

HUMAN TRAFFICKING AND MIXED MIGRATION FLOWS IN KOSOVO

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Abstract

The paper resulted in the research that will be disseminated to stakeholders and raise awareness regarding recent changes in Trafficking in Person (TIP) trends in Kosovo since the closing of the border along the Western Balkan migration route and be able to develop their own interventions according to the new highlighted trends.

This paper is based on desk review of BH TIP capacities in available key documents and current researches and qualitative survey conducted through interviews using qualitative questionnaire developed by authors of this paper. An online search was performed for all available documents related to trafficking in people.

Key informants were selected, according to the areas of their expertise. Those were experts from following agencies/organizations: National coordinator's office for the fight against trafficking in human beings, Prosecutors' office of Bosnia and Herzegovina, Service for Foreigners, NGO IFS EMMAUS, and Immigration Centre. Key informants were asked to talk about their respective roles in counter TIP activities, about their perception of the established counter human trafficking system, indicators of human trafficking and link with mixed migration flows, to list examples of good practices and barriers for better identification of victims and potential victims of trafficking.

Limitations of this paper are based on the number of the interviewed key informants and duration of the interviews. More comprehensive and objective findings would be created from interviews with more key informants and preparation time for key informants (key informants were not provided with the questionnaire before the interview).

Significant percentage of migrants and refugees transiting may be vulnerable to potential exploitation and abuse along the route. That being said, to date, only few victims have been identified among migrants and refugees in Kosovo.

Given the findings of the paper, the following actions should receive particular attention so as to further improve the fight against human trafficking in the country:

The results should allow a critical analysis of the needs and gaps to be addressed in order to offer appropriate support to professionals from different fields and disciplines in improving the quality of Counter Trafficking in Person (TIP) trends in Kosovo.

Key words

Kosovo, migrants, refugees, crisis, trafficking, capacities

1. INTRODUCTION

Kosovo is transitional country with economic opportunities and living standard below the level of the EU countries, and as such the countries in the region are just transitional countries for the migrants on its route to neighbouring high-income EU countries. By transition through the region the migrant population became sensible to the local socio-economic situation in the transiting countries. Kosovo, as a post-war country in transition with close proximity to the European Union, complex political structure, underdeveloped economy, high number of refugees and internally displaced persons, young migration management structure, porous borders and limited resources, has been struggling with the phenomenon of human trafficking for almost two decades now. The migratory movements through Kosovo occurs against a background of ongoing challenges related to countering trafficking in persons (TIP). Kosovo has youngest population in the region with average age of 30,2 years. The unemployment rates is 27,5%.

The paper resulted in the research that will be disseminated to stakeholders and raise awareness regarding recent changes in Trafficking in Person (TIP) trends in Kosovo since the closing of the border along the Western Balkan migration route and be able to develop their own interventions according to the new highlighted trends. It would further inform all subsequent project activities to ensure that activities address the current context in Kosovo given the recent rapid changes.

Research is based on desk review of available key documents and current researches and qualitative survey conducted through interviews using qualitative questionnaire developed by first author with the main stakeholders in Kosovo (the experts from two Centre for protection of victims and prevention of THB - PVPT), Hope and Home for Children, Kosovo Judicial Council, Ministry of the Internal Affairs – Office of the National CT Coordinator, US Embassy; Terre des Hommes. An online search was performed for all available documents (policies, strategies, system, academic papers, reports, and evaluations) related to trafficking in people in English, Serbian, and Albanian language. Relevant IOM publications were also reviewed. TIP Reports and GRETA reports were used as a starting point. Information collected through the desk review and key informants' interviews was compiled according to areas listed in the contract. First author developed a questionnaire to be used during interviews.

The questionnaire appeared to be too long and too comprehensive for allocated time of the interview. Therefore, the key informants were asked to talk about their respective roles (and the role of their agency/organisation) in counter TIP activities, about their perception of the established counter human trafficking system, indicators of human trafficking and link with mixed migration flows, to list examples of good practices and barriers for better identification

of victims and potential victims of trafficking, current characteristics of human trafficking in their countries (type of human trafficking, means of recruitment and transportation, national/international, characteristics of victims, risk groups) etc. In short, the key informants were asked to answer to questions from all domains listed in questionnaire.

Limitations of this paper are based on the number of the interviewed key informants and duration of the interviews. More comprehensive and objective findings would be created from interviews with more key informants and preparation time for key informants (key informants were not provided with the questionnaire before the interview). Additional limitation refers to the fact that the compiled data were not shared with key informants, so that they could re-validate the information related to their respective organisations.

2. OVERVIEW OF THE KOSOVO CURRENT COUNTER TIP SYSTEM

2.1. Policy and Legal framework

National strategy and Action plan against trafficking in human beings in Kosovo 2015-2019 (previous one was the National Strategy and the Action Plan 2011-2014). The aim of the strategy is coordination of prevention actions and combating THB with the aim of lowering the number of cases in Kosovo to minimum and coordination of quality services for VoTs, by aiming return of their dignity and prevent re-trafficking; Criminal Code (articles: 171. Trafficking in persons, trafficking-related crimes: 172. Withholding identity papers of victims of slavery of trafficking persons, 169. Slavery, slavery-like conditions and forced labor, 231. Sexual services of victim of trafficking); Law on prevention and combating trafficking in human beings and protection of victims of trafficking (2013) (Kosovo is one of the rare countries in the region that has specific trafficking law).

This law defines authorities and their responsibilities; Standard operating procedures for trafficked persons in Kosovo (amended in 2013); Minimum standards of care for victims of trafficking (2010); Administrative instruction No. 01/2014 for early identification of victims of THB by consular services, border police and the Labour inspectorate, approved by the Government of Kosovo on 21 March 2014.;

The position of the National Coordinator in CT is the key position of the National Authority against THB. It is a body within the MIA and the NC is at the same time the deputy minister of the MIA. The National Authority against THB holds regular meetings and brings together and coordinates the work of all the stakeholders, including government and non government institutions, IOs etc.

2.2. Counter TIP system

National coordinator: in 2015 Deputy Minister of Ministry of the internal affairs was appointed. The new (old) Coordinator took over the responsibilities with the new government consolidated, in October 2017. The National Anti-trafficking Authority is composed of: the National Anti-Trafficking Coordinator (NATC) (Deputy Minister of Internal Affairs) and its Secretariat with a mandate to coordinate, monitor and report on the implementation of policies against trafficking in human beings as well chairing the Inter-Ministerial Working Group (IMWG). The Inter-Ministerial Working Group is composed of two representatives of central institutions

in the field of anti-trafficking state response. Local NGOs and international partners are also members of IMWG. Ministry of Internal affairs is mandate to perform activities related to crime prevention, crime investigation, victims' protection, and offenders' arrests. It is also mandated to perform administrative duties concerning foreigners (Department of Citizenship, Asylum and Migration).

2.3. Care for victims and potential victims

The Ministry of Labour and Social Welfare (MLSW) is mandated to provide social services in Kosovo, including managing the shelters for victims of trafficking. Victims' Advocacy and Assistance Office was established within the Chief State Prosecutor's Office with a mandate of providing legal counselling and assistance to victims. There in one state's and two NGO's shelters for human trafficking victims. The Kosovo Judicial Council and the Prosecutorial Council are responsible for the selection and recruitment of judges and prosecutors and reforms in their respective fields. In addition to these, following ministries are also members in IMWG: Ministry of health, Ministry of culture, youth and sports, Ministry of education, science and technology, and Ministry of local government administration (SOP Kosovo, 2016). Victims may use a helpline (0800 11 112) for "self-identification". Annual reports are not available on the Internet.

There should be an anti-trafficking web page: www.antitrafikimi.com but it is not active.

Table 1. – TIP tier ranking by year (TIP Reports KOSOVO)

2010	2011	2012	2013	2014	2015	2016	2017
2	2	2	2	2	2	2	2

2.4. Partnership

Kosovo signed cooperation agreements with Albania and Montenegro. Kosovo has concluded police cooperation agreements with Austria, Sweden, Croatia, Albania and Macedonia; agreements on combatting trafficking in human beings with France and Macedonia; a security cooperation with Germany; and an agreement to combat organised crime and irregular migration with Hungary. Kosovo has customs cooperation agreements with ten countries (TIP report, 2017).

According to Kosovo Police officials, the information exchange is done through INTERPOL channels and Police attachés accredited in Kosovo. There are three Kosovo police liaison officers accredited in Austria, France and Turkey (also planned in Germany and Belgium). Non-membership of Kosovo in international organisations such as INTERPOL, EUROPOL, FRONTEX and SELEC, and the failure to sign the conventions such as Police Cooperation Convention, remain a challenge.

Key informants from the Ministry of Internal Affairs named International Law Enforcement Cooperation Unit (ILECU) as the main mechanism for information sharing.

Standard Operating Procedures (SOPs) for Transnational Cooperation and Case Management for the protection of victims and potential victims of trafficking with a special focus on children between Albania, Kosovo and Montenegro, were endorsed at a trilateral meeting between the National Anti-trafficking Coordinators of the three countries held in Budva, Montenegro 31 October – 2 November, 2016. Because of political reasons, there is a lack

of direct communication with Interpol and Europol. There are memoranda of understanding between state agencies and civil organisations. Key informants expressed satisfaction with cooperation at the national level. For NGOs, there are no official mechanisms in place for sharing information at regional level.

2.5. Indicators for TIP

“Indicators list for early identification“ is one of the activities listed in Action plan 2015-2019, as well as training of multidisciplinary teams for implementing indicators.

Indicators are listed in the Administrative instruction No. 01/2014 for early identification of victims of THB by consular services, border police and the Labour inspectorate. New set of indicators for early identification (Administrative instruction on early indicators for THB) is in a draft phase. Some key informants say that lists of indicators are not distributed at the local level.

2.6. Good practices in the identification of and care for trafficked persons

Good practice in care for victim is a referral of identified victim (or PVoT) to the state shelter where risk assessment is conducted. A victim’s risk can be assessed as high, medium or low. High risk victims are accommodated in state’s shelter while medium and low risk victims are referred to NGO run shelters.

Awareness raising activities that are performed during October (marking EU Anti-Trafficking Day), and not only on 18 October, can also be listed as an example of a good practice.

Project on early identification of potential victims of trafficking, implemented by PVPT (Centre for protection of victims and prevention of THB) could be seen as an example of good practice. It aims to raise capacities of teachers in primary schools for identification of risk factors for human trafficking among students.

2.7. Current obstacles to the implementation of good practice procedures and partnerships

According to the Kosovo progress report, administration of justice is slow and inefficient, and there is insufficient accountability of judicial officials (Kosovo Report, 2016). The judiciary is still vulnerable to undue political influence and rule of law institutions suffer from lack of funding and human resources. Prosecution services are understaffed and lack training. The investigative capacity of the police is generally good but the use of intelligence-led joint investigations remains limited.

Corruption is stressed as prevalent in many areas and a very serious problem. A stronger political will to tackle this matter in a comprehensive manner is necessary (TIP report, 2016). Governmental corruption is also recognised in TIP report as a systemic risk for effective dealing with HT, given that it creates an environment that enables some trafficking crimes (TIP report, 2017).

At sectorial levels, it is observed that judges impose lenient sentences on convicted traffickers, and prosecutors continue to downgrade trafficking cases to a lesser crime (TIP report, 2017). It is important to note that prosecutors and judges do not have specialisation in trafficking (TIP report, 2017).

Different reports suggest that the police are the most effective criminal justice agency in this field. Still, more proactive and intelligence led policing is recommended.

Law enforcement statistics does not allow any specific picture about human trafficking cases – they are not disaggregated to demonstrate different criminal offenses (TIP report, 2017).

There are two recommendations at the system level – 1. authorities should consider establishing a fully-fledged post of National Coordinator supported by an office which is commensurate to the tasks at hand, and 2. authorities should consider the designation of an independent National Rapporteur or another independent mechanism for monitoring the anti-trafficking activities of State institutions (GRETA Report, 2015).

Lack of effective early identification programmes, lack of financial resources for NGO-run shelters, lack of reintegration services are recognised by key informants as the main blocks for full implementation of anti-trafficking efforts.

3. KOSOVO - TIP LANDSCAPE

3.1. Existing data on TIP activity outcomes

Kosovo is a source, transit and destination country for trafficked women and children (Kosovo 2016 report), although National strategy refers to Kosovo as origin and transit country as stated in Progress Report for Kosovo from 2013 (National strategy 2015-2019). Sexual exploitation, forced labour and exploitation of children for begging are listed as main exploitation types, highlighting women and children as vulnerable population. Domestic trafficking for sexual exploitation is recognised as a problem (TIP report, 2017), (National strategy against trafficking in human beings 2015-2019).

Criminal groups from Kosovo also force women from Albania, Moldova, Romania, Serbia, and other European countries into prostitution. Victims from Kosovo are forced to prostitution and labour through Europe. Trafficker methods include false promises of marriage or employment offers in cafes, night clubs, and restaurants (TIP report, 2017). Sexual exploitation happens in private homes and apartments, night-clubs, and massage parlours. Main type of exploitation for children (from Kosovo and Albania) is forced begging which is often recognised as child abuse and neglect instead of child trafficking (KIPRED, 2015).

3.2. Profiles of individuals, vulnerable to exploitation and abuse

Kosovo is a source, transit and destination country for trafficked women and children, although National strategy refers to Kosovo as origin and transit country, as stated in Progress Report for Kosovo from 2013 (Kosovo Report, 2016), (National strategy 2015-2019). National strategy against trafficking in human beings recognises women and children as the most vulnerable groups for human trafficking. According to identified cases, children used as dancers and escorts are vulnerable to sex trafficking while economically marginalised Roma, Ashkali, and Egyptian communities are vulnerable to forced begging and sex trafficking (TIP report, 2017). High unemployment (especially for young people), school dropout, domestic violence, and gender discrimination are push factors that can make Kosovo young people more vulnerable to human trafficking.

3.3. Patterns of TIP recruitment and transportation (recruitment, transportation)

Several key informants mentioned increase in cyber recruitment practices (use of social networks). The main types of recruitment involve false promises of marriage and false promises of employment. No major changes are visible in transportation manner

3.4. Key emerging forms of exploitation

Sexual exploitation, forced labour and exploitation of children for begging are listed as main exploitation types, highlighting women and children as vulnerable population. No significantly new trends were mentioned in interviews.

- Domestic trafficking for sexual exploitation is recognised as a problem (National strategy 2015-2019), (TIP report, 2017).

Criminal groups from Kosovo also force women from Albania, Moldova, Romania, Serbia, and other European countries into prostitution. Victims from Kosovo are forced to prostitution and labour in Europe. Trafficker methods include false promises of marriage or employment offers in cafes, night clubs, and restaurants (TIP report, 2017). Sexual exploitation happens in private homes and apartments, night-clubs, and massage parlours.

- Main type of exploitation for children (from Kosovo and Albania) is forced begging which is often recognised as child abuse and neglect instead of child trafficking (TIP report, 2017).

Key informants provide following picture of the current human trafficking: 90% of cases include internal trafficking, mostly of Albanian origin. Sexual exploitation is the main form of exploitation, as well as labour exploitation.

- One key informant stated that pornography is a new form of exploitation.

Sexual exploitation occurs mostly in bars. There is a trend of moving exploitation sites to more private locations (private houses) or to small gas stations in rural areas. The last 2 years suggested evident increase in minor female victims. Illegal migrants are mostly exploited for sexual purposes. The main types of victim's control are threats of physical violence toward victim or his/her relatives, blackmails and sexual violence.

4. CURRENT CAPACITIES AND GAPS

4.1. Description of gaps in resources for the identification and referral of potential Victim of Trafficking (VoTs) within the mixed migration flows

According to the European Commission report "The Department of Citizenship, Asylum and Migration (DCAM)" in the Ministry of Interior is in charge of overall coordination of migration policy (Kosovo report, 2016). The Directorate for Migration and Foreigners in the border police deals with irregular migrants. Kosovo has a reception facility for irregular migrants in Vranidoll / Vrani Do, which can host 70 persons, including appropriate accommodation of vulnerable groups. Measures are in place to prevent the infiltration of people-smugglers in the centre and there are no reported cases of attempts. In 2015, 12 people were arrested on charges of migrant smuggling and irregular migrants were intercepted, mostly from Albania."

Special challenge (according to key informants) is related to large number of unaccompanied children among illegal migrants. Key informants have not seen any impact of the closure or altering migration routes by state and EU.

Some key informants think that national coordinator role should be strengthened – current situation is that the national coordinator is Deputy Minister of Ministry of the internal affairs by default which is not adequate (according to key informants) because countering human trafficking may not be a priority for national coordinator and national coordinator is very important for advocating counter-trafficking activities at the national level and budgeting.

Description of gaps in resources for identification and referral of potential VoTs within the mixed migration flows, as well as the primary obstacles and barriers to systematic identification of and provision of assistance to VoT and potential VoT.

It is noted in some reports that “several police officers, labour ministry employees, and other governmental officials have been charged with or convicted of trafficking crimes”(TIP report, 2017). Cases like that downgrade the overall state response to the human trafficking and send very negative message to victims.

Some key informants think that specialisation of prosecutors and judges would be very important since human trafficking cases are occasionally downgraded to a less serious crime. There is a perception of some key informants that judiciary professionals are not taking seriously these cases. They also question the duration of trials and negative consequences for victims. US Embassy proposed specialisation of judges and development of sentencing guidelines in human trafficking cases.

Lack of funds is recognised as a challenge for implementation of “Standard Operative Procedure (SOP)” and identification and assistance to victims and potential victims.

4.2. Specific gaps in resources for the identification and referral of potential VoTs within the mixed migration flows

All individuals travelling in an irregular fashion are exposed to hardship and danger. However, some categories of individuals are of special concern as they are particularly vulnerable. This chapter speaks about some of different categories of vulnerable individuals in mixed migration flows. Many of these categories are complex to identify and require specialised determination processes.

The key role of frontline officials is to provide immediate protection and assistance to migrants they think are in vulnerable situations, and refer them to appropriate authorities for further screening and support. The categories covered below include a wide range of vulnerable individuals within mixed migration flows. First line officials need to be aware they also may encounter vulnerable individuals who do not fall under those categories but who need assistance, including elderly migrants, migrants with disabilities or serious health conditions, pregnant women, migrants in need of family unification, and others (Addressing the challenge, 2016).

People who migrate regularly, with valid travel documents, may also fall victim to traffickers, but the irregular situation of many migrants in irregular movements makes them particularly vulnerable. Unaccompanied children, stranded migrants, refugees and asylum seekers and stateless persons among mixed migration flows are particularly susceptible.

Many individuals who travel as part of mixed migration flows, may be unaware that they may become victims of trafficking, assuming that they are merely smuggled to another country. Smuggled migrants voluntarily enter into arrangements with migrant smugglers but may subsequently become victims of crimes, including kidnapping, extortion, rape, assault and trafficking in persons.

Some smugglers may put migrants into exploitative situations on the basis of paying off their smuggling debts. Because of all of this, we have created a special set of feedback for the National TIP Coordinators in order to find out about the new forms of TIP within the migration crisis. We set the next question, What they think about cases in their countries (see Table 2)

- Migrants reported to have paid smugglers to be hidden from the public spaces, but they were then forced to remain in a closed space against their will.
- Migrants having worked or provided services for someone during their journey without receiving the expected or any remuneration in return.
- Migrants have been forced to work or perform activities against their will
- Migrants reported having been approached with offers of an arranged marriage (for the respondent or for a close family member)
- Migrants REPORTED that they experienced physical violence
- Migrants were offered money in exchange for blood, organs or body parts
- Migrants FORCED to give blood, organs or body part
- Migrants threatened with sexual violence?

Table 2: FORMS OF EXPLOITATIONS in the mixed migration flows

RKS	
... were held against their will	No
.....no of cases within FMS2017 Survey	-
... have worked without getting the expected payment	No
.....no of cases within FMS2017 Survey	-
... were forced to work	No
.....no of cases within FMS2017 Survey	-
... offers of an arranged marriage	No
.....no of cases within FMS2017 Survey	1
... experienced physical violence	No
.....no of cases within FMS2017 Survey	-
... cash in exchange for blood, organs or body parts	No
.....no of cases within FMS2017 Survey	-
... FORCED to give blood, organs or body part	No
.....no of cases within FMS2017 Survey	-
... threatened with sexual violence	No
.....no of cases within FMS2017 Survey	-

UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION

The UN Committee on the Rights of the Child has identified a number of protection gaps in the treatment of such children, including that unaccompanied and separated children face greater risks of, inter alia, sexual exploitation and abuse, military recruitment, child labour (including for foster families) and detention.

In many countries, unaccompanied and separated children are routinely denied entry to or detained by border or immigration officials. In other cases, they are admitted but are denied access to asylum procedures, or their asylum claims are not handled in an age and gender-sensitive manner. Some countries impede separated children who are recognised as refugees from applying for family reunification.

Many such children are granted only temporary status, which ends when they turn 18, and there are few effective return programmes.

The vulnerable situation of migrant unaccompanied and separated minors worldwide, and the threats they face need to be addressed, particularly with the significant increase in their number in the current 'refugee crisis'. The 2016 State of the Union speech called for a strong and immediate protection of unaccompanied and separated minors, in line with the EU's historical values.

In our Report we have created a special set of feedback for the National TIP Coordinator in order to find out about the new problems of unaccompanied and separated children in migration within the migration crisis (see Table 3)

Table 3: UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION (UASC) - EFFECTIVE SYSTEM

UASC - EFFECTIVE SYSTEM IN COUNTRY	RKS
Does Your State take measures to have an effective system of guardianship which takes into account the specific needs and circumstances of unaccompanied and separated children in migration in order to protect and promote their rights and secure their best interest	Yes
Are separated children, present in their jurisdiction effectively provided with guardianship (alongside legal assistance) and representation, promptly after identification as an unaccompanied child	Yes
<u>Representation and guardianship</u> - Is there a requirement to ensure that the child is represented throughout the entire process	Yes
Child is represented by Social Welfare Service?	Yes
Are there any exceptions regarding children based on age	No
Is s/he always informed in a language s/he can understand?	Yes

An age assessment is a procedure organised by a public body to determine the chronological age of an individual lacking legal documents. Being considered an "undocumented migrant" by the administration and not an "unaccompanied child" may have serious consequences. If the age assessment concludes that the individual is 18 years of age or older, s/he will not benefit from the protective regime afforded to child asylum-seekers which includes lodging, access to healthcare and education and legal provisions limiting the recourse to detention. Incorrect age assessments often result in children being wrongfully detained or made homeless. Negotiating who should benefit from the rights afforded by childhood on the basis of arbitrary measurements is unacceptable (Feltz, 2015).

To ensure the highest degree of protection of the rights of the child during age assessment, it is necessary to approach every step from the perspective of the best interests of the child, including his or her own particular circumstances. They must be a primary concern, even over the State's political interests. As we can see, in the Kosovo there are no statutory procedures, protocols, guidance or recommendations issued on age assessment procedures by different authorities. In addition, the concern relates to the fact that domestic courts have not examined the application of age assessment procedures in individual cases (see Table 4).

Table 4: UASC - AGE ASSESSMENT PROCEDURES in Kosovo: **statutory procedure**

Age assessment procedures:	RKS
STATUTORY PROCEDURE	
Is there any statutory procedure, protocol, guidance or recommendations issued on age assessment procedures by different authorities?	No
Have domestic courts examined the application of age assessment procedures in individual cases?	No

Every country is free to choose the method used to scrutinise the age of an individual. The most common are wrist/carpal x-rays, followed by dental examinations and dental x-rays.

To a lesser degree, collar bone and hip x-rays as well as physical development assessments are also used.

When it comes to the methods used to determine the age of unaccompanied children in migration in Kosovo, we can see the prevailing "social oriented" methods: Documents submitted or obtained during the process, Estimation based on physical appearance, Age assessment interview, Social services assessment and Psychological evaluation. On the other hand, other methods are completely unknown to the countries of WB. (see Table 5).

Table 5: UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION - AGE ASSESSMENT PROCEDURES IN KOSOVO

AGE ASSESSMENT PROCEDURES	RKS
Documents submitted or obtained during the process	Yes
Estimation based on physical appearance	No
Age assessment interview	Yes
Social services assessment	Yes
Psychological evaluation	No
Dental observation	No
Physical development observation	Yes
Carpal (hand/wrist) x-ray	No
Collar bone x-ray	No
Dental x-ray (wisdom/front teeth)	No
Sexual maturity observation	No

The European Union has competence to deal with 'legal migration' (e.g. people coming to Europe on invitation of a specific employer, family reunification, etc.) and hence to lay down conditions

of entry and residence of third-country nationals. The EU is also competent to prevent and reduce 'irregular migration' according to article 78 and 79 of the Treaty on the Functioning of the EU (TFEU). This means that the EU is competent to legislate on common standards concerning age assessment. Article 25 of the Directive on common procedures for granting or withdrawing international protection ("Asylum Procedures Directives") authorises the use of medical examination in order to determine the age of an unaccompanied minor in European Law. It does not specifically deal with the different existing methods, but lays down rights and safeguards for the child: to be provided with legal and procedural information free of charge, to have a representative appointed, personal interview(s) conducted by a qualified professional, a presumption of minority, the use the least invasive method, informed consent, the fact that no decision of non-minority can be based solely on a refusal to undergo medical examination, and finally the protection of the best interests of the child. Consequently, the Commission will be very interested to receive NGO observations that expose systematic violations of these safeguards.

An incorrect age assessment can have grave consequences by denying vulnerable UASC the services that they are entitled to and putting them at risk. For example, young girl, claimed asylum as a child in some countries. After an age assessment was requested, the Local Authority wrongly assessed her to be 23 when she was 15 years old and thus she was denied adequate protection which resulted in her being sexually abused. This theoretical case demonstrates the potential human cost of inadequate practice.

Therefore, it is very important for the procedures to proceed as soon as possible and to be result in a formal decision. (see Table 6 & 7).

Table 6: UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION - AGE ASSESSMENT PROCEDURES IN KOSOVO

UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION – When <u>age</u> assessment procedures begin:	RKS
Upon arrival/interception on the territory	No
Within a week	Yes
Within a month	No

Table 7: UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION - AGE ASSESSMENT PROCEDURES IN KOSOVO

UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION – Does age assessment result in a formal decision	RKS
	No

5. CONCLUSION AND RECOMENDATION

No revisions are needed since new indicators were drafted (Administrative instruction on early indicators for THB), and current indicators relevant to migration flows are included in Administrative instruction No. 01/2014 for early identification of victims of THB by consular services, border police and the Labour inspectorate.

If we think of Recommendations for national stakeholders to adapt existing systems to meet identified changes to TIP trends in the country/region, as well as to target capacity building

activities for different actors working to identify and refer victims and potential victims of TIP to respond to new and emerging trends.

No major changes in TIP trends were observed in the last three years. There is a constant need for capacity building activities, especially at the operational level in local communities for better identification of victims and potential victims of TIP.

There are certain recommendations that could be issued for general strengthening of the current anti-trafficking system:

- development of standardised statistics about human trafficking and illegal smuggling cases / criminal offences
- creation of unified data base at the national level
- strengthening of rehabilitation and reintegration programmes for victims
- enable stable financial functioning of shelters
- specialisation of prosecutors and judges
- continuous multi-agency and multi-disciplinary education/training for professionals at the local level
- greater involvement of the local authorities in prevention activities
- initiate more intensive cooperation with academic community in order to create evidence-based activities
- with regard to child begging (mostly from Roma population), it could be useful to include Roma community in development of preventive programmes
- strengthening cooperation of relevant stakeholders in countering human trafficking and migrant smuggling at national and international level.
- organisation of regular international meetings of representatives of key stakeholders (local offices of international organizations)

New potential TIP indicators for identification and referral

LABOUR EXPLOATATION - Trafficking for labour exploitation has been on the rise in recent years, and additional actors would need to be operationally involved in the national and transnational referral mechanism; INCOMPLETE REFERRAL MECHANISMS - Referral mechanisms in practice have not reached a critical mass, and hence the existing guidelines are not yet widely known, understood, shared and accepted by each professional group/actor involved in the process of victim identification, referral and assistance; INADEQUATE NUMBER OF LOCAL COMMISSIONS FOR COMBATTING HUMAN TRAFFICKING - Local commissions for combatting human trafficking and illegal migration can be regarded as an example of good practice, especially along the migration routes which is a new potential for indicators and identification/referral; SOS PHONE - In a many countries of WB there is no SOS phone for migrants in country; PROSECUTORS DO NOT APPLY SAME STANDARDS, and do not have same skills and experience in cases involving trafficking, which may cause certain level of victims discrimination due to inappropriate level of protection and support ; POLICE OFFICERS LACK EXPERIENCE AND TRAINING TO RECOGNISE POTENTIAL VOTS within the mixed migration flows, which occurs in many forms, including through labour exploitation primarily. Also, trafficking within the mixed migration flows cases have not been a familiar form of trafficking for judiciary; VERY WEAK SYSTEM FOR

DEALING WITH UNACCOMPANIED AND SEPARATED CHILDREN. Standard operating procedures for dealing with unaccompanied and separated children, Standard Operative procedures for the treatment of vulnerable categories of foreign persons when introduced and implemented could have new potential for identification/referral.

There has no statutory procedure, protocol, guidance or recommendations issued on age assessment procedures for UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION by different authorities:

- Domestic courts have not examined the application of age assessment for UNACCOMPANIED AND SEPARATED CHILDREN IN MIGRATION procedures in individual cases.
- When it comes to the methods used to determine the age of unaccompanied children in migration in WB countries, we can see the prevailing "social oriented" methods: documents submitted or obtained during the process, estimation based on physical appearance, age assessment interview, social services assessment and psychological evaluation. On the other hand, other much more sophisticated methods are completely unknown to the countries of WB.
- Age assessment of unaccompanied and separated children in migration does not result in a formal decision.

INADEQUATE COOPERATION BETWEEN PUBLIC AND PRIVATE SECTOR IN PREVENTION of trafficking and sexual exploitation of minors through travel and tourism industry as well as with associations of employers is new potential for development of indicators for identification/referral; INADEQUATE NUMBER OF DAY CENTRES FOR STREET CHILDREN - Day centres for street children are recognised as an example of good practice and if accompanied with Psychosocial work on the street could be new potential for development of indicators for identification/referral

Recommendations

- To TREAT TRAFFICKING IN A MORE COMPREHENSIVE FASHION and thus expand beyond sexual exploitation in order to encompass new forms, namely criminal schemes of child begging and workers exploitation, whereas the latter are deceived by false promises and deprived of all human rights and decent treatment.
- To intensify and to IMPROVE LEGALLY BINDING FORMAL INDICATORS FOR EARLY IDENTIFICATION OF VICTIMS and distribute them to all institutions dealing with victims in order to develop harmonised implementation of those indicators especially regarding the potential victims among illegal migrants and asylum seekers, as well as standard operative procedures.
- To STRENGTHEN THE SPECIAL TREATMENT OF CHILDREN VICTIMS. Children are considered to be vulnerable witnesses. This entitles them to increased protection. Children cannot be questioned more than twice during the entire investigation of a case and should not be exposed to any direct contact with the suspected perpetrators. Further, children can give testimony only in the presence of a parent or a legal guardian and a child psychologist. Such testimonies are recorded to avoid interviewing children more than once. During court proceedings a judge is entitled to hold a part of the session in camera, if this is in the best interests of a child, upon request of a prosecutor

or a lawyer of a victim/witness.

- To ensure that proper RISK ASSESSMENT is conducted before RETURNING CHILDREN to their parents, or to their countries of origin, taking into account the best interests of the child;
- To conclude and to effectively implement agreements for intensifying cooperation in the fight against trafficking and for the IMPROVEMENT OF IDENTIFICATION, REFERRAL, AND ASSISTED VOLUNTARY RETURN, OF POTENTIAL VICTIMS AND VICTIMS OF TRAFFICKING, children specially, among countries in the region. By those agreements to unify the procedures for identification, notification, referral and voluntary assisted return of victims, and introduce standard operating procedures for transnational cooperation and case management for the protection of victims of trafficking with a special focus on children.
- To IMPROVE THE COOPERATION BETWEEN GOVERNMENTS AND CIVIL SOCIETY ORGANISATIONS. NGOs are still considered as service providers rather than equal partners in the process of human trafficking suppression, prevention and especially in victim assistance where NGOs carry the largest responsibilities, and yet are not supported sufficiently by the government.
- To strengthen professional capacities of competent authorities aimed at PROACTIVE IDENTIFICATION OF VICTIMS OF HUMAN TRAFFICKING, ENSURING THAT LAW ENFORCEMENT OFFICERS, labour inspectors, social workers and other officers apply a pro-active approach and undertake intensified actions aimed at detecting and saving potential victims from trafficking, particularly the most vulnerable ones.
- To improve REINTEGRATION of victims of trafficking into society by ESTABLISHING LONG-TERM PROGRAMMES by ensuring that relevant actors take a proactive approach and increase their outreach work to identify victims of trafficking, including by continuing to pay attention to children in street situations.
- To raise awareness and KNOWLEDGE ON TRAFFICKING AMONG GENERAL PUBLIC and professionals as well as to develop evidence based policy aimed at suppressing trafficking since trafficking has developing further in the region, by altering its trends and patterns. Thus, it is required to conduct comprehensive public campaigns targeting general public and also specifically tailored campaigns targeting vulnerable groups. Those actions, serving as deterrents must coincide with implementation of other widespread actions aimed at improving general living conditions and standards of vulnerable groups including women, children, minorities, refugees and internally displaced persons.
- To ACKNOWLEDGE CORRUPTION AND ITS IMPACT TO TRAFFICKING and to explore the role of corruption in trafficking and its impact on trafficking augmentation and to develop mechanism to suppress corruption associated with trafficking.
- To ENHANCE THE WORK AT IDENTIFICATION OF VICTIMS, INCLUDING THOSE AMONG MIGRANTS, REFUGEES, ASYLUM SEEKERS, AND UNACCOMPANIED CHILDREN migrants involved in begging including the establishment and enhancement of mobile identification units and their proactive work among vulnerable groups under risk of trafficking.

- To STRENGTHEN IDENTIFICATION OF VICTIMS IN DESTINATION COUNTRIES among migrant population since victims are not aware of their position during entire migration route, and they are not willing to expose themselves as potential victims. They are focused on getting to destination country.
- To IMPROVE THE COOPERATION AMONG THE AUTHORITIES WITHIN THE CONCEPT OF INTEGRATED BORDER management and system of comprehensive migration management, particularly aimed at improvement of recognition and identification of human trafficking victims within the categories of vulnerable migrants and asylum seekers.
- To ENABLE VICTIMS TO EXERCISE THEIR RIGHT TO COMPENSATION by guaranteeing them effective access to legal aid, strengthening the capacity of law practitioners to help victims to claim compensation and incorporating the issue of compensation in the training programmes for professionals.
- To DEVELOP STANDARDISED STATISTICS about human trafficking and illegal smuggling cases throughout the region.
- To STRENGTHEN SOCIETAL RESPONSE in combatting victimisation of Roma children since the existing practice of some professionals downgrade victimisation of Roma children to tradition and customs in Roma community.
- To ensure GREATER INVOLVEMENT OF THE LOCAL AUTHORITIES in prevention of trafficking including increasing proactive approach and outreach work to identify victims of human trafficking, particularly among migrant workers.
- To take additional measures to GUARANTEE THE APPLICATION OF THE NON-PUNISHMENT PROVISION, including by adopting a specific legal provision and/or the development of guidance for relevant professionals on the scope of the non-punishment provision.
- To continuously implement activities in COOPERATION WITH TOURISM SECTOR so as to promote responsible tourism and prevent child sex tourism.

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