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## Protection of Human Trafficking Victims and Functionalization of Institutional Mechanisms in Kosovo

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**Abstract:** Trafficking with human beings involves not only a crime in itself, but, in most cases, it is a crime with multiple activities and with multilateral organizational structures. Before the war in Kosovo, trafficking with human beings was very little, or not to say the least expressed, meanwhile with the end of the war, Kosovo was not only a transit country, but it is a source and destination country for women and children, sexual victims trafficking and forced labour. This paper represents an attempt to highlight the growing phenomenon of trafficking in human beings both in the region and in Kosovo, based on available literature, reports, contacts and personal research. The paper gives a brief summary of the criminal law aspect, namely the material law aspect. The problem is also associated with increased migration and because of the complexity of the problem trafficking of human beings, especially young women and girls for prostitution purposes is identified. This paper is primarily led by these issues and seeks to investigate what happened in Kosovo in that area and what are the steps needed by prosecution authorities and NGOs to prevent human trafficking in the future.

**Keywords:** Trafficking with human beings; Victims of Trafficking, Organized Crime; Non-Governmental Organizations; Prevention and Combating Human Trafficking

### 1. Introduction

Human trafficking, as a very sophisticated form of organized crime, is about victims and their families, as well as society in general. It is present in unstable places, conflicting and post-conflict condition, in the economic and political

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transition. This issue covers particularly vulnerable categories of women and children, but does not exclude men as well.

In countries with great political and economic instability and with extreme poverty, many people leave their countries in an attempt to provide better living conditions. Their motives are largely in pursuit of work, profits and a more dignified life. According to Ayhan, unemployment, lack of education, lack of job skills, limited access to the labor market, political pressures and civil conflicts, are also among the factors attracting people, making them vulnerable victims of criminal groups. (Ayhan, 2006) However, these people often fall prey to the criminal networks of human traffickers.

Human trafficking as a new form of slavery in the twenty-first century is a new area that has not been sufficiently researched. In the last 15-20 years, about this issue has been largely discussed with the aim of making the problem visible in society and to view it without prejudice.

Human trafficking is prohibited under the Constitution of the Republic of Kosovo (Constitution of the Republic of Kosovo, 2008, Article 28. paragraph.3. of), is a transnational phenomenon and the most heinous crime. As a form of organized crime it is equivalent to contemporary slavery and is developed through an organized crime network. Crime as such involves perpetrators committing unlawful acts inside or outside the territory of a country. Due to the nature of trafficking, like other countries around the world Kosovo has also been affected by the difficulties it causes. (Maloku, 2016)

According to the circumstances, it is the responsibility of the competent persons of States to take suitable action by signing international documents, harmonizing legislation in international documents, protecting victims of human trafficking and preventing this activity.

Human trafficking is a horrific crime and a brutal violation of human rights that takes place either through a network of organized crime or individually. Today, human trafficking has become a transnational phenomenon. Transnational organized criminality in general, and trafficking in human beings in particular, have become the subject of many criminological studies in recent years. At the same time, the study of criminality in the context of globalization is increasingly focusing on criminologists. McDonald, W. (1995). There are not many authors who have tried to study the transnational and local combination of organized crime and human trafficking. As Dunnigham's Hobbs, Hobbs, D., Dunnighan, C. (1998) have

remarkably well noted, the serious lack of global (transnational, international) organized criminality research is that it ignores or substantially underestimates the importance of local context as an environment in which criminal networks operate. Given these, it is necessary to investigate the dynamics in the local context in order to better understand transnational organized crime. (Maloku, 2016)

To have a better overview of human trafficking on the territory of Kosovo, has focused on analyzing the content of scarce literature, reports from international organizations, government institutions and NGOs, Internet research. Then contacts with government institutions (Ministry of Internal Affairs, Ministry of Labor and Social Welfare, Ministry of Justice, National Anti-Trafficking Coordinator, Kosovo Court, Kosovo Prosecutor's Office and Kosovo Police) and NGOs dealing with this problem, as well as contacts with legal experts that are engaged in this field.

## **2. Legal Criminal Aspect**

### **2.1. Material Law Aspect**

The first post-war step in Kosovo that is undertaken in relation to human trafficking is UNMIK Regulation on the Prevention of Trafficking in Human Beings in Kosovo (UNMIK, Regulation, 2001), Signed by Bernard Kouchner, Special Representative of the Secretary-General of the United Nations, promulgated in January 2001 (the articles of this Regulation were later incorporated into the Provisional Criminal Code (UNMIK, Regulation, 2003) and in the Provisional Criminal Procedure Code of Kosovo). (UNMIK, Rregulation, 2003). Therefore, it comes the Administrative Instruction, Implementing UNMIK Regulation 2001/04 on the Assignment of the Victim Assistance Coordinator within the Department of Justice. (UNMIK/DIR/2005/3). Kosovo's legislative bodies, through relevant institutional mechanisms and with the support of international partners and the local non-governmental sector, have made significant progress in the areas of prevention and combating trafficking in human beings. The Criminal Code and the Code of Criminal Procedure, which entered into force in January 2013, have toughened punitive policies for traffickers, has been penalized the use of services of victims of trafficking and have included forced begging as a trafficking offense. The Assembly of Kosovo in 2013 also adopted a Law on the Prevention and Combating of Trafficking in Human Beings and Protection of victims of trafficking (Law no. 04/1-218 on preventing and combating trafficking in human beings and protecting victims of trafficking, of year 2013), the purpose of

which was to prevent and combat human trafficking (Article 1.1. Preventing and combating trafficking in human beings in all its forms), victims protection (Article 1.2. Protection of victims of trafficking), national and international cooperation (Article 1.3. National and international cooperation). This law was first appointed in Kosovo National Authority against trafficking in human beings (Article 7.1. National Authority against trafficking in human beings). This law authorizes Government (Article 8.1. The Government shall appoint a National Anti-Trafficking Coordinator) of Kosovo to appoint the National Coordinator against Trafficking in Human Beings (Article 8.3. With the support of the Secretariat National Strategies Monitoring and Evaluation Secretariat, which operates under Ministry of Internal Affairs ) to head the National Authority. Also, this law overviews very well Assistance and protection of victims of trafficking in human (Article 20), Rehabilitation of victims of trafficking (Article 21), Reintegration of victims of trafficking (Article 22), Security and support of Centers and shelters for temporary housing of victims of trafficking (Article 23), and many other rights of victims guaranteed by international conventions. Kosovo with the adoption of these laws and the recent amendments to the legal provisions of the Criminal Code, especially those related to organized crime, it feels stronger legally, in combating and preventing human trafficking.

The newest legal provisions against trafficking in human beings are incorporated in the new Criminal Code of the Republic of Kosovo (Criminal Code of year 2019). This Code, Chapter XV, titles Criminal Offenses against Humanity and Values protected by international law, which provides for the offense of trafficking in human beings as well as other offenses that may come into contact with the offense of trafficking in human beings.

According to the provisions of the Criminal Code of the Republic of Kosovo, criminal offenses trafficking in persons (article. 165. paragraph 1-5.) implies - the recruitment, transportation, transfer, harboring or receipt of persons, by threat or the use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or the abuse of a position of vulnerability or 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, for which the punishment is decided, to imprisonment for the term of 5-12 years, while a qualified form of this offense committed against a minor is punishable by imprisonment for a term not less than 3 years to 15 years. Exploitation - as used in sub-paragraph 6.1. of this paragraph shall include, but not be limited to, prostitution of others, pornography or other

forms of sexual exploitation, begging, forced or compulsory labour or services, slavery or practices similar to slavery, servitude or the removal of organs or tissue.

Trafficking with human beings is defined in accordance with the UN Protocol to Combat, Prevent and Punish Trafficking in Persons, Especially Women and Children.

In the provisions of the Criminal Code of Kosovo provide for the following penal offenses related to trafficking in human beings: Slavery, slavery-like conditions and forced labour article 163., Trafficking in persons Article 165., Withholding identity papers of victims of slavery or trafficking in persons Article 166., Smuggling of migrants 164. The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in sub-paragraph 6.1. of paragraph article 165.

These offenses are prosecuted *ex officio*.

When analyzing the penal offense Slavery, slavery-like conditions and forced labour article 163. it is clear that the law provides for some forms of this penal offense, from paragraph 1. to paragraph 5. Article 163.

Thus, the legislature highlights the importance of this criminal offense, and specifically protects persons who are children or minors against whom this criminal offense is directed. Except this, the characteristics of the forms of this offense include, *inter alia*, violations of international law rules also protected with international conventions.

In the penal offense of trafficking in persons is described the basic form of this offense paragraph 1. Article 165, and the qualified form of this offense committed when the offense provided for in paragraph 1. of this Article is committed within a three hundred and fifty (350) meter radius of a school or other locality which is used by children or when the offense is committed against a person under the age of eighteen (18) years, the paragraph 2. Article.165. for which a minimum punishment for at least 5 years is provided. The characteristics of this offense are specifically set out in paragraph 6. Article. 165.

The criminal offense of Holding Identity Cards of Victims of Slavery or Trafficking in Persons Article 166, there are specified punishments less than those for other acts of trafficking in human beings.

For the existence of the criminal offense under Article 166 of the Criminal Code, it is necessary that confiscation of identification documents to be done, in order to restrict freedom of movement or to exercise authority over the person. The offense is considered completed even when we have unlawful deprivation of identity documents on a person, regardless of whether the objective has really been achieved.

### **3. Institutional Protection of Human Trafficking Victims**

The Republic of Kosovo has reformed the relevant legislation through the adoption of new laws, through amendments to the provisions of the Criminal Code of Kosovo (Criminal Code of year 2019), of the Criminal Procedure Code of Kosovo (Criminal Procedure Code of Kosovo of year 2012) as well as: the Law on the Prevention and Combating of Trafficking in Human Beings and the Protection of Victims of Trafficking;<sup>1</sup> Law on Witness Protection, (Law for Witness Protection of year 2011); Law on Protection of Whistleblowers, (Law on Protection of Whistleblowers of year 2018); the law on Foreigners. (Law on foreigners of year 2013), etc,. In these changes are included new offenses and new criminal institutes that enabled Kosovo to detect and combat this form of crime more effectively and faster. According to this, the process of harmonization of the Criminal Code of Kosovo has been completed in 2018 (This Code entered into force on January 14, 2019) and the offense of trafficking in human beings is defined in the Criminal Code of Kosovo, in the provisions of Article 165, the definition of which derives largely from the Protocol of the United Nations Convention and the fight against international organized crime.

The legal framework regulates the issue of victims of trafficking, for the trafficking victims the law on prevention and combating trafficking in human beings and protection of victims of trafficking has been adopted (Law on the prevention and combating of trafficking in human beings and the protection of victims of

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<sup>1</sup> Kosovo is one of the few countries to have a separate law on the prevention and combating of trafficking in human beings and the protection of victims of trafficking which entered into force in September 2013 and the purpose of this law is to determine the legal provisions through which, local authorities are given rights, obligations and responsibilities to prevent and combat trafficking in all its forms, to protect victims of trafficking, including the provision of rights, such as legal aid, medical assistance, psychosocial support, the provision of compensation and other rights to all persons alleged to be or identified as trafficked, regardless of their age, gender, religion or nationality, through a human rights-based approach and on particular children's rights.

trafficking of year 2013). The Kosovo's Criminal Code defines other criminal offenses that may related to human trafficking.

The Government of Kosovo for the purpose of combating trafficking in human beings established an Inter-Ministerial Working Group, proposed by European Council experts, supported by consultants of the OSCE Mission in Kosovo. (Vassiliou, M. i sur. (n.t.)<sup>1</sup>

In relation to the international legal framework Kosovo addresses the issue of combating, preventing and protecting victims of trafficking in two ways, respectively through the application of EU criteria and approximation of legislation in this field and secondly through the Constitution of the Republic of Kosovo where all International Conventions enter into force automatically. International conventions have not been specifically ratified by the Assembly of Kosovo, but enter into force on the basis of the Constitution of the Republic of Kosovo, Article 22. However, lack of political will, knowledge and experience, and speed of change of relevant national legislation, often leads to difficulties in enforcing the law in a way that does not guarantees full protection of fundamental human rights. Insufficient punishments for perpetrators of human trafficking cannot have an impact on combating human trafficking.

The Government of Kosovo adopted a list of trafficking indicators to assist law enforcement bodies and social service providers in proactively identifying victims; however, observers reported a lack of proactive guidance and efforts to identify and refer victims of forced begging, especially children. (Report on Trafficking in Persons, 2018)

### **3.1. Court of Kosovo**

In 2017, in the Courts of Kosovo (The data were provided by the Kosovo Judicial Council) there were 113 cases in total (In this number older cases are also included from earlier years), with 259 people charged in connection with human trafficking.

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<sup>1</sup> The Group for Direct Help and Support for Victims of Trafficking was established on the basis of Standard Operating Procedures, established in 2000, updated in 2004, and has been effective since 6 December 2004 (see III b) . The group is comprised of UNMIK Police, Anti-Trafficking Investigation Unit, Department of Justice, the UNMIK Victim Assistance and Support Unit. IOM Mission in Kosovo. Anti-Trafficking Unit, OSCE Mission to Kosovo, Department of Human Rights and Law Enforcement. Ministry of Labor and Social Welfare and NGOs. Obtained from the Joint Project on the Situation of Human Trafficking in the Thirteen Countries Represented in the Network. [http://www.ariadnet.net/pdfs/publication-CPWC\\_from\\_Kosova.pdf](http://www.ariadnet.net/pdfs/publication-CPWC_from_Kosova.pdf), accessed 13.08.2019.

According to the way of solving (according to cases and persons) out of 113 cases with conviction verdict, prison punishments were issued for a total of 16 cases, with 29 convicted persons, of which 9 cases (with 19 persons involved). Four persons were convicted with a fine from 4 cases, while with a suspended sentence, 6 persons were convicted from 3 cases. In the same year, with acquittal verdict we have 3 cases with 9 persons, whereas with rejecting verdict we have 1 case with 3 persons involved. Six cases with 20 persons were chosen in different way in 2017. From all of this it can be seen that in 2017, we have 26 cases resolved with 61 persons involved. While from the 113 cases with 259 persons indicted, we have 87 unsolved cases with 198 persons indicted during 2017. It is worth to mention that in this year there were no any asset confiscated.

In 2018, there were a total of 92 cases with 207 persons accused in relation with human trafficking. The way of resolving according to cases and persons in 2018 is with 14 cases resolved out of which, with conviction verdict we have 8 cases (out of which 2 on parole) with 18 (out of which 4 people are punished to parole). In this year with acquittal judgment we have 3 cases with 6 persons, whereas with refusal judgment we have no case. In 2018 the number of cases that have been resolved in different way is 3 cases with 9 persons. The year 2018 is concluded with 78 unsolved cases with 174 persons to whom hasn't been completed court proceeding. Also in 2018 there is no confiscated asset.

For the first 9 months of 2019 (January-September) there were 87 in total (In this number older cases are also included from earlier years) cases with 194 accused persons related to trafficking in human beings. In this period, a total of 11 cases with 22 persons involved were resolved, out of which with conviction verdict we have 7 cases with 10 convicted persons, where of these cases we have 5 cases with 7 convicted persons in prison. One case is subject to fine with one convicted person, and 1 case is with condition with 2 convicted persons. With the acquittal verdict in this period we have 2 cases with 6 persons involved, while with the Rejecting verdict we have 1 case with 1 person involved. In the first 9 months of 2019 we have another case resolved with 5 persons involved. Unresolved cases in this 9 month period we have 76 cases with 172 persons, which the court procedure has not been completed yet. Even in this period as in the previous 2 years there is no confiscated asset.

Kosovo's courts have made it possible to obtain information by making available files on which proceedings have been completed, as well as making available data on the number of pending cases in 2017, 2018 and 9 months period of 2019.



Statistical indicators of the Court of Kosovo show that in the period 01.01.2017 until 30.09 of 2019, we have a small number of solved cases compared to the number of unsolved cases, which is almost two times the number of solved cases.

From access to the files of completed cases for the criminal offense of trafficking in human beings, it was observed that the rights of victims of trafficking in human beings were respected in the Kosovo courts, as follows:

- Victims of trafficking in human beings were protected during the testimony process in terms of the provisions of the Law on Witness Protection.
- Victims of human trafficking were previously informed of the witness protection measures provided for in the Law on Witness Protection.
- Victims of trafficking as witnesses in criminal proceedings have been given the right to use their own language, or have been provided with translation in all cases.

### **3.2. Kosovo Prosecutorial Council**

The total number of cases registered at prosecution offices in which victims of trafficking have given statements in proceedings to collect evidence against perpetrators of human trafficking offenses or criminal offenses that may related to human trafficking, as follows:

In 2017, there are 18 cases (14 cases carried over from 2016), while new cases were received in 2017 are 4. Out of the above cases, we have 27 (22 of them are persons whose cases have remaining unsolved during 2016 and transferred to 2017) persons suspected of the offense of trafficking in human beings. Whereas, we have 5 suspects whose cases have been hired and suspects with the expanding investigations into the cases in 2017.

In 2018, we have 8 persons for whom the Court has ruled on the Indictment. From these accused persons, 4 persons have been found guilty, 2 accused persons have been acquitted, and the Indictment for 2 persons has been rejected. These data clearly show that there is a large drop in the prosecution indictments against persons related to the offense of trafficking in human beings.

In the first nine months (January-September) of 2019, we have a total of 13 cases, with 20 persons involved in the offense of trafficking in human beings. In this nine-month period, we have 9 cases resolved, with 13 persons involved, while other

cases in process are still 4 cases with 7 persons involved. From the data presented we can clearly see that the first nine months of 2019, there is a significant increase of Indictments compared to 2018.

In terms of respecting the rights of victims of trafficking in human beings after the conclusion of the investigation and the filing of the indictment, all investigative files were submitted to the court. Pre-trial judges were obliged to inform the injured parties of their rights and to prevent discrimination on any grounds. Pre-trial judges have been obliged to enable the injured parties to declare their right to file a property claim, the right to use their own language, ie to enable them to provide an interpreter service. , in order that they can follow the judgment in their own language or when making a statement before the Pre-Trial Judge.

It is not known whether there was any blackmail against victims of trafficking in human beings during and after the statement was made to the competent bodies, and according to the records there were no actions taken against victims or victims of this type of crime.

### 3.3. Kosovo Police

Total number of cases registered with the Police at the Directorate for Investigation of Trafficking in Human Beings for the period 2017, 2018 and the six months of 2019, (Statistical data were provided by the Kosovo Police) are as follows:

**Table 1. Criminal charges submitted by the police to the prosecutor's office for trafficking in human beings for the period of 2017, 2018 and the 6 months of 2019.**

Criminal charges submitted by the police to the prosecution for human trafficking	2017	2018	January-June 2019
Human Trafficking,	21	12	10

From table no: 1. we see that 2017 is significantly dominated by 21 cases in terms of criminal charges submitted to the Prosecutor's Office for trafficking in human beings compared to 2018, where we have a 57.17% reduction in criminal charges with a total of 12 cases. It's worryingly the first half of January-June 2019, where we have a large involvement with 10 criminal charges. If this trend continues, Kosovo in these years, will almost certainly be back in 2017, in terms of criminal charges filed with the Prosecutor for Human Trafficking.

**Table 2. Number of persons of whom were filed criminal charges - trafficking in human beings for the period 2017, 2018 and the 6 months of 2019.**

Number of persons against whom a criminal report has been filed - according to v. penal	2017	2018	January-June 2019
Human Trafficking	39	22	16
Sexual Services of the Victim of Trafficking	31	07	05
Total	70	29	21

Regarding the number of persons that were charged with criminal charge for trafficking in human beings we see that 2017 is dominated by 39 persons involved in trafficking in human beings and 31 persons involved in criminal offenses: Trafficking in Human Beings, and Sexual Services of the Victim of Trafficking. The year 2018 has decreased by 56.41% or by 22 persons against whom criminal charges for trafficking in human beings have been filed. In 2019, in the half of January-June, we have 16 criminal charges brought against persons for the offense of trafficking in human beings. Criminal charges on persons according to penal offense perpetrated by sex offenses are significantly higher in 2017, (by 31 persons) compared in 2018 (by 7 persons), and in the first half of 2019 (by 6 persons).

**Table 3. Victims for the period 2017, 2018 and the 6 months of 2019**

Victims	2017	2018	January-June 2019
Identified victims	32	15	10
Assisted-sheltered victims	25	10	10
Repatriated victims	5	3	1
Gender of victims	2017	2018	I-VI/2019
Female	29	14	9
Male	3	1	1

From the table above we see that in 2017, we have 32 victims identified of which 29 victims are female and 3 male victims. There are 25 assisted-sheltered victims this year, while 5 repatriated victims. The number of victims in 2018 has decreased by 46.88% identified victims, by 40% assisted-sheltered victims, and by 60% compared to 2017. The period January-June 2019 with the number registered victims are rising (if at this pace) compared to 2018.

**Table 4. Victims identified by origin for the period 2017, 2018 and the 6 months of 2019.**

Victims identified by origin	2017	2018	January-June 2019
Kosovo	25	12	9
Albania	5	2	1
Philippines	1	0	0
Moldova	1	0	0
Czech	0	1	0
Total	32	15	10

In the research period we see victims identified by origin dominated by Kosovo victims with 78.13% or 46 victims out of 57 victims in total from 2017, 2018 and January-June 2019. After Kosovo victims in this period we have 8 victims identified from Albania. We have one citizen from the Philippines and one from Moldova identified in 2017, and one citizen identified in 2018, from the Czech Republic.

**Table 5. Victims of trafficking by form of exploitation for the period 2017, 2018 and the 6 months of 2019.**

Victims of trafficking by form of exploitation	2017	2018	January-June 2019
Exploitation for prostitution of others	18	10	06
Exploitation for pornography and other forms of sexual exploitation	00	01	01
Use for services or forced labor	07	02	01
Use for begging	03	00	0
Use for keeping in the slavery or similar conditions	04	01	02
Forced marriage	00	01	0
Used for captivity or organ removal	00	0	0

From the table above we see the dominance of victims according to the form of exploitation used for prostitution of others, where during the research period (2017, 2018 and January-June 2019) we have 34 victims (where in 2017 we have 18 victims) or 59.64 participation out of a total of 57 victims. There are 10 victims of exploitation for forced labor or services in this research period. It is of great concern because during this investigative period we have also encountered 7 cases

of victims (4 of them in 2017 alone) that were used for slavery or similar conditions. There are 3 cases of begging victims in this period only in 2017. Victims who have been exploited for pornography and other forms of sexual exploitation are in 2018 and in the half of the year 2019 we have one case per each year.

Victims of trafficking in persons for the purpose of forced marriage in the investigation period have had only one case in 2018.

Police officers from the Directorate for Investigation of Trafficking in Human Beings declare that they implement all applicable laws and by-laws in this area when dealing with victims of trafficking. Thus, they were provided with independent legal assistance through NGOs whose activities assist victims of human trafficking. Victims of trafficking in human beings can follow various procedural steps in a language they understand, or through interpreters and court interpreters. They also ensured proper health care by going to regular health checks.

According to the numerical classification of registered cases, in the procedure of identifying victims of human trafficking, have been implemented the provisions of the Law and Regulations on Protection of Victims of Human Trafficking.

Human trafficking victims were provided with shelter. Of the 57 cases treated, 45 victims were placed in safe houses.

Police officers from the Directorate for Investigation of Human Trafficking stated that they had been treated fairly with victims of trafficking and that they respected the principle of non-discrimination of any grounds.

However, Police Officers from the Directorate for Investigation of Human Trafficking point out that they are not sufficiently informed about all legal and sub-legal acts, which leads to mistakes at work, and sometimes to the detriment of victims of human trafficking. The constant change of responsibilities and duties in the workplace further complicates this problem. Also, looking at representation on a political rather than professional basis makes the job more difficult and makes it more complicated. In this way, people who are at the center of the problem, who are educated and sensitized to the problem of trafficking in human beings, are reassigned to another workplace where they are unable to reach their work capacity.

The purpose of this paper is also to review Kosovo's legislative reform, its compliance with international standards, and to monitor processed issues and respect for the fundamental rights of victims of human trafficking. In order to see how the reform of Kosovo legislation works in practice, some data were required from relevant law enforcement institutions (police, prosecution and courts). The Kosovo court gave us completed court cases and then, they were processed and analyzed. The Prosecution and Police Officers from the Directorate for Investigation of Human Trafficking submitted the completed questionnaire with questions about their respective competencies.

Due to this, the number of cases handled by these state institutions has been determined. An analysis of the implementation of the mentioned regulations on the procedures and rights of victims of trafficking in human beings in the registered cases was made.

In order to prevent and combat trafficking in human beings, and to implement more active and effective measures, post-war Kosovo authorities have been actively engaged, together with international and non-governmental organizations.

The drafting of the first Action Plan was initiated in March 2001 and was carried out in several stages, from June 2004 to April 2005. The National Action Plan follows a structure based on EU international standards. In particular, it follows a draft model, signed in May 2004 by all South East European countries, as part of the EU Charter, Project on Improving the Implementation of Strategies for the National Action Plan against Trafficking in Southeast European Countries. This draft model was established by the International Center for Migration Policy Development. Except this, the National Action Plan is based on the UNICEF Guide - Stability Pact Guidelines for Children Rights, Victims of Trafficking. (Vassiliou, M. I sur. (n.t.).

The Government of Kosovo and the Ministry of Internal Affairs have adopted the National Strategy and Action Plan against Trafficking in Human Beings 2011-2014 in order to prevent and properly combat trafficking in human beings. Also, the Government of Kosovo has adopted a strategy for the elimination of trafficking, and on 19 October 2011, a toll-free hotline was opened for victims of trafficking and domestic violence. This Strategy focuses on four main goals: prevention, prosecution of perpetrators, protection of victims of trafficking in human beings, and protection of children often targeted by criminals.

The Ministry of Justice has drafted the Law on the Compensation of Victims of Crime (Law on the Compensation of Victims of Crime of year 2015), which makes the compensation program for victims of crime operational and is in line with Council Directive 2004/80 / EC of 29 April 2004 on compensation for victims of crime.

Despite the progress made in the implementation of the 2011-2014 Anti-Trafficking Strategy (Ministry of Internal Affairs of year 2011), in terms of protection and reintegration of victims of trafficking, the inter-ministerial working group has identified issues and shortcomings addressed in the strategy new 2015-2019, and related to the consolidation of mechanisms for identifying victims of trafficking and the full functioning of victim referral and protection, assistance and reintegration mechanisms.

The Ministry of Internal Affairs and the National Authority against Trafficking in Human Beings brought the National Strategy against Trafficking in Human Beings in Kosovo for 2015-2019 (Ministry of Internal Affairs of year 2015). Likewise, the Office of the Prime Minister adopted the National Strategy and Action Plan against Trafficking in Human Beings 2015-2019 (Office of the Prime Minister. 2014).

This Action Plan and the National Strategy against Trafficking in Human Beings in Kosovo for 2015-2019 covered a number of legal, administrative and operational measures. In the process of implementation for the treatment of victims of human trafficking. This Action Plan and this National Strategy directly require the application of the principle of protection of victims of trafficking in human beings deriving from the UN Convention on the Prevention of International Organized Crime and related protocols.

The National Strategy against Trafficking in Human Beings in Kosovo 2015-2019 also aims at strategic objectives such as: Advancing the prevention of trafficking in human beings through information, awareness and education of society at large, and vulnerable groups in particular about the consequences of trafficking and involvement in trafficking activities; Continuously strengthen the system of identification, protection, assistance and reintegration of victims of trafficking through sustainable social inclusion programs; Increasing the efficiency of investigating and prosecuting cases of trafficking in human beings through strengthening law enforcement mechanisms; and Strengthening cooperation and coordination at the local and international level for the prevention, prosecution, protection and reintegration of trafficking victims.

Kosovo and Albania have signed a protocol on cooperation in the identification, referral and facilitated voluntary return of victims of trafficking with particular emphasis on trafficking victims. Such cooperation agreement was also signed between Kosovo and Montenegro on 25 April 2014.

Human trafficking can be described as modern slavery against which legal, social and economic measures are taken to combat this criminal phenomenon and international and non-governmental organizations must cooperate closely at all levels, focusing on prevention, assistance of victims, their protection and aspects of law enforcement. (Vula, 2013:114)

In terms of international cooperation, there are a large number of cooperation agreements with different countries. ILECU has established a good base of cooperation with other countries as well as international institutions. Despite the signing of several cooperation agreements with individual countries, the lack of direct communication between institutions such as INTERPOL and EUROPOL are obstacles for the Kosovo Police in combating various forms of crime.

To ensure adequate protection and assistance to victims, a Protocol was signed for cooperation with the Ministry of Labor and Social Welfare as well as with non-governmental organizations, specifying that the competent authorities first of all accommodate the person suspected of being a victim of trafficking in shelters, in order for the victim to receive adequate assistance, medical, psychological and legal assistance.

In accordance with the principles of international conventions, a person who has experienced violence and trauma has a fundamental right to medical, psychological and legal assistance. This right should not in any way be conditioned by the victim's decision to cooperate or not to cooperate with the prosecution (police, prosecution and court). Police officers have a duty to protect victims, their families or relatives from additional difficulties and dangers. This means that persons of whom exist grounded suspicion of being victims of trafficking should be separated from traffickers or employers, and provided with a safe place and assistance. To ensure that for victims of trafficking to be adequately cared by responsible institutions that victims of trafficking receive the necessary protection and assistance. This facilitates the integration or reintegration of victims into society. Once identified, the victim should be allowed a period of reflection during which he or she will have a temporary residence permit if dealing with a foreign trafficking victim. During this period, victims may stabilize and decide to cooperate with the prosecution institutions.



Victims are usually placed in shelters, receiving legal advice, support and psychological assistance as well as social and medical care. All of the above assistance and advice to victims should be provided in their mother tongue, that is, in a language that is understandable to the victim. The Council of Europe Convention of May 2005 provides for a minimum recovery and reflection period of 30 days (Article 13, Recovery and reflection period, paragraph1) for victims of human trafficking.

After the period of recovery and reflection, the following solutions are possible:

- The victim decides to cooperate with the police and testify as a victim.
- The victim remains at the place of destination and is granted a residence and work permit.
- In the case of domestic victims of trafficking, victims are offered a (re) integration program.
- The victim returns to the country of origin.
- The victim is admitted to a third country, when because of the high risk, she/he cannot stay in the country of destination or return home.

If the victim returns home after testifying, police services should conduct a risk assessment for the victim and her relatives. Cases of international trafficking require co-operation with the authorities of the country of origin.

The victim is entitled to protection regardless of whether she/he was in the country of origin, destination or in a third country. The victim should be supported and enabled to live independently. The reintegration process is supported by various services and non-governmental organizations, such as:

- Accommodation assistance and good materials.
- Administrative support, including processing an application for work and residence permits, initiating family reunification procedures, personal documents, etc.
- Reintegration process through education, vocational training, family reintegration, language courses, computer courses.
- Legal assistance such as support during court proceedings and representation in court.

- Psychological support for individuals to overcome traumatic experiences and create plans for the future.
- Social support, referral to other social structures for housing, education, training, medical care or employment mediation.

Adequate assistance and protection for victims of human trafficking is provided through co-operation and partnerships between government institutions, international organizations, NGOs and the media. This suggests a multidisciplinary approach to preventing human trafficking.

#### **3.4. Cooperation Between Governmental Institutions, International Organizations and Non-Governmental Organizations**

It is important to note that the established system and legal framework enables national and foreign victims of human trafficking and witnesses to exercise their right to housing, legal aid, primary health care, humanitarian stay and repatriation. These activities are conducted to protect victims of human trafficking.

The system in place has included the cooperation of government institutions and non-governmental organizations, which currently seems satisfactory. However, in addition to co-operating to assist victims of human trafficking through existing NGO services, there is also a need for central level financial support for the Kosovo Ministry of Internal Affairs and NGOs dealing with these victims.

The government licensed and partially funded two NGO-run shelters to provide services to victims of trafficking, along with the state-run Provisional Security Facility. These two NGO-run shelters provided support services for assessed low to medium risk victims; one of these shelters was for children only.

In just the nine months (January-September) of 2019, a partner NGO of the Ministry of Labor and Social Welfare ensured services and reintegration to 14 victims of trafficking who passed through the state shelter and to 13 other cases identified in the risk of being trafficked. According to Shaqiri, A. (2019, October 19), Head of Division of Social Services in the Provisional Safe Shelters during this period of time were provided services for 9 Kosovars, 1 Serb, 3 Bosnian and 1 Albanian.

Government institutions need to be aware that the interest of donors in Kosovo is diminishing, which affects the activities of NGOs. If this trend of donor interest

continues and the government does not include these nongovernmental organizations in its grant budgets, closing them may be inevitable.

Particular difficulties are present when dealing with local victims of trafficking in human beings who dominate the investigation period most. Local victims of human trafficking are often cited only in statistics. The media cost these victims less space than foreign victims.

The established system shows weaknesses in the rehabilitation and re-socialization of victims of human trafficking.

This is particularly reflected in the protection of the safety of victims who testify or find themselves in a situation where criminal proceedings are not completed and there is a grounded suspicion that these are victims of human trafficking. The problem with all the involvement of the protection of victims of trafficking is the cooperation with the centers for social work. There is a marked inefficient functioning of competent social work centers that do not have sufficient professional and financial resources for the further care and assistance of victims of human trafficking.

However, in order to improve cooperation among non-governmental organizations, Memorandum of Understanding on mutual cooperation should be adopted, which would certainly contribute to a better quality of service for victims of human trafficking.

### **3.5. Providing Legal Assistance**

The rights of victims of crime are also recognized by international instruments, including the Declaration of Fundamental Principles of Justice for Victims of Crime and the Abuse of Power, from the United Nations, which sets out international best practices for the treatment of victims of crime.

In all international documents, victims of human trafficking are guaranteed free legal rights.

The law of foreigners also provides for you under paragraph 1 and subparagraph 1.1 of Article 59. Temporary residence for humanitarian reasons if he/she is a victim of trafficking in human beings and has accepted assistance and protection programs. The same law also guarantees you the right to human treatment, enough food, legal assistance at all times and health care (paragraph 2, Article 114). The

Ministry of Internal Affairs makes the safe return of a foreigner who has the status of a victim, taking care of his/her rights, security and dignity. Returns should be voluntary and the principle of non-return should always be taken into account. Whereas under paragraph 2 of Article 64 of the Law on Foreigners, minors who are victims of trafficking in human beings shall not be returned to any other State, if after a risk and safety assessment it is suspected that such return will not be in the best interest for the minor.

By the law on Asylum (law on Asylum on year 2018), Government of Kosovo committed to pay special attention, treatment and care to vulnerable people<sup>1</sup>. Also, the Government of Kosovo has approved the regulation on the integration of foreigners (Regulation (GRK) for the integration of foreigners on year 2019), where it has planned integration measures for victims of trafficking in human beings, measures consisting of actions taken by relevant institutions for the integration of foreigners into the Republic of Kosovo, for the realization of their rights to access public services and specific integration measures such as the special needs of vulnerable persons. It also provides for vulnerable persons for victims of human trafficking to receive 24-hour services and care (housing in community-based institutions and homes). The Ministry of Internal Affairs has approved Administrative Instruction No.01 / 2019 on Procedures and Standards for the Acceptance and Initial Treatment of Applicants for International Protection (Ministry of Internal Affairs of year 2019), where in assessing the interests of children the competent authority will take particular account of the child protection and safety factor, in particular where there is a risk that the child may become a victim of trafficking of human beings. Regulation no. 03/2018 on the functioning of the asylum center brought by the Ministry of Internal Affairs, it is foreseen that persons subjected to torture, trafficking, rape or other serious acts of violence provide the center with necessary psychosocial treatment, legal, security and medical.

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<sup>1</sup> Vulnerable persons - such as minors, unsocialized minors, persons with disabilities, elderly persons, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with disabilities mental disorders and persons who have been subjected to torture, rape or any other form of psychological, physical or sexual violence, such as victims of female genital mutilation.

## **Conclusion**

The phenomenon of trafficking in human beings is a problem that has been present in Kosovo since the 1990s, but its growth was particularly noticeable after the recent Kosovo war. In the human trafficking show, we have attempted to respond by preventing, caring for and prosecuting the perpetrators of the crime.

In Kosovo, with the emergence of trafficking in human beings, with its prevention and combating, first the local non-governmental organizations, then the international ones, reacted and then the governmental institutions joined. The progress of joint action has been particularly reflected since 2001, when the first defined bodies were formed designated - the appointment of the Victim Assistance Coordinator within the Department of Justice (UNMIK Regulation 2001/04), within the institution responsible for establishing mechanisms to prevent human trafficking and illegal migration.

Kosovo has made good progress in recent years in combating and preventing human trafficking. This progress has also been noted by the US State Department report as Kosovo is ranked in the 2<sup>nd</sup> place (from the three basic levels) of countries working to combat human trafficking. Consequently, according to the 2018 report, our country has made significant progress compared to last year's report and other preliminary reports.

Therefore, Kosovo must provide the minimum standards in preventing human trafficking in order to reach the first group of countries.

In order for Kosovo to join this group, it is necessary to apply more efficient prosecution and tougher penalties on traffickers, to create a single database on trafficking in human beings.

In addition to these measures, it is necessary to provide funding for victim assistance and rehabilitation and to pay more attention to prevention programs through educational programs and the media.

Statistics on the increasing number of domestic trafficking victims in Kosovo are also indicative of the need to work, in order to prevent this phenomenon.

Citizens know for sure that some police officer was involved in human trafficking by protecting traffickers, or was allegedly directly involved in the criminal offense, visiting nightclubs and using free sex services. However, it is believed that there are moral, conscientious and professional police officers and such officers must be

educated in order to raise awareness of the prevention and combating of sexual exploitation of girls.

Also, it is necessary to include the media in educational programs and various educational campaigns. The creation and production of educational programs and various articles anti-trafficking and prostitution on television and in newspapers would have a great deterrent effect because it could significantly affect the awareness of citizens.

It is indisputable that the best way to combat human trafficking is to work in the field of prevention. Therefore, it is necessary that all stakeholders involved in this case focus on prevention in order to reduce the need to deal with the consequences of trafficking.

The weakness of this research is the inability to contact victims who were parties to the proceedings to obtain their opinion if the victims feel that their rights and fundamental freedoms are respected in accordance with Kosovo legislation and international standards.

We are aware that trafficking in human beings cannot be eradicated, but through systematic work it can be prevented at national and international level. Prevention, which includes education, training and raising public awareness of the phenomenon of trafficking in human beings, which should start in educational institutions and continue in the judicial authorities.

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