



THB: from exit to insertion, barriers and leverage
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GOOD PRACTICE GUIDE ON WORKING WITH TRAFFICKING IN HUMAN BEINGS CASES IN BULGARIA

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I. CONTEXT

Trafficking of human beings is a modern-day slavery. Victims are often recruited, transported harboured by force, coercion or fraud in exploitative conditions, including criminal activities, sexual exploitation, forced labour or services, begging, or the removal of organs. Human trafficking violates numerous human rights, including the right to life, the right to physical integrity, the right to be free from torture or other cruel, inhuman and degrading treatment, illegal deprivation of liberty and the prohibition against forced labour and slavery-like practices. In addition, THB is a form of crime which takes different forms and shapes, and easily adapts to ever changing social and economic circumstances. It usually targets vulnerable women and girls but also children and men.

Trafficking in human beings is deeply rooted in vulnerability to poverty, gender inequality, violence against women, lack of social integration, lack of employment, lack of access to education, discrimination and child labour, lack of democratic culture, conflict and post-conflict situations. Because of the reasons outlined above this pervasive phenomenon requires an integrated multi-disciplinary approach with the involvement of a diverse set of actors.

I. HUMAN TRAFICKING – LEGAL FRAMEWORK

2.1. INTERNATIONAL LEGAL FRAMEWORK

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949

UN Convention against Transnational Organized Crime, 2000

Protocol to prevent, suppress and punish trafficking in persons, especially women and children (also referred as Palermo Protocol)

Additional documents:

Convention on the Rights of the Child

Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

2.2. EUROPEAN LEGAL FRAMEWORK

Council of Europe

Council of Europe Convention on Action against Trafficking in Human Beings

European Union

Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims

Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities

Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016

Additional documents:

European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols

European Convention on Extradition

2.3. NATIONAL LEGAL FRAMEWORK

Pursuant to Article 5, paragraph 4 of the Bulgarian Constitution, international treaties which have been ratified in accordance with the constitutional procedure, have been promulgated and have come into force with respect to Bulgaria are part of the Bulgarian legislation and have primacy over any conflicting provision in domestic legislation. In this regards, all the international and European treaties mentioned above are part of the Bulgarian domestic legislation and all their regulations should be perceived as part of the domestic legislation. In this way, Bulgaria has adopted the idea that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being.

The national legal acts related to trafficking are:

Criminal Code

Criminal Procedural Code

Action against Human Trafficking Act

Assistance and Financial compensation of Victims of Crimes Act

Protection of Individuals at Risk in Relation to Criminal Proceedings Act

Legal Aid Act

Regulation governing the shelters for temporary accommodation and centres for protection and assistance of victims of human trafficking

Regulation of the organization and activity of the National Commission for Combatting Trafficking in Human Beings

National Mechanism for Referral and Support of Trafficking Persons

Additional documents

Regulation for the Application of the Social Assistance Act

Child Protection Act

Regulation of the Child Protection Act

Code of Conduct for the Prevention of Trafficking and Sexual Exploitation of Children in Tourism

Bulgarian Identity Documents Act

Asylum and Refugees Act

Aliens Act

Coordination Mechanism for Referral, Care and Protection of Repatriated Unaccompanied Minors

The definition of the crime “human trafficking” is provided in the Bulgarian Criminal Code (Chapter IX “Human Trafficking”) - Article 159 a, paragraph 1, according to which: *“[t]he person who recruits, transports, harbours or receives an individual or groups of persons with the purpose of being used for lechery practices, for forced labour, for removal of organs or for servitude, regardless of their consent, shall be punished with 2 to 8 years imprisonment and BGN 3 000 to 12 000 fine”.*

Under Article 159 a, paragraph 1 of the Criminal Code, the trafficker is criminally responsible even in cases where the victim was aware of the activity s/he would be involved in and consented to it, which is often the case. Under this provision, a trafficker can be punished even if s/he did not use the ‘special means’ – coercion, force, deceit etc – provided in Article 159 a, paragraph 2 as special elements of the crime leading to higher punishment.

The special means contained in Article 159 a, paragraph 2 of the Criminal Code are:

“When the act under paragraph 1 was committed:

1. with respect to a person below 18;

2. through the use of coercion or deceit;
3. through kidnapping or unlawful deprivation of liberty;
4. through the use of condition of dependency;
5. through abuse of power;
6. through promising, giving or receiving profits

The punishment is deprivation of liberty from 3 to 10 years and a fine from BGN 10 000 to 20 000.”

According to article 159 b of the Criminal Code, trans-border trafficking is a crime as well: “The person who recruits, transports, harbours or receives individual or groups of persons and transfers them across the border of the country with the purpose of Article 159 a shall be punished with 3 to 12 years imprisonment and BGN 10 000 to 20 000 fine.”

According to Article 159 c of the Criminal Code, “The person, who uses a victim of human trafficking for lechery practices, for forced labour, for removal of organs or for keeping her/him in servitude regardless of her/his consent, shall be punished ...”

The crime of trafficking resembles very much the crime of “recruitment for prostitution” set forth in

Article 155 of the Criminal Code which provides:

- (1) A person who persuades an individual to practise prostitution or acts as procurer or procuress for the performance of indecent touching or copulation, shall be punished by deprivation of liberty of up to three years and by a fine of BGN 1,000 to BGN 3,000.
- (2) A person who systematically places at the disposal of different persons premises for sexual intercourse or for acts of lewdness shall be punished by deprivation of liberty for up to five years and by a fine of BGN 1,000 to BGN 5,000.
- (3) Where acts under Paragraphs 1 and 2 above have been committed with a venal goal in mind, punishment shall be deprivation of liberty from one to six years and a fine of BGN 5,000 to BGN 15,000.
- (4) A person who persuades or forces another person to using drugs or analogues thereof for the purposes of practising prostitution, to performing copulation, indecent assault, intercourse or any other acts of sexual gratification with a person of the same sex, shall be punished by deprivation of liberty for five to fifteen years and by a fine from BGN 10,000 to BGN 50,000.

Where the act under Paragraph 1- 4 has been committed:

1. by an individual acting at the orders or in implementing a decision of an organized criminal group;
 2. with regard to a person under 18 years of age or insane person;
 3. with regard to two or more persons;
 4. repeatedly;
 5. at the conditions of a dangerous recidivism,
- the punishment under pars. 1 and 2 shall be deprivation of liberty from two to eight years and a fine from BGN five thousand to fifteen thousand, under par.3 - deprivation of liberty from three to ten years and a fine from BGN ten thousand to twenty five thousand, and under par. 4 - deprivation of liberty from ten to twenty years and a fine from BGN hundred thousand to three thousand.

The Action against Human Trafficking Act provides in more detail what the possible means of trafficking are, namely:

“recruitment, transportation, transfer, concealment or acceptance of human beings ... by means of coercion, abduction, deprivation of liberty, fraud, abuse of power, abuse of a state of dependence, or by means of giving, receiving or promising benefits to obtain the consent of a person who has control over another person, when it is carried out for the purpose of exploitation”. (paragraph 1 of the Additional provisions)

This civil law provision cannot be used by criminal courts as a definition of the crime human trafficking but different law enforcement authorities and NGOs could use it in the process of identifying victims, considering requests for financial compensation, organizing trainings, etc. Analyzing the national legislative framework, it should be stated that the international definitions of trafficking in human being has not been properly transposed into the national legal criminal system in Bulgaria. The Bulgarian Criminal Code defines human trafficking only by the acts and the purpose: the means appears only as an aggravating circumstance.

According to the Palermo protocol, however, the elements of the crime of trafficking in human beings are three, namely acts, means and purpose. The international legal definition of trafficking thus requires that each of these elements should be present to establish the crime of human trafficking. The only exception relates to child victims for whom the means are irrelevant although trafficking for the purpose of begging is not explicitly mentioned in the Palermo protocol, it is increasingly recognized that exploitation for begging may constitute trafficking. In this regard, the EU trafficking directive should also be taken into account. In addition, the CoE Convention explicitly covers all forms of trafficking.

In addition, the term “sexual exploitation” does not appear at all in the Bulgarian legislation. Instead, the vague terms “vicious practice” and “debauchery” are used. None of them encompassed the meaning of exploitation. This may pose serious obstacles to the legal protection to the Roma and other persons who are predominantly trafficked for sexual exploitation.

Further, forced labour and servitude are not separated crimes but two of the special purposes of trafficking. Slavery is neither a separate crime nor a purpose of exploitation. The law does not contain a definition of slavery and servitude.

On the other hand, Bulgarian National Programmes for Prevention and Counter-Acting the Illegal Trafficking of People and Protection of its Victims usually list as high-risk groups for its prevention activities women, children, ethnic minorities, unemployed and socially disadvantaged people and includes certain concrete activities aimed at preventing the trafficking of Roma.

I. IDENTIFICATION

3.1. LEGAL FRAMEWORK AND CONTEXT

According to the European legislation, an **'identified victim'** is defined as a person who has been formally identified as a victim of trafficking in human beings according to the relevant formal authority in a Member States.

A **'presumed victim'** of human trafficking is defined as a person who has met the criteria of EU regulations and international Conventions but has not been formally identified by the relevant authorities (police) as a trafficking victim or who has declined to be formally or legally identified as trafficked.

According to Article 10 of the Council of Europe Convention on Action against Trafficking in Human Beings, States parties have to adopt measures to identify victims. In order to do so, States parties have to provide their competent authorities with persons who are trained and qualified in preventing and combating THB and in identifying and helping victims. Identifying a victim of trafficking is a process which takes time, thus the Convention requires if the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking, to not remove that person from the country until the identification process is completed. Such a person should receive the assistance provided in the Convention.

In Bulgaria, the identification of a victim of trafficking can be initiated in several ways, namely:

1. A preliminary declaration by an institution or an NGO, physical or legal entity, including a doctor, a social worker, a teacher;
2. A complaint submitted by the victim or her/his relatives;
3. During a Police check-up or investigation.

The National Mechanism for Referral and Support of Trafficked Persons describes the roles and procedures of stakeholders involved in the identification of victims of human trafficking. It provides for both informal identification (perform by organizations or persons who have the first contact with the victim) and formal identification (performed by bodies or staff responsible for pre-trial proceedings and aimed at starting the investigation). The National Mechanism for Referral and Support of Trafficked Persons provides the indicators for the identification of the victims in its appendix. The indicators are divided in two groups: 1. Criminal activities against the victim; and 2. Effects of trafficking on the behavior and psychological condition of the victim.

Self-identification as a victim is not possible. A person could report a crime of trafficking but she/he would be treated as a potential victim only after examination of the adopted indicators.

It is crucial to identify potential victims, so that anyone having a contact with them can best attend to the most frequent needs of the victims, namely respect and recognition, assistance, protection, access to justice and compensation.

Once identified as a trafficking victim a person is entitled to the following rights:

1. Rights of "identified" victim within the meaning of the National Mechanism for Referral and Support of Trafficked Persons.
2. Right to State-funded compensation for material damages.
3. Rights of a "victim" and a "witness" within the meaning of the Criminal Procedural Code.
4. Right to claim compensation for material and non-material damages from the trafficker.

Following the identification, the trafficked person identity should be verified and she/he should be informed about the right to a reflection period. The identification process should include a risk assessment with regard to the immediate dangers to the life and health of the victim and the development of an individual safety plan.

It should be aid that vulnerability to trafficking and to different forms of exploitation is shaped by gender. While women and girls tend to be trafficked for the purpose of sexual exploitation, for domestic work or in the care sector, men and boys tend to be victims of forced labour, in particular in agriculture, construction, mining, forestry, fishing. In addition the consequences, both short and long term, on trafficked women and men might differ, depending of the form of trafficking and gender.

The trends, patterns and working methods of the traffickers are changing in all of its forms, adapting to the changing patterns of demand and supply. Different forms of exploitation are very often merged and intertwined, thus making it hard to detect the exact form of exploitation the victims are subjected to. As a result, this makes it even harder to identify victims.

Working towards the elimination of trafficking in human beings cannot be achieved without placing the victim at the centre and any actions and initiatives. This is the victim-centered approach.

NGOs priority is to better identify, protect and assist victims. The NGOs teams aim to provide clear information to the victims on their rights under the international, European and national legislation, in particular their right to assistance and health care, their right to a residence permit, their labour rights, their rights regarding their access to justice and to a lawyer, and on the possibility to claim compensation.

The role of the law enforcement is paramount in addressing THB, including the identification of the victims. In general, most of the THB cases are identified through Police operations, raids and intelligence gathering as well as through the investigation of related crimes such as drug trafficking, weapon trafficking and domestic violence, to name a few. However, such practices do not cover all the cases and are not a guarantee for successful identification of trafficking victims as those affected often refuse to cooperate with the authorities due to fear of reprisals, detention and punishment. Very often, they are reluctant to present testimonies to the authorities which are necessary in anti-trafficking investigation. In that regard it should be noted that the current identification system is not sufficiently effective as it risks to leave out those who do not want to cooperate with the authorities and take part in judicial proceedings against the alleged traffickers. On the other hand, it should be stated that the law enforcement authorities lack adequate training on the subject of identification of victims of trafficking, thus they lack the knowledge to properly identify the victims.

Despite the increasing awareness that trafficking in human beings constitutes a serious human right violation, the State tend to focus on the prosecution and punishments of the perpetrators, while the victims right protection lags behind. Often victims are purely seen as an instrument for the prosecution with little regard for the far reaching consequences for their future lives, safety and well-being when they provide testimonies against their abusers. Another aspect which has not received due attention is the trafficking of foreign nationals. There is general acknowledgment that foreign victims of trafficking both transit Bulgaria and reach it as a country of final destination. However, there is still low number of identified foreign victims in the official statistics. The Bulgarian authorities should pay more attention to the identification of persons detained as irregular migrants. Also, there are concerns that such victims are extradited before being identified as victims of trafficking and given the opportunity to recover and cooperate with the authorities.

It should be stated that official statistics of victims of trafficking are limited to persons who have taken part in criminal proceedings as witnesses. Such a limitation significantly narrows the understanding of the problem, and, in turn, the resources which are allocated to the protection and assistance of the victims. Thus, the data collection should be broadened to include information from other sources such as NGOs and other relevant structures, regardless of whether criminal proceedings have been initiated and whether the victims have given statements in their capacities of witnesses against the traffickers.

3.2. FIRST CONTACT AND INFORMAL INTERROGATION

Usually, the first contact with the victims of human trafficking who managed to escape from the traffickers or were rescued by State authorities such as Police, is with the front line police officers (officials of the General Directorate Border Police of the Ministry of the Interior). The initial conversation is not a form of interrogation because its purpose is to identify and refer the victim. It is arranged in the National Referral Mechanism as part of the administrative proceedings for working in cases of trafficking in human beings. In order to make an official identification of the victim and to grant her/him accommodation, the police officers usually perform an initial conversation with the victim. The Police cooperate with State-funded and NGO-funded shelters in order to be able to accommodate the victims after their identification as such.

In reality, however, the initial conversation is not only one and the front police officers question the victims dozens of times in order to gather information on the concrete traffickers, the places where the exploitation took place, the recruitment methods, the type of transport used, the number and identification of other people involved in the trafficking network, etc. As a result, the Police authorities perform *de facto* interrogation about the perpetrator and the crime although the victims' statements cannot be used as evidence during criminal proceedings. The main reason for such conversations are related to the fact that often after their identification the victims disappear without a trace as they either prefer not to stay in a shelter but to go directly home or in non-identified address, or they stay in a shelter for a few days but decide not to cooperate with the authorities.

As a negative consequence of such initial conversations, as they are not official interrogations under the Criminal Procedural Code, the law's guaranteed against re-victimization are not observed. In addition, the victims' rights are not observed. Under the Action against Human Trafficking Act, the authorities are obliged to inform the victims of their basic rights such as the right to information, to a reflection period, not to cooperate with the authorities, not to be prosecuted, the right to a lawyer and the proceedings for having such, the right to compensation and which authorities to turn into, etc. In practice, most of the victims do not receive such information during the initial conversations. In conclusion, the initial conversation can easily turn into interrogation of a witness prior to informing her/him about her/his rights and without the presence of a lawyer.

3.3. NUMBER OF OFFICIAL INTERROGATIONS

Despite that the National Mechanism for Referral and Support of Trafficked Persons provides that the investigators should be prepared in advance about the trafficking person's condition and treat her/him with tolerance and understanding and confine the interrogation to the necessary minimum, dozens of official interrogations take place under the criminal proceedings. It is a result of the inability of the investigative authorities to look at the persons as victims and not as witnesses only. In such cases victims are summoned for interrogation whenever the investigation officers find appropriate. In addition, during some of these additional interrogations the victim may be forced to testify in the presence of their abusers who are accused in committing the crime of human trafficking. Further, the investigative officer may decide to put the victim under yet another interrogation in cases when she/he decided that she/he can lose contact with the victim. In such cases the victim is pressured to give statements before a judge and to literally repeat everything which was already stated during the investigation proceedings.

Furthermore, during the trial stage of the proceedings the victims will be questioned again during open hearings in the court rooms where she/he has to deliver exactly the same statements as those before. It is intended the victim to be interrogated just once during the trial proceedings but in reality she/he is usually questioned several times according to the circumstances of the particular case.

3.4. GOOD PRACTICE ADVICE

How to identify a person as a victim of the crime of human trafficking?

In order to decide that a person is a victim of human trafficking, the three elements of the crime should be in place, namely:

Actions - recruitment, transportation, harbouring or receiving an individual or groups of persons;

Means – use of coercion or deceit, through kidnapping or unlawful deprivation of liberty, through the use of condition of dependency, through abuse of power, through promising, giving or receiving profits;

Purpose – to be used for lechery practices, for forced labour, for removal of organs or for servitude;

In cases where children are involved, the means are irrelevant and the other two elements are enough to identify a child as a victim of the crime of trafficking in human beings.

It is not necessary a border to be crossed in order to qualify the crime as a trafficking in human beings.

Identification is performed on the basis of:

- Initial informal conversation with the trafficked person;
- Observation of the person's behavior and appearance;
- Information provided by the referring person, if any;
- Observation and analysis of the circumstances in which the person was found;
- Self-identification of the trafficked person as such;
- Others;

It should be noted that in most of the cases the trafficked persons do not identify themselves as such. Some of them experience strong feelings of shame and guilt because they have been involved in prostitution and prefer to hide it. Others were convinced by their traffickers that they were involved in illegal activities and will be punished by the law-enforcement authorities.

Indicators for identification of trafficked persons

3.4.1. Indicators related to criminal activities against the victim

1. Personal freedom.
 - 1.1. The person's identity documents have been taken away.
 - 1.2. The person's freedom of movement is limited.
 - 1.3. The person is kept in isolation and under constant control.
 - 1.4. The person is always accompanied when going outside.
 - 1.5. The person's contacts with other people and/or members of her/his family are limited.
 - 1.6. The person cannot leave the workplace.
 - 1.7. The person has to be in permanent telephone contact with the trafficker.
 - 1.8. The person's telephone conversations are monitored and controlled.
2. Payment.
 - 2.1. The person receives little or no payment.
 - 2.2. The person cannot use or does not have access to her/his earnings.
 - 2.3. The person receives lower payment than the minimum for this sector in the receiving country.
 - 2.4. The person pays debt to the trafficker.
 - 2.5. The person's debt constantly increases.
 - 2.6. The person is forced to earn a minimum amount per day or week.
3. Work conditions.
 - 3.1. The working conditions of the person do not follow the established rules in the labour legislation.
 - 3.2. The person cannot negotiate her/his working conditions.
 - 3.3. The preliminary working conditions are not kept.

- 3.4. The person is forced to do certain activities. The person does not have access to medical help.
4. Living conditions
 - 4.1. The person is forced to work and live in the same place.
 - 4.2. The person lives in very bad conditions, with lots of people in a small place.
 - 4.3. The person pays very high amounts for very bad living conditions.
 - 4.4. The person does not have access to information (radio, TV, Newspapers, Internet).
 - 4.5. The person does not have her/his personal belongings.
 - 4.6. The person is being hidden.
5. Violence.
 - 5.1. The person is subjected to physical, sexual, and/or emotional abuse.
 - 5.2. The person witnesses violence against other people with the purpose of maintaining fear "instruction".
 - 5.3. The person is threatened with violence against her/him or family members.
 - 5.4. The person is deprived of food and water.
 - 5.5. The person has visible marks of violence.
 - 5.6. The person is "disciplined" through punishments.
 - 5.7. The person is drugged in order to develop an addiction and increase compliance.
6. Dependence.
 - 6.1. The person does not speak the local language.
 - 6.2. The person does not know her/his home or work address.
 - 6.3. The person is dependent on the trafficker for her/his survival.
 - 6.4. The person is dependent on trafficker for drug use.
7. Blackmail.
 - 7.1. The person is blackmailed by having her/his documents away.
 - 7.2. The person is blackmailed with her/his illegal status in the destination country.
 - 7.3. The person's relatives are threatened or blackmailed.
 - 7.4. The person is blackmailed through threats of distribution of personal information about her/him or her/his family.
 - 7.5. The person is blackmailed through threats for informing the authorities about criminal activities in which the person participates.
 - 7.6. The person is blackmailed through threats of spreading the fact that she/he is a sex worker.
8. Recruitment.
 - 8.1. The person is recruited by an intermediary agency for work abroad, a model agency, a tourism agency, dating agency, training or other agency.
 - 8.2. The person is recruited by a friend, partner, relative, family member, or other acquaintance.
 - 8.3. The person is recruited through false marriage.
 - 8.4. The person is abducted or kidnapped.
9. Deception.
 - 9.1. The person was deceived with promises of large income=
 - 9.2. The person was deceived about the nature and/or conditions of work.
 - 9.3. The person was deceived with promises for marriage.
 - 9.4. The person was deceived with promises for a romantic relation.
10. Transfer and reselling.
 - 10.1. The person is transferred from one country to another or from one settlement to another.
 - 10.2. The person is moved from one town to another.
 - 10.3. The person is sold/resold or exchanged from one trafficker/pimp to another.
 - 10.4. The person is "rented".
 - 10.5. The person has false identification or travel documents.
 - 10.6. The person does not have her/his identification or travel documents because they are in someone else's possession.

11. Sexual exploitation.

- 11.1. The person is moved to different clubs/brothels/prostitution places.
 - 11.2. The person has tattoos, branding or other marks showing "belonging" to a certain trafficker.
 - 11.3. The person lives or travels with other women who sometimes do not speak her/his language.
 - 11.4. The person has clothes typical of work in sex industry.
 - 11.5. The person knows only words related to provision of sex services in the local language or the language of the group of clients.
 - 11.6. The person is not allowed to refuse service to a client.
 - 11.7. The person is not allowed to refuse certain sexual activities.
 - 11.8. The person is forced to have unprotected sex.
 - 11.9. The person is in the brothel/night club 24 hours a day.
 - 11.10. The person is not allowed to stop prostituting if she/he wants.
 - 11.11. The person is subjected to forced gynecological exams and pregnancy tests.
 - 11.12. The person is forced to take contraceptives or terminate a pregnancy.
- Indirect indicators.
- 11.13. There is evidence that groups of women are living together under the control of other people.
 - 11.14. There are advertisements in brothels suggesting sexual services of women of certain nationalities.
 - 11.15. There is information that prostituting women provide services to clients of a certain nationality.
 - 11.16. Clients report that the prostituting woman seems nervous or anxious and says she is forced to prostitute.

12. Labour exploitation.

- 12.1. The person is subjected to forced gynecological exams and pregnancy tests.
 - 12.2. The person lives in agricultural or industrial buildings.
 - 12.3. The person is not dressed adequately for the job she/he is doing.
- Indirect indicators.
- 12.4. The person has not received any training for the job she/he is doing.
 - 12.5. Notices have been posted in languages other than the local language.
 - 12.6. The employer or manager is unable to show the documents required for employing workers from other countries.
 - 12.7. The employer or manager is unable to show records of wages paid to workers.
 - 12.8. There are no health and safety notices.
 - 12.9. Equipment is designed or has been modified so that it can be operated by children.

13. Begging and pick-pocketing.

- 13.1. The person begs in public places or in the public transport.
 - 13.2. The person is part of a group for begging, petty theft, or other type of criminal activity.
 - 13.3. The person has physical impairments that appear to be result of mutilation.
 - 13.4. The person participates in activities of organized criminal groups.
 - 13.5. The person is punished if she/he does not steal enough.
 - 13.6. The person moves daily in large groups and over considerable distances.
 - 13.7. The person lives together with other people who are not part of her/his family who are known to the police in relation to criminal activities.
 - 13.8. The person travels with members of a criminal group to the country of destination.
 - 13.9. The person has been forbidden to leave the country in accordance with the law for Bulgarian identification documents.
- Indirect indicators.
- 13.10. The cases of crimes related to begging or pick-pocketing increase.
 - 13.11. The group of presumed victims has moved across many countries over a certain period of time.

- 13.12. The person is known in relation to begging.
- 13.13. The presumed victims have been involved in begging, pick-pocketing or other types of criminal activities in the country or abroad.
- 14. Domestic servitude.
 - 14.1. The person lives with the family like an aide (domestic help, babysitter, caretaker, etc.).
 - 14.2. The person does not eat with the rest of the family.
 - 14.3. The person does not have any personal space.
 - 14.4. The person is reported missing by her/his employer even though she/he is still living in the employer's house.
 - 14.5. The person rarely or never leaves the house.
 - 14.6. The person cannot leave the house without her/his employer.
 - 14.7. The person does not receive enough food.
 - 14.8. The person is subjected to insults, abuse, threats or violence.
- 15. Trafficking of children.
 - 15.1. The child carries and/or sells drugs.
 - 15.2. The child is part of a group of children of the same nationality (ethnicity).
 - 15.3. The child is part of a group with the same adult (guardian).
 - 15.4. The child is unaccompanied and was "found" by an adult of the same nationality.
 - 15.5. The child is part of a group with other children who travel with a public transport for no obvious reason.
 - 15.6. The child lives with adults who are not her/his relatives.
 - 15.7. The child is neglected.
 - 15.8. The child tried to escape from the officer who is detaining her/him.
 - 15.9. The child is scared and uncommunicative.
 - 15.10. The child does not know the local language.
 - 15.11. The child persistently begs from people on the street.
 - 15.12. The child has been detained by the police before and is registered for thefts.
 - 15.13. The child does not go to school and cannot read or write.
 - 15.14. The child is trained to speak in the same way in certain situations.
 - 15.15. The child cannot use the money she/he earns.
 - 15.16. The child is under permanent control/monitoring from an adult from a distance. Indirect indicators.
 - 15.17. The adults that live with the child have her/his identity documents and a declaration of consent from the child's parents.
 - 15.18. The adults that live with the child have large sums of money without being able to prove their origin.
- 16. Trafficking of pregnant women.
 - 16.1. The woman is a few months pregnant.
 - 16.2. The woman is a few months pregnant but tries to cover her condition.
 - 16.3. The woman travels with a man who claims to be the bay's father.
 - 16.4. The woman is a few months pregnant and travels with people who are not her relatives.
 - 16.5. The woman is a few months pregnant and travels but does not have the necessary finances or documents to give birth abroad for medical reasons.

3.4.2. Indicators describing the victim

- 17. Behavior and appearance
 - 17.1. The person is afraid to speak.
 - 17.2. The person's behavior suggests that she/he has been instructed how to behave and how to speak.
 - 17.3. The person is trying to escape.
 - 17.4. The person stays away from the other women in the club/brothel.
 - 17.5. The person believes that she/he has been observed or followed.

- 17.6. The person does not know her/his rights.
- 17.7. The person allows other people to speak on her/his behalf.
- 17.8. The person shows fear or anxiety.
- 17.9. The person exhibits anger or nervousness.
- 17.10. The person reports problems with sleep and nightmares.
- 17.11. The person has problems with memory.
- 17.12. The person exhibits signs of depression.
- 17.13. The person is confused about time and space.
- 17.14. The person reports that she/he is going crazy.
- 17.15. The person uses drugs and alcohol.
- 17.16. The person shows mistrust towards authorities.
- 17.17. The person is afraid to reveal their immigration status.
- 17.18. The person protects the trafficker or other third parties.
- 17.19. The person shows deviant behavior.
- 17.20. The person has sudden mood swings.
- 17.21. The person provides contradictory or incomplete information.
- 17.22. The person has psychosomatic complaints.
- 17.23. The person has physical complaints as a result of sexual abuse.
- 17.24. The person reports current or previous pregnancy.
- 17.25. There are signs of violence on a person's body.
- 17.26. The person looks exhausted.
- 17.27. The person has negligent appearance.
- 17.28. The person has physical and/or psychological problems.
- 18. Environment.
 - 18.1. People from the person's environment (parents, relatives, friends, neighbors) suspect that the person maybe a victim of trafficking.
 - 18.2. The person shows little or no attachment to the home and has started to isolate herself/himself.
 - 18.3. The person tends to run away from home (or the institution in which she/he lives).
 - 18.4. The person lives in a place that is possibly used for exploitation of people.
 - 18.5. The person comes from a place (country, town) which is known to be a place for recruitment of victims of trafficking.
 - 18.6. The person is followed or controlled in other ways.
 - 18.7. The person has a lot of new acquaintances and new things (clothes, new sell phone).
 - 18.8. The person is often absent from school or has left school.
 - 18.9. The person has contact with pimps, traffickers or other people connected with trafficking in persons.
 - 18.10. The place where the person works or lives is characterized with special security measures – bodyguards, cameras, hiding places, etc.
 - 18.11. The person travels frequently from and to countries of destination/origin.

4.LEGAL AID, COUNSELING AND REPRESENTATION

4.1. LEGAL FRAMEWORK AND CONTEXT

According to Article 15 of the Council of Europe Convention on Action against Trafficking in Human Beings, the States parties are obliged to provide for the victims of trafficking in human beings in their internal law the right to legal assistance and legal aid. The States parties are also obliged to adopt legislative or other measures in order to ensure compensation to the victims both from the traffickers and from the State. In addition, the victims have to be ensured with information of relevant judicial and administrative proceedings in a language understandable to them.

In Bulgaria, the Assistance and Financial Compensation to Crime Victims Acts stipulates that trafficking in human beings is one of the seven most serious crimes for which the State has the obligation to support and compensate the victims. According to Article 6 (1) of the law, victims should be informed about their rights orally or in written in a language they understand. This information should be provided either by the Ministry of Interior officials or by victim service providers. The Assistance and Financial Compensation to Crime Victims Acts also provides that victims of crimes are entitled to free of charge legal aid under the terms of the Legal Aid Act.

The procedure for filing a compensation claim is outlined in the Criminal Procedural Code. If the victim does not file a compensation claim during the criminal proceedings or is of the opinion that the awarded compensation does not cover all the damages inflicted, she/he has the right to file a new claim under the Obligations and Contracts Act before a civil court. The procedure is outlined in the Civil Procedural Code.

Rules for providing compensation are also provided in the Assistance and Financial Compensation to Crime Victims Acts (Article 3, paragraph 3), according to which assistance and compensation may be provided to persons who have suffered damages as a result of a crime committed against them, including trafficking in human beings. Such a compensation may be granted after a conviction of a trafficker or after the issuance of an act of a court or a prosecutor for suspension or a closure of a criminal case. The victim should apply for compensation before the National Council for Assistance and Financial Compensation of Victims of Crimes within two months after the conviction or the suspension/closure of the criminal case. The amount awarded varies between BGN 250 and BGN 5 000.

Thus, the right of the victim of legal aid arises from the moment she/he has been identified as a victim, according to Article 6 of the Assistance and Financial Compensation to Crime Victims Acts and the National Mechanism for Referral and Support of Victims of Trafficking in Human Beings.

According to Article 75 of the Criminal Procedural Code, the right of the victim to be legally represented in the criminal proceedings arises as of the moment she/he decides to cooperate with the investigation authorities.

The other way in which victims have access to legal aid is through NGOs acting in the field of human rights protection, especially women's human rights protection. However, the legal staff of the NGOs is mostly trained to work in domestic violence cases and victims of trafficking are very seldom found in their field of expertise and interest.

In practice, the victims of trafficking have no access to independent and quality legal assistance and aid, which prevents them from exercising their right to compensation. Usually, no financial compensation is requested by the victims of trafficking as they participate in the court proceedings only in their capacity as witnesses. Usually, most of them are not represented by a lawyer.

The victims of trafficking have the right to be legally counseled and represented by a lawyer. If they are not in a position to afford a lawyer due to financial difficulties, they have the right to an *ex officio* lawyer, funded by the State. This is a rule both in criminal and civil proceedings.

The legal aid could be two types: initial and full legal aid. The initial legal aid includes counseling and filing in documents. The full legal aid includes legal representation before the investigation authorities and before the court.

The leading prosecutor and the presiding judge could make a decision to appoint an *ex officio* lawyer in certain cases when the law requirements are fulfilled, namely the victim cannot afford a lawyer due to financial reasons. When such a decision is taken they send a letter to the relevant Bar Association and request an *ex officio* lawyer to be chosen in order to appoint her/him as a victim lawyer during the proceedings. What should be stated is that, according to Article 25 (5) of the Legal Aid Act, the victim of trafficking can choose her/his *ex officio* lawyer.

The authorities – prosecutors and judges - have to inform the victims about their right to have a lawyer and that an *ex officio* lawyer can be appointed if the victim cannot afford such. However, they do not examine whether the victims correspond to the conditions for appointment of an *ex officio* lawyer – the victim must request it herself/himself. As a result, usually the victims of trafficking do not receive legal aid and are not legally represented before the investigation authorities and before the court.

4.2. GOOD PRACTICE ADVICE FOR LAWYERS

How to have a counseling session with a victim of human trafficking?

Trafficking of human beings is one of the most traumatizing experiences a person could endure, thus when working with victims of human trafficking the following should apply.

The most common symptoms of post-traumatic stress disorder to be taken into account by a lawyer are the following:

- Recurring thoughts/memories of terrifying events;
- Feeling as though the event is happening again;
- Recurrent nightmares;
- Feeling detached/withdrawn;
- Unable to feel emotion;
- Jumpy. Easily startles;
- Difficulty concentrating;
- Trouble sleeping;
- Feeling on guard;
- Feeling irritable, having outbursts of anger;
- Avoiding activities that remind of the traumatic or hurtful event;
- Inability to remember part or most of traumatic or hurtful event;
- Less interest in daily activities;
- Feeling as if you did not have a future;
- Avoiding thoughts and feelings associated with traumatic events;
- Sudden emotional or physical reaction when reminded of the most hurtful or traumatic events;

In addition, the PTSD, victims of trafficking in human beings have been found to suffer from other anxiety and mood disorders, such as panic attacks, obsessive compulsive disorder, generalized anxiety disorder, and major depressive disorder.

In this regard, it is not surprising that during the process of investigation and during the court proceedings the victims could:

- Be hostile towards the investigator and the prosecutor as well as the judge;
- Refuse to cooperate with the investigation and the criminal authorities;
- Show lack of memory of the traumatic and hurtful events;
- Be able to describe events but not details;
- Block events which are life-threatening;
- Get irritated and/or irrational;
- Be disoriented;

- Show anxiety;
- Need more time to describe events, need pauses and rest during the description;
- Have more time to recover;

During counseling sessions with a lawyer, the victims are difficult to be properly heard when;

- The way of thinking of the lawyer is different that the thinking of the client;
- Education, culture and life experience of the lawyer is different than those of the client;
- The client speaks with an accent, on dialect or uses words not known to the lawyer;
- The lawyer has heard the same story before;
- The lawyer does not know how to answer some of the client's questions;
- The clients say something which the lawyer does not want to hear;
- The lawyer's feeling are very strong;
- The lawyer is focused on herself/himself and does not want to hear anybody else's voice;
- The result of what the client is talking about is negative;
- The lawyer decides that she/he does not like the client;

Based on the presented above, here are some suggestions for principles to follow for a professional and effective counseling session between a lawyer and a victim of human trafficking:

- Be aware of the time limitation you have as well as your own emotional borders towards the client;

This is the way to model a clear perspective to the client.

- Do not become a savior of the victim of human trafficking;

Such an attitude will re-victimize the client, making her/him dependent on you. Give the client the freedom to express herself/himself and look after a solution for their lives.

- Be sure that all you say and do is in the best interest of the client;

The ethical principle of the work as a lawyer obliges you to follow this principle but it is even more important in cases of victims of violence, especially of victims of human trafficking.

- Do not interpret what the client say;

Your duty is to explore the events that took place in the client's life and to give her/him an appropriate advice accordingly.

- Be flexible on your assumptions about the client;

Be ready to ignore your assumptions if they do not follow the clients' story. Be careful for the emotional status of the client. Be ready to drop out a certain legal action if it will be too painful for the client, unless it is strictly necessary for your work.

- Have an open mind;

Do not make conclusions too easily and be ready to stop them if they are not reflecting the reality of the life and emotions of your client. Always double check your conclusions made at the end of the session.

- Take care of your own interest by speaking with other colleagues and seeking their help;

Working with victims of violence, especially of victims of human trafficking, is a burdening experience and requires you to take care of your own emotional health by sharing your experience with colleagues in order to be ready to continue to carry the burden and to be helpful to others.

- Do not speak of subjects not related to the client;

Only gather the information which is necessary for your case. Do not burden the client with irrelevant questions such as what kind of relations she/he has in the past, relationships, health condition, sexual orientation, etc.

- Be subordinate to the principles of reality;

Do not promise more that you can provide. Help your client to understand the proceedings the way they are, together with all possible negative outcomes. Explain to the client every step and way it is necessary to be done, thus obtain her/his consent for all your actions.

The best way to perform a counseling session with a victim of human trafficking is the following:

- Do not schedule the session too early in the day;
- Have the session in a secure location;
- Offer the client something to drink in order to help her to gain some control over the session;
- Have the session once the victim is stabilized which could include previous psychological and social counseling;
- Have in mind that the victim could say something which will need validation in order to be sure she/he will not be at risk;
- If possible, ensure that the victim; relatives and friends will not be put at risk;
- Plan support and shelter first before going to participate in criminal proceedings;
- Avoid re-victimization;

The main aim of a counseling session between a lawyer and a victim of violence, particularly victims of human trafficking, is to build a relationship with the client which will help her/him to feel secure and understood. The main message is: "I see you the way you are. I understand you. I accept your version of the events in your life. I believe you."

I. REFLECTION PERIOD, TEMPORARY AND HUMANITARIA RESIDENCE PERMIT

5.1. LEGAL FRAMEWORK AND CONTEXT

5.1.1. Reflection period

According to the Council of Europe Convention on Action against Trafficking in Human Beings, victims have the rights to a reflection period of 3 months. Undocumented/migrant victims have the right to a temporary residence permit for the duration of the criminal and other proceedings when, at the end of the reflection period, they decide to cooperate with the authorities. If return would compromise their lives and safety, trafficked persons have the right to apply for asylum or a residence permit on humanitarian grounds.

In Bulgaria, according to Article 26 (1) and Article 9 (3) of the Action against Human Trafficking Act, adult victims have the right to a reflection period of 1 month. This applies to both internal and cross-border victims of trafficking. Child-victims have a longer reflection period of 2 months according to Article 26 (2) of the Action against Human Trafficking Act.

In practice, it is unclear who and how takes the decision to mark the beginning of the reflection period. For instance, social workers count the beginning of the period as of the accommodation day in a shelter. However, the police officer who has the initial conversation with the victim performing its official identification as such should set the beginning of the reflection period.

The victims have the right to access to free psychological and legal assistance during the reflection period. The psychological assistance can be either private-funded (NGOs) or state-funded (the Assistance and Compensation Act). When victims are accommodated in shelters, they get counselling by the psychologists who work with NGOs there. Another possibility is to turn to a private psychologist, registered under the Assistance and Compensation Act, paid by the State Fund (the same Fund that allocates the financial compensations for material damages).

It should be noted, however, that Article 17, paragraph 2, points 2 and 3, of the Assistance and

Compensation Act requires that the victim indicate in her/his request for psychological help the date, the place and the circumstances of the committed crime and the date on which the victim had informed the competent authorities about the committed crime. This is a deficiency in the law because it implies that the victim can seek psychological help only after s/he has cooperated with the authorities, but not before that, in case while the reflection period is running, which is in violation of the CoE Convention and the EU Directive.

As to legal assistance during the reflection period, the situation in theory is very good. As stated above, the Bulgarian law guarantees explicitly that victims of trafficking shall receive state-funded, initial legal aid (consultation and preparation of documents prior to the beginning of any court proceedings).

The two forms of initial legal aid - consultation for initiation of court case and filling in documents - absolutely include the cases of necessary counselling during the reflection period aimed at facilitating the victim in her/his decision whether to participate or not in the future criminal proceedings. As the right to initial legal aid follows automatically from the status of "victim of human trafficking", the police authorities should give the victim a document confirming that s/he is identified as such.

The private-funded legal aid during the reflection period is not good developed in practice either. Most NGOs do not have personnel trained enough to provide legal information (legally trained social workers, lawyers specializing in human trafficking, etc).

5.1.2. Temporary residence permit

According to Article 14 (1) of the Council of Europe Convention on Action against Trafficking in Human Beings, there are two possibilities when it comes to the issuing of residence permits to victims of trafficking, namely on the basis of their personal situation and/or their co-operation with the competent authorities in the investigation or criminal proceedings. However, all the EU Member States have been encouraged to follow the second option in the application of Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities. In this regard, it should be noted that Article 4 of the Directive allows the Member States to adopt or maintain more favorable provisions for third-country nationals who are victims of THB.

In Bulgaria, the grounds for issuing residence permits to victims of trafficking are provided in Article 25 of the Action against Human Trafficking Act. According to the article, those of the victims of trafficking who have declared their willingness to co-operate with the competent authorities for the identification of the trafficking offenders can receive "special protection status" for the duration of the criminal proceedings. There are two protection measures: 1. Permission for long-term stay in the country in respect of foreign nationals, and 2. Extension of the accommodation period in a shelter. Article 26 of the law requires the consent to be given by the victim within 30-days.

According to Article 24, paragraph 1, point 17 of the Aliens Act, a long-term residence permit can be granted to a foreigner who has received "special protection status: under Article 25 of the Action against Human Trafficking Act. Long-term residence permit, according to Article 23, paragraph 3 of the Aliens Act, is of one year duration or indefinite duration. Renewal of the residence permit is possible in cases when the criminal proceedings have not been completed within the period of its duration.

Once granted with "special protection status" and a residence permit, foreign victims of trafficking cannot be taken out of the country unless they so wish. There is an exception,

however, in cases when the victims do not have identity documents and refuse to co-operate for their identification (Article 28, paragraph 3 of the Action against Human Trafficking Act). In such cases, permission for long-stay is not issued.

As it could be seen from the national legal framework presented above, the co-operation with the competent authorities is a prerequisite for granting a residence permit to the victims of trafficking. In reality, the identification of the victims is closely linked to their willingness to co-operate with the authorities and, as a result, the one-month reflection period for the victims is not observed.

5.1.3. Humanitarian residence permit

If return would compromise the life and safety of foreign victims, they have the right to apply for asylum or a residence permit on humanitarian grounds. Article 9 of the Aliens Act provides that a humanitarian status shall be granted to an alien who is forced to leave or to stay out of the country of origin, as there s/he is exposed to a real danger of torture or inhuman or degrading treatment or heavy personal threats to their life. This interference can arise from the actions of an organization to which the State cannot counteract (organized criminal group).

5.2. GOOD PRACTICE ADVICE

In Bulgaria, there are no cases for issuing temporary or humanitarian residence permit to date.

I. THB AND SOCIAL WORKERS

6.1. LEGAL FRAMEWORK AND CONTEXT

Despite of the fact that human trafficking is recognized as a serious violation of human rights and a serious crime, its victims are still mostly treated as witnesses only during the criminal proceedings. In Bulgaria, the access of the victims to support and protection is often linked to her/his decision to cooperate with the authorities as well as to her/his importance for the pending criminal proceedings. Often, the actions undertaken towards the victims do not follow the international and European standards for human rights protection. Some of the examples in that regard are the following: obligatory medical checks, including on HIV; obligatory psychological counseling; restriction of the freedom of movement; making a contact with the victim's relative without her/his consent, etc.

The victims' decision to report acts of trafficking and to cooperate with the authorities during the investigation and criminal proceedings depends on the attitude of those authorities towards them, on the level of protection of their physical and mental integrity, on the risk to be arrested for perpetrating criminal acts while in trafficking, etc. Numerous studies have shown that the authorities have better chance for effective punishments of the traffickers when the victims were recognized as such and their basic human rights were observed and protected as the victims better cooperate with the authorities in such cases.

According to the European legislation – the Council of Europe Convention on Action against Trafficking in Human Beings and Directive 2011/36/EU of the European Parliament and of the Council – every type of support should be presented on mutual agreement of both the parties: victims and authorities, and after the victims have been informed properly about their human rights such as the right to a shelter, the right to legal aid and representation, the right

to social and psychological support, the right to medical help and support, the right to an interpreter, etc.

In Bulgaria, the victims of trafficking can rely on the following social support:

- 14 Crisis centres for children victims of violence and trafficking – with the capacity of 145 places, stay up to six months, created under the Social Assistance Act and funded by the State although it is mostly NGOs which operate them;
- 8 Crisis centres for adults victims of violence and trafficking - with the capacity of 66 places, stay up to six months, created under the Social Assistance Act and funded by the State – all of them operated by NGOs;
- 2 Shelters for victims of trafficking only – with the capacity of 8 (+4) places, long-lasting stay until the end of the proceedings, created under the Action against Trafficking in Human Beings Act, funded by the budget of the National commission for combatting trafficking in human beings, both operated by NGOs.

There is a National Mechanism for Referral and Support of Trafficked Persons in Bulgaria which is a cooperative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, coordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and to provide an effective way to refer trafficked persons to comprehensive services. In addition, NRMs can work to help improve national policy and procedures on a broad range of victim-related issues, such as residence and repatriation regulations, victim compensation, and witness protection. NRMs can establish national plans of action and can set benchmarks to assess goal attainment.

Social support according to NRM

1. Description of the service

Social support helps victims of trafficking and their family and relatives to cope with practical problems which arise in the process of re-integration.

In relation to trafficking in persons, social support can be used by:

- *Adults and children victims of trafficking*
- *Family members and relatives of victims of trafficking*

Social support includes the following forms of work:

- **Case assessment**

*Assessment of the needs of the client of social support and his/her resources for coping.
Agreement on a plan for social support.*

- **Social counselling**

Informing the client about the possibilities to meet his/her needs. Provision of information about the legislation, services and programs providing support, the steps that need to be taken, the documents that need to be provided, etc., information about the victim's rights as per CTHBA and other relevant legislation.

- **Social advocacy**

Accompanying the client and facilitating his/her communication with institutions; protection of the rights and interests of the person and support in overcoming bureaucratic or other difficulties.

- **Referral**

Referral to services and organizations providing support.

- **Humanitarian aid**

Provision of material help (in the form of money, items or products) for meeting the client's most urgent needs.

- **Case management**

Assessment and planning of the work on the case; preparation of the necessary

documentation and correspondence for referral and cooperation; organization of multidisciplinary meetings.

2. Principles of work

- Emotional support
- Confidentiality
- Informed consent
- Partnering in preparation of a safety and support plan
- Information for referral
- Partnering in decision making
- Empowerment
- Follow-up

3. Organization of the work

- Social support is provided by social workers who work in a team.
- Each case has a case manager (a social worker, clinical social worker or a consultant providing crisis intervention). The case manager is responsible for the overall organization of the work on the case and the cooperation with other specialists and institutions.
- New cases are presented at weekly team meetings where the case manager is appointed, tasks are distributed and directions of work are discussed.
- Social support can be provided as:
 - · Emergency social support accompanying crisis intervention, aimed at meeting the victim's most urgent needs; the service is provided at any time of day or night.
 - · Social support accompanying the process of re-integration and aimed at meeting the long-term needs; provided within regular office hours
- The work of the social workers is organized in a schedule. The shifts are distributed evenly to avoid work overload and burnout of the social workers.
- There is a procedure for equal distribution of the work among the team members in order to avoid burnout.
- The program has an updated informational database of institutions, services and programs where the clients can be referred. It must be updated regularly.
- There are clear procedures for work in the following situations:
 - · In cases of high risk for the health and life of the person using social support (suicidal risk or risk of self-harm, etc.).
 - · In cases of children.
 - · In cases of people with psychiatric problems.
 - · In cases of people with addictions.
- These procedures are included in the social workers' training.
- The work of the social workers is reported and distributed during organizational/administrative meetings held at least once a week.
- When the victim is a foreign citizen, the program ensures translation into a language that the person can understand.
- The social workers have close cooperation with the other experts involved in the support of the victim – psychologist, lawyer, doctor, representatives of the social services, etc.
- The social work on cases of trafficking continues until completion of the client's request.
- A main principle of work is the organization of multidisciplinary meetings related to the work on cases. Notes are kept during all meetings and the clients are informed about them and the results from them. The multidisciplinary meetings should be held, if possible, in the presence of the victim.
- There is a procedure for provision of humanitarian aid. The victim signs a declaration for the received material support.
- There is a procedure for referral of victims to other services and organizations which includes:
 - · Informed consent of the person that he/she can be referred to another organization;
 - · Establishing initial contact with the receiving organization;
 - · Preparing the documentation related to the referral which contains only as much

information as is necessary for work on the case; provision of the information of the person with his/her explicit consent.

- · If necessary, accompanying the person to the receiving organization;
- · Feedback from the receiving organization and follow-up on the case.
- The information about the person is provided to the receiving organization in a written form. In cases of emergency, oral referral is also possible.
- The organization of the work is described in internal regulations of the social support program and all employees of the program are acquainted with it.

4. Staff and management

- The staff of the program for social support works in a team and respects the principles of teamwork:
 - · Shared responsibility;
 - · Distribution of roles and tasks;
 - · Team meetings;
 - · Open and accessible communication;
 - · Timely feedback;
- The team of the social program consists of clinical social workers and social workers who have undergone specialised training.
- Clinical social workers can be people with humanitarian education, a minimum of bachelor's degree, with major in clinical social work, social work, social pedagogy or psychology.
- The work of the social workers is managed by a coordinator.
- There is a procedure and criteria for staff recruitment.
- The training of the clinical social workers includes the following areas:
 - · **Basic knowledge about the phenomenon trafficking in persons and its victims;** skills for identification of trafficked persons
 - · **Skills for communicating with people in stress or survivors of psychological trauma** – skills for support, tolerance and understanding, keeping the personal boundaries and space, understanding the behavior and emotional outbursts of victims of violence
 - · **Needs assessment and development of a safety and action plan**
 - · **Referral** – skills for referral and good knowledge of the institutions providing different forms of help and support; knowledge of the legal framework.
 - · **Knowledge about the possibilities for support that Bulgarian legislation provides.** Knowledge of NRM, CTHBA, The Protection against Domestic Violence Act, Child Protection Act, Coordination mechanism for referral, care and protection of repatriated Bulgarian unaccompanied minors and children victims of trafficking returning from abroad, Crime Victim Assistance and Financial Compensation Act, LAR, LFB, SAA, RISAA, etc.
- The social workers can use individual or group supervision.

recommendations

- The introductory training for the new social workers is organized in several stages:
 - · Intensive interactive training seminar
 - · Observation of the work of more experienced social workers or appointment of a mentor from the team for a certain period of time
 - · Participation in seminars and workshops for the team of social workers on different topics related to counselling of victims of trafficking and their family and relatives.
- Every six months there are additional trainings on topics related to the consultants' everyday work.
- The team of the Center holds regular administrative team meetings.
- The work of the Center can be supported by volunteers and interns.

5. Storage and protection of information

- The information about the provided social support is kept in the victim's personal file.
- The information is organized and filled by the case manager.

- *The information about the social support includes:*
 - *Description and assessment of the current situation*
 - *History of the problem*
 - *The client's needs as stated by him/herself*
 - *The client's needs as assessed by the case manager*
 - *Strategy and plan for work on the case*
 - *Contract for receiving a social service*
 - *Services, specialists and institutions who have been contacted for the case*
 - *Copies of any relevant documents*
 - *Notes on the work on the case*
 - *Minutes from work meetings on the case*

6. State documents

- *Regulation for the asylums for temporary accommodation and the centers for protection and help for the victims of illegal traffic of people (Prom. SG. 19/9 Mar 2004)*
 - SAA
 - RISAA
 - CPA
 - RICPA

7. Evaluation of the service

- *A detailed needs assessments and developed action plan;*
- *Qualitative evaluation of the achieved goals – description of the results*
- *Number of multidisciplinary meetings and teams working on the case*
- *Number of hours of social work*
- *Number and type of referrals to relevant services and institutions and their results*
- *Feedback from the clients*
- *Information from the follow-up on the case*
- *Feedback from other professionals*
- *Feedback from individual and group supervisions*

8. Responsibilities

- *The management of the service provider is responsible for the quality of the service.*
- *The case manager is responsible for the assessment, planning and good implementation of the direct work.*

The coordinator of the program is responsible for the organization and distribution of the work among the team members and for its follow-up

- *The supervisors are responsible for maintaining the quality of work through provision of feedback about the strengths and weaknesses in the implementation of the work and the areas which need improvement.*

6.2. GOOD PRACTICE ADVICE FOR SOCIAL WORKERS

During the accommodation of the victims in the shelters/crisis centres and, more importantly, during the reflection period, the social workers should:

- inform victims of their rights;
- inform the victims about the need to collect and keep evidence for the material damages caused by the crime in order to claim compensation;
- help the victims to timely request the freezing of the assets of the accused;
- help the victims to fill in the necessary forms for legal aid;

A social worker dealing with cases of trafficking in human beings should be aware of all the rights the victims of trafficking are entitled to and to provide information about them, namely the right to access to legal aid, right to information, right not to cooperate with law enforcement, right to protection of privacy and safety, right to witness protection and to be treated with dignity, right to protection of physical integrity, right to compensation, right to non-prosecution and non-punishment, right to a reflection period, temporary and

humanitarian residence permit, non-detention of trafficked persons, repatriation and guarantees of non-repetition.

6.2.1. Access to legal aid

Under the Assistance and Financial Compensation to Crime Victims Acts the social workers are obliged to inform the victims of trafficking that they have the right to be consulted and represented by a lawyer. If they cannot afford to engage such with their own finances, they have the right to *ex officio* (State-funded) lawyer, when they provide evidence of low income under the terms of the Legal Aid Act. This includes both criminal and civil proceedings.

The right of the victim of legal aid arises from the moment she/he has been identified as a victim. According to Article 75 of the Criminal Procedural Code, the right of the victim to be legally represented in the criminal proceedings arises as of the moment she/he decides to co-operate with the investigation authorities.

The legal aid is initial – consultation and filling in documents, and full – legal representation before the investigation authorities and before court in open hearing.

The information about the right to legal aid should be presented orally or in written in a language the victims of trafficking understand.

The procedure for filing a compensation claim is outlined in the Criminal Procedural Code. If the victim does not file a compensation claim during the criminal proceedings or is of the opinion that the awarded compensation does not cover all the damages inflicted, she/he has the right to file a new claim under the Obligations and Contracts Act before a civil court. The procedure is outlined in the Civil Procedural Code.

6.2.2. Right to information

The first contact with the victims of trafficking is most often with NGOs – hotline operators or social workers. NGOs are authorized to identify victims and they are responsible for informing them about the initial rights that arise in regard to their victim status (Article 6 of the Assistance and Financial Compensation to Crime Victims Acts). In practice, the victim is considered able to decide whether to cooperate with the authorities once she/he has received psychological support and/or is emotionally stable.

As of the moment the victim is identified as such she/he must be informed about the first group of rights that arise for her/him, namely:

- The right to a reflection period.
- The duration of the reflection period – 1 month.
- The right to psychological help and legal consultation during the reflection period.
- The right to be accommodated in a shelter for the duration of the criminal proceedings, if she/he cooperates with the authorities (reports the crime).
- The right to financial compensation for material damages from the State Fund.

6.2.3. Right not to cooperate with law enforcement

The right to refuse cooperation does not imply the general right of witnesses to refuse to answer questions. It is a more basic right and has two meanings. Firstly, the victim can refrain from reporting the crime to the authorities and requesting the opening of criminal proceedings against the trafficker. Secondly, if the criminal proceedings are already opened upon the initiative of the authorities, the victim can refuse to give statements.

The right not to cooperate is not provided explicitly, but a number of legal provisions imply its existence, by providing some privileges for the victims of trafficking who agree to cooperate. For example, Article 25 of the Action against Human Trafficking Act provides that the trafficking victims who “expressed their consent to cooperate” shall be granted a privilege. Also, Articles 15 (5) and 17 (3) of the Assistance and Financial Compensation to Crime Victims Acts provide that if the victim has reported the crime to the competent authorities she/he shall be granted privileges.

There are no special consequences attached to the refusal to cooperate with the prosecution. In fact, the victim is not exempt from her/his obligation to meet with the investigative officer, once she/he is summoned to give statements – otherwise she/he risks being imposed a fine or escorted by police. However, when she/he meets the investigative officer, the victim can declare that she/he will exercise the right not to cooperate, with which the giving of statements will be exhausted. The minutes from these statements shall not be included in the investigation case file and it must be guaranteed that the accused will not learn about them and the victim will not be included in the list of witnesses.

6.2.4. Right to protection of privacy and safety

Privacy

Social workers should explain to the victims that there are two special measures in Bulgarian legislation for the protection of their privacy, a ban on photographing/videotaping and an exclusion of the public.

Article 32 (2) of the Constitution provides that everybody has a right to respect for his/her private life: *“no one can be followed, photographed, videotaped, recorded or subjected to other similar actions without his/her knowledge or despite his/her explicit disagreement”*. On the basis of this provision, the court can forbid the use of photo and video cameras inside the courtroom. However, it cannot forbid the presence of the journalists.

Article 263 (2) of the Criminal Procedural Code provides for exclusion of the public from the courtroom (hearing behind closed doors). Principally, a case dealing with sexual exploitation shall be heard behind closed doors and only the persons indicated in the law shall be allowed, without the presence of journalists, relatives or other third persons. This measure is widely applied in practice, in cases of trafficking for sexual exploitation. Another legal ground to hear the case behind closed doors is when one of the witnesses in the case is provided with a hidden identity.

Article 263 of the Criminal Procedural Code provides: *“The hearing of the case shall be behind closed doors when it is necessary for protection of ... the morals, as well as in cases of [witness with secret identity]. This provision can also be applied when it is necessary to prevent the announcement of facts of the intimate life of the citizens.”*

The court applies the provisions providing for a hearing behind closed doors on its own initiative, without the need of a specific request on behalf of the victim or the lawyer.

Safety: hidden identity and police escort

Social workers should explain to the victims that the Criminal Procedural Code provides for two main safety measures, hiding the identity of the victim-witness and physical protection (guard). If these are not sufficient, then the measures of the Protection of Individuals at Risk in Relation to Criminal Proceedings Act can be applied, the most radical one being the complete change of identity.

Secret identity

The measure is applied upon the victims' request, usually when they state before the prosecutor that they are worried or afraid. It is set forth in Article 123 (2) 2 of the Criminal Procedural Code. The name, address and other personal data of the witness with a secret identity are not revealed in the case file, but instead the witness is identified through a number. There is a special way for the defendant to ask questions to such witnesses, without being able to see him/her and hear his/her voice. The interrogation of such witnesses has its specifics also for the investigation authorities and the interrogating officer or judge shall be specially trained. The questions must be formulated in such a way that they should cover the circumstances of the case but at the same time, they should not allow for a disclosure of the identity of the witness. The interrogating person must demonstrate a high level of professionalism and must interrogate in such a way that she/he shall simultaneously prove the factual situation and hampers the defendant from learning who the witness is.

Police escorts

Police escorts to court hearings are available under Article 123 (2) 1 of the Criminal Procedural Code. Police guards can be appointed both as a protection measure to a concrete witness under Article 123 (2) 1 of the Criminal Procedural Code and as "a situation measure for security of the order in a court hearing".

Witness protection programme

There is a special witness protection programme set forth in the Protection of Individuals at Risk in Relation to Criminal Proceedings Act. The measures under this act include: physical protection (personal and of the members of the family and the property), temporary accommodation in a safe place, change of residence, job, or school, and complete change of identity. It is applicable to persons whenever they cannot be protected with the means provided by the Criminal Procedural Code.

Safety: other measures

Article 123 (2) 2 of the Criminal Procedural Code and Article 20 of the Action against Human Trafficking Act provide that the personal data of the victim should be kept secret and that the victim's anonymity shall be guaranteed.

Ensuring the address of the victim secret (when her/his identity is not hidden) is not provided explicitly, it is a question of tactics of the prosecutor. This possibility can be applied only when there have been charges raised against concrete person (when there is an "accused"). The procedure for imposing this ban can be initiated *ex officio* by the prosecutor or upon request of the victim. The request shall be considered by court, in open hearing with the participation of the parties. The ban ceases after the completion of the trial with final verdict or when the proceedings have been ended on another ground.

Articles 139 (8) and 141 of the Criminal Procedural Code provide for hearing of the witness through audio or video link. Audio link is non-applied in practice, as the same efforts are necessary for the organization of an audio link as for the organization of a video link, which more completely satisfies the interests of justice. Therefore, when necessary the judges organize a video link. These provisions are not applied automatically but upon a victim's request. The victim must substantiate this request well and the court must give clear reasons why it allows it, so that it does not breach the rights of the defence.

6.2.5. Right to witness protection and be treated with respect and dignity

There are no special provisions in regard to the right to be treated with respect and dignity of victim-witnesses in criminal proceedings. The general constitutional norm applies that *“everyone has the right to protection against unlawful breach of his honor, dignity and good name.”* (Constitution, Article 32 (1))

Pre-trial

There are no explicit requirements in the Criminal Procedural Code regarding how the pre-trial interrogation of the victim should be held and how the questions should be put. Article 139 (2) shortly states that the investigative officer *“shall invite the witness to give statements in good faith”*.

Social workers should explain to the victims that they are allowed to be accompanied during interrogations by a person of their own choice with whom they trust. The victims should be informed that the police should not summon them and the suspect for interrogations on the same date, in order to avoid their meeting in the police station.

The right of the victim to be treated with respect and dignity corresponds to the authorities' duty to strive to minimize as much as possible the number of interrogations. In theory, the police officers are trained that the questions shall not be leading and such that injure the personal dignity and in all cases the questions shall not be hurtful. In practice, these instructions are not always followed. For such reasons, social workers, who accompany victims to their interrogations at the police station, should look after the investigation authorities not to use vulgar language and to not act disrespectfully by accusing the victims of having contributed to their situation.

Trial

The social workers should explain to the victims that during the court proceedings the presiding judge has the leading role in maintaining the order in the courtroom and observing the rights of all participants, including the victims.

Threats, insults, intimidation and any other assault represent violations of the order in the courtroom.

Under the effective legislation, the victim is obliged to appear at the court hearing and when called for interrogation, she/he can rely on some of the above presented grounds, for example, to refuse to give statements or to claim that she/he cannot remember something.

6.2.6. Right to protection of physical integrity

Victims have the right to protection of their physical integrity. They have to give informed consent to any medical or other physical examination.

Article 87 (1) of the Health Act provides that *“[m]edical interventions shall be performed after expressed informed consent of the patient.”* However, in some cases the victim shall undergo a compulsory medical examination. More specifically, Article 144 (2) of the Criminal Procedural Code provides that medical examination is obligatory when the crime has caused bodily injury and a doubt exists regarding the severity of this injury.

HIV tests are not compulsory but can be an investigation method in a particular case.

6.2.7. Right to compensation

At the outset, it is possible to claim financial compensation for material and immaterial damages as part of the criminal proceedings to be paid by the offender. If compensation for damages is awarded, the victim her/himself is responsible for the enforcement of the court judgment.

There is no State authority responsible for ensuring that the victim *de facto* receives the compensation awarded. The writ of execution, issued by the court, shall be presented to a private bailiff, who opens proceedings for investigation into the property of the defendant and collection of the debt.

The State is not under a duty to collect the sum instead of the victim. The prosecution and the victim have the right to request the court to freeze assets of the accused during the pre-trial or during the court stage as a guarantee of the compensation claim.

In theory, it is possible to claim compensation for material and nonmaterial damages, through civil proceedings, to be paid by the offender.

Finally, there is a State Fund to which victims can apply for financial compensation for material damages. Article 6 of the Assistance and Financial compensation of Victims of Crimes Act obliges NGOs to inform the victim about it.

This Fund is meant for victims of serious intentional crimes that have caused death or serious bodily injury, rape, human trafficking and crimes committed by organized criminal groups. National citizens, citizens from other EU states and non-EU states can apply to this Fund. Compensation can even be awarded if the trafficker is not known and the investigation has been ceased due to the failure of the authorities to identify him/her. Also compensation can be awarded if the trafficker is known but the investigation was ended because, for example, the statutory time limit expired or the trafficker deceased.

The following costs can be compensated under the State-run scheme: medical treatment (medicines and examinations); the fee paid to a lawyer, in case the victim had not applied for legal aid, other court fees, or lost wages.

The Fund shall compensate sums between BGN 250 and 5000 (EUR 125 and 2500). The application shall be considered, not by a court, but by a committee of experts who decides in a closed hearing on the basis of written evidence. For example a check for paid medication and examinations, travel tickets, invoices, labour contract etc.

6.2.8. Non-prosecution and non-punishment of trafficking persons

Article 16 a of the Criminal Code contains a provision to ensure that victims are not prosecuted and/or punished for offences they committed as a direct result of their being trafficked.

“There is no guilt in the crime committed by a person, victim of human trafficking, when s/he was forced to commit it in direct relation with her/his capacity of a victim.”

6.2.9. Non-detention of trafficked persons

Article 16 a of the Criminal Code contains a provision to ensure that victims are not detained for offences they committed as a direct result of their being trafficked.

“There is no guilt in the crime committed by a person, victim of human trafficking, when s/he was forced to commit it in direct relation with her/his capacity of a victim.”

6.2.10. Reflection period, temporary and humanitarian residence permit

Reflection period

In Bulgaria, according to Article 26 (1) and Article 9 (3) of the Action against Human Trafficking Act, adult victims have the right to a reflection period of 1 month. This applies to both internal and cross-border victims of trafficking. Child-victims have a longer reflection period of 2 months according to Article 26 (2) of the Action against Human Trafficking Act.

Social workers should explain to the victims that they have the right to access to free psychological and legal assistance during the reflection period.

The psychological assistance can be either private-funded (NGOs) or State-funded (the Assistance and Financial compensation of Victims of Crimes Act). When victims are accommodated in shelters, they get counselling by the psychologists who work there. Another possibility is to turn to a private psychologist, registered under the Assistance and Financial compensation of Victims of Crimes Act, paid by the State Fund (the same Fund that allocates the financial compensations for material damages). It should be noted, however, that Article 17, paragraph 2, points 2 and 3, of the Assistance and Financial compensation of Victims of Crimes Act requires that the victim indicate in her/his request for psychological help *“the date, the place and the circumstances of the committed crime”* and *“the date on which the victim had informed the competent authorities about the committed crime”*.

As to legal assistance during the reflection period, the Bulgarian law guarantees explicitly that victims of trafficking shall receive State-funded, initial legal aid (consultation and preparation of documents prior to the beginning of any court proceedings). Article 22 of the Legal Aid Act reads: *“The legal aid under Article 21, p. 1 (consultation for initiation of court case) is free and shall be granted to ... victims of ... human trafficking, who do not have finances and wish to use legal defense.”*

The two forms of initial legal aid - consultation for initiation of court case and filling in documents - include the cases of necessary counselling during the reflection period aimed at facilitating the victim in her/his decision whether to participate or not in the future criminal proceedings.

As the right to initial legal aid follows automatically from the status of “victim of human trafficking”, the NGOs should give the victim a document confirming that she/he is identified as such. This could be, for example, the letter of rights signed by the victim on her/his first conversation with the social workers. With this document the victim shall apply for legal aid in the form of consultation directly to the National Legal Aid Bureau and not to the investigation authorities. The decision shall be taken within a 14-day time limit.

Temporary residence permit

In Bulgaria, the grounds for issuing residence permits to victims of trafficking are provided in Article 25 of the Action against Human Trafficking Act. According to the article, those of the victims of trafficking who have declared their willingness to co-operate with the competent authorities for the identification of the trafficking offenders can receive “special protection status” for the duration of the criminal proceedings. There are two protection measures: 1. Permission for long-term stay in the country in respect of foreign nationals, and 2. Extension of the accommodation period in a shelter. Article 26 of the law requires the consent to be given by the victim within 30-days.

According to Article 24, paragraph 1, point 17 of the Aliens Act, a long-term residence permit can be granted to a foreigner who has received “special protection status under Article 25 of the Action against Human Trafficking Act. A long-term residence permit, according to Article 23, paragraph 3 of the Aliens Act, is of one year duration or indefinite duration. Renewal of the residence permit is possible in cases when the criminal proceedings have not been completed within the period of its duration.

Once granted with “special protection status” and a residence permit, foreign victims of trafficking cannot be taken out of the country unless they so wish. There is an exception, however, in cases when the victims do not have identity documents and refuse to co-operate for their identification (Article 28, paragraph 3 of the Action against Human Trafficking Act). In such cases, permission for long-stay is not issued.

Humanitarian residence permit

If return would compromise the life and safety of foreign victims, they have the right to apply for asylum or a residence permit on humanitarian grounds. Article 9 of the Aliens Act provides that a humanitarian status shall be granted to an alien who is forced to leave or to stay out of the country of origin, as there she/he is exposed to a real danger of torture or inhuman or degrading treatment or heavy personal threats to their life. This interference can arise from the actions of an organization to which the State cannot counteract (organized criminal group).

6.2.11. Repatriation and guarantees of non-repetition

Victims can return home at any moment:

- immediately, after their identification, if they do not want to have a reflection period.
- after the expiration of the reflection period, if they decide not to cooperate for the investigation of the crime.
- or after they agreed to cooperate and received a right to residence permit.

In the latter case, there are some specifics. Firstly, if they leave the country, they have to apply for a visa in order to re-enter. Secondly, the investigative authorities might want to summon them for another interrogation in front of a judge, so that they are not summoned again later during the court stage of the proceedings. This can delay their departure from Bulgaria. Thirdly, if additional clarification of some questions or a confrontation is still needed in the court stage, they must be ready to participate in a videoconference.

Before the victim leaves the country, the authorities shall issue a decision on repatriation, whereby they shall assess the risk for her/his safety.

I. THB AND HEALTH CARE PROVIDERS

7.1. LEGAL FRAMEWORK AND CONTEXT

For health care providers, trafficking in human beings is best understood as a very serious health risk, because trafficking, like other forms of violence, is associated with physical and psychological harm. Evidence on human trafficking indicates that no region of the world is free from this form of violence and exploitation.

A sensitive health care provider may play an important role in assisting and treating adequately the victims of trafficking, thus protecting them from re-victimization.

A health care provider may be the first person to whom victims of trafficking turn for help and support, especially in cases where injuries and illnesses are at stake. Thus, the health provider who encounters a trafficked person has a unique opportunity to provide essential

medical care and vital referral options that may be an individual's first step towards safety and recovery.

Trafficked persons frequently experience discrimination and neglect and their access to health services is restricted. At the same time, all victims of trafficking are entitled to health support and assistance based on human rights and humanitarian principles and it is up to the concrete specialist to apply the most appropriate means for individual treatment.

General knowledge indicates that most people who are trafficked are exposed to health risk before, during, and even after the period of exploitation. As human trafficking is best understood as a process starting with the phase of recruitment, followed by the phase of transfer and the phase of exploitation, it should be noted that each stage of this cycle poses risks to an individual's health, as well as opportunities for health care providers to intervene with information, assistance and support.

Once an individual is able to access care, she/he needs assurance that they are not to blame for what happened to them and to regain a sense of being respected and accepted. Some of the cases could be particularly complex and may pose special challenges during the work with the trafficked persons. In such cases, health care providers may find out that their patients do not follow their appointments and the prescribed treatment or that the needs of their patients are related to other than medical needs that could be addressed by other service providers.

Diagnosing the health needs of trafficked persons is often complex because their symptoms generally reflect the cumulative effect of the health risk they face throughout the trafficking process. They include: headaches, fatigue, dizziness, memory loss, sexually transmitted infections, abdominal pain, back pain, dental problems, weight loss, eating disorders, sleep disturbance and insomnia.¹

Ensuring medical care to trafficked persons requires special attention to the individual's health, safety and well-being. Victims have the need to regain a sense of safety, dignity and control over their bodies and lives. They also need to be encouraged to seek information, to use the specialized services provided by the State and to look for opportunities for reintegration and reinsertion into the society.

7.2. GOOD PRACTICE ADVICE

Bellow, a set of guiding principle should be taken into account by the health providers, namely:

- Follow the recommendations of the WHO;
- Treat every contact with a victims as a potential step towards improving their health;
- Obtain voluntary and informed consent for each treatment;
- Put the safety of the victims as a priority;
- Ensure the confidentiality and privacy of the victims and their families;
- Avoid informing other authorities unless the victim's consent is given;
- Protect the files of the victims;
- Provide health care in non-discrimination manner;
- Provide information in an understandable manner;
- Respect the rights, the choices and the dignity of the victims;
- Be prepared with appropriate referral information about all the services provided in the country/region and the adequate service providers;
- Collaborate with the available service providers;

¹ http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=510;

- Follow UNICEF's Reference guide on protecting the rights of child victims of trafficking in Europe when children are the victims ²;

I. THB – BARRIERS AND LEVERAGES

8.1. CONTEXT

In September 2014, a questionnaire for interviewing victims of trafficking in human beings was developed under the project, focused on the treatment of victims. Questions included information on the gender and age of the victims, type of exploitation, social environment, development and motivation, were they involved in judicial proceedings, what were their problems during the investigation phase such as the interrogation methods, the number of interrogations, the information they were asked about, what were their problems during the judicial stage such as the length of the criminal proceeding and their "victim status", what were the problems with the victim's rights, what were the barriers for their reintegration.

The main goal of the study was to gather information on the process of becoming a victim of trafficking in human beings, the barriers faced by the victims in their attempts to get out of the trafficking networks and the situation of trafficking for sexual exploitation as well as to gather information on the leverages.

A serious number of the victims interviewed claimed that they voluntarily agreed to the traffickers' conditions for "work" – to give them half the income they received from selling sex. They said they had an agreement to bring clients to particular places such as hotel or houses. **They claimed that they knew the nature of the activity they were going to be involved in and denied to had been forcefully involved in those illegal acts. Some of them described that they initially sought the traffickers after reading a newspaper advertisement for escort girls, others that they learnt from friends. However, in the majority of the sexual exploitation cases the victims concealed the real relationship with the oppressor for fear for their and their family's lives. Some explained that the traffickers were violent, coercive, disregarding, imposing full control over their lives and wellbeing, noncomplying with their feelings and wishes.** Traffickers viewed the prostituting women as a means to amass big sums of money; **objectification of women; scornful attitudes; they divided them into "cheap" and "expensive" depending on their physical outlook.**

Reporting **period**: September 2014 – April 2015

Number of **victims** interviewed: 19 (women)

Number of **cases** victims are involved in: 7 cases of trafficking for prostitution

Problems shared during investigation period:

- Interrogation methods
The front police officers hold thousands of initial conversations with victims. Often the initial conversations take on a larger scope that involve police officers extracting from the victim's information about the traffickers, the traffickers' whereabouts, their methods of recruitment and transportation, the other participants in the trafficking ring etc. Thus, the authorities in fact perform a classic interrogation aimed at collecting data about the perpetrators and the crime, despite the fact that these "statements" cannot be used as evidence, thus troubling the victims with no positive results neither for the proceedings nor for the victims themselves.
- Number of interrogations
A natural continuation of the inability of the police to recognize in the trafficked person the victim and not the witness is their absolute insensitivity towards the number of interrogations. Thus, the authorities summon the victim for additional interrogation, whenever they consider

² http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=510;

that some information is lacking. The additional interrogations sometimes include confrontations with the accused. During the trial, the victim is summoned again for an open hearing in the courtroom where s/he has to tell the same story before the judge.

- Information

After the identification of the victim, the authorities are under an obligation, according to the Action against Human Trafficking Act, to inform the victims of their basic rights, such as the right to a reflection period, the right to free legal aid and the procedure to receive it, the right to compensation and the competent authorities to which to turn to, etc. This is very rarely done in practice and the victims learn about their basic rights often from other victims and sometimes from social workers or do not learn about them at all.

Problems shared during judicial proceedings:

- Length of criminal proceedings

Another problem, which the victim faces, is the excessive length of the pre-trial and/or court proceedings. Some cases last for years.

- Victim status

1. Rights of “identified” victim in the meaning of the National Referral Mechanism.
2. Right to state-funded compensation for material damages.
3. Rights of a “victim” and “witness” in the meaning of the Criminal Procedure Code.
4. Right to claim compensation for material and non-material damages from the trafficker.

Most of the victims are not recognized as such and do not receive a “victim status”.

Problems with the victims’ rights:

Usually, the victims are not informed about their rights, do not receive legal aid, are not informed about their right not to cooperate with the authorities, the reflection period is not observed, their right to privacy and safety is not observed, their physical integrity is not ensured, they are not protected as witnesses, they are not treated with dignity and respect, they do not receive compensation.

8.2. RECOMMENDATIONS

- Victims should be informed properly about their rights from the very start of the case – by the police, prosecutors, lawyers - and should be supported to participate in the judicial proceedings as claimants and not only as witnesses.
- The investigation and prosecution authorities should be trained to inform victims of trafficking of their right to be legally represented;
- The State provided legal aid for victims, through the Legal Aid Act, should be standard for the participation of trafficking victims in the court proceedings;
- A separate register for attorneys who wish to provide free legal aid to victims of trafficking in the criminal proceedings should be established within the bar associations;
- The investigation and prosecution authorities should be trained to inform victims of trafficking properly, in oral conversation and in an understandable language, of the substance and the consequences of their right to claim compensation;
- The Compensation Act should be amended as to include financial compensation for moral damages;
- The amount of compensation granted by the State, which the State acquires from traffickers on the basis of final court decisions, should be increased significantly;
- Repetitive interrogations should be avoided and it should be ensured that victims are interrogated in a victim-sensitive manner. Unless there are specific reasons for a repeated interrogation, victims should be heard only one time in a “blue room” by experts prepared to work with trafficking victims.

8.3. TABLE OF INDICATORS for the barriers and the leverages for reintegration and reinsertion of the victims of trafficking in human beings in Bulgaria

BARRIERS	LEVERAGES
<p>Victim status / Reflection period</p> <p>In practice, the line where the victim – from a suffering person who receives help and support during the reflection period – becomes victim/witness in criminal proceedings is very vague. In the authorities efforts to learn as much as possible for the traffickers they literally force the victim to give statements without informing them about the right to a reflection period or by informing them in non-understandable manner, thus depriving them not only from the right to a reflection period but also from their victim status urging them to participate in the criminal proceedings only in their capacity of witnesses, thus depriving them to a list of services provided by the State.</p>	<p>Victim status guaranteed / Reflection period guaranteed</p> <p>According to the Action against Human Trafficking Act, when a victim is identified as such, she/he must be informed about the first set of rights she/he is entitled to, namely the right to a reflection period, the duration of the reflection period – 1 month, the right to psychological help and legal counseling during the reflection period, the right to be accommodated in a shelter for the duration of the criminal proceedings, is she/he cooperated with the authorities, the right to financial compensation for material damages from the State fund.</p> <p>In addition, according to the Assistance and Compensation Act, the Police and the NGOs should inform the victims – from their first contact – about their right to legal aid and the organizations where they can seek it, the conditions and procedures to receive free legal aid, the organizations where they can report the crime, the procedures after lodging a complaint, the right during the trial, the organizations where they can be protected alone or together with their relatives.</p> <p>The effective use of the victim status is a prerequisite for effective reintegration and reinsertion further in time.</p>
<p>Lack of information</p> <p>After the identification of the victim, the authorities are under an obligation, according to the Action against Human Trafficking Act, to inform the victims of their basic rights, such as the right to a reflection period, the right to free legal aid and the procedure to receive it, the right to compensation and the competent authorities to which to turn to, etc. This is very rarely done in practice and the victims learn about their basic rights often from other victims and sometimes from social workers or do not learn about them at all.</p>	<p>Obligation to provide adequate and timely information</p> <p>Victims have the right to information about their status, their rights, and the relevant judicial and administrative proceedings, including information of available remedies and services for reintegration.</p> <p>Thus, the victims should be informed properly about their rights in the beginning of the work under THB cases – by the Police, prosecutors, lawyers, social workers and psychologists and should be supported to participate in the judicial proceedings not only as witnesses but also in their capacity of private prosecutors and civil claimants in order to receive compensation for the damages suffered.</p>

	<p>The victims could use the money from the compensation for their better future life during the process of reintegration and reinsertion in the society.</p>
<p>Interrogation methods</p> <p>The front police officers hold thousands of initial conversations with victims. Often the initial conversations take on a larger scope that involve police officers extracting from the victim's information about the traffickers, the traffickers' whereabouts, their methods of recruitment and transportation, the other participants in the trafficking ring etc. Thus, the authorities in fact perform a classic interrogation aimed at collecting data about the perpetrators and the crime, despite the fact that these "statements" cannot be used as evidence, thus troubling the victims with no positive results neither for the proceedings nor for the victims themselves.</p>	<p>Sensitive one time interrogation</p> <p>Sensitive interrogation should be ensured to the victims – one-time interrogation in a "blue room" by experts prepared to work with THB victims.</p> <p>Such an interrogation should save the victims negative emotions and re-victimization by the authorities, which, on the other hand will be useful in the process of their reintegration and reinsertion in the society.</p>
<p>Number of interrogations</p> <p>A natural continuation of the inability of the police to recognize in the trafficked person the victim and not the witness is their absolute insensitivity towards the number of interrogations. Thus, the authorities summon the victim for additional interrogation, whenever they consider that some information is lacking. The additional interrogations sometimes include confrontations with the accused. During the trial, the victim is summoned again for an open hearing in the courtroom where s/he has to tell the same story before the judge.</p>	<p>Sensitive one time interrogation</p> <p>Sensitive interrogation should be ensured to the victims – one-time interrogation in a "blue room" by experts prepared to work with THB victims.</p> <p>Such an interrogation should save the victims negative emotions and re-victimization by the authorities, which, on the other hand will be useful in the process of their reintegration and reinsertion in the society.</p>
<p>Length of criminal proceedings</p> <p>Another problem, which the victims face, is the excessive length of the pre-trial and/or court proceedings. Some cases last for years.</p>	<p>Reasonable time of the pre-trial and/or court proceedings</p> <p>It is extremely important timely justice to be served in order for the victims to feel safe and secure and to start again their lives through the existing and new reintegration and reinsertion services and programmes.</p>
<p>Lack of initial support</p> <p>There is lack of initial support such as arrival assistance, immediate and comprehensive medical/psychological examination and treatment, short-term housing and help with</p>	<p>Initial support by a service delivery organization should be ensured to the victims</p> <p>Such support may include arrival assistance, immediate and comprehensive</p>

<p>various other social, legal and economic needs of the victims.</p>	<p>medical/psychological examination and treatment, short-term housing and help with various other social, legal and economic needs of the victim. The receiving service delivery organization should make every effort to take steps to avoid that a dependency situation occurs through its reintegration programmes, and should aim at helping the victim to achieve a normalized life and self-reliance.</p> <p>Long-term support, however, must be provided by either non-governmental or governmental support structures.</p>
<p>Lack of individual approach to the victims</p> <p>In general, no individual approach is undertaken when the authorities assess a case of trafficking in human beings. The approach is usually formalistic and artificial.</p>	<p>Ensuring individual human rights based approach to the victims</p> <p>The individual human rights based approach to the victims should be conducted by an expert who is mostly familiar with the case: a Police officer, a social worker, a psychologist, an NGO staff member working on the case. The assessment of the reintegration options should aim for successful reintegration and reinsertion in the society. Few criteria should be applied: the victim's needs (physical, psychological, psychiatric, legal, social and economic), the victim's desires, the possibilities available to each victim depending on her/his personal circumstances (age, gender, level of education, work experience, family status), and the level of the victim's motivation. In addition, a situational assessment should be conducted, including the specific socio-economic situation in the country and the region when the victim is living as well as the reintegration assistance infrastructure existing in the country and the region. Further, the victim should have a realistic picture of the option existing for her/him in order to avoid unrealistic expectations which could be detrimental to the effective reintegration process. Furthermore, a specific reintegration plan should be adopted for each victim.</p>
<p>Psychological and/or social support of the victims</p> <p>Most of the victims in criminal proceedings act in their capacity of witnesses and not as victims, thus none of them is provided with any type of psychological or social support during the process.</p>	<p>Psychological and/or social support of the victims</p> <p>According to the Action against Human Trafficking Act, when a victim is identified as such, she/he must be informed about the first set of rights she/he is entitled to, namely the right to a reflection period, the duration of</p>

	<p>the reflection period – 1 month, the right to psychological help and legal counseling during the reflection period, the right to be accommodated in a shelter for the duration of the criminal proceedings, is she/he cooperated with the authorities, the right to financial compensation for material damages from the State fund.</p>
<p>Legal support of the victims</p> <p>The authorities have to inform the victims about their right to have a lawyer and that an <i>ex officio</i> lawyer can be appointed if the victim cannot afford such. However, they do not examine whether the victims correspond to the conditions for appointment of an <i>ex officio</i> lawyer – the victim must request it herself/himself. As a result, usually the victims of trafficking do not receive legal aid and are not legally represented before the investigation authorities and before the court.</p>	<p>Obligatory legal support for the victims</p> <p>Victims have the right to a lawyer to protect their rights, to inform them about their role in the proceedings, to defend their interests and to have their views heard and considered in the criminal proceedings. This includes criminal and civil or other proceedings to claim compensation for damages suffered.</p> <p>Initial access to a lawyer is crucial for the fulfillment of the referral and support mechanism, thus the State provided legal help for the victims, through the Legal Aid Act, should be a standard for the participation of the victims in the investigation phase as well as for their participation in the court proceedings, both criminal and civil.</p>
<p>Protection of the victims' privacy</p> <p>The personal data of the victims is usually used during the court hearings. It should be noted that almost all the court hearings are held in public, thus every person present in the court rooms could obtain details of the victim's personal data and life.</p>	<p>Protection of the victims' privacy guaranteed</p> <p>Victims have the right to protection of their private life and identity. They have the right to request that their life and identity are protected during criminal proceedings and that the press and public are excluded from the courtroom. They also have the right to the protection of their safety.</p> <p>The Police should examine whether the safety and security of the victim is ensured in order to guarantee to them smooth process of reintegration and reinsertion in the society.</p>
<p>Protection of the safety of the victims</p> <p>Usually, the victims of trafficking are not protected during the investigation stage as well as during the court sessions.</p>	<p>Ensure the victims' safety and protection</p> <p>The Council of Europe Convention on Action against Trafficking in Human Beings requires a State to take into account a victim's personal safety and protection. Particular needs that must be met are set out in Article 12. These include:</p> <ul style="list-style-type: none"> Appropriate and secure accommodation; Psychological and material assistance;

	<p>Financial Assistance; Access to emergency medical treatment; Translation and interpretation services; Counselling and information, in particular as regards the Victims of Trafficking legal rights and services available to them; Assistance to enable their rights and interests to be presented and considered at the appropriate stage of criminal proceedings against offenders; Compensation; Access to education for children; Access to Education; Vocational Training; Micro-Enterprise and income generating activities; Job placement.</p>
<p>Compensation</p> <p>Usually, no financial compensation is requested by the victims of trafficking as they participate in the court proceedings only in their capacity as witnesses. Usually, most of them are not represented by a lawyer.</p>	<p>Compensation</p> <p>Trafficked persons have the right to adequate and effective remedies. This includes the right to compensation for material and non-material damages suffered. Compensation for damages may include payment for cost of medical psychical of psychiatric treatment, cost of necessary transportation, temporary childcare, temporary housing, lost income and due wages or the money the victim earned for the traffickers, legal fees, payment for non-material damages resulting from emotional distress, pain and suffering suffered by the victim as a result of the crime committed against her/him.</p> <p>The compensation requested and later received by the victims could give them additional financial support for their future lives outside the trafficking networks.</p>
<p>Lack of long term Government reintegration support</p> <p>There is lack of long term Government reintegration support such as medical/psychological examination and treatment/counseling to victims of trafficking in their place of residence; family mediation/counseling; monitoring of the reintegration process in the victim's place of residence; monitoring accommodation and care arrangements for child victims of trafficking; assistance with school reinsertion; development of vocational</p>	<p>Longer term reintegration support by the Government should be ensured to the victims</p> <p>Longer term support for victims is necessary for their effective reintegration such as medical/psychological examination and treatment/counseling to victims of trafficking in their place of residence; family mediation/counseling; monitoring of the reintegration process in the victim's place of residence; monitoring accommodation and care arrangements for child victims of trafficking; assistance with school</p>

<p>programmes; vocational counseling and training for victims; job placement and employment counseling; grants for resettlement and for vocational training for victims; assistance for the retrieval of lost documents, such as IDs and passports; legal assistance regarding civil issues (divorce, retrieval of property, civil liability); legal consultation and representation for victims acting as witnesses in criminal case; maintaining emergency and informational telephone hotlines; ensuring the security of the victim by maintaining regular contact; accompanying victims for emotional support as well as assisting them in accessing needed services and ensuring their rights are respected; providing safe transportation.</p>	<p>reinsertion; development of vocational programmes; vocational counseling and training for victims; job placement and employment counseling; grants for resettlement and for vocational training for victims; assistance for the retrieval of lost documents, such as IDs and passports; legal assistance regarding civil issues (divorce, retrieval of property, civil liability); legal consultation and representation for victims acting as witnesses in criminal case; maintaining emergency and informational telephone hotlines; ensuring the security of the victim by maintaining regular contact; accompanying victims for emotional support as well as assisting them in accessing needed services and ensuring their rights are respected; providing safe transportation.</p>
<p>Lack of longer NGO support</p> <p>There is lack of longer NGO support to the victims such as family mediation/reunification; medical/health; financial (reinstallation grants, family or dependant support grants); legal; education/vocational training/apprenticeship; income-generating activities; security.</p>	<p>Longer term reintegration support by NGOs should be ensured to the victims</p> <p>Longer term support for victims is necessary for their effective reintegration such as family mediation/reunification; medical/health; financial (reinstallation grants, family or dependant support grants); legal; education/vocational training/apprenticeship; income-generating activities; security. NGOs are well positioned not only to provide direct assistance to victims, but also to conduct, or assist in conducting, the reintegration assessment and preparation and implementation of the reintegration plan. Furthermore, NGOs can play a critical role in the ongoing task of monitoring a victim's reintegration progress.</p>

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