



REPUBLIC OF SERBIA
Ministry of Justice

SPECIAL PROTOCOL
On acting of the judicial bodies in
protection of victims of human trafficking
in the Republic of Serbia

Belgrade,
February 2012



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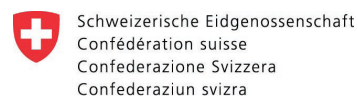
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REPUBLIC OF SERBIA
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Human trafficking is one of the most serious crimes in the modern world as it undermines basic human rights of persons who become its victims in a most drastic and brutal way. Human trafficking is considered to be one of the crimes against humanity and other goods protected by international law. The right to life and freedom represent, on the one hand, the inviolable rights of every human being, and on the other hand, imperative norms of domestic and international law and democratic society. Given the fact that respect for human rights is the norm of civilization which is based on democratic principles, a positive obligation on public authorities is to take all necessary steps in combating the criminal offense of human trafficking through preventive and repressive action. On the basis of our international obligations, and particularly on the basis of responsibility for creating a society where human dignity is a priority, a Special Protocol defines clear procedures for acting of the judicial bodies in order to further enhance cooperation with other public authority holders and civil society in protecting victims of trafficking.

By developing the Specific Protocol on acting of the judicial authorities to protect persons who are victims of human trafficking in the Republic of Serbia, the Ministry of Justice, as one of the institutions that participates in a coordinated operation to combat trafficking in human beings, aims to contribute to the improvement of procedures for the effective action in suppressing this type of crime. As the title suggests, the Special Protocol is primarily focused on victims' assistance and their adequate protection, both during the proceedings and afterwards. In this sense, the main objective of the Protocol is to provide guidance for the effective identification and recognition of victims of human trafficking to enable them further adequate protection. Additional aim refers to efficient criminal proceedings and a special relationship towards the victim who participates in it.

It is known that giving testimony in court can be a traumatic experience for many victims and witnesses, primarily due to the lack of adequate information about the basic principles and rules related to their participation in criminal proceedings. Victims feel scared and insecure, knowing that they will once again meet with the defendant, which can sometimes lead to their failure to testify. In such cases where secondary victimization may also occur, the criminal justice system is faced with two kinds of problems. The primary problem refers to the negative consequences that arise for the victim who, as a participant in the proceedings, may lose confidence in the ability of the system to provide adequate protection, as well as in regards to other participants in the proceedings. Another kind of problem, of equal importance, occurs in cases where the victim decides to withdraw from participation in the proceedings and thus compromises the quality of evidence, as well as

efficiency and speed of the criminal proceedings. In order to contribute to the efforts to avoid such outcomes, the Special Protocol provides the necessary guidelines for treatment of the victim at all stages of the proceedings.

The Protocol specifically points to the domestic legislation and international conventions, which set the requirements before the authorities in criminal proceedings, related to timely and adequate protection of victims and efficient procedure. The Protocol particularly promotes the importance of conducting proactive investigations.

The Ministry of Justice will continue to analyze the current legislation for the purpose of further improvement, to create all the preconditions for quality and fair trial within a reasonable time, as well as to cooperate with all governmental bodies to facilitate the protection of victims of trafficking.



MINISTER

Snežana Malović

SPECIAL PROTOCOL

On acting of the judicial bodies in protection of victims of human trafficking in the Republic of Serbia

I INTRODUCTION

1. Basic principles and Aims of the Protocol

In recent years, the Republic of Serbia has done a lot to increase social visibility and improve the societal reaction to the problem of human trafficking; particularly bearing in mind that awareness of this phenomenon is the basic prerequisite for its prevention, suppression and adequate protection of the victims. This was performed in a constant direction towards harmonization of the national legislation with international legal standards, primary by introducing the criminal offence of human trafficking in the Criminal Code of the Republic of Serbia, and subsequently by passing the amendments and supplements to the Code.

The reforms undertaken in September 2009 clearly illustrate the resolution of the legislator to keep up with modern solutions in the fight against organized crime and human trafficking as one of the forms of organized crime. Changes have been made in the criminal law, a number of experts were included in the education process, outreach campaigns were organized to raise awareness of the various categories of the wider population, the cooperation among state bodies, NGOs and international organizations has been formalized, specialized police units were created, sanctions were tightened excluding the ability to mitigate sentence, the Strategy for Combating Human Trafficking was adopted as well as the National Action Plan, awareness of the population was increased through printed media and documentaries, emphasis was placed on developing a proactive approach in identifying and proving trafficking, primarily using the possibilities provided in the legal provisions on evidence gathering, whereas the judicial reform should inter alia result in greater efficiency of the criminal proceedings, condemnation and severe punishment of perpetrators involved in all phases of the offense, and the implementation of the Law on Confiscation of the Proceeds from Crime on these criminal offences as well.

Evidently, human trafficking is a problem which receives considerable attention in Serbia in recent years. Great efforts that have been made certainly led to significant results. Their visibility is prevalent in the field of criminal law, which was further upgraded and improved by the amendments to the Criminal Code and Criminal Procedure Code from

September 2009, but it is certain that only measures of well-designed and long-term social policy, with social solidarity and empowering support, could minimize the sources of victims recruitment, as well as the perpetrators of human trafficking.

Public prosecutors, judges and police officers who are well informed about the complexity of the problem of human trafficking represent an irreplaceable part of an effective strategy in combating this terrible crime and a form of violation of human rights and freedoms.

Key features of this protocol are:

- Promotion of the state's determination to respond to undertaken commitments;
- Definition of a program based on international standards, regionally aligned and nationally adapted;
- Victim-orientation, based on human rights approach;
- Sustainability.

In terms of prevention, it is clear that it is necessary to address the causes which give rise to human trafficking. These involve primarily social and economic factors and the protection of particularly vulnerable groups. An important issue is to provide support to victims and enable their reintegration through programs that will provide them with employment, legal and health care. In terms of the law prescribing criminal offenses with elements of human trafficking, the provisions must be defined in a manner that allows for actual implementation and prosecution.

This implies that the elements that would prevent or impede the prosecution of these criminal offences should not be included, while sanctions should be consistent with the gravity of the offense. The international character of human trafficking must foster rapid and effective action, which will be implemented primarily through regional cooperation and enhancement and protection of the rights of women and children, as they are most often victims of trafficking. Prevention of human trafficking requires a comprehensive, quick and efficient community response. Therefore, it is of great importance to educate the police, judiciary, social workers, health workers, teachers, journalists and all others who are involved in the work with victims or potential victims, to recognize this phenomenon and provide appropriate treatment.

Human trafficking is a specific phenomenon, which affects society as a whole, and it is therefore necessary to raise awareness and knowledge about human trafficking and organize skilled professionals who will address this phenomenon from different perspectives.

1) Prejudice related to human trafficking

People become victims of trafficking due to their naïveté

A motive for someone to answer an advertisement or accept a job offer is not important, rather, the manipulation aimed at winning the trust, as well as the violence the victim is exposed to in the trafficking chain are of primary importance. It should be particularly considered that among the traffickers, it is also possible to find individuals who naturally have the victim's trust - fathers, brothers, boyfriends, aunts, mothers and other close persons.

Trafficking and prostitution are the same

Human trafficking is not conducted solely for the purpose of sexual exploitation, but may have other forms. Prostitution may be a voluntary choice of the person, if he/she is able to determine the conditions of work and control it. A victim of human trafficking forced

into prostitution has no freedom of choice in any aspect of life, while prostitution may be a conscious choice. In addition, human trafficking does not always imply prostitution or sexual exploitation, but also includes forced labor, coercion into marriage, coercion to commit crimes and misdemeanors, and even forced removal of organs. Victims may be women as well as children and men. For instance, even when the girl knows she will work as a prostitute, she does not know in what conditions she will work and live, and has no control over the events. The victim can not consent to trafficking - because consent can not be based on false pretences, coercion, nor it may involve loss of control over person's own life and personal dignity. Due to these circumstances, the consent of the victim is not relevant to the criminal offense of trafficking in persons.

Human trafficking is the white slave trade

Victims of trafficking can not be called white slaves, as trafficking does not affect only people of a certain racial, ethnic or national origin. White women and men are not single victims of human trafficking, but people of other races as well. It is a racist term that does not correspond to reality. Besides, an additional problem is the use of stigmatizing terms that represent a woman as someone whose fate is sealed and nothing can be done in that regard.

Trafficking victims are only foreigners

Human trafficking may occur within the borders of a country, and therefore does not solely involve crossing state borders. Victims of human trafficking are not always foreigners or illegal immigrants; on the contrary, people can be recruited and exploited in their own country.

Why victims of trafficking do not escape?

Victims of trafficking are living under constant control and a threat of violence. In addition, the traffickers blackmail them and threaten to harm their children, siblings, parents or other close persons, in case they try to escape. However, if they do attempt to escape and fail, they will be beaten by the traffickers, sometimes to death, to prevent others from attempting the same. These are just some of the methods indicating the victims that it is impossible to escape.

Persons trapped in the trafficking chain will seek help when they are identified or when they realize that they have become victims

Victims of trafficking are not always aware that they are victims. In addition, when they do realize it, due to mistrust and guilt they will not want to share their story with others. Or, as one victim said: "I trusted someone I thought I knew, and ended up as a slave. Now I am told that in order to become free and get help, I should trust all of you, total strangers. "

Trafficking victims always come from poor families

There is no profile of victims of trafficking. They can be of any age, gender, social or ethnic origin. Although young people with no prospects are at greatest risk of being drawn into human trafficking, poverty is only one of the elements, which further encourages trafficking.

II DEFINITION OF THE CRIMINAL OFFENCE, NATIONAL LEGAL FRAMEWORK AND INTERNATIONAL DOUMENTS

1. Criminal offence of human trafficking in national legislation

According to the Article 388 Para 1 of the Criminal Code (“Official Gazette of RS”, no. 85/05, 88/05 - correction, 107/05 - correction, 72/09 and 111/09), the criminal offence of human trafficking is committed by whoever by force or threat, deception or maintaining deception, abuse of authority, trust, dependence relationship, difficult circumstances of another, retaining the identity papers or by giving or accepting money or other benefits, recruits, transports, transfers, delivers, sells, buys, acts as intermediary in sale, hides or holds another person, with intent to exploit such persons labor, forced labor, commission of offenses, prostitution or other forms of sexual exploitation, begging, pornography, establishment of slavery or similar status, removal of organs or body parts or service in armed conflict. This offense is punishable by imprisonment of three to twelve years.

Paragraph 2 of the same Article provides that, if the offense is committed against a minor, the offender shall be punished with prescribed penalty for that offense even when no force, threat or other method of execution was utilized.

Paragraphs 3 to 7 of the same Article provide the graver forms of this criminal offence, namely:

- When the offense is committed against a minor (prescribed is a prison sentence of at least five years);
- When grave bodily injury of a person occurs (prescribed is a prison sentence of five to fifteen years);
- When it results in death of one or more persons (prescribed minimum sentence of ten years);
- When an offender’s profession is to commit this crime or offense is committed by a group (the prescribed minimum sentence of five years);
- When the offense is committed by an organized criminal group (prescribed by a prison sentence of at least ten years).

Paragraph 8 of this Article provides that this offense is committed by whoever knows or should know that the person is a victim of trafficking and abuses his/her position or allows others to abuse this position for exploitation (prescribed is a prison sentence of six months to five years), while an offender, in case the offence is committed against a person who he knew or should have known is a minor, shall be sentenced to prison from one to eight years.

Paragraph 10 of the same article specifically emphasizes that the person’s consent to exploitation or establishment of slavery or similar position does not affect the existence of the criminal offense referred to in Paragraphs 1, 2 and 6 of that Article.

In relation to the crime of human trafficking, the legislator has excluded the possibility of mitigating the sentence below the statutory minimum. In addition, the “powerful tools” are predicted for detection and proving, as well as the possibility of

seizing the proceeds from this crime. However, practice manifests a gap between what is prescribed by the law and its implementation, i.e. it depends on the interpretation of those who should implement it. Proper implementation of the law is particularly vulnerable because of deep-rooted prejudice, even among professionals who apply the law, which relate to gender roles, sexuality and sexual violence, prostitution, and the experience of victims, forced into prostitution as “easy women”. These biases lead to minimization of the severity of the consequences and continuous toleration of human trafficking in general, particularly trafficking in women for sexual exploitation.

Amendments to the Criminal Procedure Code, which came into force on 11/9/2009, significantly expand the application of special evidentiary tools used in organized crime suppression, corruption and other serious criminal offences listed in the Article 504-a, even when they are not the result of actions of organized criminal groups. Among these criminal offences are illegal crossing border and smuggling of human beings (Article 350 2 and 3 of the Criminal Code), human trafficking (Article 388 Para. 1 to 6, 8 and 9 of the Criminal Code), and trafficking in minors for adoption (Article 389 Para 1 and 2 of the Criminal Code).

As specific measures, which are used to combat organized crime, corruption and other extremely grave offenses, the law provides:

- Measures of surveillance and recording of telephone and other conversations or communications;
- Providing simulated business services;
- Conclusion of simulated legal transactions;
- Controlled delivery;
- Automatic computer search of personal data and other related information;
- Undercover agent (for organized crime offences solely);
- Examination of protected witness (for organized crime offences solely).

Practice has shown that data obtained by using measures of supervision and recording of telephone and other conversations or communications based on the order of the investigative judge were of great importance in detecting and proving criminal offenses of organized crime, and in addition to the testimonies of the protected witnesses, gave the best results in fight against organized crime, both in our country and abroad.

The new Criminal Procedure Code (“Official Gazette of RS”, no. 72/11 and 101/11) in this section contains minor changes of the current special measures, which are now extended and prescribed as special investigative actions. Thus, for example, Article 162 Paragraph 1 Item 2) provides that the special investigative actions, inter alia, are used for the criminal offence of human trafficking even when it is not a criminal offense of organized crime. The only investigative action which can not be undertaken in this case is the use of undercover investigators. This is particularly important given that the transitional provisions of the new Criminal Procedure Code provide that the provisions of this Law shall apply from 15 February 2012 in the proceedings under the jurisdiction of the Special Prosecutors’ Office for Organized Crime, while the other proceedings, for offences unrelated to organized crime, the aforementioned Code shall be implemented from 15 February 2013.

2. International documents

The main international documents relevant for the suppression of human trafficking involve:

- The Universal Declaration of Human Rights of the United Nations in 1948 and the Protocol;
- The UN International Covenant on Civil and Political Rights in 1966 (confirmed by the Law on ratification of the Covenant to the above stated “Official Gazette of the SFRY - International Treaties”, No. 7/71);
- United Nations Convention on the Elimination of All Forms of Discrimination against Women in 1979 (confirmed by Law on ratification of this Convention - “Official Gazette of the SFRY - International Treaties”, No. 11/81);
- United Nations Convention on the Rights of the Child in 1989 (confirmed by the ratification of the Convention - “Official Gazette of the SFRY - International Treaties”, No. 15/90 and “Official Gazette of the FRY - International Treaties”, no. 4/96 and 2/97);
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2000 (introduced in our legal system in 2001 “Official Gazette of the FRY - International Treaties”, no. 6/2001);
- Ethical and safety recommendations for interviewing women victims of trafficking, the World Health Organization in 2003;
- European Convention on Human Rights and Fundamental Freedoms and the additional Protocols (confirmed by the Law on ratification of the Convention - “Official Gazette - International Treaties”, no. 9/03, 5/05 and 7/05 and “Official Gazette - International Treaties “, No. 12/10) and standards of the European Court of Human Rights;
- Council of Europe Convention on Action against Trafficking in Human Beings in 2005 (confirmed by the Law on ratification of the Convention - “Official Gazette RS - International Treaties”, No. 19/09);
- Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse in 2007 (introduced in our legal system in 2010, “Official Gazette RS - International Treaties”, no. 1/10).

III RECOGNITION, DETECTION AND PROVING THE CRIMINAL OFFENCE OF DRUG TRAFFICKING

1. Indicators

The judicial authorities should not leave the discovery of the crime of human trafficking to circumstances and chance. The only adequate response is the systematic collection of operative information that will allow for the detection of criminal activities, effective sentencing of the perpetrators, victims' support and reduction of risk of new victims.

Traffickers are all persons involved in human trafficking (participating in the recruitment of victims, their transmission, transporting, storing, and securing housing, controlling or exploitation). Despite the diversity of the forms of trafficking, and the specific roles of the offenders, it appears that the majority of the traffickers has a rational approach to crime and the actions they undertake (ability to estimate risks, costs and benefits) and have no qualms to deliberately destroy the life of another for personal gain. They are distinguished by shrewdness, cunning, deceit, false self-presentation skills and manipulation of others (their feelings and expectations), selfishness, persistence, and insensitivity to pain and suffering of others, self-sufficiency, flexibility in establishing control, domination and exploitation, lack of empathic understanding for the victim (with great anticipation of her behavior), aggressiveness, arrogance, cruelty, brutality and willingness to use threats, blackmails, revenge, violence, bribery and corruption. Along with the diversity of situations and traffickers' roles, each individual has different combinations of these traits and other personality characteristics.

Despite long-term efforts to combat trafficking in human beings, it is still present in the Republic of Serbia. In order to create conditions for effective suppression of human trafficking, significant changes of the criminal law have been performed and suppression mechanisms on preventive and repressive level have been developed. In addition, it should not be disregarded that stricter criminal prosecution of the "traffickers" does not depend solely on appropriate legislation, but also on the readiness and training of judicial authorities to deal with trafficking not only as a phenomenon but as a form of organized crime as well.

The capacity of the public prosecution and the courts and their ability to tackle this problem influence the confidence of victims, whose testimony contributes to the discovery and dismantling of the organized crime networks. In the Republic of Serbia, the majority of trafficking victims are women and girls who are sexually exploited, thus the most of the victims are in the prostitution sector. Concurrently, new forms of human trafficking often appear, such as exploitation in the virtual sex market, trafficking in children for adoption, trafficking for labor exploitation and coercion to commit crimes and misdemeanors.

Amendments to the Criminal Procedure Code in 2009, in the chapter with special provisions on the procedure for organized crime offences, corruption and other serious offences, envisage that the statements and information obtained by the public prosecutor can be used as evidence. The public prosecutor, also independently, may require the witness protection measures for the victims, executed by law enforcement. This includes various measures of police protection: protecting and escorting witnesses in court and outside court, protecting the home and family, especially children, as well as witness relocation. The Law

on protection of participants in criminal proceedings addresses the most complicated, and therefore the most expensive security measures such as witness relocation, identity change, but only partially fulfils the legal gaps that occur in the protection of victims. In criminal proceedings against human trafficking offenders, victims' support is of major importance, given that their participation is still crucial to the criminal proceedings in Serbia; victims' confidence in judicial institutions and government agencies influences their willingness to cooperate in detection and fracturing organized criminal groups and networks.

2. Recognition and identification of the victims: Initial measures and risk assessment

Even though the attitude towards the victims is reduced to cruel exploitation, the traffickers financially "reward" them at times, so they become reluctant to accept help from the police in order to maintain the only source of income. In addition, considering the large profits, it is not surprising that "traffickers" are ready to use all the possible means of intimidation, blackmail, manipulation, false promises, and even opiate dependence, all for the purpose of greater exploitation of the victim and establishment of the relationship of total dependence, resulting in modern slavery.

Apathy and turning a blind eye before the circumstances which indicate to a certain point the existence of human trafficking, as well as lack of proactive work, indicate a form of grave violations of professional duties. On the other hand, this benefits the traffickers who, besides seriously breaching human rights, have significant criminal profits which can be directed into legal channels and other criminal activities, including corruption of civil servants and representatives of other institutions and organizations.

Detection and rescue of potential and current victims of trafficking, during transfer from various locations within the country or from these locations abroad (in the path towards the border crossing points, that is, at the border points or near them), implies acknowledgment of the fact that traffickers at this stage of criminal activities undertake numerous precautions (changing directions, transportation methods and situation control, lie the victims, intoxicate them, threaten, abuse or imprison them, keep in conditions that endanger health and life, use local connections and contacts, corrupt law enforcement personnel). Often, the transported persons cooperate with the traffickers, both because of ignorance and the belief that they are on their way to a better life, as well as fear from the traffickers. Unfortunately, the circumstances of human trafficking are such that the victims are drawn into a spiral of evil and exploitation, in many cases are reluctant to engage in communication with police officers and cooperation that could result in criminal investigation and criminal prosecution of the traffickers.

Victims discover that they had been deceived and entrapped by traffickers usually only after they are finally shown in a dramatic, cruel and degrading way that the true purpose of their trip is ruthless exploitation.

The circumstances important for *identification of the victim in the phase of exploitation* are associated with the fact that their subjugation, exploitation and control, in most cases, take place in very controlled and extremely inhumane conditions. In addition, the life and exploitation of the victims include presence of many harmful consequences and violation of rights and freedoms.

Indicators that may be useful in case of contact with a person who is supposed to be victim of trafficking *for sexual exploitation* are: one's freedom to return home is limited or taken, one is under supervision (if there is a mobile phone, it is used for monitoring) and probably has someone escorting him/her; one was raped or beaten to accept subjugation; has no freedom

to decide what, when, and how long will be working and resting; one is threatened by retaliation in case of attempting escape (causing harm to the victim and persons close to her is suggested); has a limited ability to dispose own earnings (the money is fully or partially taken); has visible injuries, and other signs of physical abuse or sickness (wounds, bruises, scars, etc.); has tattoos or other marks that indicate she is under control of certain groups of people; wears clothing that is typical for people who are involved in sexual exploitation; knows very few words in the language of the environment in which she is found, including those related to sex services; is faced with many health risks (unprotected sex with many clients); access to health care is not possible or is very limited; often performs self-mutilation (usually cuts and cigarette burns on the arms) and suicide attempts (taking sedatives, cutting veins or deliberate poisoning by chemicals often represent the victim's escape plan).

In case of forced labor (in industry, construction, agriculture, catering, cleaning services, etc.) ***the indicators*** may be: living and working in the same location and in degrading and inhumane conditions; working conditions significantly differ from those agreed by the employee; the negotiations on working conditions are not possible; the employee did not pass the necessary training for the concrete work; the clothes and equipment used are below the prescribed standards; there are no posted warnings about the dangers to health and safety risks in the workplace; provided food is of poor quality and uniform; person is employed at extremely difficult and dangerous jobs with very low fee (less than minimum wage or lower than the reasonable and fair compensation for work performed); no life insurance; compensation for the work performed all day and every day is inappropriately low; an employee does not retain the salary, in order to repay the debt to the employer; is severely penalized for alleged or actual failures; there are no written evidence of payments to employees; employment can not be terminated and the workplace abandoned; freedom of movement and communication with others is restricted (especially with representatives of state and public services); person is kept under control by threatening to be reported to the authorities (it is often applied in case of illegal immigrants or undocumented workers); currently or previously exposed to physical violence or intimidation.

Along with the aforementioned, the indicators of human trafficking when the ***victims are children*** (minors) are: in the facilities where exploitation is performed, beds, clothing, equipment or other objects whose nature or size are appropriate for children are found; children are engaged in jobs that are not appropriate for their age; have no friends of their age beyond the environment in which they are caught; show the freedom and intimacy in behavior to an extent that differs from the typical for people of their age; do not attend school; have no time to play; they live with adults who are not their parents; they are fed separately from persons present at the same facility; clothing that was found is appropriate in size, but is typical for sexual exploitation; have a phone with memorized numbers of a small group of persons or e.g. taxi services; move in the company of a group of adults (in the street, through the market, train, etc.); change locations and cover great distances in a day; they are engaged in several states; are forced to beg in public places or on public transport, to steal or sell drugs, etc.

3. Principles of pretrial proceedings

Human trafficking as a form of organized crime characterized by a number of different modes of behavior and of achieving the aims, thus the trafficking chain includes a large number of individuals who have different roles (ranging from the organizers, intermediaries, the exploiters, to the owners of bars, nightclubs, companies, hotels and the like). Trafficking

can take place under the umbrella of supposed legal activities, and therefore the offenders may be individuals from different entities - travel agencies, employment agencies, beauty contests, photo model agencies, models, even the sport clubs.

Pretrial proceedings for trafficking may involve:

- Reactive investigation - based on the testimony of the victim;
- Proactive investigation - the police, based on operative data;
- Operational action aimed at disruption and interruption of the offenders' operations and rescue of victims (requires immediate response and joint work of multiple services).

4. Reactive investigation

Reactive approach consists in responding to the victims' or other citizens' claims. This approach served as a base for a long period of time, but it was accompanied by a difficult and unprotected position of the victims and persons close to them. This approach often brought the victim - witness, the most effective weapon in the fight against this form of crime, into danger. When the statements of the victims represent the only available evidence, their refusal to cooperate prevents acquisition of other evidence. Therefore, the necessity of establishing and developing contact, and subsequently trust and creation of conditions under which the victim will be able to cooperate with the police and judicial authorities represents a major challenge for everyone involved.

The approach to victims and their treatment is of crucial importance, especially when it comes to children. This usually requires a deviation from the usual practice of the investigation.

Although this phenomenon is very complex from the criminological point of view, from the standpoint of the judiciary, it is often simplified by the fact that evidence gathering is often attempted by questioning the victims - witnesses, without taking into account their specific position. It is therefore necessary to understand the situation, needs and position of the victims and gain their trust. The chances that the victims will cooperate throughout the entire process of prosecution and trial are greater if they are explained at the beginning what they are expected to do and to what sort of issues they may be exposed to during the criminal proceedings.

Basically, the victim's behavior may be threefold:

- Refusing to cooperate in any way;
- Agreeing to provide confidential information, but refusing to make a statement or testify before court;
- Agreeing to give evidence and testify in court proceedings.

Refusal of cooperation mainly results from a reasonable fear for own life and the lives of the loved ones. The victims have been intimidated in all possible ways, sometimes for many years. An additional obstacle is the fact that due to very low level of self-esteem, the victims often do not perceive themselves as victims.

In case the victim is willing to cooperate to some extent, that is, demonstrates willingness to communicate the knowledge in confidence, but refuses to make a statement or testify before court, it is necessary to record the assessment and forward data that may be of further interest. This requires maximum awareness of the risk of discovering the source, especially if the received data could not be obtained in any other way, and considering the fact that the existing statutory provisions require disclosure of the identity of witnesses to the defendant and his defense before the main hearing.

When the victim is fully willing to cooperate, additional risk factors occur, and it is necessary to assess whether the importance of the victim's participation is greater than the risk factors or whether these factors can be eliminated. If they are of greater importance than the testimony of victims in the court proceedings, the cooperation with the victim should be discontinued. This does not mean that the investigation against the traffickers should not be conducted in any other way, for example based on operative data obtained from other sources.

In order to consider the basic practical principles concerning the victims, it is essential to use their testimony to collect as much evidence to be used in court. The data should relate to:

1. *the method of commission* - recruitment, transportation, transfer, hiding or receipt of persons;
2. *the means of commission* - through threats, use of force or other forms of coercion, abduction, fraud, deception, abuse of office or abuse of persons' trust, giving or accepting money or other resources in order to obtain approval of a person having control over others, etc.;
3. *the purpose of exploitation* - forced prostitution, forced labor, provision of services, slavery or relationship similar to slavery, adoption, begging, and the like;
4. *the specific details* - advertising services, rental of premises, transport, communication tools and financial resources, forms of abuse and deception common to this type of crime, the manner in which the victim came into contact with the "traffickers," the means of communication, a detailed description of the suspects, whether someone from the victim's family received a certain sum of money or other material gain, date, time and place of departure from the country of origin, method of movement and entry into the transit country or arrival in the destination country, the vehicles used for transport, who was traveling with the victim, whether legally or illegally, what travel document were used, was control performed and by which authority, were some forms filled and which forms they were, did someone else do it for her, whether there are witnesses of the stated events, whether and how she was exploited...

Available material evidence is also significant. Thus, for instance, visible *bodily injuries* should be photographed, medical examinations and laboratory analyses performed; *documented material* (victim's diary, copy of an ad, visa form, customs declaration, boarding pass, a receipt from the hotel and the like) should be found and submitted as evidence.

When collecting evidence, attention should be paid to the data the victim can provide and are of importance for financial investigations. As human trafficking is considered a criminal offense of "big profits and low risk", and its perpetrators consider the previously soft punishment as a regular "business risk", it is important to successfully conduct financial investigation, after which they can be deprived from proceeds from crime. This would represent the hardest blow to this type of crime.

Given the important role of the victims in gathering evidence in the preliminary proceedings, and later in the investigation and the criminal proceedings, they should be encouraged to give their testimony in the trial unless it would jeopardize their safety. During the entire proceedings, it should be taken into account that the care for the victims and those who surround them is a priority.

Notwithstanding the undisputed high importance of the role of victim as witness in criminal proceedings, all possible motives for changing the statement certainly must be taken into account, as without additional evidence in the proceedings, the charges could be questioned, and the perpetrators left unpunished.

5) Proactive investigation

A proactive approach involves operative work of police in gathering information and acting upon them. This can include increased border control, control of facilities suspected to be used for exploitation of trafficking victims, control of agencies and other entities that provide different services.

Proactive approach includes pre-trial proceedings, arrest, investigation and, as the ultimate goal, adequate punishment of traffickers even in those proceedings in which the victim was not willing to cooperate, through a combination of data collected by special investigative techniques (surveillance, visual and audio recordings, under-cover operations) and standard investigative techniques used for identification of traffickers.

The advantages of proactive investigation contribute to overcoming the difficulties associated with the victim's willingness to testify. This is also a method to avoid secondary victimization, as well as security risks for the victim. Proactive investigations require public prosecutors to gather more evidence, carefully analyze them and establish their connectedness. It requires sufficient time and resources, however, taking into account the impact that this criminal offence has on the human trafficking victims and the fact that the victim's testimony is not always possible, it is reasonable to invest in this type of investigation. The above is in accordance with the orientation of Serbian state bodies to treat human trafficking as a form of crime equally serious as terrorism and drug trafficking.

Experience and practice indicate that proactive version of pretrial proceedings represents very effective method to combat human traffickers, especially when it comes to victims of sexual exploitation. If they want the "job" to be profitable, the traffickers must join the market. It is this commercial imperative that represents the Achilles heel of human trafficking and police officers must know where and how to gather information.

Traffickers are sneaky, skilled executors who will do anything to avoid their actions to be discovered. Even though they control the "market" and cleverly conceal their intentions, they are not able to completely hide them or the profit they gain. Therefore, investigation is of greatest value right where these activities are taking place. The most effective method for successful prosecution is a proactive coordinated investigation performed at the international level i.e. in the country of origin, transit and destination. This includes the possibility of establishing joint investigative teams at the international level.

In discovering the criminal offence of human trafficking and its perpetrators, it often occurs that a number of other offenses are revealed, implying that a proactive investigation requires a multi-agency approach, which will include the border police, local, regional or specialized police, customs, Ministry of Foreign Affairs and consular representative offices, social services, and international governmental and nongovernmental organizations.

6) Methods for collecting and exchanging intelligence data

Intelligence data imply the power, thus, the greater the quality of data collected and exchanged, greater the power. At the national level, the units have been formed to combat this type of crime and their key task involves coordinated intelligence gathering. At the international level, these units are the Centre for Law Enforcement in the SEE (SELEC), Europol, Interpol, EUROJUST, etc.

Intelligence gathering focuses on two levels: strategic and tactical. In practice, tactical intelligence will constitute the grounds for development of a strategy, but both levels are equally important.

The importance of strategic intelligence refers to the fact that they allow an accurate assessment of the scope, methods and the gravity of the offense at the local, national, regional and international level. Based on this assessment, adequate resources necessary to address the problem shall be allocated at national and regional level.

The importance of tactical intelligence is related to the fact that the collection and dissemination of intelligence can lead to the rescue and provision of care for the victims. They will provide the “raw” material and constitute the grounds for reactive, proactive or investigation aimed at disruption and interruption of activities of the organizers and perpetrators of human trafficking at national or multinational level. The implementation of joint operations between the countries regarding this issue will be enabled, whereas the duplication of the same investigation will be prevented or reduced.

Operational activities are aimed at gathering as much intelligence about specific forms of trafficking, which involves the application of special investigative techniques, in accordance with the provisions of the Criminal Procedure Code. Intelligence data obtained in this way must be protected, as the aforementioned Code treats them as confidential data.

Practice has shown that the most effective measure in detection and prosecution of the criminal offence of human trafficking refers to the analysis of the evidence related to telephone communications of the offenders and analysis of the contents of that communication. On this basis, coupled with additional evidence, the court may establish the relationship between the offenders and their co-operation agreements, objectives, roles and actions.

In regards to this evidence, the following is usually pointed out:

- There is increased use of codes in communication among the offenders;
- The offenders often change phones;
- It is essential who monitors direct telephone communication (it must be someone who can recognize what is important for specific offenses);
- The selection of interviews is very important before the main hearing (listening to all conversations takes too much time at trial);
- There were cases in which the defendants deny that their voice is recorded; the expertise of the voices tends to be very expensive; and some defendants would not even speak in order to avoid voice comparison and identification;
- Common mistake is made when the presented evidence is taken as an insight into the case files (without listening, i.e. by providing the parties with the transcripts), so a complete insight into the authenticity of the tone and context of communication can not be obtained.

Engagement of undercover investigators in the role of the false client represents the most dangerous technique as it is associated with acute risks due to the constant ruthlessness of violence-prone groups involved in trafficking. Therefore, the responsibility for security is beared by the one who decides to apply this technique. It should be used only when it comes to police officers with extensive experience, who have passed the most rigorous training and thorough preparation for this role. When the main task is to determine the existence of human trafficking for sexual exploitation, the involvement of an official in the role for a female potential victim or prostitute seeking a job is a tactic which can certainly provide important evidence, but it is concurrently very risky, and should be avoided in case there are other ways of collecting evidence.

IV DETECTION AND PROTECTION OF THE VICTIMS

1. Victims of human trafficking as potential witnesses

Treatment of victims of trafficking is characterized by the presence of numerous specificities, along with the essential elements of preparation and planning implementation in criminal matters. These characteristics are dictated by the complexity of the crime, the difficult situation and state of the victims, particularities related to their age, psychological and physical traits, ethnic and cultural characteristics, type of exploitation, intensity of the injuries and trauma. Often, conducting an interview about the details of the crime is possible only after the expiry of the period in which the victim will consider his/her position, feel safe and interested to cooperate and, accordingly, agree to an interview. The pressure exerted to the victims, their contempt due to uncritical thinking and lack of caution which contributed to becoming a victim, inevitably lead to secondary victimization, further traumatization, as well as deeper distrust towards police officers and representatives of the judiciary.

In communication with the victims, it is necessary to be professional, open and honest, to demonstrate sincere compassion, and perform ongoing risk assessments - for the victims and their loved ones, as the sole existence of a criminal organization that has a distinct reputation of violence and revenge represents significant risk. Also, it is necessary to take into account the urgent needs of the victim, provide information on the available assistance and ways to receive it.

Since falling into a situation of being a victim, traumatic experience and horrific exploitation almost always are associated with a variety of more or less insidious and cruel frauds, sudden and powerful changes in mood of the victims, deficiencies in spatial and temporal orientation, as well as problems and errors in perception, memory and reminiscence, are not surprising. Therefore, officials who are in contact with the victim should not be affected or discouraged by aggression, hostility, suspicion and mistrust, neither the incomplete, unclear or contradictory statements.

Only a full understanding and appreciation of the situation, dignity, personal circumstances, feelings, dilemmas, and desires of the victims (e.g. in the selection of an official to whom they want to speak - who knows the language of the victim, is of the same sex, belongs to the same national and ethnic group, etc.), along with the creation of optimal conditions for dialogue, can yield positive results. Among other things, these conditions include the informal environment and an atmosphere of trust, a guarantee of security, privacy and maintenance of confidentiality of the content of the conversation, protection from harassment, intimidation and threats (interview shall be conducted without the presence of traffickers and other persons whose presence can cause discomfort, embarrassment and restraint for the victim). The presence of the person perceived by the victim as strong support and an additional guarantee of security can greatly contribute to the establishment of trustful, honest and good communication with the victim with a maximum reduction of trauma.

Experience indicates that interviews with victims of human trafficking represent one of the most complex and most stressful official interviews. For this reason and the importance of the testimony of the victim in the process of clarifying and proving criminal activities of the traffickers, the person who will be in contact with the victims and interview them should be selected very carefully. Preference should be given to the officials who had already participated in criminal cases of this type and are able to properly inform the victims about their status, rights and obligations in the criminal proceedings.

The complexity of events that essentially change human life, their duration, the multitude of specific acts of brutality, the number of actors, as well as the importance of seemingly trivial details, and the need to pull out from the chronology of events as much information as possible, will require a lot of time. In some cases, frequent repetition of the conversation will be necessary. Their frequency and duration will be determined depending on the circumstances of the case, psychological and physical state of the victim and the severity of traumatic events which are discussed. It is important that the chronology of events is placed in a logical and consistent manner. This assists the victim to remember the events and allows for the statement to be easily understandable for those officials who will appear later in the proceedings. It is necessary to take the time to record the main points of events chronology in order to obtain a logical sequence. These initial notes may be used as a framework for a more complete statement (obtained through the interviews or interrogation).

From the beginning to the end of the proceedings, it is of great importance that, given the provided explanation, the victims are indicated the need and obligation to speak the truth and not conceal any information. Specifically, they should realize that in order to determine the facts, as an essential part of the proceedings, the official shall examine their personal circumstances, and this will always be performed by the lawyers of the trafficker. It is therefore important that the victim understands that each lie, half-truths or withholding some facts, at any stage of the proceedings, will be discovered and will reduce witness credibility and hinder criminal proceedings.

Interviews with victims who are minors must be conducted in a manner adapted to the characteristics of victims, in the presence of parents, adoptive parents or guardians of minors and, preferably, by a police officer of the same sex. Among other things, a Special Protocol on the treatment of police officers to protect minors from abuse and neglect envisages that during the interview with a minor, it is necessary to enable presence of an expert of the custodian if the parents, adoptive parents or guardians are unavailable, or even when it is estimated that the presence of such persons is not in the best interests of the minor, or if their presence is irritating to the minor. The presence of a person who has experience in working with minors and who is not employed by the police or involved in an event is also recommended (the official from the housing facilities for juveniles, psychologists, pedagogues of the school the minor attends, school teacher on duty or, if it is not possible to ensure their presence, a qualified person of the custodian).

Complete attention is particularly necessary during the interview aimed at assessment of juveniles in certain phases of human trafficking. The length and scope of discussions should be kept to a measure that will reduce the risk of further trauma and suffering of victims who are minors. During the initial contact and the first interview with a minor, information on his/her experience in the process of trafficking, or any potential knowledge on illegal activities, should not be requested. The attention should primarily be focused on the collection of biographical data and information on social background of a minor (age, nationality, language spoken, etc.). Conducting interviews in the official premises or at the place where the juvenile has been exploited should be avoided. It is impossible to conduct interviews with the victim in the presence or the physical proximity of suspected traffickers. Whenever possible, the first interview should be postponed until the minor is transferred to a safe place.

Following information gathering and the assessment, police officers take further measures and actions within the police jurisdiction, independently or in cooperation with the competent public prosecutor, as well as the expert counselor of the custodian service.

Documenting the interview with the victim must be given special attention. For many practical reasons, along with the mandatory form for authentic documentation of the interview by making official records or minutes, audio and video recording is recommended. This approach is tactically advantageous, as dictating and playing back the recording to

obtain literal transcript of the conversation gives an official tone to the interview, decreases its rate, and stimulates the victim who decided in an atmosphere of trust and intimacy to tell all the details about the crime he/she was subjected to. The importance of documenting the interview in this way is emphasized as:

- an official does not need to concentrate on recording the content of the statement, but can be fully focused on monitoring, analyzing and directing the flow of conversation;
- it allows correct transmission of the content of the testimony (particularly important if focused on the testimony of children, minors, persons with mental disorder or retarded mental development, if an interpreter is hired, the given information is of great operational and procedural importance);
- this kind of documentation does not register only the voice of the person giving the testimony, but the whole atmosphere in which interview is conducted, questions, voice and behavior of an official, psycho-physical condition and the changes that have emerged for the victim during the testimony.

2. Victim as a witness

Generally accepted international standard implies that human rights of trafficking victims shall be central to all the efforts to prevent trafficking in human beings, as well as their protection, assistance and reintegration. This standard obliges all agencies and organizations engaged in the fight against human trafficking, and judicial authorities accordingly. One of the basic principles that should be considered in cases of trafficking is the victims' human rights and the fact that trafficking represents an extreme form of violation of fundamental human rights. The United Nations Declaration of Basic Principles of Justice for Victims establishes clear standards of justice for victims of crime, and inter alia, provides that a victim has the right to be treated with respect; the right to be informed about the progress of the case; right to counsel and active participation in decision making; the right to referral to the appropriate support service; right to protection in the form of physical security; the right to privacy and the right to compensation. The treatment of victims by state authorities, public prosecution and courts, must be deprived of every form of discrimination, based on the concept of equal dignity of all people, especially non-discrimination based on sex, age, previous life of the victim (if the victim was previously engaged in prostitution etc.), nationality, ethnic, racial or religious affiliation.

1) Victim in criminal proceedings

In criminal proceedings, victims have been treated as “third parties” as they are not parties to the proceedings. This approach resulted in dissatisfaction of the victims regarding the treatment of the judicial bodies and their further traumatization. The victim is primarily a term of victimology. The court and the public prosecutor should consider at all times that punishing the offender for a particular committed crime not only affects the offender and the society, but mostly the victim. The task of the judiciary should not cease at making decisions solely in relation to persons that are proven to have committed criminal offenses. Their task is to, on the basis of such decision, restore the sense of confidence to the victim in the people and community and enable her to establish future social contacts, all of which results in restoring confidence of individuals in the legal system.

Referring to human rights in criminal proceedings, their protection and types of injury, usually implies the rights of suspects or accused persons. There is no doubt that the

judicial authorities must take into account the rights of defendants respecting the standards of modern democratic societies. Nevertheless, judicial bodies, particularly the Public Prosecutor's Office due to its specific role in pre-trial and criminal proceedings, must take into account not only the rights of the suspect or defendant, but also have a responsibility to take care of the victim's safety, with consideration and respect of human rights, providing adequate protection during the proceedings.

2) The importance of the victim's testimony in proving criminal offence of human trafficking

To prove the criminal offence of human trafficking, victims or injured as a witness in a criminal sense are of particular importance. Namely, by its nature, this criminal offence is mainly performed by organized crime groups or informal networks linked to organized crime groups which are characterized by: a closed structure of the organization, the "code of silence", a high degree of social mobility, great economic power, the power resulting from corrupting government officials and civil servants, resort to violence and intimidation. Therefore, the evidence gathering and the conviction of the perpetrators of human trafficking is particularly difficult and often based solely on the testimony of the victims of trafficking. Although there is no profile of potential victims, we can conclude that the victims are most often women and children, between 1age of 18 to 25 years, from rural areas, towns and cities in impoverished regions, and marginalized social groups.

If we imagine a picture of the victim - witness with described personal characteristics, who has been controlled for a brief or long period of time by methods utilized by the traffickers to ensure profits in the long run, and that the testimony of such witnesses greatly determines the outcome of the criminal proceedings, it appears that there is an impossible task before the public prosecutor. This task will remain in the sphere of the impossible in case the public prosecutor is biased or prone to stigmatization of victims of trafficking. It is therefore essential that the public prosecutor remains superior to the prejudices that the victims of trafficking are guilty for the situation they are encountered in, especially if the victim was previously engaged in prostitution before being introduced in the trafficking chain, as in that case there is almost an absolute lack of any understanding.

On the other hand, the public prosecutor must have additional skills necessary to recognize certain forms of behavior of the victim, the reasons that cause this behavior, which may appear irrational, vague, inconclusive, or even false, and finally to have skills to alleviate traumatization of the victims to enable them to provide testimony of sufficient quality and essential content, or statements that will be of good quality in terms of all the psychological processes - memory, memory-reproduction, thinking, motivation, learning and feeling.

The public prosecutor must find *the golden mean* in the treatment of the victim. He must not ignore the existence of victim's trauma, must respect the specificity of the mental state of the victim and take all measures to decrease the negative effects of trauma. On the other hand, the public prosecutor should not disregard the professional standards by unnecessary referring to the suffering of victims for the purpose of manipulation of the parties and public during the proceedings. The bodies of the proceedings, in all stages of the proceedings, should above all, avoid secondary victimization of victims as far as possible (often associated with multiple unnecessary examination of the victim).

Secondary victimization represents an "escalation of the primary victimization by the negative reaction of the social environment and through inadequate or even incorrect response of the prosecuting authorities." Secondary victimization can be caused by the attitudes of the nearest environment (family and friends), and through the conduct of the

relevant state authorities and the wider community. In the judiciary, secondary victimization occurs because of the difficulties in establishing balance between the rights of the victim and the defendant. This is because the defendant is entitled to attend the hearing of the victim as a witness, to ask questions, and even suggest the confrontation with the victim that the judge may or may not approve.

Each victim of trafficking should be approached individually. No matter how similar their traumatic experiences are and no matter how their behavior is similar, the trauma and its consequences are always individual. Trafficking victims rarely see a police officer or a prosecutor as a savior and redeemer from the situation in which they are found. Rather, they see the public prosecutor as someone who has come to complicate an already complicated situation in which “there is no help”. Therefore, victims often develop a hostile or aggressive attitude of mistrust towards the public prosecutor. The public prosecutor, as a professional, should not perceive such attitude of the victim as personal and at all times should be aware that before him is a person who is traumatized, to such an extent that she may not even be brought before the court as a witness. At the initial encounter with the victim, the public prosecutor should strive to gain the confidence of the victim. If he fails to do so, or has no patience for the victim, expresses doubts about the accuracy of her testimony, in most cases, a relationship of trust is gone forever.

Following a traumatic event, the victims may develop a number of psychological and physical problems or disorders. Often the victims develop depression, anxiety, aggression, insomnia, disorientation, loss of weight and the like. In the period of 14 days after the traumatic event, 57% of the victims have symptoms of physical illness - pain or discomfort; after 28 days of the traumatic event 7% of the victims, and after 90 days 6% of the victims. It must be considered that some of the victims may develop posttraumatic stress disorder, and the so-called Stockholm syndrome.

The evaluation criteria of the victim’s testimony require more subtle approach, which involves observation and proper interpretation of the different signals, symptoms and signs. Thus, unreliable, unrealistic, inconsistent testimony, testimony that in parts lacks the true contents or invalid statement, does not necessarily imply a false statement. For the statement to be finally evaluated as false, along with the content that is not true, it must contain additional three elements, namely:

- Victim’s awareness of presenting false information,
- Awareness of the true state of affairs and
- Victim’s intention of fraud (the existence of “high ability of self-control, imagination, memory and ability to combine”).

A lie involves several complex thought processes, which are “hard to fit into each other and keep a liar in the constant tension.” It is hard to imagine that someone who was subjected to “modern slavery” just before the testimony can achieve such a level of psychological self-control and mental focus.

Therefore, the cause of deficiencies in the testimony of the victim should first be searched for in the trauma that she endured. Certainly, the public prosecutor should never be ignorant to the possibility of making a false statement and shall be extremely vigilant in this regard. However, the first thought when seeing the victim and hearing her more or less flawed testimony, which does not seem credible, should not necessarily be a false statement, but a sign that the victim is still traumatized and requires professional help and support, as well as additional time for thinking and making decisions. It is necessary to try to re-examine the victim when it becomes feasible. If the testimony of the victim is the only evidence in the proceedings, which often occurs in practice, the public prosecutor will have to make a special effort to engage a number of other experts, agencies and organizations to help the victim to overcome the trauma (if possible), and prepare for the trial, which may not be easy for the victim.

3) The relationship of the public prosecutor and the human trafficking victim

Public prosecutor should establish a trusting relationship primarily by providing the victims with complete information about the proceedings and instruct them about the rights and obligations, as well as all the challenges associated with the trial. Information should be truthful and real. It is unacceptable to create a false image, make false promises and encourage excessive expectations that could create false perception for the victims.

Primarily, the victim needs to be presented with a person's full name and function. Then, a brief explanation of the public prosecutor's powers should be provided. During the interview with the victims, potential need for professional psychological, psychiatric or medical support should be assessed and they should be informed that there are non-governmental organizations engaged in supporting victims of trafficking. It is necessary to ask whether the victim has some physical problems, and if he/she was a victim of sexual violence or exploitation or other forms of physical violence, it is necessary to explain why the medical examination is necessary, and that in this way numerous evidence which will be used against the suspect can be obtained.

The victim should be briefed on all phases of the criminal proceedings and its legal consequences, as well as on the fact that criminal proceedings, by its nature, last for a long time and the length of the proceedings does not guarantee that traffickers will eventually be convicted. Then, the rights of the defendant should be explained and pointed out that the public prosecutor's consideration of the rights of the defendant does not imply turning against the victim. Special attention should be given to explaining the manner in which the main hearing is performed, the place where the participants sit, what is the victim's task, who can attend, how to provide statement, who has the right to ask questions, what is confrontation, how the courtroom is entered and the like. All the explanations should be given to the victims calmly and patiently, and at the same time, they should be asked several times whether everything is understood and whether there are any questions.

In order to avoid losing the established confidence, the public prosecutor should ask the victims if there is anything they consider particularly private and intimate, and do not want to be used during the proceedings. If the victims specify certain data as particularly intimate or private, their wish should be respected and this information should not be used to the extent possible, and if this is not possible, the victim should be explained why this data must be used by the public prosecutor's office, or promised (only if possible) that the data will not be used unless necessary. If feasible, the victim should be provided with direct contact with the public prosecutor in case he/she remembers some important information or has any questions regarding criminal proceedings. In this way, the victim establishes a sense of confidence in the public prosecutor, the feeling that he/she is reachable and that contact with the public prosecutor is not completed by the provision of the testimony.

4) Coordination and cooperation of the institutions and organizations engaged in human trafficking suppression

One of the priorities in the fight against organized crime, particularly in human trafficking suppression, is the collaboration of institutions and organizations. In order to create conditions for a smooth and timely communication of information, the procedures and contacts should be available to all relevant institutions and organizations. At the international level, cooperation takes place on the basis of signing and implementing multilateral and bilateral agreements on various issues.

5) *International cooperation in evidence gathering*

The interest of international community to counter human trafficking (and similar actions) is indivisible and recognized in numerous international documents, hence when collecting evidence through mutual legal assistance, or providing or seeking criminal legal assistance from another country, it is necessary to refer to international legal instruments on mutual legal assistance. There are a number of systemic solutions to which we may refer to, as they become a part of the internal legislation of the Republic of Serbia by ratification, the most relevant being: the European Convention on Mutual Legal Assistance in Criminal Matters, the Additional Protocol to the Convention, the European Convention on Human Rights and Fundamental Freedoms, the UN Convention Against Transnational Organized Crime and the supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Council of Europe Convention on Action against Trafficking in Persons, Law on Mutual Legal Assistance in Criminal Matters of the Republic of Serbia, and numerous bilateral and multilateral agreements.

Regardless of the complexity and potential risks, international cooperation is of great importance for effective suppression of human trafficking. The value and significance of joint operations and multiagency approach represent an adequate method to combat this type of crime. When it comes to any form of international organized crime, the success of the investigation depends on the possibility to perform it at the same international level, as the one used by the perpetrators, in order to collect evidence from other countries as well. Best results are obtained on the basis of predetermined proactive police operation, synchronized and performed in several countries.

The joint operation at the international level is considered to be the most efficient and most productive aspect of suppression that provides the best results. This is due to very simple reason: the traffickers commit criminal offenses in many countries, hence the joint investigation should reflect this situation; joint operations allow the collection of evidence in all countries in which the criminal offense is committed; joint international operations enable collection of multiple evidence in origin, transit and destination countries regarding all the three phases of this criminal offence; and joint operations represent the most appropriate strategy for achieving a common goal - the conviction of the perpetrators.

The golden rule is that prior to initiating any kind of joint international operations it is necessary to meet with the public prosecutor and agree on the strategy. This meeting involves the review of the available material and identification of the operational goals, to determine whether all legal and procedural requirements are met, as it would not be efficient to require the cooperation and evidence gathering from some countries if they can not subsequently be used in the proceedings. It is necessary to timely establish contact with a partner unit or liaison officers in the given country, as they can assist in avoiding serious mistakes. In fact, the key role and function of the liaison officers in the country refers to coordination of the process, since they possess an adequate knowledge of all legal and operational matters and know the situation in the country with which we want to establish cooperation.

Planning and considering possible outcomes of the investigation also represents an integral part of the process and identification of the main goals of international cooperation. Primarily, it must be defined exactly what is aimed to achieve and whether this requires assistance in criminal matters or not. The procedure applicable to one case does not automatically apply to the other, as each case differs depending on the offense, the manner of execution and the offenders; thus when requesting provision of criminal legal assistance, it is necessary to include all relevant information in order to avoid subsequent submission of

additional data. It is important to provide as much details as possible and accurately state the nature of the required checks, as well as the evidence to be obtained. Making a request for mutual legal assistance is often an essential factor in the fight against human trafficking.

6) Recommendations of the World Health Organization for conducting an interview with women victims of human trafficking

The importance of initial contact with the victim of this crime is also emphasized by international organizations. The World Health Organization Recommendations for conducting interviews with women victims of human trafficking provide ten principal guidelines:

- *Do not hurt her* - Treat each woman, and in every situation, as if there is a possibility of harm if there is no evidence to the contrary. Do not conduct an interview if it may bring your interviewee in a worse situation in the short or long term.

- *Get to know the issues and evaluate the risks* - get to know the risks associated with human trafficking in each case prior to the interview

- *Prepare a guideline* - do not make promises you can not fulfill. Be prepared to provide instructions in the native language of the respondent and the local language (if different) about appropriate legal, health, social security and safety support services, providing shelter and help in the referral, if prompted.

- *Ensure appropriate selection and make preparations for the work of interpreters and other staff.*

- *Compare the risks and benefits of hiring interpreters and other staff, and establish appropriate methods of supervision and training.*

- *Ensure anonymity and confidentiality* - protect the identity and confidentiality of the respondent throughout the entire interviewing process - from the moment of initial contact until after the details of the case are made public.

- *Obtain informed consent* - verify that each interviewee clearly understands the purpose and content of questions, the purpose of information, the right to refuse to answer a question, the right to terminate the conversation at any time, and to limit the use of data provided.

- *Listen to and account for each woman's assessment about her situation, risk and security* - realize that each woman has different concerns and her perceptions may differ from those made by others.

- *Do not re-traumatize a woman* - do not ask questions intended to provoke an emotional charge. Be prepared to correspond to the respondents' distress and to emphasize her inner strength.

- *Be prepared for emergency* - be prepared to act if the woman is in immediate danger.

- *Use the collected data properly* - use the data in a manner beneficial for each respondent, or to help generate successful policy interventions for women victims of trafficking.

V CONTINUOUS CARE OF THE VICTIMS

The right to compensation is one of the rights of victims in criminal and other judicial proceedings. It is regulated by the Criminal Code, Criminal Procedure Code, as well as the Law on Obligations and Law of Civil Procedure, and international legal documents we have ratified. Among other things, the Declaration of basic legal principles for the victims of crime and abuse of power in 1985 in the chapter on restitution and compensation, foresees that offenders should conduct a fair restitution to victims, including paying for the suffered damages, while the encouragement of establishing and strengthening national funds for compensation to victims is expected.

The United Nations Convention against Transnational Organized Crime in 2000, in the Art 25 envisages assistance to the victims and their protection: “Each member state shall establish appropriate procedures to ensure the right to compensation and restitution for victims of offenses covered by this Convention.”

The Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, particularly Women and Children, supplementing the UN Convention against Transnational Organized Crime in 2000, provides in the Art. 6: “Each member state shall ensure that its domestic legal system contains measures that offer victims of trafficking in human beings the possibility to obtain compensation for damages suffered.”

In the Council of Europe Convention on Action against Trafficking in Human Beings, Articles 12 and 15 regulate the assistance to victims, the right to compensation and legal protection, as well as the obligation of member states to ensure the victims’ rights to compensation from the offenders in their national legislation. States must take the necessary steps to enable the victims to receive the assistance they are entitled to, to ensure adequate standard of living, such as decent and safe housing, psychological and material support and the like. The matter of compensation and legal protection is of particular importance aiming to enable the trafficking victims to be compensated for damages and the pain they have suffered.

Based on the fact that people can not claim their rights if they are not aware of them, in the first paragraph of Article 15 of the Convention, the member states are asked to ensure that the victims, since the first contact with authorities, have access to information on relevant judicial and administrative proceedings and to be informed of their rights, in a language they understand. In paragraph 3 of the same article, victim’s right to compensation is determined, that is, the material fine should cover the material breach as well as the immaterial damages - their suffering. In order to create the conditions for actual damages, the paragraph 4 of the Convention requires member states to take steps to guarantee victims’ compensation. Provision of funds for compensation is left to the states, which are responsible for establishing the legal basis for compensation, administrative framework and the operational modalities of the agreement for compensation. In this regard, the establishment of funds for compensation is proposed and the introduction of measures and programs for social assistance and social integration of the victims, which could be funded from seized assets resulting from criminal offences.

Criminal Code envisages the seizure of the defendant’s proceeds from crime. The Art 93 of this Code is essential for the victim, as it provides the protection of the injured in cases of confiscation the proceeds of crime. The injured party in criminal proceedings, referred to submit material request for damages, may request reimbursement from the seized property

if he/she files a civil suit within six months from the day the decision is made final, referring the injured to the civil suit. If the injured party has not filed the compensation request in the criminal proceedings, such request can be submitted in civil proceedings.

The legal bases of the claim are found: in the provisions of the Convention for the Protection of Human Rights and Freedoms, where in the Art. 1 the obligation to respect human rights is provided; in the Article 22 of the Serbian Constitution which stipulates that everyone has the right to judicial protection, in case of being injured or deprived of any human or minority rights; as well as in the Article 23 that stipulates that human dignity is inviolable and everyone is obliged to respect and protect it. The bases also exist in the Law on Obligations, namely in the Art 200 Para 1, which establishes the right to compensation of damages for breach of honor, reputation or other personal rights, as well as in the Art. 202 of the same law that establishes the right to compensation for damages for emotional distress arising from fraud, coercion or by abuse of a relationship of subordination or dependence induced to unlawful intercourse or lewd act as well as a person being a victim of some other criminal offence in violation of personal dignity and morale.

In civil proceedings, the decision from the criminal proceedings should always be referred to, as in terms of the existence of criminal offence and criminal liability, the civil court is bounded by the final decision finding the defendant guilty. Therefore, the facts that are established in the criminal court decision do not need to be proved. In this way, the victim will avoid secondary victimization, and the process will be conducted more quickly.

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