and non-alimentary products were provided for satisfying the basic needs of the victim.

### **Criminal procedure**

No information was available for the criminal procedure after the conduction of the action. The police action was led by a police officer who delivered the potential victims to the SWC immediately after the action, and no further steps for cooperation were undertaken.

The relation of the father/stepfather was not clear, due to which further monitoring of the family was necessary.

### **Re-socialization and reintegration**

During the period for rest and reflection of the victim, an individual plan was prepared with focus on accommodation, i.e. whether the child wanted and had conditions to return to her family.

As per the individual plan for re-socialization, it was stated that the child should be included in regular educational process, as well as that her personal potentials should be strengthened; also further monitoring in the Program for accompanying social work conducted by an NGO was prescribed<sup>28</sup>.

### **Conclusions and recommendations for the case**

- The communication between the SWC and MOI is inadequate throughout the conduction of the whole action.
- It is positive that the begging and the labor exploitation were recognized as a form of trafficking in human beings, and it should be even further elaborated
- When treating potential victims of trafficking in human beings, especially children, it is highly important to provide safe place for accommodation of the child and to put the best efforts in order for the child not to be separated from the family. In this case, the circumstances that maybe it was in the best interest of the child to remain with her mother were not sufficiently examined, and that could avoid additional trauma for the child.

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<sup>28</sup> The NGO Open Gate has developed a program for accompanying social work in 2013 to provide long term aid and support to the potential and/or victims of trafficking in human beings, that are outside of the Center.

## Case 9

### Potential victim of trafficking in human beings

#### Initial referral and determining the identity of the potential victim

The WSC representative informed the mobile team about a need for visitation of a family, for which there were previous information about being dysfunctional and regarding not paying sufficient care for the girl by the parent.

The WSC representative informed the mobile team about the case during an informative meeting, i.e. that it was a family in which the 4-year old girl was abandoned by her mother when she was 3 months old, and in that moment lived only with her father who did not take care for the girl.

As per the statement of the father, the mother of the girl was a Macedonian citizen and lived out-of-wedlock in another city, but he did not know exactly where. The father was a person without documentation and did not have a birth certificate, or any other document for identification. The only document the girl possessed was a card for a child born in a hospital. She did not possess a birth certificate, which could not be provided because it was unknown where her mother was, and the father was without documentation.

The social worker, regularly, self-initiatively and upon report from the relatives of the girl, visited the family due to the circumstances suggesting that the father neglected his duty for care of the child. During the visit by the social worker and during the visit by the mobile team, the father was not found in his home, and when they found him at home, he was intoxicated by alcohol, and could not take care even of himself. The girl was completely left to the care of his relatives who lived right next to his home and which were trying, despite their obligations around their children, to take care of the girl who was completely neglected, quite often left hungry and without clothes.

The social worker undertook all of the necessary measures for protection of the children and several times filed written request to the SWC s in the other cities and to the police to find the mother, but she was not found. The Social Welfare Center paid several visits to the home of the family, had a conversation with the father regarding his behavior and child negligence, and talked to the relatives who showed concern regarding the health and future of the child.

#### Material aid from the Fund for assisting victims of trafficking in human beings

The Assistance Fund provided alimentary and non-alimentary products for satisfying the basic needs of the potential victim, as well as winter clothing and toys.

## Victim's family assessment

She came from a poor family; her mother abandoned her and went to live somewhere unknown, when she was three months old. They lived in substandard conditions, in one room with her father, with very bad hygiene and under any standard; they had their toilet outside of the residence area. The father was unstable, did not return home for days and completely neglected the girl. The relatives living near their house were concerned about the health condition of the girl who was often ill; they very often reacted to the Social Welfare Center in order to report the father for negligence.

The SWC prepared individual plan with focus on providing the child with a safe space for accommodation and protection. The problem that the SWC, and later the mobile team, faced was the procedure for removal of the child and its` accommodation in a foster home.

The SWC recognized the problem as a neglected child, and they conducted an assessment to find appropriate foster home for the child. The assessment showed that the relatives did not satisfy the conditions which needed to be fulfilled in order for the foster family to provide care of the child. The Center faced additional problems because the father refused to give consent for fostering the child in another family, even though he did not improve his behavior for a longer period.

An additionally engraving circumstance was that the SWC could not file criminal report against the father for Neglecting and maltreating a child under Article 201 , because the father had no identification documents.

## Conclusions and recommendations for the case

The coordination between MOI and SWC needs to be strengthened for such cases of a parent abandoning a child, in this case, the mother abandoned the girl, and if she could not be found in the state, a guardian from the SWC should be appointed immediately to take care for the protection of the rights of the girl.

Measures for inscribing the girl in the Birth registry kept in the Office for management of registers of births, marriages and deaths should be undertaken by the SWC, which would have an impact on the prevention from statelessness, which is also an obligation of the state who on 03 January 2020 signed the Convention on decreasing the number of stateless persons from 1961.

Care and accommodation of the girl in a foster home should be provided as soon as possible.

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 29 Neglecting and maltreating a child  
 Article 201

(1) A parent, adoptive parent, guardian or any other person who by crudely neglecting his duty of caring and upbringing neglects a child or maltreats him, shall be sentenced to imprisonment of one to ten years.

## Case 10

### Dancers arrested in a club on the highway

#### Dancers arrested in a club on the highway

In a police action in a hospitality business settled on a highway, 25 females were arrested, aged 20-40, foreign citizens from Serbia, Albania and Moldova. The persons were taken into custody at a police station.

The arrested foreign citizens were found in the hospitality business together with the guests of the business. All of the foreign citizens had their personal documentation and travel documents, which were in their rooms, in the hotel where they resided. During the police action it was determined that some of them stayed illegally in the country, due to which they were transferred to the Department for cross-border crime and migrations, foreigners and readmission for further procedure. The owner of the business was not taken into custody in the police station.

Upon arrival in the police station, all of the foreign citizens were accommodated in one premise in which soon inspectors from Department for cross-border crime and migrations, foreigners and readmission arrived. While the foreign citizens were in the police station, many police officers entered and left the premise.

The conversation between the inspectors and the foreign citizens was a group one, and questions were asked to help them determine the manner of arrival in the state, the duration of their work in the hospitality business, the amount of the reimbursement they received, etc. Usually only one of them answered on behalf of all of the foreign citizens. Some of the foreign citizens did not speak Macedonian, but there was no translator present. The responses of the foreign citizens were general, i.e. they were aware that they worked illegally and they were doing it voluntarily and not forced by anyone.

After the general conversation with all foreign citizens, the police officers conducted an insight in their personal and travel documents. On grounds of the received data in all cases, the measure Expulsion from the state under Article 101 from the Law on Foreigners and the measure Prohibition from entering the state under Article 104 from the Law on Foreigners were imposed.

After the check up of their personal data, it was determined that nine of the foreign citizens resided in Republic of Macedonia previously, and they were already punished by the measure Expulsion from the state.

Upon conduction and delivery of the decisions, the foreign citizens were expelled from the state at the official border in Albania and Serbia, while the foreign citizens coming from Moldova were accommodated in the Reception Center for Foreigners during the procedure for expulsion.

### **Conclusions and recommendations for the case:**

- The police officers, when working with the foreign citizens did not take into consideration the indicators for identification of victims of trafficking in human beings. The sex, age of the foreign citizens, the type of work they performed and especially the fact that they resided, i.e. worked illegally are sufficient elements for considering the case through the lenses of the indicators for identifying victims of trafficking in human beings.
- The foreign citizens were taken into custody in a police station and were accommodated in inappropriate conditions (one joint premise) where no one took care which police officer was authorized to enter, and where they were waiting for several hours for the Inspectors from the Department of Foreigners to arrive.
- The conduction of the conversation by the police officers was inappropriate because the questions were targeted at the whole group, without the presence of a translator, and where there were no conditions for individual assessment of the vulnerability or potential elements for identification of victims of trafficking in human beings. Some of the foreign citizens could not respond, either because they did not know the language, or because another person from the group answered on their behalf.
- After several hours of examination, all of the foreign citizens were punished with the measure Expulsion from the state without explaining them the possibility for legal protection and legal aid; in addition to this, the elements of the principle of non-refoulement (if any) were not taken into consideration, i.e. that a foreigner will not be returned to the country of origin if his/her life there is in danger. They did not take into consideration that if there were circumstances for conduction of the crime Trafficking in human beings, the victim could be granted with a status of a person under humanitarian protection as per the Law on Foreigners.

## Closing recommendations

- The Analysis of the legal framework in relation to the UN Protocol, the CoE Convention and EU Directives showed that the legal framework is clear, comprehensive and mostly harmonized with the standards.
- A law providing compensation for the victims of trafficking in human beings is necessary, in order to provide effective and timely protection of the victims, when there is no possibility for payment of the property and legal claims by the perpetrator of the crime.
- The cooperation between the authorized institutions, including the NGO sector is crucial for the treatment of the victims, i.e. for providing early risk assessment, urgent sheltering of the victims and initiating the recovery and reflection process so that victim feels safe. In this direction, the mobile team shall inform the NUSTIHB and NRM, i.e. the coordinator of the mobile teams for suspicion of an identified potential victim of trafficking in human beings, as soon as possible.
- Sharing information between the key actors in the combat against trafficking in human being is highly important, especially with the guardian of the victim or the proxy representative during the criminal procedure and the activities undertaken for protection of the victim. If insufficient information are shared, the victim constantly feels uncertain and concerned about her safety, which prevents her/him from appropriate recovery and re-socialisation from the suffered trauma.
- On a multi-sector level, it is recommended that besides the NUSTIHB and NRM other stakeholders which possess and process data and can lead to revealing and preventing cases of trafficking in human beings are included.
- A NUSTIHB representative at a local level shall be appointed for each of the formed mobile teams. The presence of the NUSTIHB representative means easier coordination and communication between the investigative bodies which are authorized for revealing and preventing from trafficking in human beings, as well as for easier communication between the mobile teams and NUSTIHB.
- The number of mobile teams for combating trafficking in human beings needs to be increased. At the moment, there are 5 mobile units operating in 5 cities (Skopje, Bitola, Gevgelija, Kumanovo and Tetovo), but the number of cities and areas must increase. The existing number of mobile teams lacks the capacity to cover the areas/cities which are not included, bearing in mind the limited resources given at their disposal.
- The municipalities shall have pro-active role in the combat against trafficking in human beings, through continuous monitoring of the social chart of vulnerability of the persons/families in cooperation with the SWC. Also, there is a need for an attempt to provide a small municipality fund which could provide primary aid for the especially vulnerable groups and which could help in the prevention and protection of the potential victims of trafficking in human beings.

- The courts which act upon cases on grounds of trafficking in human beings shall respect the separate process measures for protection of child victims, under which, a child cannot be heard more than twice. The proxy representative and the Public prosecutor shall request from the court to elaborate the statement of the aggrieved party given before the public prosecutor by a reproduction of the CD with audio and video recording from the child.
- The state needs to have a proactive role and to overtake the financing of the mobile teams in future. If contrary, there is a risk for the mobile teams to cease to operate if the donors currently supporting them, cease to finance the activities of the mobile teams in the cities in which they operate.
- Continuous advanced trainings for the mobile teams and police officers are needed for recognition of the indicators of the victims of trafficking in human beings and application of the SOP on combat against trafficking in human beings.
- The state must increase the accommodation capacities for the victims of trafficking in human beings, in order to avoid rejection for accommodating victims of trafficking (potential victims) because the existing accommodation capacities are already full. This leads to the victim losing trust in the institutions, returning to the trafficker, and if re-revealed, to refuse to cooperate with the state institutions.
- The Resocialization plan for the victim shall be detailed and shall anticipate the risks of victimization and re-inclusion of the victim in similar crimes or in prostitution.
- In order to have an impact in the prevention from trafficking in human beings, it is necessary that the key actors in the area, especially the mobile teams in coordination with the SWC prepare separate plan for protection of the especially vulnerable groups of people as per the social chart of vulnerability of the local inhabitants and to monitor their access to social rights, social services, inclusion in the education process, health condition, etc.
- The state, as a signatory, needs to undertake more effective measures for eradication of the statelessness as per the obligations arising from the Convention on decreasing the number of stateless persons from 1961.
- The victims foreign citizens should be treated in humane and dignified manner, and they need to be provided with all of the procedural rights that a victim-foreigner may enjoy, such as the right to an interpreter, accommodation at a safe place, individual conversation with the person in a separate room to determine the circumstances and indicators whether the foreigner is a victim of trafficking in human beings, legal aid, as well as to examine the elements of the non-refoulement principle, i.e. that the foreigner may not be returned to the country of origin where his or her life would be in danger.



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