

National Referral Mechanism for the victims of trafficking in human beings



Unit for Promotion
of Gender Equality

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By decision of the Government of the Republic of Macedonia in January 1997, the Unit for Promotion of the Gender Equality was established within the Ministry of Labour and Social Policy.

The basic task of this Unit is to influence the enhancement of the woman's role and to promote the equality between the genders in compliance with the international conventions, which were ratified by the Republic of Macedonia, enabling the women to enjoy their rights completely. This function is achieved through initiating of specific activities undertaken by the National Plan for the Gender Equality, which was approved by the Government of the Republic of Macedonia in 1999, in order to achieve its goals and priorities.

The other aim of this Unit is not only to coordinate the activities within the governmental institutions, which work on the same area the gender equality by means of laws, articles and decisions proposed by the Government of Republic of Macedonia, but also to make own proposals and initiate activities to overcome the problems that Macedonian women face with.

Moreover, the Unit for Promotion of the Gender Equality works with, and supports the activities of NGO's, which work on this issue.

By passing the Law on Equal Opportunities on women and men , the most important responsibility of the Unit for Promotion of the Gender Equality is to implement and monitor the implementation of this Law.

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INTRODUCTION

INTRODUCTION



The State Department Report on human trafficking for 2005 claimed that 600,000 to 800,000 people were subject of trafficking on international level. 80% of them were women and girls who were victims of various forms of exploitation, especially sexual, work under compulsion and organ trade. According to the Labour International Organization (2005 report), about 40% out of the total number of victims were children, 98% of the sexual exploitation victims were women and girls.

The intensity of this phenomenon in Europe is closely related with the political and economic conditions, which create poverty and intensify the migration of people, especially women.

The challenge for Europe is double. The policy of Europe is to support and participate in the economic growth and social protection of the countries belonging to the Central and Eastern region, which are at the same time, the countries that victims come from. On the other hand, the European countries, which are destination countries, must develop mechanisms for systematic support and aid for victims in cooperation with their social partners and non-governmental organizations.

By means of the National Commission to Combat Trafficking in Human Beings and illegal migration, our country worked out the Strategy and National Plan fighting against human trafficking and illegal migration. The plan has already achieved sustainable positive results.

The MLSP participates firmly and continuously in these activities, having in mind that the problem of harassment of children and women is one of the major political priorities.

The phenomenon of the modern slavery is complex, and it must be considered and prevented within the efforts made against the organized crime, prevention and punishment of the violation of human rights.

However, the role of the state is not enough and adequate to eliminate this activity. There should be cooperation among the governmental institutions, international organizations and the civil sector. The state should cooperate and support the efforts of the NGO's in order to prevent and eliminate this phenomenon.

The fight against the violence dictates interventions towards the renewal of the social structure and solidification of the respect of the basic human rights, especially the women's ones. At the same time, the fight against the human trafficking requires mobilization of everyone, because this problem spreads directly in the society, affecting its institutions.

The problem affects us all.

The Minister of MLSP,
Ljupco Meskov





The MSLP efforts to fight against trafficking in human beings

**The Organisation for Security and Co-operation in Europe
Spillover Monitor Mission to Skopje
support and cooperation**

The MLSP efforts to fight against trafficking in human beings

In accordance to the interests and efforts of the International Community for joint activities and eradication of human trafficking and implementation of the National Programme on the fight against human trafficking and illegal migration, MLSP has intensified, upgraded and widened the measures and activities for prevention and protection of the victims of the human trafficking, especially women and children.

Since 2005, the NRM Office has functioned successfully within MLSP. It was established as a part of the project realized by the Ministry of Labour and Social Policy and National Commission to Combat Trafficking in Human Beings and illegal migration, in cooperation with OSCE mission in the Republic of Macedonia. The Centres for social work, the local institutions, NGO's, the Association of the social workers' organizations as well as the municipal commissions for gender were included in this project.

The NRM Office for the victims of trafficking in human beings promotes a good practice of democratic establishment of institutions by means of enhancing and coordinating the relations between the state institutions and civil society. Moreover, it informs the public and the state bodies that the concept of the human trafficking should be changed, so that it should be considered as a flagrant harassment of human rights. The Centres for social work are directly involved in all activities in the social protection for prevention and reducing the human trafficking on a local basis.

Having in mind that the Centres for social work are functional institutions, which perform numerous tasks in order to fulfill the preventive activities in the social protection, they meet a variety of different categories of citizens, particularly women and children, who might be potential victims of human trafficking. They should target their future work at prevention and protection of the victims of the human trafficking, particularly children. The Centres for social work perform their activities by teamwork, in which the social workers represent the most important part.

The NRM Office for the victims of trafficking in human beings promotes a good practice of democratic establishment of institutions by means of enhancing and coordinating the relations between the state institutions and civil society. Moreover, it informs the public and the state bodies that the concept of the human trafficking should be changed, so that it should be considered as a flagrant harassment of human rights. The Centres for social work are directly involved in all activities in the social protection for prevention and reducing the human trafficking on a local basis.

Having in mind that the Centres for social work are functional institutions, which perform numerous tasks in order to fulfill the preventive activities in the social protection, they meet a variety of different categories of citizens, particularly women and children, who might be potential victims of human trafficking.

They should target their future work at prevention and protection of the victims of the human trafficking, particularly children. The Centres for social work perform their activities by teamwork, in which the social workers represent the most important part.

The Centres should perform their work by:

- Detection and recognition of the victims of the human trafficking
- Giving aid and protection;
- Creating a network of cooperation on a local basis;
- Upgrading the public conscientiousness about preventive activities;
- Cooperation between NRM Office with the MLSP.

In order to realize these activities and to have even insight in the work of all Centres for social work, MLSP would pass a certain number of documents, prepared by relevant experts and institutions.

Considering the fact that appropriate spacious and technical requirements should be met in order to fulfill these activities, especially the work with children, MLSP together with OSCE mission and UNICEF Office has provided office and technical equipment for 15 Centres for social work, as well as the Association of the organizations of social workers in Macedonia.

Six seminars supported by the International Organization of Migrations (IOM) were organized to educate and upgrade the social workers in the centres, as well as additional 120 social workers and members of the municipal commissions for gender equality. Furthermore, four seminars were organized which aimed at training of psychologists, pedagogues and lawyers and members of NGO's. MLSP, together with the UNICEF Office, has trained the nominated social workers from 27 Centres for social work and inspectors fighting against the child trafficking within MOI. It means that MLSP continuously works on such activities, in order to reduce this crime in our country. MLSP, together with UNICEF, prepared a Programme for re-socialization and re-integration of the children-victims of human trafficking, which currently is working on training of the expert teams within the Centres for social work.

MLSP and the Coordination Office of National Referral Mechanism will keep on supporting the creation of the framework for coordination of all state bodies, which will contribute to fulfilling the obligations that Macedonia has undertaken to protect and promote the human rights of the human trafficking victims in the strategic partnership with civil society and other participants.

Elena Grozdanova
Head of the Unit for Promotion of the Gender equality

The Organisation for Security and Co-operation in Europe - Spillover Monitor Mission to Skopje support and cooperation

In Organisation for Security and Co-operation in Europe - Spillover Monitor Mission to Skopje terminology, a National Referral Mechanism (NRM) represents a co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of human trafficking victims, while coordinating their efforts in a strategic partnership with civil society. In addition, the NRM works to improve national policy and procedures on a broad range of victim-related issues, such as residence and repatriation regulations, victim compensation, and witness protection. Importantly, the NRM can set benchmarks to assess whether the States' Anti Trafficking goals are being met.

The structure of an NRM varies in each country. The implementation of a comprehensive rights-based anti-trafficking policy should be seen as an element of democratic and transparent governance based on the rule of law. Thus, a crucial prerequisite of effective Anti Trafficking measures is the building and strengthening of relevant local and national institutions. Moreover, the mechanism's performance is subject to periodic evaluations with the aim of identifying shortcomings while adapting it to evolving needs and conditions. Locally, the NRM was designed considering at domestic circumstances and tailored in order to meet the country's needs.

At the core of every NRM is the process of locating and identifying likely victims of trafficking, which are generally known as "presumed trafficked persons". This process includes all the different organizations involved in an NRM, which should cooperate to ensure that such presumed victims are offered assistance through referral to specialized services. The Ministry of Labor and Social Policy acknowledged its role and responsibility in this field and made the first step in mobilizing a nation-wide response to human trafficking. And this first step was not an easy one to make. The implementation of the NRM Project started in September 2005 with initial assessments and broad ranging consultations with relevant actors. Several months later the NRM Coordination Office was established under the frameworks of the Ministry and its Unit for Promotion of Gender Equality. Then things really started moving. After completing initial coordination tasks and securing the support of key players, the NRM Coordination Office carried-out its first referrals. Today, we can proudly say that thanks to the staff of the NRM Office, the concept and this project are well known and valued throughout the country: in the Centers for Social Work, the NGO partners, and focal points in other Ministries.

Two major objectives have so far been achieved. Namely, the process, which leads to the identification of the victims, has been proven to function, thanks also to the excellent performance of the social workers deployed countrywide. Although most

of the social workers were newcomers in the THB arena, they have displayed both commitment and professionalism. More specifically, such positive output has also contributed to assessing more precisely the scope of the phenomena. It has also identified trends and patterns, besides contributing to reliable data gathering and processing.

The second main objective, the improvement of coordination of available assistance, has also made steady progress. Assistance providers coordinate far better today thanks to the guidance provided by a central coordinating body, the NRM office, avoiding duplication of efforts.

Cooperation between Governmental and nongovernmental actors has also significantly increased and has been regulated by ad hoc memorandums of understanding. Such layout reflects European best practices while harmonising domestic mechanisms to European and International standards. The key role of civil society became more apparent in areas related to prevention and assistance where civil society played a crucial role by complementing the functions of the Governmental bodies.

The steady progress achieved to date could be further improved by addressing remaining shortcomings in the fields of law enforcement, protection and operational procedures. Law enforcement need to improve its cooperation with the other NRM bodies involved in the identification phase. Without such improvement, there continues to be insufficient follow-up in the fields of investigation, prosecution and compensation. With regards to operational procedures, there needs to be more efforts addressed at consensus building in order to promote ownership of such procedures amongst all actors.

My special recognition goes to the MLSP thanks to the rapid establishment of the NRM office as well as the commitment and enthusiasm demonstrated in setting up the mechanism. I would also like to express my gratitude to UNICEF and IOM for their contributions and support towards training initiatives.

All these efforts are aimed at protecting victims and at providing them with the necessary assistance for their well being and reintegration into society.

Monica Portillo
Senior Rule of Law Officer
Organisation for Security and Co-operation in Europe
Spillover Monitor Mission to Skopje



**The Joint fight of MOI
and the National Referral Mechanism Office (NRM)
against human / child trafficking**

**The cooperation with
IOM (International Organization for Migration)**

The NRM report 2005-2006

Ministry of Interior and NMR cooperation for fight against human trafficking / trafficking in children

Taking into consideration that human trafficking represents a serious violation of the fundamental human rights which all countries are liable to prevent, MOI regarding its authorities within the organized crime department created a special department for organized resistance towards all kinds of human trafficking in the country and local and international cooperation with competent institutions, agencies and offices of the other Ministries of the Government of R. Macedonia as well as international and local NGOs.

Ministry of Interior - Department for fight against human trafficking and other violent crimes and the Ministry of Labor and Social Service - National Mechanism for Referral developed a unique model of institutional cooperation and communication between the institutions and parties in charge of the same in the previous period.

The department for fight against human trafficking actively cooperates with the system institutions including NMR as well, on several levels: prevention, intervention, protection and education whereas the key of good cooperation lies in the respect towards authorities and team work with professional establishment of capacities and creating a network of experts.

In this context, one should mention the implemented educational trainings organized by the NMR supported by OSCE and Unicef for unbiased inspectors and unbiased social workers in charge of fight against human trafficking and trafficking in children who were the target group of a series of trainings - seminars for human trafficking for the purpose of professional treatment, adequate performance of interviews and mutual acquaintance for conducting coordinated activities in the regions where they come from.

The improvement and development of the cooperation and the mutual activities in the following

period between MOI and NMR shall be directed towards precise and fast identification of the victims of human trafficking, offering support, returning and reintegration of victims especially children, and it shall continue with trainings and seminars for establishing institutional capacities, introduction of a unique information system; informative - advertising influence on the public opinion as well as making the mutual communication official.

It may also be relevant to mention the especially good cooperation between NMR and the sub-group for fight against children trafficking in reference to the fight against this kind of crime, for the purpose of protecting children in R. Macedonia from human trafficking and abuse and for the purpose of providing absolute priority to children's rights and interests as per the action plan for prevention of trafficking in children, the implementation of which follows.

Chief inspector for fight against human trafficking and Chairman of sub-group for the fight against trafficking in children
Sanija Burageva

Social Workers-Cooperation IOM (International Organization for Migration)/MoLSP

The previously established excellent cooperation between the International Organization for Migration and the Ministry of Labour and Social Policy has gained its operational dimension with the implementation of the "Counter Trafficking: Prevention and Capacity Building Activities in Kosovo and Macedonia" project which is funded by the Government of Finland.

Within this project IOM Skopje and the Ministry of Labor and Social Policy (MoLSP) in specifics the Department for Promotion of Gender Equality and the Office of the National Referral Mechanism have cooperated in the realization of several activities such as:

- Implementation of training sessions targeting

social workers and members of the Gender Equality Committees within the local communities in Macedonia- during April-June 2006 five trainings were delivered resulting in 116 social workers from 27 Centers for Social Work across the country and ten local gender equality committees trained..

- Implementation of trainings targeting professionals working at the Centers for Social Work across the country and Local level NGO partners - 96 professionals from the centres for social work and local NGOs received training on trafficking in human being and interviewing victims of trafficking.

- Implementation of prevention based micro-projects - a total of five micro projects were implemented: two by the Centre for Social Work Kocani; two by the Centre for Social Work Bitola and one by the Department for promotion of gender equality and the office of the National referral Mechanism (targeting vulnerable groups and working on awareness raising and prevention of THB with them as well as targeting professionals from various profiles working on local level that could contribute to the prevention of THB in the local community).

- Active Participation in Direct assistance and referral Services Working Group;

- Participation in the Steering Committee Meetings and involvement in decision making processes concerning overall project implementation.

The involvement of the MoLSP in the counter trafficking activities is of a paramount importance especially in the area of THB prevention, early identification of THB processes, proper referral of VoTs and effective support and reintegration of victims of trafficking. The Ministry for labor and social Policy also directly participates in the direct assistance services to foreign victims of trafficking - minors- through extension of social protection measures (in the form of temporary guardian) to minors victims of trafficking.

Recently, IOM Skopje and the Office of the National Referral Mechanism initiated a coordinated approach for direct assistance in the process of re-

socialization of national victims of trafficking.

IOM strongly believes that through further enhancement of the local and central capacities of the Ministry for Labor and Social Policy the Republic of Macedonia will gain a committed and efficient actor in the combat against trafficking.

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References of NVO "Open Gate" - La Strada Makedonija to the National Mechanism for Referral with the MLSS

NVO Open Gate - La Strada Makedonija is an organization actively working on the fight against human trafficking through the following programs: informing and lobbying, prevention and education and direct support of victims of human trafficking. Within the frames of the program for providing direct support of the victims of human trafficking, the project Residence - Shelter for accommodation of victims of human trafficking was lodged in July 2005.

A total of 13 clients were sheltered in the past period under the following categories: superiors, potential and victims of human trafficking. The referral procedure for the victims is the following: National Mechanism for Referral, MOI, and SOS line for help from human trafficking as well as local and regional NGOs.

The National Mechanism for Referral within MLSS is of significant importance for the way the victims of human trafficking are referred. On July 14, 2006 NVO Open Gate and MLSS/NMR signed the cooperation memo so as to improve the services provided to the victims of human trafficking. When the office of the National Mechanism for Referral was opened 4 victims of human trafficking were transferred to the Shelter. This data points out to the fact that the existence of NMR is necessary during the process of identification, referral as well as during the process of reintegration of the victims of human trafficking.

Also, through the National Mechanism for Referral the contacts with the social service centers have improved which is important for the process of reintegration and re-socialization of clients accommodated in shelters.

Thanks to the National Mechanism for Referral the victims of human trafficking are informed about the existence of the Shelter and the services we provide to the clients.

We hope that our successful cooperation so far, will continue in future.

NVO Open Gate - La Strada Makedonija

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National Referral Mechanism Report covering the period from September 2005 to December 2006

MLSP has realized the project called National Referral Mechanism, supported by OSCE mission, since September 2005. This project enables institutional and operational National Referral Mechanism, which aims at straightening of the capacity of the state to provide adequate detection, aid and protection, based on the international human rights for all victims of human trafficking-particularly minors, regardless their nationality, ethnicity, age or gender.

There is a four-member team in the Coordination Office of the National Referral Mechanism, which consists of a consultant, project coordinator, work field coordinator and legal advisor.

Performed activities Training

The Centres for social work perform a main role in the detection and referral of the vic-

tims to the available aid. In order to upgrade the social workers' capacity, a series of 14 seminars were held supported by OSCE, UNICEF and IOM, joined by delegated inspectors from MOI in their fight against human trafficking, expert teams at the Centres (a psychologist, pedagogue and lawyer), several municipal commissions for gender equality and NGO's.

The nominated 58 social workers went through three kinds of training: a basic one, which was dedicated to the fight against human trafficking, and two others, which were specialized in the work with the human trafficking victims as well as the children- victims of the human trafficking. In the training dedicated to work with the children, who were victims of human trafficking, 20 MOI inspectors were included, specialized in the fight against human trafficking as well as the juvenile delinquency and family abuse.

There were 116 social workers trained additionally apart from the basic type of training, as well as 96 people from the expert teams, 20 people from the municipal commissions for gender equality and 30 representatives from NGO's from towns all over Macedonia.

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The office equipment

Computer and office equipment donated by OSCE had a positive progress in the logistic support of the Centres throughout the country, as well as providing decent working conditions for the social workers. The initial OSCE donation to eight Centres, as well as the good results of work of the centres, encouraged UNICEF to equip seven more Centres. Thus, there were 15 centres, which were adapted to be cosy places for children. These centres are in Tetovo, Debar, Ohrid, Bitola, Prilep, Veles, Kocani, Strumica, Delcevo, Kumanovo, Kriva Palanka, Struga, Gevgelija and Stip. These offices can be used to enable work with potential victims of human trafficking, work with minors, and they can also be used by the inspectors as well investigating judges.

Study visits

The Office of the National Referral Mechanism organized and implemented two study visits to Albania and Bulgaria during 2006, and one in Serbia, 2005 for ten people. The study visit to Albania, supported by "Terres des Hommes" and the Albanian partners was carried out from 7 to 10 May, 2006. Ten members from the national delegation, consisting of social workers, the Centres' directors and the NRM Office staff participated in the visit. The Office organized a study visit for five persons to Sofia, Bulgaria from 11 to 13 June, 2006 supported by the Stability Pact of Bulgaria. The aim of this study visit was to exchange different experiences and "learning the lesson" by the social workers' point of view, who represented a part of NRM and institutions, international organizations and NGO's who share the same field of interest - prevention and protection of the human trafficking victims in the neighbouring countries.

Referral

The Office of National Referral Mechanism was involved in several cases of referral, which were related to people presuming that had been human trafficking victims as well as identified victims. These activities included a variety of steps as managing the information, referral of the victims and contacting with the direct aid providers, and giving them shelter and finalizing the cases with lawsuits.

In addition, several visits were conducted in order to get to know the work of the sheltering home led by the NGO "Open Gate", to interview the victims and to talk about each case respectively, in order to estimate the victims' condition and to meet their needs.

Data bank

The Office has a data bank in an electronic as well as printed form, which consists of information on all the activities and particular cases. During 2006, 23 cases of identified and potential human trafficking victims were handed in to both the Office and Centres. Six of them were directed to the sheltering home "Open Gate" by means of the Office, and the other cases were returned to their families. In two of the Centres a temporary trustee was set for 4 minors- foreign citizens accommodated in the Transit Center, and in the same time the Ministries in charge coordinated the possibilities for children's repatriation in their home countries.

For four Macedonian women a procedure was undertaken and their families were estimated in order to get them back home and accepted in Macedonia.

The NRM Coordination Office prepared several documents for the data bank, based on the information about the organizations which enabled services for the trafficking victims, as well as the information about services which the Office enabled by itself. Therefore, all Centres in the country were contacted in order to provide and submit reports constantly about the aid given to the victims. In addition, a standardized questionnaire about the evidence and the work on cases was created, as well as the breakdown of the data and exchange of the information whose target was to get more secure facts about the forthcoming processing. This data is constantly renewed.

The Bureau of social activities created so-called 'instruments' for social institutions in the listings of the Centres, where a new category was introduced - human trafficking victims, which might be considered as a positive achievement. The Office of the National Referral Mechanism is currently working on the preparation of the human trafficking victims' questionnaire together with the Bureau of social activities, as a part of the listings to provide unified data, which would be worked out later.

A specific component of the data bank is the part referring to all the people who were trained on this issue. The third part represents the data provided by the research about the capacity of the nominated social workers at the Office. The data was categorized in three complementary parts and they referred to:

- socio-professional traits of the nominated social workers;
- administrative capacities and working conditions of the social workers;
- self-identification with the National Referral Mechanism.

Legal analysis

An analysis was prepared about the legal regulative, relevant to the National Referral Mechanism. The aim of this analysis was to detect the weakness of the legal system in relation to the protection and prevention from the human trafficking and bring criminal charges against the criminals, as well as to recommend a better care of the victims of human trafficking and the overall situation.

The round table conferences

In December 2005, there was a conference to inform the relevant institutions with the concept of the National Referral Mechanism, as well as the projected activities, which were to be realized in the forthcoming period.

On 21 April 2006, the Office of the National Referral Mechanism had the second conference on the theme: "The Functioning of the National Referral Mechanism for the human trafficking victims- achieved results and challenges." The aim of this meeting was to gather the representatives and the directors of all Centers, the other social workers, NGO's and the representatives of the international institutions, the governmental officers in order to discuss the achievements of the National Referral Mechanism in the country.

On 12 December 2006, the third conference took place which had the topic: "The role of the Centre for the social work in prevention and protection of the human trafficking victims". The discussion was on the available resources, the problems that the centres cope with, and the recommendations for future activities.

Meetings and visits at the Centres for social work

Four regional meetings were organized in Ohrid, Bitola, Prilep and Kicevo in order to deepen the cooperation among the centres, the police and NGO's, to inform the attendants with the current activities of the Office of NRM, and its plans for the future activities. In addition, there were eight meetings more in the Centres in Tetovo, Gostivar, Gevgelija, Veles, Svetin Nikole, Kocani, Strumica and Kumanovo.

Cooperation

The Office of the National Referral Mechanism has very tight ties with a lot of governmental and non-governmental institutions. The Memorandum of understanding with the NGO "Open Gate" was signed to establish an official communication and a referral system and initiative for a future cooperation. Currently, we are negotiating the Memorandum of Understanding with MOI.

The Office cooperates closely and coordinates with all local coalitions in their fight against trafficking as well as the municipal commissions for gender equalities.

The Office of the National Referral Mechanism has introduced its activities to the National Committee Secretariat several times and submitted a written report on this issue.

Regular coordination meetings were held with the international organizations, which have programmes for the fight against the human trafficking in Macedonia. The

aim of these meetings was to exchange of data and to inform about the activities conducted, within the project of the NRM, as well as the future plans and directions.

Re-socialization and re-integration programmes about the children - victims of trafficking

A Draft for the re-socialization and re-integration programme about the children - victims of trafficking has been prepared together with UNICEF. This document was discussed publicly, and was estimated as an overall programme with exception of the time reference and the MOI notes. Four training sessions were held dedicated to the Centres' expert teams how to implement the programme. Based on this Programme, the centres' task is to prepare individual re-socialization and re-integration programmes for each case.

Standardization of the procedure

We are currently working on the Guidelines on the procedure for protection of the Macedonian citizens - victims of human trafficking. This document consists of the standardized procedures that are to be taken by the institutions in charge. The document is going to be distributed to all Centres and the nominated social workers in the NRM.

Participation in the seminars and conferences

The NRM Project was presented to the seminar in Podgorica, Monte Negro, where different profiles took part- the employees from the Ministry of Interior, the Ministry of Labour and Social Policy, the Ministry of Health and the Ministry of Education. The work of the NRM was the topic of the seminars organized by NGO - Semper, The Association of Women in Macedonia, "Open Gate" and the "Red Cross" of Macedonia.

This project was also presented on a radio programme called "Listen to the radio" aired on the Macedonian Public Radio.

This project is also registered in CEE as "Liaison Office against trafficking in Human Beings" established by the Stability Pact for South-Eastern Europe in NGO "ARSIS" in Thessalonica, Greece.



The analysis on capacity of nominated social workers

Introduction

The National Referral Mechanism of the human trafficking victims is a tool within the Ministry for Labour and Social Policy; the Unit for Promotion of Gender Equality. On those conditions, 58 social workers were nominated who came from 27 municipal centres for social workers in Macedonia.

One of the priorities of the National Referral Mechanism was to straighten the institutional capacity of the Centres for social work in their fight against human trafficking, having socio-preventive characteristic in the Centres; the social workers at the centres are to get theoretical and practical knowledge and skills to deal with the problem of human trafficking.

Therefore, the NRM Coordination Office prepared a questionnaire and distributed it to the nominated social workers, which had a goal to analyze and determine the professional capacities of the nominated social workers. The questionnaire consisted of 20 questions in different forms- yes/no questions, open questions; structured and semi-structured questions.

The questionnaire had three complementary sections in order to provide objectivity of the capacity of the nominated social workers:

- A. Socio-professional characteristics of the nominated social workers;
- B. Administrative capacities and working conditions of the social workers;
- C. Self - identification with NRM

2. Data analysis

A. Socio-professional characteristics of the nominated social workers.

2. A.1

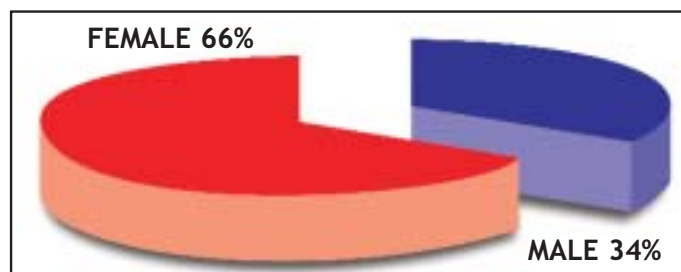
The human potential of the National Referral Mechanism for the victims of the human trafficking, especially - women and children is important, because of complete, consistent and professional implementation of the forthcoming activities. That is why the insight in human capacities is one of the most important conditions for its existence. By means of the survey, following characteristics in the nominated social workers have been stated.

Annex 1

The gender coverage at NRM

gender	absolute number	%
men	19	34%
women	37	66%

gender coverage



Findings

The gender coverage of the nominated social workers at NRM is predominated by women due to the characteristic of the issue. This comes from the fact that the majority of the victims of the human trafficking in Macedonia are women and children.

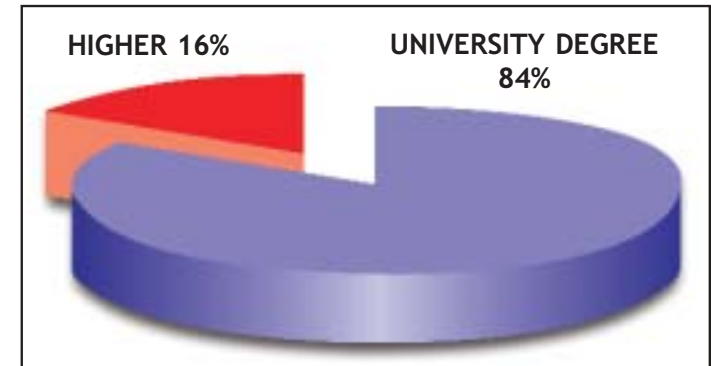
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The second question in the analysis refers to the type and the level of the education of the nominated social workers in the Centres for social work, who are included in NRM.

Annex 2

Level of Education

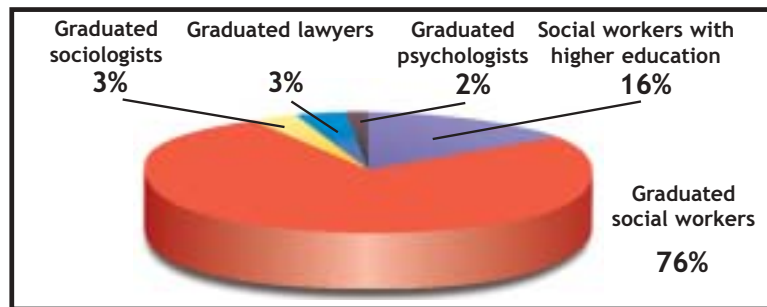
level of education	absolute number	%
Higher	9	16%
University degree	47	84%



Annex 3

The job coverage

Type of education	Results	
	absolute number	%
Social workers with higher education	9	16%
Graduated social workers	44	76%
Graduated sociologists	2	3%
Graduated lawyers	2	3%
Graduated psychologists	1	2%



Findings

Predominant group referring to the education at NRM are graduated social workers covering 76%, and they represent the core of NRM. However, 16 % of them are with higher education, which disrupts the educational profile of the performers of NRM. Moreover, this group comprises elderly people who are at the end of their working career.

Therefore, it is recommended that there should be a gradual change of the current social workers in the Centres, or other profiles should be included, on condition that they share the same issue.

2. A. 3.

The third question that underwent the analysis was the age and the working experience of the nominated social workers, and this is shown in the following annex:

Annex 4

Average age

Average age of the nominated social workers at NRM	48 years
The youngest research associate	28 years
The oldest research associate	62 years

Average working experience

Average working experience	20 years
The shortest working experience	3 years
The longest working experience	35 years

The results show that the nominated social workers at NRM are old in the average. The highest number of the employees belongs to elderly people and long working experience, which might be an obstacle in the future activities with the NRM, having in mind the character and the seriousness of this issue.

B. Administrative capacities and working conditions of the social workers

In order to perform the functions normally and justly in NRM, the quantum of knowledge and skills and organizational abilities of the nominated social workers are very important.

Consequently, one part of the questionnaire was dedicated to and was a subject to analysis of those conditions. The questionnaire included a diversity of questions like:

- Q a question on the structure at micro level (the centre for social work);
- Q a question about the knowledge and skills how to cope with the administrative work within the NRM;
- Q a question on how they spend most of their working time;
- Q a question on whether they are prepared,
- Q a question on how much and where they upgrade their knowledge and skills; and
- Q a question concerning decent working conditions for the social workers in order to perform their duty efficiently and effectively at the Centres.

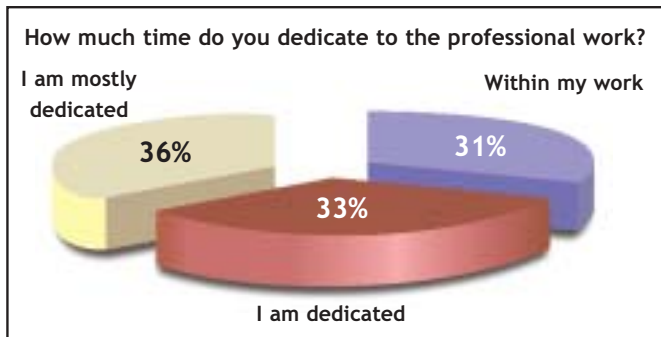
These are the results from the analysis.

2. B.1

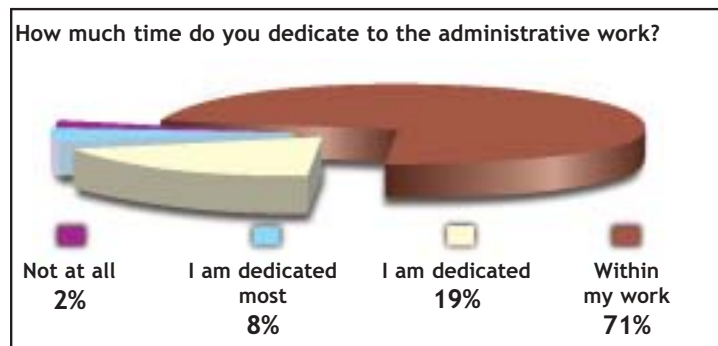
How much are you dedicated to (A/B/C/D) during your average working day:	Level of dedication			
	A. Professional work	B. Administrative-technical work	C. Field work	D. Discussion with colleagues about the problems
Not at all	Not at all	None at all	Not at all	
Within my work	Within my work	Within my work	Within my work	
I am dedicated	I am dedicated	I am dedicated	I am dedicated	
I am mostly dedicated	I am mostly dedicated	I am mostly dedicated	I am mostly dedicated	

Annex 1

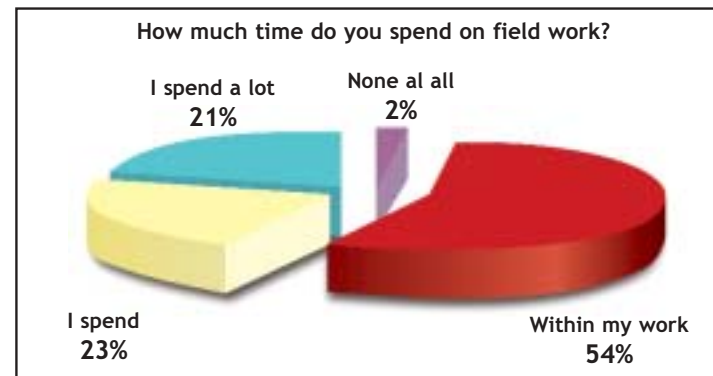
A. Professional work



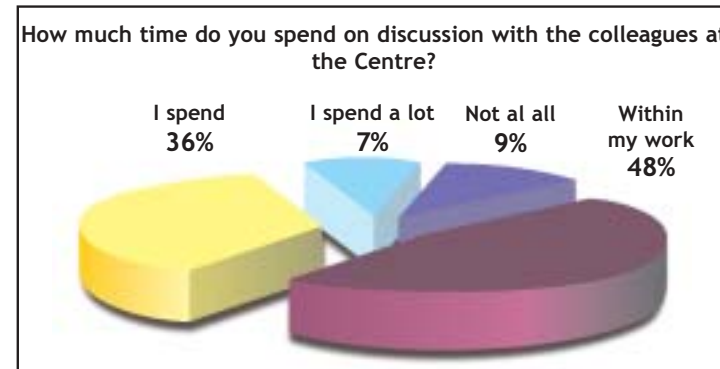
B. Administrative work



C. Field work



D. Communication with colleagues about the problems at the Centers



Dedication

is mostly estimated 'within my work' during their working day by the research associates. The findings are that they dominate above 50%, and that the nominated social workers at NRM spend their time within their working time, and we can conclude that dedication meets the requirements.

It is indicative that the nominated social workers have a dispersed answer concerning their work field. Moreover, the result about the work team and the complementary attitude towards the work is at a low level, which is one of the most important factors for work with victims of the human trafficking. It was also stated that the administrative work was increased. The data shows that 2% do not perform any administrative work, but 71% answered - within their work.

2. B. 2

The skills and knowledge in IT are very important for faster and simpler communication, not only within the micro unit (The Centre for Social Work), but the NRM Coordination Office and MLSP as well. The NRM has its own electronic and paper data bank of the potential and detected victims of human trafficking. Therefore, the knowledge of some tools is crucial for a good communication. The next annex shows the given data:

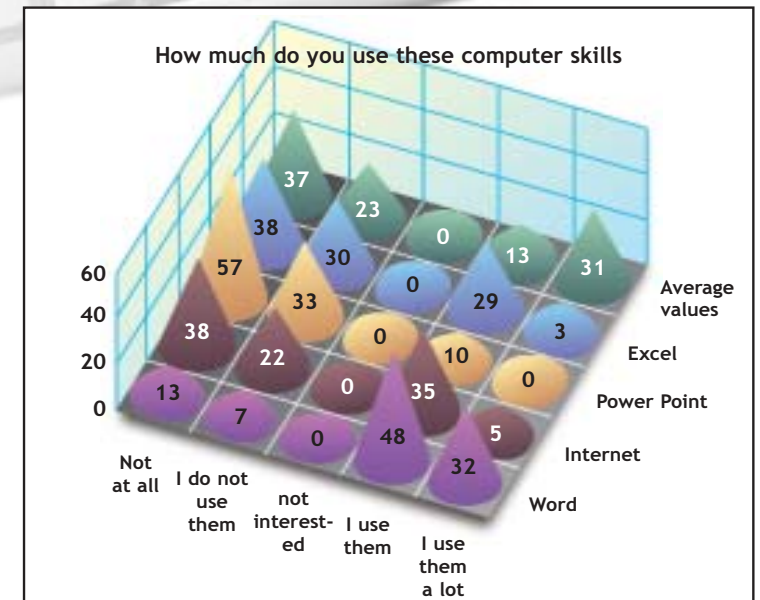
Annex 2

How much do you use these computer skills?	Level of use				
	Not at all	I do not use them	Not interested	I use them	I use them a lot
Word	13%	7%	0%	48%	32%
Internet	38%	22%	0%	35%	5%
Power Point	57%	33%	0%	10%	0%
Excel	38%	30%	0%	29%	3%
Average Values	37%	23%	0%	13%	31%

AVERAGE VALUES



If we look at the average values, we can conclude that the knowledge of IT is disproportional; results range from using them a lot to not using them at all.



2. B. 3

Annex 3

Training as a method of upgrading of the skills and the knowledge

Do you attend any training activities?		
answers	Absolute number	%
1. I regularly attend training and I finance the training	10	18%
2. I attend the training, only if it is free.	1	2%
3. I attend the training, only if my superiors make me go	41	71%
4. Training is not important	1	2%
5. I do not want to answer	4	7%



Investing in newly acquired knowledge and skills is very important to understand the social activities and it is necessary to be well informed about the events, as well as the well-timed direction to their detection and handling.

The results show that the investment in the profession has a firm hierarchical nature, i.e. it depends on the directors of the Centers or other senior staff from the institutions. Self-funding and demonstration of higher level of professional and vocational upgrading is deprived of new knowledge.

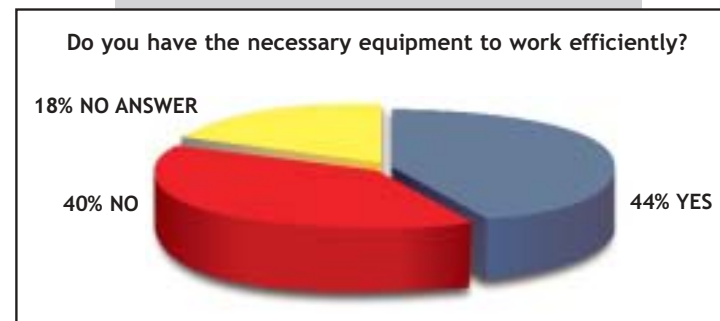
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2. B. 4

Annex 4

Is any additional equipment necessary for better functioning of the nominated social workers?

Do you have the necessary equipment to work efficiently?		
Answers	Absolute number	%
Yes	22	44
No	24	40
No answer	9	18



Within the NRM, computer equipment was donated to 15 Centres which worked with the human trafficking victims (out of 27 in total), and the results confirm this data. However, the intention and the wish of the nominated research associates is to be equipped with mobile phones most, and some of them said that they should have cars in order to perform their work more efficiently, and the smallest number said that they should have additional computer equipment.

C. Self - identification with NRM

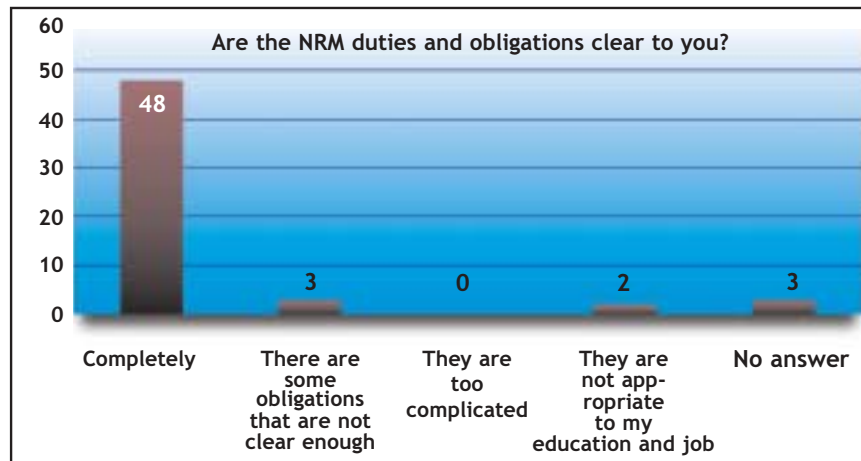
Self - identification based on the real assessment of the nominated social workers included in NRM, is the intention of this part of the analysis. The results are targeted to show data about the intentions of the social workers to participate actively in NRM, accepting their opinions, as well as to express their opinion about what has been done previously on the professional sphere.

How well have they accepted NRM and what do they think about it?

2. B. 1

Annex 1

Are the NRM duties and obligations clear to you?		
answers	Absolute number	%
Completely	48	86%
There are some obligations that are not clear enough	3	5%
They are too complicated	0	0%
They are not appropriate to my education and job	2	4%
No answer	3	5%



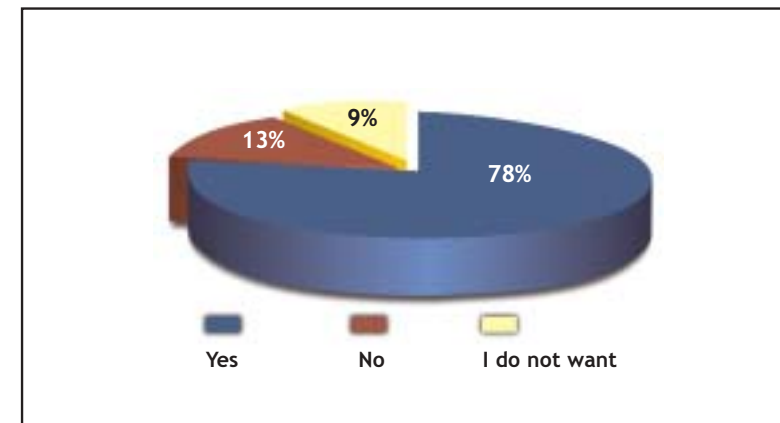
2. B. 2.

Annex 2

A necessity for additional training and knowledge in the fight against the human trafficking

Do you need any additional training?		
answers	absolute number	%
Yes	43	78
No	7	13
I do not want	5	9

Do you need any additional training?



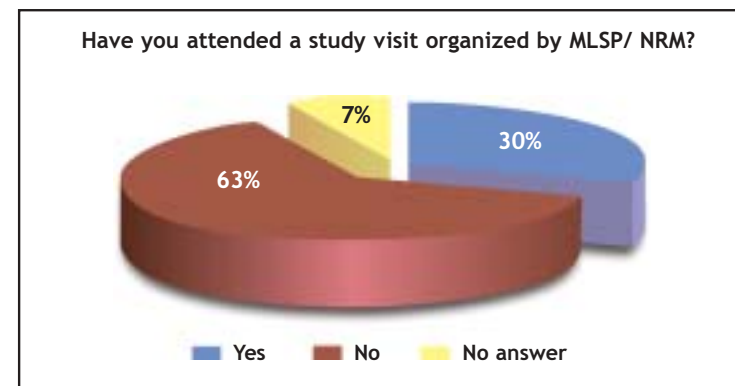
This is how the nominated associates answered the question: "What kind of additional training do you need?"

1. New methods and techniques related to work with the victims of trafficking
2. Individual work with children - victims of trafficking
3. Work with the families
4. Study visits
5. Better cooperation with the municipalities, the police, NGO's etc.

Within the NRM, there were several study visits to Bulgaria, Albania, and Serbia in order to get experiences for functioning of this body, and how it was set. The NRM did a research afterwards on how well the participants were satisfied with the visit.

2.B.3

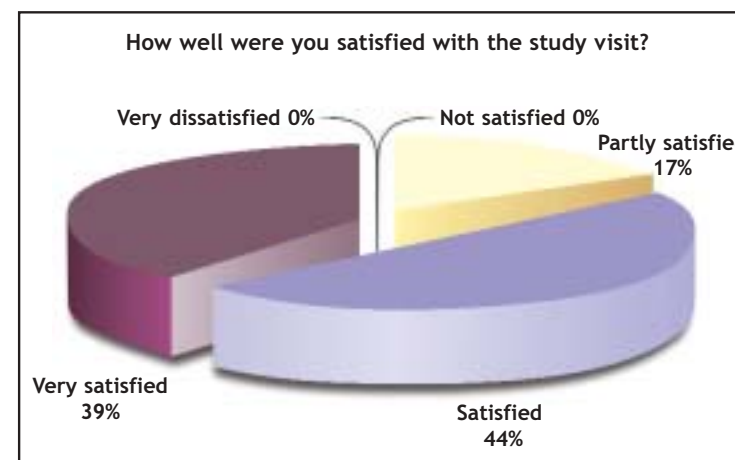
How well were you satisfied with the study visit?		
answers	absolute number	%
Yes	17	30
No	35	63
No answer	4	7



2. B. 4

Annex 4

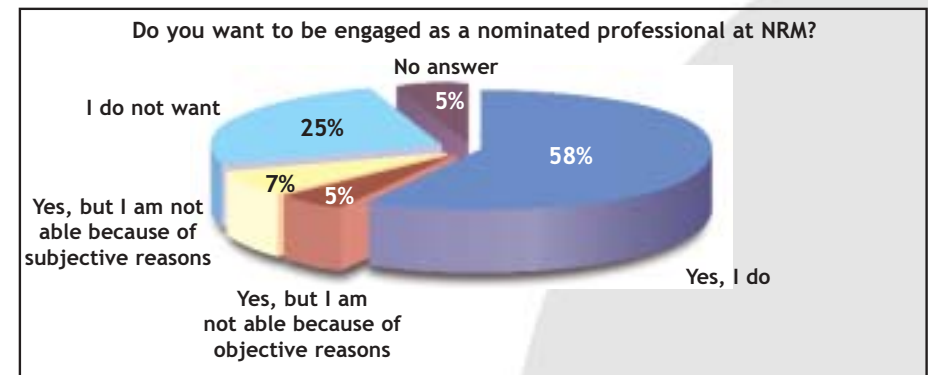
How well were you satisfied with the study visit?		
answers	Absolute number	%
Very dissatisfied	0	0%
Not satisfied	0	0%
Partly satisfied	3	17%
Satisfied	8	44%
Very satisfied	7	39%



2. B. 5

Annex 5

Do you want to be engaged as a nominated professional at NRM?		
answers	Absolute number	%
Yes, I do	32	58%
Yes, but I am not able because of objective reasons	3	5%
Yes, but I am not able because of subjective reasons	4	7%
I do not want	14	25%
No answer	3	5%



Findings

A. Socio-professional characteristics of the nominated social workers

From the provided data we can conclude that 66 % are women from the nominated social workers, 84 % have a university degree, the average age is 48 years (the youngest being 28 - the oldest 62) and the average of 20- year -working experience. However, it should be noted that 24% do not belong to the category - social workers, but they are psychologists, sociologists and lawyers from the Centers.

B. Administrative capacities and working conditions of the social workers

- ▶ It can be concluded that the most frequent answer is within my work to the question: "How much are you dedicated to your professional work?" - 36% ; 71% on administrative-technical work; work field - 29%, and the discussion with the colleagues about the problem - 48%.
- ▶ In relation to the use of the computer programmes, it is indicative that 37% answered that they do not use them at all, 23% answered that they do not use them. The most frequently used programme is Word - 32%. The good thing is that no one chose the answer "I am not interested".
- ▶ It is indicative that 71 % answered that they attended training, only because the superiors had made them go.
- ▶ There is diversity in the answers on the necessity of technical equipment for more efficient work, i.e. the Centres which did not have equipped offices answered that they needed technical equipment, and that is 40%.
- ▶ Most of the participants in the survey answered that they needed mobile phones for more efficient work.

C. Self -identification with NRM

- ▶ 86% said that they knew completely what their obligations and duties were, which come from their engagement in the National Referral Mechanism, but 5 % said that they were not appropriate to their education.
- ▶ 78% said they needed and they wanted additional training. Again, there is a diversity in the answers to the question on the type of the training, and they range from new methods and techniques in the work with the human trafficking victims, individual work with the children - victims, work with the families, study visits, deepening of the cooperation with the local government, the police, NGO's etc.
- ▶ 30% from the nominated social workers participated in the study visits organized by NRM, while 39% out of this number answered that they were satisfied with them a lot, 44% were satisfied, and 17% were partly satisfied.
- ▶ 58% answered that they wanted to be included in NRM, 5% did not answer this question, and 25 % refused to be nominated to work on this issue.



REPORT ON THE EXISTING LEGAL REGULATIONS
Recommendations on Amendments and Modifications from the
Aspect of Protection of Victims of Trafficking in Human Beings for the
Purpose of More Successful Functioning of the National Referral Mechanism

INTRODUCTION

Protection of the rights of individuals who are subjects of trafficking in human beings is the most important of all the anti-trafficking measures. The protection mechanism should cover a wide range of diverse specialised services which focus on the specific necessities of each individual.

The principal step towards recognising human dignity of individuals who are subjects of illegal trafficking in human beings and the acceptance of the fact that they are victims, and not criminals, is to allow the victims to be provided with accommodation, specialised medical and psychological care, counselling, maintenance and permission to work and continue their education or training. Individuals who are subjects of illegal trafficking in human beings ought to be provided access to specialised services, such as intervention in crisis, long-term psychological counselling, legal consultations, professional training and support in the access to employment opportunities.

All these activities represent the principal goal of the National Referral Mechanism (NRM) which will function in the direction of strengthening the capacity of the country to provide appropriate identification, assistance and protection, on the basis of the international human rights standards, for all the victims of trafficking in human beings who are citizens of the Republic of Macedonia, particularly juveniles, notwithstanding their nationality, ethnicity, age and sex.

The NRM will improve and strengthen the protection and assistance services available to victims, primarily to women, girls, minorities and minors, and it will especially contribute to the other anti-trafficking activities, such as direct assistance to victims of trafficking in human beings and raising public awareness.

The principal co-operation partners of the NRM are: the National Commission to Combat Trafficking in Human Beings (including the Secretariat and the Sub-group to Combat Trafficking in Children), the Ministry of Interior, the informal anti-trafficking NGO networks, the Union of Social Workers, the municipal anti-trafficking coalitions and the municipal commissions for gender equality. The additional partners include the relevant international, national and state entities.

The combat against human trafficking requires a multidisciplinary and an inter-sector approach, in which all the relevant participants from the government and the civic society will be included. The anti-trafficking structure ought to make an evaluation and to upgrade the existing national capacity, in order to stimulate ownership and sustainability.

For the purpose of effective provision of human rights for the victim and for long-lasting sustainability, the national structure i.e. the government agencies and the civic society needs to be upgraded.

The anti-trafficking infrastructure ought to function on the basis of a wide definition of illegal human trafficking in order to be able to respond quickly to the various forms of the same.

For the purpose of a more successful functioning of the National Referral Mechanism for victims of trafficking in human beings, an analysis has been conducted, containing recommendations for amendments and modifications to the following laws:

- 1 CRIMINAL CODE OF THE RM (Official Gazette of the RM numbers 37/96 80/99,4/02,43/03 and 19/04);
- 2 CRIMINAL PROCEDURE LAW OF THE RM (Official Gazette of the RM numbers 4/90 74/04 and revised text 15/2005);
- 3 LAW ON FAMILY (Official Gazette of the RM number 80/92, 9/96 and 83/04; revised text - Official Gazette of the RM number 83/04) and AMENDMENTS AND MODIFICATIONS TO THE LAW ON FAMILY (Official Gazette of the RM number 33/06);
- 4 LAW ON SOCIAL PROTECTION (Official Gazette of the RM number 50/97, 16/2000, 17/03, 62/05 and 111/05) REVISED TEXT (Official Gazette of the RM no. 21/06);
- 5 LAW ON CHILD PROTECTION (Official Gazette of the RM no. 98/2000, 17/2003, 65/2004 and 113/2005); and,
- 6 LAW ON FREE ACCESS TO INFORMATION OF PUBLIC CHARACTER (Official Gazette of the RM no. 13 as of 01.09.2006).

CRIMINAL CODE AND CRIMINAL PROCEDURE LAW

ARTICLE 418-A, CRIMINAL CODE

For the purpose of more successful prosecution traffickers in human beings, and simultaneously for the purpose of harmonizing the national legislation with the ratified convention of the UN against transnational organized crime and its two protocols, a new article 418a with the heading Trafficking in Human Beings has been introduced with the amendments to the Criminal Code in 2002. In 2004, amendments were made to the Criminal Code, with the entering into force of the Law on Amendments and Modifications to the Criminal Code, article 418-a was altered and it now reads as follows:

- 1) *Those who, by force or a serious threat, mislead or delude in another way, by coercion, abduction, deceit, by abusing their position or condition of pregnancy, helplessness or physical or mental incapability of another person, or by giving or receiving money or other benefit so as to be given consent by a person who has control over another person recruit, transport, transfer, buy, sell, give shelter to or take in persons for exploitation by prostitution or other forms of sexual exploitation, pornography, forced labour or servitude, slavery, forced marriages, forced fertilisation, illegal adoption or a similar relationship or illicit transplantation of parts of the human body shall be punished with an imprisonment sentence in the duration of at least four years.*
- 2) *Those who recruit, transport, transfer, buy, sell, give shelter to or take in children or minors for the purposes of exploitation, shall be punished with an imprisonment sentence in the duration of at least eight years.*
- 3) *Those who seize or destroy identification documents, passports or other identification papers of other persons for the purposes of committing the act as referred to in paragraphs 1 and 2 shall be punished with an imprisonment sentence in the duration of at least four years.*
- 4) *Those who use or make possible for someone else to use sexual services by a person that they know is a victim of trafficking in human beings, shall be punished with an imprisonment sentence in the duration from six months to five years.*
- 5) *If the act as referred to in paragraph 4 has been committed with a juvenile person, the perpetrator shall be punished with an imprisonment sentence in the duration of at least eight years.*
- 6) *If the act as referred to in paragraph 1 is committed by a legal entity, it shall be punished with a fine.*
- 7) *The objects and means of transport used for committing the act shall be confiscated.*

From all of the above it can be concluded that the Republic of Macedonia contains numerous legal regulations when it comes to incrimination of criminal acts relating to trafficking in human beings. Nevertheless, the question raised is whether all of these provisions have taken root in the practice of the national courts, whether they are clearly differentiated one from the other, that is whether there are solid and clear descriptions of the legal entities and what are the problems that the competent body legislative are faced with when qualifying a certain action under an established norm.

RECOMMENDATIONS

The legal definition of trafficking in human beings in the present Criminal Code (CC) is too long and creates difficulties when establishing and proving the coercive elements in the practice.

1. Article 418-a envisages the situation which includes children or minors to be an aggravating circumstance, but it still requires that there should exist means of coercion by means of an existing intention of exploitation, using the expression 'for the purpose of exploitation'. Hence it follows that article 418-a envisages an aggravating circumstance when it comes to a child on one hand, and on the other hand it requires an element of coercion, that is purpose for exploitation.

With a possible upgrading of the article, the fact should be clarified that in any situation with such a description which includes a child or a minor, the criminal act of trafficking in human beings is committed although there need not exist either of the means of coercion.

In other words, an explicit provision that will exclude the necessity to prove the same coercive elements when it comes to a child - victim, and which are necessary to exist for the adult victims is necessary. In addition, the criminal act must not only be reduced to sexual exploitation of the child, but also to all the other hidden forms of labour exploitation of the child which should also be incriminated.

2. To be envisaged as a qualified form of the criminal act of trafficking in children, if the act has been committed by the parents.

3. The present article 418-a of the CC lacks a provision that will exclude the relevance of the statement on consent by the victim. Namely, article 418-a envisages the necessity for a provision that excludes the statement on the consent by the victim. It is necessary to establish a separate clause on this criminal act which will consider as irrelevant the consent of the victim to be exposed to exploitation, besides the unambiguous existence of the elements of coercion.

The practice shows that the statements by victims in which they express their consent to be exploited in a large number of cases have been recognised as extenuating circumstance by means of which the responsibility of the perpetrators of these acts has been completely exempted or reduced. All this has resulted in practice with a great number of inadequate legal qualifications in such cases where it was preferred for the offences with such an element to be prosecuted as criminal acts of mediation in prostitution (article 191 of the Criminal Code). Because of the fact that the statement by the victim is considered as the most important link for raising an indictment and for conducting a court procedure, it is clear that the victim's statement with the expressed consent is only to the advantage of the trafficker in human beings in spite of the fact that the victim's consent itself must not in any way prevent the consistent investigative action and prosecution.

4. In article 418-a there is no explicit provision on punishing an attempt. It would be valuable to consider supplementing article 418-a in the near future with a more explicit and clear provision on a punishable attempt, whereby the possibilities of possible future inconsistencies in the practice of punishing the traffickers in human beings would be decreased.

5. The trafficking in children is to be envisaged as a separate criminal act.

6. In the Macedonian legislation, instead of the term victim, generally, the term damaged is used, both in the Criminal Code of the Republic of Macedonia and in the procedural law that is the Criminal Procedure Law.

In that direction, the legislator, under the term victim that appears in the capacity of a damaged person means every person whose right has been infringed or a certain personal or property right of theirs has been threatened by a criminal act, who possesses information vital to the criminal procedure with the disclosure of which their life, health, freedom, physical integrity or property would be endangered to a greater extent and who has consented to make a statement in the capacity of witness in the criminal procedure to co-operate with the judicial bodies.



ARTICLE 243 AND 244, CRIMINAL PROCEDURE LAW

It is necessary to consistently respect the provisions of article 243 and 244 of the CPL pursuant to which the witness will be warned that he/she is not obliged to reply to certain questions if it is likely that in doing so he/she could subject him/herself or a relative of his/hers to a huge shame, material damage or criminal prosecution.

Article 243 of the CPL:

When interrogating a juvenile, particularly if he/she has been damaged by a criminal act, it shall be dealt with caution so that the interrogation does not adversely affect the mental state of the minor. If necessary, the interrogation of the minor shall be conducted with the assistance of a pedagogue or other experts.

Article 244 of the CPL:

(1) If there exists the possibility that by making a statement or by answering a certain question the witness would subject his/herself or a close person of his/hers to serious threat to their life, health or physical integrity, the witness may deny the disclosure of data.

(2) If the witness denies the disclosure of data as referred to in paragraph 1 of this article, should the public prosecutor, the investigative judge i.e. the president of the council assess that there is well founded existence of threat as referred to in paragraph 1 of this article they shall stop the interrogation and they shall undertake actions pursuant to article 294 of this law within 24 hours.

RECOMMENDATIONS

1. The statement should be made by the minor obligatorily in the presence of an expert - a social worker, psychologist and lawyer.
2. When interrogating the child - victim, the public should obligatorily be excluded.
3. If there is a likelihood that by making a statement or by answering certain questions, the witness - victim could subject him/herself or a close person of his/hers to serious threat, the witness ought to (must) have the right not only to refuse to tell the name and address, but also not to make a statement at all (at least until measures are undertaken which will guarantee his/her life, physical integrity and privacy). In that context article 244 of the CPL should be amended.
4. The witnesses - victims ought to be provided with alternative measures for making statements which will protect them against intimidations and pressures that can result from a face-to-face confrontation and those being the following:

- recording the statements made by the witnesses - victims in a previous procedure with audio-visual equipment;
- enabling the witnesses - victims to make a statement from a separate room by means of a video-link;
- excluding the media or the public from part of or the entire trial.

ARTICLE 97, CRIMINAL PROCEDURE LAW

The compensation for the victim of trafficking in human beings is possible through using the institute of confiscation of property or property benefit by the perpetrator of the criminal act and returning the benefit to the damaged person, that is the victim in the criminal procedure.

Article 97 of the CPL

(1) The request for damage that has arisen as a result of committing a criminal act shall be dealt with upon a proposal by the authorised persons in the criminal procedure, should this procedure not be prolonged by doing so.

(2) The request for damage may refer to indemnity, return of objects or annulations of a certain legal affair.

RECOMMENDATIONS

1. In the context of an adequate support for the institutions of the system, it is worth considering the establishment of some sort of a national mechanism for support and fulfilment of the claims for damages by the victims, with the existence of some kind of a fund that would cover the needs of victims for their social reintegration, through which would also be supported the effective legal remedies and indemnities of all those damaged parties in the proceedings - victims. By concentrating on the property and the means confiscated from the perpetrators of the criminal acts of trafficking in human beings, on the basis of a consistently conducted criminal proceedings, such national mechanism for support would greatly help the state to overcome the chronic and budgetary problems in the financing of the anti-trafficking activities and the possible social reintegration programmes for the victims undertaken in a national context.

The respect for the provisions of the Criminal Procedure Law which refer to the compensation of damages represents a necessary imperative for providing protection of the victim's interest, i.e. strengthening his/her position in the court proceedings.

2. The utilisation of the opinion (the expertise) of the experts who are responsible for providing psycho-social support to the victims immediately after their taking into a shelter, as a means of evidence in the proceed-

ings, especially in conditions when no other expert analysis has been made of the psychological state of the victim, represents a desirable solution for the purpose of determining the grounds and amount of the just compensation of the victims of trafficking in human beings.

The efficient legal protection of the victims of trafficking in human beings is the main prerequisite for their successful social reintegration, not only from the aspect of the initiated proceedings and the punishment of the perpetrators, but also from the aspect of satisfying justice and in that context granting the appropriate claim for damages by the victim as a distinctive compensation for the sufferings undergone.

LAW ON FAMILY

The Law on Family (LF) regulates marriage and family, relations within the marriage and family, certain forms of special protection of the family, impaired relations, violence in the marriage and the family, adoption, guardianship, child support etc.

ARTICLE 6, LAW ON FAMILY

Article 6 of the LF relates to marriage and it reads as follows:

The marriage shall be a community settled by law of a man and a woman in which the interests of the spouses, family and society shall be realized.

The relations between the spouses shall be based upon the free will of the man and the woman to get married, upon their equality, mutual respect and mutual help.

RECOMMENDATIONS

1. In the existing family legislation there is no provision that prohibits a contractual marriage or a marriage for providing economic security, there are no legally prescribed measures that will lead towards the eradication of contractual marriages among the Roma and Albanian population.

2. As far as the children's marriages are concerned, according to the legal provisions, persons who have not yet turned 18 years of age cannot get married. However, the law allows exception for persons who have turned 16 years of age, if the competent court should determine in a non-contentious procedure that those persons are physically and mentally mature for exercising the rights and duties of marriage. In this case a marriage can be made after a previously obtained opinion from a medical institution and professional assistance offered by the centres for social work.

3. Extramarital life with a minor who has turned 14 years of age, and who has not turned 16 years of age is punishable. The parent, adoptive parent, as well as the legal guardian who allows the extramarital community with such a person or who induces the person to do it, shall be held criminally liable.

In spite of the fact that there exists a legal incrimination and that it is punishable to live illegitimately with a minor, sexual intercourse of adults with minors of the age from 14 to 18, is not forbidden and punishable.

Our legislation has no prescribed explicit norm whereby engagement and marriage of a child shall have no legal effect, but, there are provisions prescribed in the law which determine the procedure of getting married in front of an official body. This means that if this procedure is not conducted in accordance with the provisions of the law, the marriage shall not be registered, the engagement and marriage of the child shall have no legal effect whatsoever.

4. In the Law on Family of the Republic of Macedonia, in the sphere of the provisions regulating the rights and duties of parents and children, a chapter which regulates the supervision over exercising the parental right is

prescribed. The Centre for Social Work (CSW), in order to protect the personality, rights and interests of juveniles supervises the exercising of the parental right, through the following measures:

- it warns the parents of the shortcomings in the education and development of the child, offers assistance in the proper development and education of the child, refers themselves alone or together with the child to visit a respective counselling service, a medical, social or educational institution which could give them the necessary advice;

- it arranges the personal relations of the child with the parent with whom he/she does not live together in case of separated families, whereby it can make a decision to temporarily forbid the relations if the regular contacts are being irregular or detrimental to the child;

- it makes a decision for a permanent supervision over the exercise of the parental right;

- with a decision, it can take away a child from the parent and entrust him/her to the other parent, to some other person, or to an institution, in case the parent with whom the child lives has neglected the child with regard to custody, education, or when there is a more serious danger to his/her proper development and nurture;

- the Centre may, on the basis of its knowledge, as well as upon a request by a parent, legal guardian or the public prosecutor, place a child in an institution if his/her behaviour has been disturbed;

- with reference to the child's property, the Centre for Social Work may entrust the parent to inform it of the way in which the property is managed and to request through court that measures for property protection be pronounced or that the parent have the capacity of a legal guardian as regards the child;

- in case when the parent has neglected or abused his/her parental right, a procedure may be initiated in front of a competent court against that parent for taking away his/her parental right. The

Centre for Social Work, the other parent or the public prosecutor shall submit a proposal to the court.



ARTICLE 93, LAW ON FAMILY

The following situations are considered as neglect or harsh abuse of the parental right (article 93):

- the parent exerts physical or emotional violence over the child;

- sexually abuses the child;

- forces the child to work which does not correspond to his/her age;

- allows the child to use alcohol, drugs or other psychotropic substances;

- induces the child to socially unacceptable behaviour (to beggary, prostitution or other kinds of asocial behaviour when the parent does not look after the child, and for that reason the child leaves schooling or the like);

- abandons the child for longer than 3 months and does not look after him/her or infringes the rights of the child in some other way.

RECOMMENDATIONS

1. The CSW should regularly undertake legal measures for the supervision over the exercise of the parental right (any time when it has knowledge that the parents have neglected or abused the child).

2. To prescribe compulsory supervision over the parental right by the centres for social work where there are indications and danger of involving children in trafficking in human beings.

3. The professional team should prepare a separate programme for each minor in order to undertake and follow the measures of supervision over the exercise of the parental right.

4. The programme should envisage co-operation with other institutions (health care, education, employment agency and the like) for complete resocialisation.

5. To develop group work with children/parents.



ARTICLES 167-190 AND 191-196, LAW ON FAMILY

Immediately after the identification of the child victim, the Centre for Social Work ought to assign an ex officio guardian who will take care of the protection of the personality, rights and interests of the child and will accompany him/her throughout the entire process until a permanent solution in the best interest of the child is reached.

In the Law on Family, there is a separate chapter entitled Guardian (Article 167-190) and Guardianship over minors (article 191-196)

Article 167, Law on Family:

The Centre for Social Work shall assign a guardian to the person under guardianship, unless it decides to carry out the duty of a guardian directly.

A person who has personal characteristics and abilities to carry out the duty of a guardian, and who will necessarily give consent to be guardian, shall be assigned as a guardian.

A close relative of the person under guardianship shall be assigned guardian.

When assigning a guardian, the Centre for Social Work shall also take into account the wishes of the person under guardianship, if he/she is in a position to express them, as well as the wishes of his/her close relatives.

With the guardianship, the state gives special protection to minors who have no parental care and to adult persons whose working ability has been taken away from or limited. Protection is also given to other persons who are not able to or do not have the possibility to take care on their own of the protection of their rights and interests. The procedure for placing a child under guardianship, determining the measures and protection of the personality, rights and property of the minor, assigning a guardian for supervising the guardian in the carrying out of the guardian duty shall be carried out by the Centre for Social Work, as the exclusive competent body for guardianship.

The Centre for Social Work shall also be authorised to continue to offer assistance to persons whose guardianship has terminated due to the age of majority, if they, during the guardianship period were not capable of preparing themselves for independent life and work owing to justified reasons.

Article 191, Law on Family

Under guardianship shall be placed a minor without parental care. A child without parental care is a child whose parents are not alive, who have been missing, unknown or have had an unknown place of residence for more than one year and a child whose parents notwithstanding the reasons occasionally or permanently do not exercise their parental rights and duties.

A guardian can be assigned to a minor for a particular case when there is an ongoing dispute between a child and his/her parents, for concluding certain legal actions between them, as well as other cases when their interests are in disagreement. A parent can control the property of the juvenile, transfer and burden it to relinquish a gift or inheritance, only with the approval of the Centre for Social Work.

The CSW shall undertake measures for:

- immediate placement under guardianship of every child who has no parents or his/her parents do not look after him/her, who needs protection;
- shall assign a guardian to the child and shall decide upon the authorisation of the guardian;
- shall make a decision to carry out the guardian duty ex officio;
- shall decide upon change and discharge of the guardian;
- shall notify the registrar of placing a child under guardianship and the competent body of registering property (cadastre) if the child possesses real estate;
- shall make an inventory of the property of the person under guardianship;
- shall give guidelines to the guardian as regards the care for the child and his/her property;

- shall review the guardian's report;
- shall review objections by third persons for the performance of the guardian's duty of the guardian;
- shall decide whether the child will be placed in an institution, in a foster family, whereby the CSW shall perform its guardian's duty directly;
- shall make a decision regarding the alteration of the form of protection of the child, departing from his/her needs and his/her best interest. In any case, the Centre is obliged to take care of the child, of his/her rights and interests, his/her further development, education and fulfilment of his/her necessities.

Principles for conducting the procedure:

- the CSW shall conduct the procedure ex officio;
- the CSW shall co-operate with social, medical, educational-correctional institutions;
- It shall act according to knowledge for undertaking measures of guardianship for a child from a registrar, a state body which has come to such knowledge in the course of performing its competence, a relative, a family member, a neighbour, other legal entities, institutions, local communities.
- Primarily, as guardian shall be assigned a close relative of the child, whereby the wish of the child shall also be taken into account if he/she can express it.

RECOMMENDATIONS

1. To the children victims of trafficking in human beings who have no parents or parental care, or who are children from another country, shall obligatorily be assigned a guardian - an expert assigned by the Centre for Social Work.
2. As a guardian shall be assigned a person who has undergone a specialised training for care and work with children - victims of trafficking in human beings, who has adequate expertise, knowledge and understanding of the particular rights and needs of the children victims.
3. Preparation of the children victims of trafficking in human beings to return to their normal lives in their own families which will take proper care of the further development of the children, but with a constant surveillance by a team of experts from the Centre for Social Work, composed of a social worker, a psychologist and a medical worker.
4. If there are no conditions for the child to return to his/her family, to envisage as a priority solution accommodation in another family, which is specially trained for taking care of such a category of children.
5. Establishment of a multidisciplinary team which will evaluate the individual needs of each child - victim in order to determine measures for care and protection, as well as to monitor the state of the child after his/her return to the family, or his/her placing under alternative care.

6. The guardian who is assigned to the minors - victims of trafficking in human beings ought to have the following competences:

- *To ensure that the decisions being made in all stages of the procedure are in the best interest of the child;*
- *To ensure that the child victim obtains medical and psycho-social assistance and protection as well as to accompany him/her to the safe place of accommodation;*
- *To ensure that the child victim obtains prompt legal assistance and protection as well as information relating to his/her status, rights and obligations that he/she has according to the Macedonian legislation, by lawyers who have received adequate training;*
- *To make sure that the child victim will obtain all the information in his/her mother tongue.*
- *To contribute to finding a permanent solution in the best interest of the child;*

7. The children with special needs (psycho-social disorder, illness or pregnancy, disability) ought to be provided with appropriate assistance.

8. The children victims are entitled to health care, psycho-social and legal assistance and protection as well as education.

9. Ensuring free health care for the children victims of trafficking in human beings in spite of the lack of health insurance as well as facilitation as regards ensuring the necessary medical documentation (a medical certificate).

The state should intensify the activities in the sphere of trafficking in human beings on a national level and to join regional initiatives in this sphere. It is necessary to introduce separate programmes for legal assistance (free of charge and available) for the victims of trafficking in human beings by the state.

LAW ON SOCIAL PROTECTION

The Law on Social Protection regulates the specific forms of protection, when there are no conditions for children to live in their families.

The Centre for Social Work makes decisions concerning the extra-institutional or institutional protection, applies professional work and undertakes concrete measures, depending on the age and needs of each child.

Institutional protection (article 23):

1. The Home for Children Without Parents and Parental Care "11th October" in Skopje, where children from the age of three to the age when they are capable of independent life, and at the latest within six months after they have completed secondary education, are being placed.

2. In the home for infants and little children in Bitola are being placed new-born babies up to the age of three, as well as pregnant women/juvenile mothers one month before adoption and three months after giving birth.

3. The SOS Children's Village - private institution for sheltering children without parents and parental care.

In article 34 of the Law on Social Protection, the conditions which state who shall be entitled to social security are listed by name:

- permanent financial assistance for the persons incapable of work and socially vulnerable;
- social financial assistance for persons capable of work and socially vulnerable;
- money allowance for assistance and care;
- right to health care;
- salary allowance for shortened working hours owing to care of a physically or intellectually disabled child;

- one-off financial assistance or aid in kind;

- right to housing;

- financial assistance to a person who has had the status of a child without parents and parental care up to the age of 18.

A person who is incapable of work and who is socially vulnerable, who cannot provide means for his/her own survival on the grounds of other provisions, is entitled to permanent financial assistance.

The children without parents and parental care, pursuant to the Law on Social Protection may obtain permanent financial assistance (article 34 paragraph 5) and health care (article 45) unless they obtain it on other grounds. The Centre for Social Work, pursuant to the Law on Child Protection, shall make decisions about the rights to child allowance, special allowance and aid in equipment for new-born babies.

Extra-institutional protection shall cover:

1. Accommodation in foster families;
2. Accommodation in day care centres.

ACCOMMODATION IN A FOSTER FAMILY (article 20 and 85-87)

The right to accommodation in a foster family shall represent an extra-institutional protection which, in addition to other beneficiaries, shall also be utilized by the following categories of children:

- a child without parents and parental care (whose parents are deceased or they do not want to or cannot take care of their own child, notwithstanding the reason). The accommodation in a foster family shall last up to the age of 18 of the child, but even after this age, until the child becomes capable of independent life and work, i.e. until he/she has completed his/her secondary education. The child shall be accommodated in a foster family unless there are possibilities for ensuring care and education in another manner;

- a child with educational-social problems, that is a child who has been neglected or abused by his/her parents, guardian and other persons who are obliged to take care of him/her, i.e. a child who, due to the bad relations within his/her family, is susceptible to getting bad habits and demonstrations in his/her behaviour. This category also includes children who originate from socially vulnerable families, in which the parents do not have enough means to take care of their proper development and education;

- a child with disturbed social behaviour, which category includes children - juvenile perpetrators of criminal acts who need special assistance in the resocialisation, education and instruction;

- a child with moderate and severe difficulties in his/her intellectual development, who is sent to a training for a working - manufacturing activity in an institution outside his/her place of residence and who ought to leave his/her family.

A right to foster care also has children with the most severe difficulties in their intellectual development and per-

sons with the most severe physical disability who need ultimate fostering and care, and their families are not able to provide care and concern for their health.

In 2004 amendments and modifications to the Law on Social Protection (Article 124-138) were adopted and the carrying out of the fostering function was normatively improved, and with the aim of creating higher motivation among citizens for taking care of children in their families. A possibility has been made for physical persons to be able to be professionally involved in the fostering function as independent work and to reach years of service and a pension base. The Law imposes that the foster care provider has at least secondary education and must be in a good state of health so as to be able to successfully take care of the accommodated children. The foster care provider ought to be a person capable of work, against whom no procedure has been conducted for taking away his/her parental right with regard to his/her children and to have an appropriate space and equipment for work.

The Minister of Labour and Social Policy with a decision issues a permit for performing the activity of fostering children in the family of the person who wants to engage in this activity. The Centre for Social Work previously gives its opinion whether the citizen is eligible and whether he/she has the possibility to foster children. After obtaining the permission for performing the activity, the provider shall conclude a Contract with the Centre for Social Work, setting out the manner in which the person will foster children in his/her family shall also be determined.

It is expected that such legal decision will stimulate citizens who have completed adequate higher education in the areas convenient for performing the fostering function, as well as in the education of children (pedagogical, psychological and the like), who, owing to the fact that they are unemployed, will begin to engage in the fostering function as their professional activity. In this manner, the possibility to engage foster families with higher potentials for performing the fostering function has been created, whereby the quality of this form of protection of children will be improved.

The Law provides that persons who conclude Contracts with the Centre for Social Work could also engage in taking care of children. The Contract regulates the manner of accommodation of the child in the foster family and the care that ought to be given to him/her for meeting his/her individual needs, the conditions of termination of the accommodation and other conditions for termination of the Contract. The foster family, on the basis of the Contract concluded shall obtain an allowance for covering expenses for taking care of the child and an allowance for the provider for his/her engagement. The Contract concluded with the Centre for Social Work shall also determine the amount of the allowance. The Minister of Labour and Social Policy shall determine with a Rulebook the amount of the allowance for fostering and accommodation for every category of beneficiaries of this service separately.

Duties of the foster care provider

- *He/she is obliged to act in accordance with the guidelines of the Centre for Social Work regarding the manner in which he/she is to take care of the child.*
- *He/she should regularly inform the Centre about every change that occurs in the process of taking care of the child, his/her behaviour, education, schooling, health and the like.*

The Centre shall select the foster family on the basis of the following criteria: the age of the foster care provider, the degree of his/her education, his/her health and moral eligibility, the material and housing conditions of the family and the possibility of the family for taking care of the child.

The Ministry of Labour and Social Policy shall more closely elaborate the criteria for selection of the foster families in a Rulebook, in which the amount of the allowance for fostering and the allowance for the accommodation of the child in the foster families shall be determined. In addition to the allowances for accommodation of the child in a foster family, he/she shall also be entitled to child allowance, and if the child has difficulties in his/her development, also a special allowance in accordance with the Law on Child Protection. These means shall cover the additional expenses for the child.

The Rulebook for foster families, shall also determine the type and number of beneficiaries that are being accommodated in a foster family and the obligations of the foster care provider regarding the care and the other necessities of the accommodated person. The Rulebook has been prepared as a draft version and has not yet been published.

RECOMMENDATIONS

1. Providing measures for reducing poverty, that is guaranteeing and providing minimum means for survival of the families with minors, and who cannot be provided with means for living by means of employment or in another way, particularly undertaking social measures for the families that have been identified to have children - victims of trafficking in human beings, or of another kind of forced labour owing to the difficult social state.
2. Providing an adequate system of identification and registration of children in the streets or of the children whose labour is exploited and undertaking appropriate measures for their protection by means of placing them in day care centres and through assistance to and education of the children and their parents, as well as by connecting the day care centres with the educational institutions in order to include these children in regular education.
3. The measures that will be undertaken for this category of children outside of the day care centre (in the family, school and in front of other institutions) ought to be under constant supervision by a social worker and a psychologist

from the Centre for Social Work.

4. Creating a legal obligation for establishing shelters for children - victims of trafficking in human beings, in which shelters a social worker ought to be engaged, a psychologist and a medical officer.

5. Highly confidential and specially trained persons ought to be engaged in the shelter and the location of the same should be known only to a certain circle of people, who will have the obligation to undertake appropriate measures for protection of the children.

6. For each accommodated child there ought to be prepared a special programme, which includes the plans about the measures that are to be undertaken for the protection of the child and the manner in which they are to be realized. The team of experts ought to determine dynamics of monitoring the case in the programme, with regular visits to the child in the providing family. The Centre is obliged to make contacts with the school so as to follow the educational process, with the main doctor as regards the state of health of the child and to undertake other necessary measures in order to monitor the development and the education of the child.

7. When it is established that the foster care provider does not take good care of the child or he/she does not feel well in the foster family, a decision for changing the family is made or another form of protection of the child is determined.

8. In order for individuals to be able to begin their professional work in the fostering function, it is necessary to undertake activities for greater informing of citizens, their sensibility and education.

9. Co-operation and involvement of all the entities on the local level for assistance and support of the foster families should be developed.

10. Programmes for specialised education of the foster families for care for the children who need special assistance and support for socialization (the State Bureau for Social Affairs, NGOs, etc.).

11. In exceptional cases - when it comes to victims of traf-

ficking in human beings, the Ministry of Labour and Social Policy in co-operation with the centres for social work may undertake activities which are not envisaged in the law.

12. The illegal status of the victims of trafficking in human beings should not be a rejecting criterion for obtaining social protection.

13. A new article to the Law on Social Protection for providing the victims of trafficking in human beings and the victims of other transnational organized crime with social protection, should be added

14. A new article to the Law on Social Protection, for establishing the institutional protection of the victims of trafficking in human beings and the victims of other transnational organized crime, in order to encourage them to testify, to ensure their safety from the possible repressions by the traffickers and criminal groups, should be added.

15. In the shelter, the trafficked children ought to be provided with appropriate physical, psycho-social, legal, educational assistance, accommodation, social and medical assistance, where they will be protected against further exploitation.

16. The children, victims of trafficking, ought to be accommodated separately from the adults, keeping an account of their special rights and needs.

17. Adoption of a Law on Persons with Special Needs, which will contain a unified definition of disabled, handicapped and mentally ill persons and these persons will be entitled to special protection as determined with this law.

18. The best interest of the child has to be the primary obligation in all the procedures, notwithstanding whether they are taken over by state or private bodies and institutions.

19. The children victims of trafficking in human beings ought not to be prosecuted for criminal offence or misdemeanour.

DAY CARE CENTRES

Children in the streets - street children. Under the Programme of the Ministry of Labour and Social Policy for protection of the socially excluded persons, the planned measures and activities for the protection of the children in the streets shall be undertaken. This Programme is aimed at identifying all children, undertaking measures of working with the parents and raising the extent of parental duty and responsibility, and in case of evident neglect of the children, initiation of procedures for taking away the parental right, placing children in Institutions or in foster families. Activities for social strengthening of children through inclusion of programmes of day care centres are underway. The general objective of this form of protection is aimed at prevention of the problem of neglected and educationally neglected children.

NEW RIGHTS

The right to housing. The MLSP is in the phase of adopting a Rulebook with which the children without parents and parental care, who have been using a form of social protection, after their adulthood age, and at the most until the age of 26, will be entitled to housing.

Article 49-50. A permanent financial assistance for a person who has had the status of a child without parents and parental care until his/her age of 18.

JUVENILE DELINQUENCY

The Centre for Social Work, in the performance of its public authorisation of a competent body for guardianship as entrusted by law, shall participate in the procedure in front of a court for establishing responsibility, proceeding and pronouncing measures and sentences for juvenile perpetrators of criminal acts.

These competences of the Centre are determined with the criminal legal provisions. The Centre for Social Work, shall conduct professional work with the juvenile and his/her family in order to evaluate his/her personality, development, education, environment and the conditions in which he/she lives.

The Centre shall co-operate with the school, the public prosecutor, the court and the police for the pur-

poses of the further treatment and socialization of the child.

In the course of the court proceedings, the Centre shall propose the imposition of an educational measure (a reprimand, intensified supervision by a parent, another family and by a guardianship body, referral to an educational institution and an educational-correctional home), a security measure or by exception juvenile prison.

The Centre for Social Work shall monitor the process of the entire socialization of the child into the family environment, his/her everyday activities and behaviour, involvement in the education and instruction, by means of preparing a work programme for each child individually. This body may suggest to the court to annul or continue the measure, i.e. to replace one measure with the other. Within the system of social protection, an institution for placing children and youngsters with educational and social problems exists and also an institution for children and youngsters with asocial behaviour.

In the Republic of Macedonia, a separate Law on Juvenile Justice is in the process of preparation. This regulation shall unite all the provisions and procedures relating to imposing measures and sanctions for juvenile perpetrators of criminal acts. The novelty expected with the enactment of this legislation is introduction of preventive work with juvenile children between the ages of 7 and 14. Children at this age who have committed criminal acts or offences shall be considered as children under risk. As children under risk shall also be considered children who are drug or alcohol addicts, children with

serious obstacles in their physical or intellectual development, children who have been neglected in their educational or social development, that is their families cannot carry out the educational function, children who do not go to school or who have begun begging, vagrancy or prostitution and owing to such situation they may or they have come in conflict with the law.

The preventive work with these children is aimed at undertaking measures for assistance and protection of the children. The measures shall be enforced by the Centre for Social Work, through a Programme in which working with the children, their parents, their guardians or the foster families will be envisaged. The prevention for children at this age, who have demonstrated certain asocial behaviour is important to the timely treatment of the children and their proper education and re-education. Thus it is expected to protect the children from manifesting delinquent behaviour in their further development.

For the purpose of implementing the prevention of juvenile delinquency, the working text of the Law on Juvenile Justice provides establishing a State Council and municipal councils for prevention. The State Council is envisaged to be composed of representatives from the Ministry of Justice, the Ministry of Labour and Social Policy, the Ministry of Education, the Ministry of Interior, the Judicial Council, the Supreme Court of the Republic of Macedonia, the Public Prosecutor of the Republic of Macedonia and the Ombudsman. The municipal councils shall be established for the implementation of the prevention on the local level.

LAW ON CHILD PROTECTION

The children in the Republic of Macedonia have great rights which are protected with international conventions and documents, as well as with national laws, rulebooks and acts. The Republic of Macedonia is the signatory of and implements all the international documents for protection of the children's rights, protection and prevention from violence, torture, discrimination which are also incorporated in the national legislation.

In article 40 paragraph 4 of the Constitution of the RM it reads:

The Republic shall provide special protection to the children without parents and to the children without parental care.

In article 1 of the Convention on Children's Rights, it is stated that, for the purposes of this convention, a child shall be any human being who has not reached the age of eighteen, if on the basis of the law relating to the child, adulthood is not reached before this age.

In article 3 (e) of the Protocol on Prevention, Suppression and Punishment of the Trafficking in Human Beings, Particularly in Women and Children, which supplements the Convention of the United Nations Against Transnational Organised Crime, it is stated that, the term child means any person who is under the age of eighteen.

In article 2 of the Convention of the International Labour Organisation which refers to the prohibition and the urgent action for eliminating the worst kinds of children's labour exploitation, the term child shall be used for all the persons under the age of 18.

In our legislation, in article 8 of the Law on Protection of Children, it is stated that, as a child in the sense of this law shall be considered any person until the age of 18, as well as a person with difficulties in his/her physical and mental development until the age of 26.

With regard to the criminal liability, in the CC of the RM it is stated that a child shall be a person until the age of 14, whereas a person between the ages of 14 and 16 shall be a younger juvenile, and from 16 to 18 shall be an older juvenile.

As far as the definition of the disabled and mentally ill persons is concerned, there is no universal definition. There are various definitions in a large number of laws, so that there primarily arises the need to adopt a separate law.

In article 9 paragraph 1 of the Law on Child Protection, mental or physical molestation, punishment or other inhumane treatment or abuse of children shall be forbidden.

In article 3 (a) of the Protocol on Prevention, Suppression and Punishment of the Trafficking in Human Beings, particularly in Women and Children, which supplements the Convention of the United Nations Against Transnational Organised Crime, the term trafficking in human beings is defined, according to which the term trafficking in human beings means recruitment, transportation, transfer, sheltering or taking in persons, by means of threatening or using force or other forms of coercion, or kidnapping, or deceit, or misleading, or by misusing power or a state of helplessness or by giving or receiving money or benefit, for the purpose of reaching consent by a person who has control over another person, for the purpose of exploitation. Exploitation means, at least in the narrow sense of the word, exploitation of prostitution of other persons or other forms of sexual exploitation, forced labour or forced serving, slavery or treatment similar to slavery, servitude or extraction of human organs;

In the same article in item (c) it is stated that the recruitment, transportation, transfer, sheltering or taking in a child because of exploitation shall be considered as trafficking in human beings even when the use of some of the ways as determined in item (a) of this article is not included.

In the UNICEF Guidebook for Protection of Children Victims of Trafficking in Southeast Europe, the trafficking in children is an act of recruitment, transportation, transfer, keeping and taking in children for the purpose of their exploitation either within or outside of the country. The consent by the children victims for the intended exploitation is irrelevant, even in case if none of the following means has been used: force, coercion, abduction, deceit, misuse of force or activities undertaken while the child is in a vulnerable state or while he/she is under control by another person.

In article 11 of the Constitution of the RM it is established that the physical and moral integrity of man shall be inviolable. Every form of torture, inhumane or degrading treatment and punishment shall be forbidden. In addition, forced labour shall also be forbidden.

RECOMMENDATIONS

1. Providing special measures for including children - victims of trafficking or other type of forced labour in the educational institutions and for their rehabilitation and socialization.
2. The child - victim must be provided with timely legal assistance and information connected to his/her status, about the state he/she is in, as well as about the rights and obligations he/she has under our legislation.
3. When the age of the child is not known with certainty, he/she is to be treated as a child and is to be provided with all the necessary measures of protection, until the process of verification of the victim's age lasts.
4. Immediately after the primary identification, the children victims are to be placed at a safe location (a refuge, home, family or another institution).
5. The centres for social work in co-operation with the non-governmental organizations ought to develop standards for providing assistance and protection at the places where the children victims are placed.
6. As far as the care and assistance are concerned, the following are to be taken into consideration: the origin, sex, age and whether as a child victim he/she manifests special needs (psycho-social disorder, disability, illness or pregnancy).
7. Passing of special protection and support programmes for the children victims of trafficking referring to their physical, psychological, legal, educational, medical assistance and housing.
8. Undertaking measures for protection of the privacy and identity of the child

LAW ON FREE ACCESS TO INFORMATION OF PUBLIC CHARACTER

This Law regulates the conditions, manner and procedure for the fulfilment of the right to free access to information of public character which the bodies of the state authorities and other institutions and agencies possess as established by law. The law enables all the physical and legal entities to fulfil the right to free access to information of public character, and the holders of information are obliged to ensure transparency and openness in their work. Free access to information shall also have foreign legal and physical entities.

Holders of information shall be the bodies of the state authorities and other institutions and agencies as established by law, the bodies of the municipalities, of the City of Skopje, the public institutions and services, public enterprises and legal and physical entities which perform public authorisations and activities of public interest as established by law.

In article 5 of the Law, the conditions when the holder of information may decline the request for access to information are specifically listed. The information shall not be provided if it refers to:

1. the information which, on the basis of law, represents a classified information with a respective degree of confidentiality;
2. a personal data whose disclosure would mean infringement to the protection of personal data;
3. information about archivist work which has been determined as confidential;
4. information, the giving of which would mean infringement to the confidentiality of the tax procedure;
5. information which has been acquired or compiled for investigation, criminal or penal proceedings, for conducting an administrative or civil procedure, and the giving of which would adversely affect the course of the proceedings;
6. information which regards commercial and other economic interests, including the interests of the monetary and fiscal policy and the giving of which will adversely affect the realisation of the function;
7. information from a document, the preparation of which is ongoing and which is still subject to reconciliation by the holder of information, the disclosure of which would cause miscomprehension of the contents;
8. information about the environment protection which is not available to the public because of protection of people's health and the environment; and
9. information that jeopardises the rights to industrial or intellectual property (patent, model, sample, commodity and service brand, mark of the product's origin).

The holders of information are obliged to inform the public on the following:

- the basic contact data of the holder of the information: name, address, telephone number, fax number, e-mail address and the web address;
- regulations concerning the competence of the holder of information, connected with the register of regulations published in the official gazette;
- programme proposals, programmes, strategies, views, opinions, studies, and other similar document relating to the competence of the holder of information;
- all the calls in the procedure for public procurement and the tender documentation as determined by law;
- data on his/her competences as established by law;
- the organisation and operating costs, as well as for rendering services to citizens in the administrative procedure and for its activities;
- issuing informative bulletins, and other forms of information;
- a web site for publishing decision measures and acts which affect the lives and work of the citizens;
- other information that result from the competence and work of the holder of information.

Sentences shall be envisaged for the holder of information, if contrary to article 6, he/she allows an access to information contrary to the provisions of this law, if owing to that there has been caused damage to the requester, to the public or to the interest which is being protected with that information.

The centres for social work as holders of information - possess data which relate to specific victims of trafficking in human beings. The responsible persons in the centres for social work ought to ensure free access to information to certain requesters of information - the offices of the NRM, NGOs and other institutions that work with victims of trafficking in human beings.

In addition, the centres for social work are entitled to refuse to give information to a certain requester pursuant to this law, if they find that the given information may jeopardise the safety of a certain person or if the requested information is a violation to the protection of personal data. The centres for social work are entitled to refuse to give evidence as regards the information that they have been entrusted with by the victims of trafficking in human beings in the course of their professional duties, if by giving this information the protection of personal data is being violated. Of par-

ticular importance is the protection of personal data with regard to the relations with the media. The cases of trafficking in human beings provoke huge interest in the media, and this increases the need for special attention for protection of personal data of the victims. Photographs and their personal histories ought not to be given to the media or the details that could lead to identification of the victim, as for instance his/her address.

Fines shall also be envisaged for the responsible person of the holder of information, if, contrary to article 6 of this Law, he/she gives data about information, which he/she should not have given and he/she shall also be punished if he/she refuses to give information, and that has caused damage to the requester, to the public or to the interest which is being protected with that information.

According to article 38 of this Law, an employee in the state administration who gives protected information shall be released from responsibility, if it is significant to the disclosure of misuse of the official position and corruptive conduct, as well as prevention of serious threats to the health and life of people and jeopardy of the environment.

The basic objective of this Law is to provide the citizens with an adequate approach to information so that they could produce their own critical stance and opinion of the work of the public authorities. This Law reduces the possibility of speculations because the information will be obtained directly from the holders of information. In addition, this law will stimulate and encourage citizens to use this right.

The Law on Free Access to Information of Public Character shall become applicable as of 1st September 2006. Until this period, there ought to be adopted by-laws, a statute, a rulebook for the work of the commission, terms of reference and an instruction in which way to treat the requests by citizens.



**The analysis of the data
of the potential victims of human trafficking**

Trafficking in human beings is abuse of the victim's human rights. The protection of the rights of persons who are the subject of trafficking in human beings should be a priority of all the anti-trafficking measures. In spite of the numerous measures for protection of human rights, declarations and agreements, in practice, the means for dealing with trafficking in human beings violate the principles of human rights. The mechanism for protection ought to cover a wide range of diverse specialised services, which are focused on the concrete necessities of each individual.

For more successful coping with the phenomenon of trafficking in human beings, there is still room for improving the legal regulations for protection of the victims. It is necessary to implement legal reforms that relate to the improvement of the legislation on anti-trafficking from the aspect of the victim's human rights. For the purpose of a functional referral mechanism for the victims - the NRM, it is necessary to make amendments and modifications to the analyzed legal regulations that is to the Criminal Code, the Law on Criminal Procedure, the Law on Family, the Law on Social Protection, the Law on Child Protection. It would be vital in providing assistance to the victims of trafficking in human beings to co-operate with citizen groups or national non-governmental organizations that are involved in the solving of the problems with regard to trafficking in human beings, or with the protection of victims, like the women's groups, the NGOs involved in human rights, violence over women, as well as the groups for gender equality.

Breakdown on the data bank of the potential human trafficking victims

NRM has a data bank of the potential victims of human trafficking, who come from our country. The phenomenon of this issue is worked out based on this data. This resulted from the semi-structured ques-

tionnaire consisting of 26 questions answered by the nominated social workers, who work on this problem within the Centres for the social work in Macedonia. The analysis answered the question on who might be the potential victim of human trafficking in Macedonia. This genesis is set on two levels: Micro and mezzo level.

A. Micro level - the individual potential victim of human trafficking;

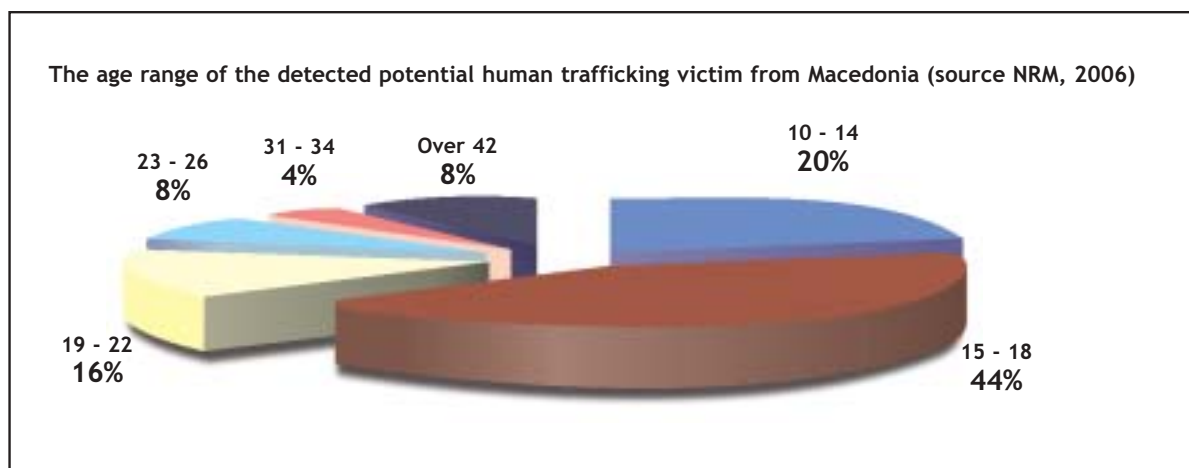
B. Mezzo-level - the closer (family) and further (friends) surrounding

- With special insight on the phenomenon of detection the potential victim coming from Macedonia;

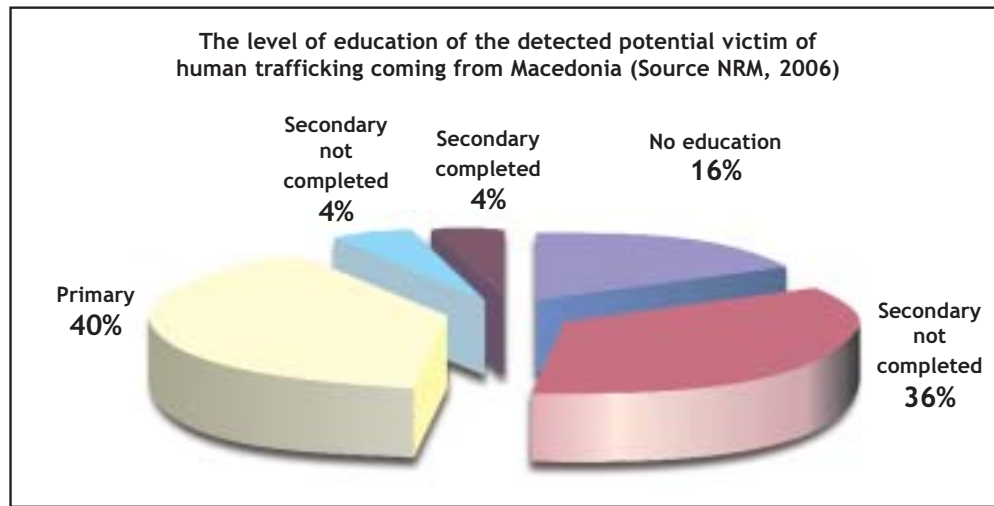
- With special insight on the institutional setting of NRM as a tool for prevention and protection of the victims of human trafficking.

The pieces of information were collected from 1 January to 1 December 1996 and they were worked out throughout September, October and November.

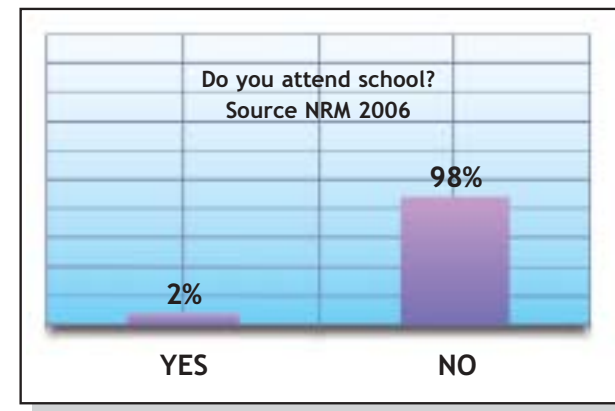
The detected potential victim from Macedonia is the person who fulfills the three elements of human trafficking - (PROCESS - recruitment, transport, transfer, confinement and reception; MEANS - threat, compulsion, abduction, lie, cheat, deceiving, force; AIM - prostitution, pornography, sexual exploitation, work under compulsion, slavery) or fulfills one or two of the sub-elements and is a citizen from Macedonia.



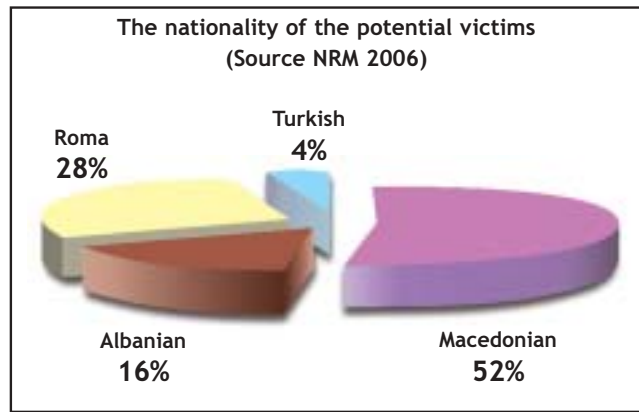
2. Education



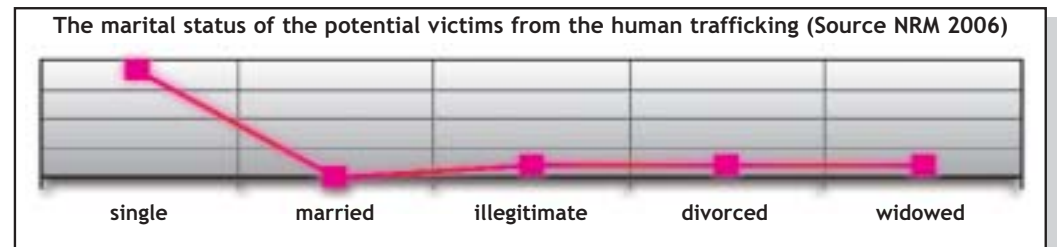
3. Inclusion in the education



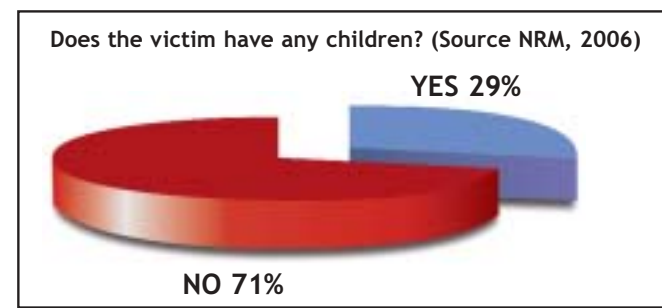
4. Nationality



5. Marital Status

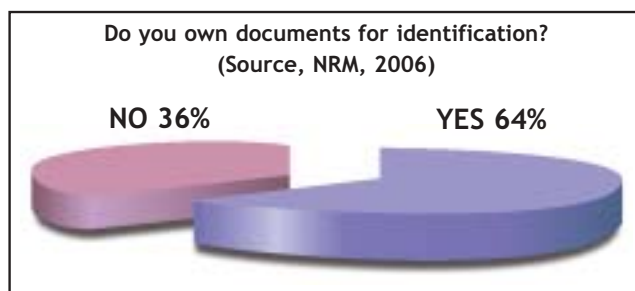


6. The victim and the posterity



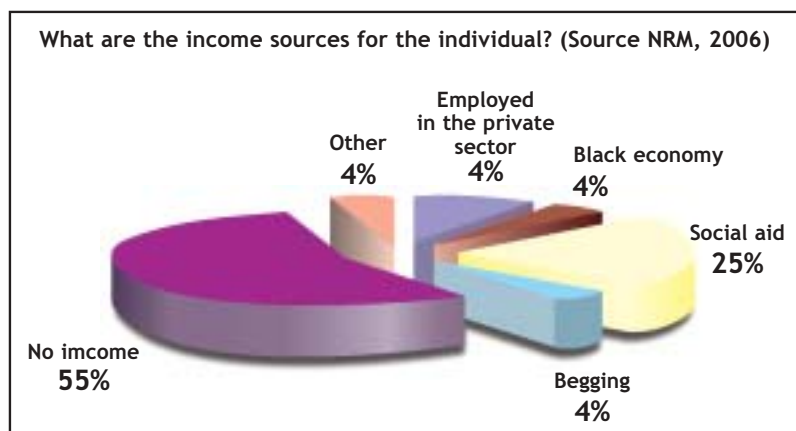
7. Documents for identification

identification



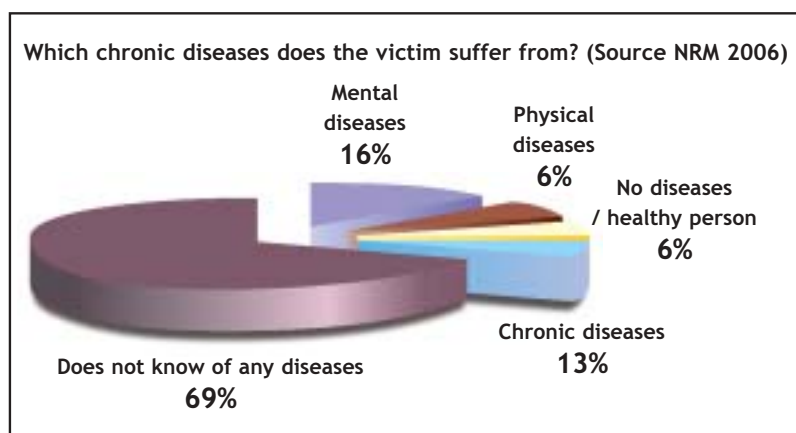
8. Source of income

income



9. Health condition

health



Conclusions

It was found out that the predominant age is 15-18 (44%) according to the data about the potential victim of human trafficking. However, it can be noted that the age group 10-14 has a very high percentage (20%);

The education matches their age. 40% completed primary education, 36% did not finish the primary education and 16% did not have any education at all. It is worrying that 98% do not attend any form of education;

According to the nationality it can be stated that 52% belong to Macedonian, 28% to the Roma people, 4% - Albanian and Turkish respectively;

Higher percentage of the potential victims are not married (single), and 71% do not have children;

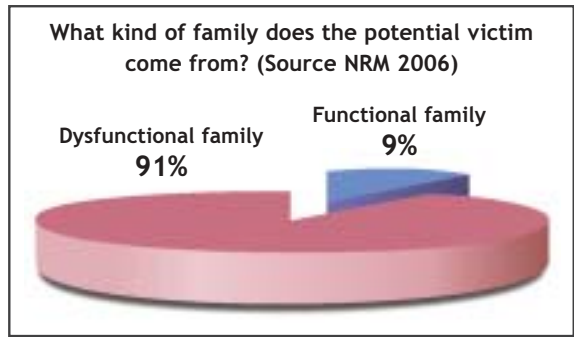
61% of the potential victims of human trafficking did not have any documents for identification at the first contact in the Centres.

As far as the income is considered, 55% said that they did not have any source of income, and 25% get social aid.

B. Mezzo - Level

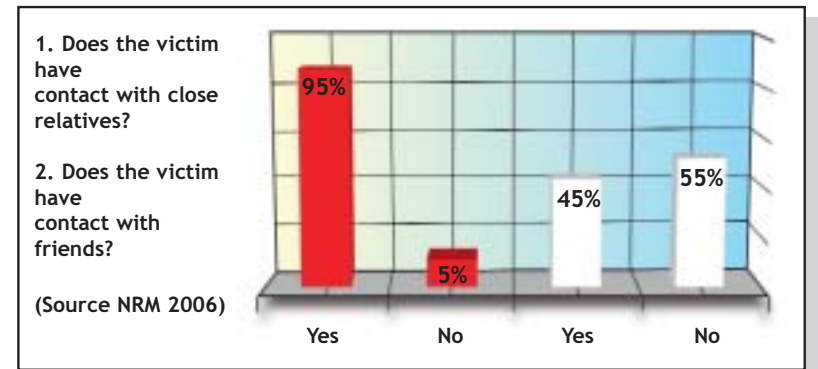
Wider surrounding and the phenomenon of the detected potential victim of human trafficking

1. Family functionality

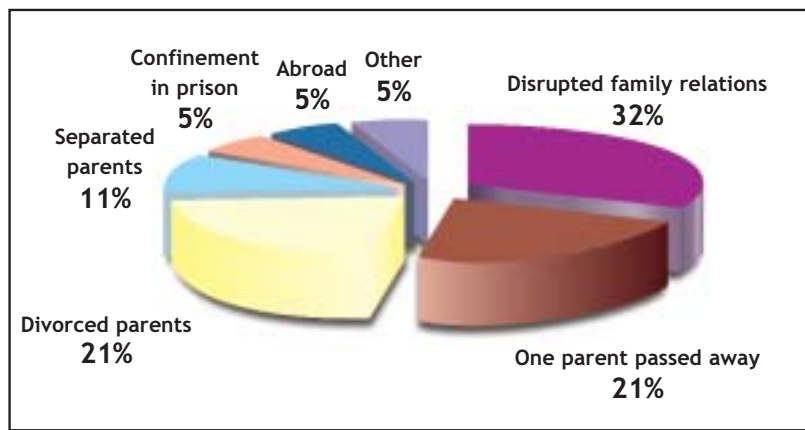


3. Social contacts and the trafficking

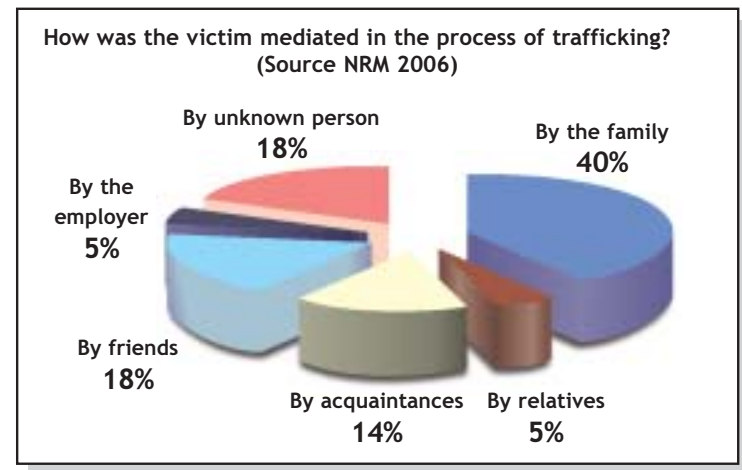
3a



2. Type of dysfunctional family

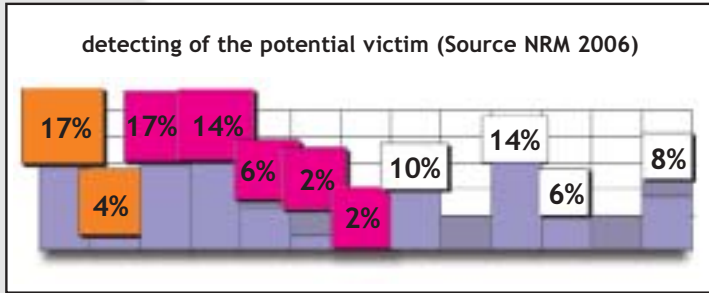


3b



4. The Phenomenon of the detected potential Macedonian victim

Process Means Goal

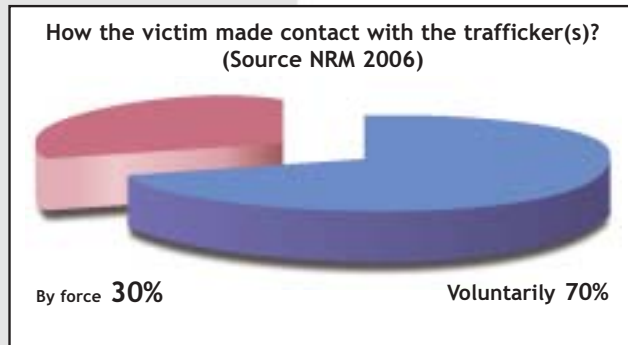


Explanation

Transport acceptance

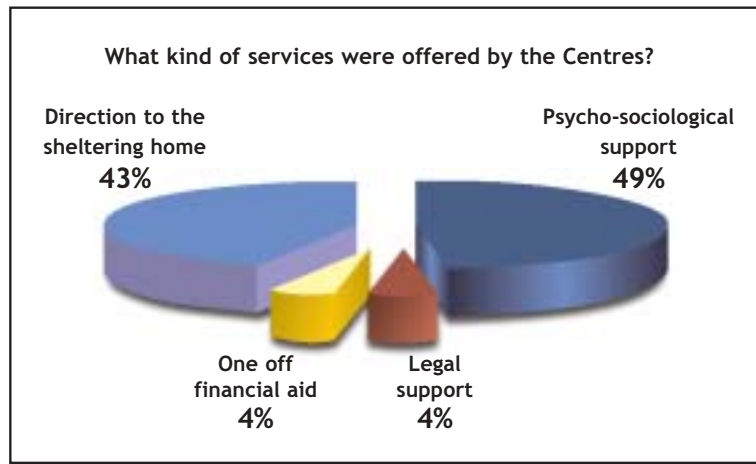
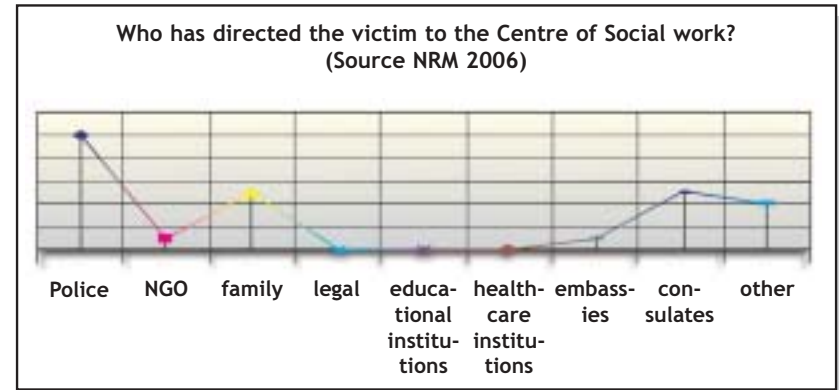
cheat deceiving lie treat prostitution

pornography sexual exploitation work under compulsion slavery begging



5. Institutional setting of NRM - prevention and protection

5a



Conclusions

91% potential human trafficking victims come from dysfunctional families

- 32% from families with distorted relations
- 21% from families where one of the parents passed away
- 21% from divorced families
- 21% from separated parents

Considering the social contacts of the potential human trafficking victims, we can state that 95% have close relations with their relatives, but this percentage is significantly lower about the contacts with their friends, while 55% do not have any contact with their friends or acquaintances;

The erosion of the family can be seen through the fact that 40% of the families mediated in the trafficking. Friends with 18 % participate as mediators, and this percentage is the same referring to unknown persons and acquaintances (14%);

In the process of the detection of the potential victims these percentages of the PROCESS, MEANS and GOAL:

- 17 % transport
- 17% cheating
- 17 % deceiving
- 6% compulsion
- 2% lying
- 2% threatening

70% of the potential victims contacted with the trafficker voluntarily;

The potential victims of the trafficking were directed to the Centres by the police, family members, NRM or NGO;

At the Centres, the most common service was provided as a psychosocial support (49%), referral to shelter homes through the NRM Office (43%), one- off money aid (4%) and legal support (4%).

Conclusions





**Extracts from the evaluation report
(Period September 2005 - July 2006)**

EXTRACTS FROM THE EVALUATION REPORT

Period: September 2005 - July 2006

Purpose of the assignment

The Evaluation Report summarizes key conclusions and recommendations of the Consultant's assessment of the NRM Coordination Office and its activities within the framework of the NRM Project. While preparing the report and carrying out the actual assessment, the Consultant took into consideration all relevant project documentation, including the project description and all written material that was adopted as a result of the project. Furthermore, the consultant was familiarized with past activities of the NRM Office through previous reports and publications published by and for the organization.

The main goal of the report was to conduct an assessment of the NRM Project in order to identify any future possibilities for the development and implementation of the project, as well as to improve the capacity of the NRM staff to implement a successful, professional and sustainable project which aims to address an immediate humanitarian and public service need.

In addition to this, the report evaluated the extent to which the current objectives of the project have been met in an efficient and effective way, and determined the impact of the project. The specific evaluation criteria taken into consideration were:

Relevance - *the extent to which the project objectives were appropriate to the problems that the NRM Project was supposed to address;*

Efficiency - *whether the results have been achieved at reasonable costs;*

Effectiveness - *the extent to which the target group has benefited from the service;*

Impact - *the extent to which the project has contributed to the objectives of the wider anti-trafficking policy and programs.*

The preparation of the report followed a predetermined timeline, and after completing the preparatory and assessment period, it was finalized in September 2006.

The assessment period was realized by research through the use of questionnaires, specifically structured interviews, meetings with focus groups and direct monitoring.

The Consultant, Ms. Suncica Dimitrijoska is a professor at the Skopje Faculty of Philosophy - Institute for Social Work and Social Policy. She has practical experience in the field of social work and has extensive experience in social research. This document presents extracts from the evaluation report which contains the full findings of the consultant's assessment.



Specific Findings on the Project's Compatibility with its Priorities, the Participation of Recipients, and Information Levels

There is a high level of compatibility between the priorities of the Republic of Macedonia and the project implemented with the support of the OSCE. 99% of the surveyed persons stated that they had the need for such a project and that it was of priority to them, while 1% considered that there was no need for such a project.

The levels of satisfaction are also very high: 98% of the surveyed persons are very satisfied with the effects from the project, while 2% are not satisfied with the implementation of the NRM project.

Example: In the municipality of Sveti Nikole, a social worker included in the focus group said that the NRM project is a big event in the CSW, because of the fact that past activities of the Center have been brought only to administrative activities, awarding financial assistance for socially threatened persons, without implementing any socio-therapeutic activities which are the basis of social work.

The participation of the partners in the project activities is satisfactory. In all municipalities where presumed victims were discovered, the centers for social work have been included without receiving any kind of additional financial support.

In the majority of cases, the work performed by the centers for social work has been on a voluntary basis, without securing any kind of benefits in regard to the working hours or any compensation for working hours out of the already legally determined working hours.

The success of the NRM project can also be seen from the fact that the qualitative data shows that the participants want to be included in the project in the future. The high percentage of support is a good indicator for success of NRM in the accomplishment of its mission.

Example: The satisfaction from the NRM project in Stip induced the social workers to begin with the standardization of the procedure for discovering victims of trafficking in human beings, attempting to developing a better form of intervention, denying the repetition of the interview with the victim.

Informational levels between the users are high. In general, the number of those who claim that do not have information about the project was low, they have stated that they know what kind of cooperation exists between the NRM Office, centers for social work, police and NGO's. A contribution to this positive development was the publishing of the NRM Fact-sheet that was distributed to all participants in the project. However, in certain areas of the country where the problem of trafficking is not that intense a lower level of familiarization was noted.

Conclusions

The implementation of the NRM Project is the first type of assistance of this kind by the Ministry of Labor and Social Policy provided to public institutions - the Centers for Social Work, in developing a relationship of partnership with other players in victim protection. The following conclusions can be outlined from the assessment of these activities:

Within its scope of activities, the Ministry of Labor and Social Policy has an obligation to provide assistance to vulnerable groups, therefore there's a high level of compatibility between the priorities of the country and the implementation of the NRM project;

The implementation of this project has the challenge to work with trafficking victims who have special needs and requirements, thus making the planning, implementing and sustaining such a project a complicated process that is accompanied with specific difficulties caused by individual needs of the victims and by the level of devel-

opment of the system itself;

The most common problems that hinder the implementation of the project are the ones related to the system, especially with staffing changes, the low number of social workers, the on-going reforms in the responsible Ministries and the inadequate working hours of social workers.

The positive effects resulting from the implementation of this project are very high and range from improving the victim identification process and raising the knowledge of social workers and inspectors, through supporting victims of trafficking on individual and local level, to building an institutionalized system of protection.

There's a high level of enhancements in the protection of victims of trafficking, as a result of increased knowledge, motivation and enthusiasm of the staff that is working with the victims;

The interviewed persons pointed out the high level of satisfaction from the professionalism of NRM staff as well as from the high level of support provided to victims by the partner NGO.

There is a high level of cooperation between the MLSP, the CSWs and NGO, and in certain cities, there is slightly lower cooperation with the Mol, i.e. with the inspectors.

Approximated terminology was used when dealing theoretically with the concepts of identification, assistance and protection of trafficking victims.

Recommendations

The current time span of the NRM project does not allow to project valid recommendations. However, the following can be pointed out from the insight in the implementation of the project:

The enactment of adequate legal regulations on securing proper social protection of trafficking victims should be pushed for, both on local and national level;

There's a need of permanent education and monitoring of the work of social workers and inspector, as well as of local leaders for providing social interventions;

Guidelines and Standard Operating Procedures on adequate actions with trafficking victims should be drafted, which would include detailed recording of all activities, both successful and non-successful;

The database on trafficking victims should be further improved and protected. Confidentiality of personal information should be respected and further improved;

Young volunteers or contracted social workers should be hired in order to make a wider contribution to society;

The cooperation and coordination of activities between local and national players on the central level should be further improved;

Due to the tendency of increasing the poverty in rural environments, educational/preventive activities should be implemented in rural and urban environments, which asks for the preparation of parallel projects for education of local population on prevention of trafficking;

Having in mind the influential power of the media, it is of utmost importance to continue working with representatives of the media and educate them on trafficking issues, especially on the need of protecting the identities of trafficking victims and the potential of stigmatization;

Having in mind that the work with trafficking victims can have an influence on the professionals, it is necessary to offer guidelines, assistance and protection, as well as an exchange of professional experiences;

The donations made by the OSCE, and subsequently by UNICEF, in securing adequate working space and technical equipment for work with vulnerable victims is of great value. However, it is of great importance to secure adequate working premises in the remaining CSWs, and thus provide adequate treatment;

Although the project has introduced the category of 'trafficking victims' in the Ministry's records, there's a further need to additionally institutionalize the concept and to introduce the same category in the Law on Social Protection, and also to determine adequate forms of protection (types of treatment and the right to social/financial assistance).





The cooperation memorandum

COOPERATION MEMORANDUM

between

**The Ministry of Labor and Social Service
and
NGO Open Gate**

Made on this Fourteenth day of June, 2006 in Skopje**Article 1***Contracting parties*

1. Ministry of Labor and Social Service
2. NGO Open Gate/ La Strada Makedonija

Article 2*Goals of Memo*

The goal of this Memo is the mutual cooperation and mutual information within the frames of the project for national mechanism for referral (NMR), the holder of which is the Ministry of Labor and Social Service for the purpose of developing a standard operational procedure for referral of victims of human trafficking to specialized services providing protection and development of human rights of all people, victims of human trafficking regardless of their nationality, ethnic group, age and gender.

Both parties of this Memo acknowledge the need of providing full acceptance and protection of the victims according to their needs and interests.

The best way to provide these comprehensive services is by developing an efficient system for mutual contacts, referrals and cooperation between the parties

Article 3

The referral procedure for the victims of human trafficking to specialized services shall be performed only on voluntary basis i.e. with previous consent of the person - victim of human trafficking.

Article 4*Way of cooperation*

The Ministry of Labor and Social Service and Open Gate agreed their mutual cooperation to be conducted in the following way:

MINISTRY OF LABOR AND SOCIAL SERVICE/ NMR

The Ministry of Labor and Social Service will offer help and protection to all people assumed to be victims of human trafficking (sexual abuse, forced labor, forced begging, slavery etc) and it will refer and accommodate the same in shelters or other safe places.

It will evaluate the initial needs of the victims of human trafficking and it will coordinate the protection and help available.

It will inform the victims of human trafficking about their rights and status and it will monitor the re-socialization process.

It will provide legal assistance for the sheltered victims and will cooperate with the competent structures for providing protection of witnesses and protection in life threatening situations;

It will carry out analysis and assessments of the causes of human trafficking based on data, facts and information obtained during the interviews of victims.

NGO OPEN GATE / LA STRADA MAKEDONIJA

It will accommodate the victims of human trafficking in shelters referred to by the MLSS, social services centers via the NMR upon their approval and will:

It will provide food, clothes and other living necessities for the accommodated victims;

It will provide psychological support and consultation for the victims of human trafficking;

It will provide social rehabilitation, reintegration for the accommodated victims via educational and professional training, self-employment and employment if the circumstances allow the same;

It will inform the MLSS about all problems referring to the wellbeing of the accommodated victims referred to by the MLSS.

It will provide transportation of the victims when necessary (court procedures, family visits). The return of the victim in the family shall be done upon the victims and family's consent.

It will mediate in the victims' contacting with their families and it will facilitate their reunion.

It will conduct analyses and assessments of the causes of human trafficking based on data, facts and information obtained during the interviews of the accommodated victims in shelters.

It will respect the privacy and confidentiality of the information given from those being helped.

Article 5

In order to provide successful implementation, supervision and coordination of this Memo, the parties agree to hold regular consulting meetings.

Article 6

This Memo shall enter into force when signed by the above parties.

Article 7

Any possible amendments of this Memo shall be made upon both parties' consent.



Photo Gallery

PHOTO GALLERY



PHOTO GALLERY



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