



## Organization for Security and Co-operation in Europe

### Special Representative and Co-ordinator for Combating Trafficking in Human Beings

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#### Foreword

In March 2015, I had the pleasure to pay an official visit to the former Yugoslav Republic of Macedonia. I held discussions with representatives of the national authorities and institutions, including the State Secretary of the Ministry of Internal Affairs and National Co-ordinator for Combating Human Trafficking, Ms. Anastasija Ilieska, and with other senior officials as well as representatives of civil society organizations.

The objectives of this visit were to promote the implementation of OSCE commitments and other international instruments in the country, to establish an open dialogue with the authorities and non-State actors as well as to suggest action-related recommendations to strengthen the fight against human trafficking. In this regard, I appreciated exchanging good practices and discussing the challenges in the country with the authorities and non-State actors.

I would like to acknowledge the significant steps taken by the authorities in amending and improving the legislative framework to counter human trafficking in particular trafficking in minors with a special emphasis on the protection of children from being trafficked.

The Report was presented to the Delegation of the former Yugoslav Republic of Macedonia for comments on 23 December 2015. The Delegation submitted its comments on 7 June 2016, which are annexed to this report as provided.

Finally, I encourage the authorities to continue fighting human trafficking by implementing suggested recommendations and look forward to continuing our co-operation on the occasion of a follow-up to this report.

A handwritten signature in blue ink, appearing to read 'Madina Jarbussynova'.

Madina Jarbussynova

**Report by OSCE Special Representative and Co-ordinator for Combating  
Trafficking in Human Beings, Madina Jarbussynova, following her visit to  
the former Yugoslav Republic of Macedonia  
23-26 March 2015<sup>1</sup>**

1. This Report presents the main findings of the official country visit to the former Yugoslav Republic of Macedonia of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova (hereinafter referred to as the Special Representative) which took place from 23 to 26 March 2015<sup>2</sup>.
2. The purpose of the visit was to hold consultations with government officials and experts from state institutions and civil society on human trafficking issues. More specifically, the objectives of the visit were to discuss ways to support and advance ongoing efforts to prevent trafficking, assist trafficked persons and protect their rights, as well as bring to justice perpetrators in line with OSCE commitments and relevant international standards.
3. In the course of the visit, the Special Representative engaged in direct consultations with high-level government officials, including the State Secretary of the Ministry of Internal Affairs and National Co-ordinator for Combating Human Trafficking, Anastasija Ilieska, National Rapporteur on Combating Trafficking in Human Beings and Smuggling of Migrants, Kiro Todorovski, Minister of Interior, Gordana Jankulovska, Prosecutor General, Marko Zvrlevski, Deputy Minister of Labour and Social Policy, Ibrahim Ibrahimi, State Advisor for Equal Opportunities, Elena Grozdanova, Co-ordinator for Children Sub-Group, Svetlana Cvetkovska, Deputy Minister of Justice, Biljana Brishkovska and Director for Multilateral Co-operation of the Ministry of Foreign Affairs, Ambassador Igor Dzundev.

Furthermore, the Special Representative met with the President of the Criminal Court in Skopje, Vladimir Pancevski and held consultations with anti-trafficking NGOs<sup>3</sup> and international organizations<sup>4</sup> as well as the U.S. Embassy.

The Special Representative regrets that notwithstanding her request to visit the Shelter for Victims of Trafficking and Holding Centre for Illegal Migrants, the visit did not take place.

4. The Special Representative wishes to thank the authorities of the former Yugoslav Republic of Macedonia, and in particular the Permanent Delegation of the former Yugoslav Republic of Macedonia to the OSCE, as well as the OSCE Mission to Skopje, for their kind assistance in organizing and facilitating the visit. She also wishes to thank all interlocutors, from the national authorities to civil society and international organizations in Skopje, for their willingness to share their knowledge and insights.

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<sup>1</sup> The Report was finalized on 23 December 2015

<sup>2</sup> The Special Representative was accompanied by her Country Visit Officer, Ms. Muriel Ethvignot and the Advisor, Ms. Aimée Comrie.

<sup>3</sup> "Open Gate/La Strada", "Sepmer" Bitola, NGO "Women Forum Tetovo", NGO "Ambrella Center for Integration", NGO "Ezerka Struga" and MARRI

<sup>4</sup> ICMPD, IOM, UNHCR, UNICEF, GIZ

5. Consultations during the visit focused on the situation of trafficking in human beings in the country and the ongoing policy, legislative and practical responses to it. More specifically, discussions focused on identification and assistance provided to victims of all forms of trafficking, in particular the victims of emerging forms of human trafficking, (such as forced marriage and begging, child trafficking), the protection of victims' rights, efforts in the area of prevention, co-operation with NGOs as well as prosecution and conviction of traffickers.
6. In the course of the visit, the Special Representative noted with appreciation that Government officials and civil society demonstrated significant awareness of human trafficking as a serious violation of fundamental rights, knowledge of new trends in human trafficking in the country and readiness to tackle the new threats. The Special Representative positively assessed the continued co-operation between the OSCE and the authorities of the former Yugoslav Republic of Macedonia to fight human trafficking.
7. The Special Representative stressed the importance of maintaining the prevention and fight against trafficking in human beings (THB) as one of the main priorities on the Government agenda and notes that a decline in political attention to the problem could jeopardize the important results achieved, especially taking into account the increased migration flows into the former Yugoslav Republic of Macedonia, which was also stated by the National Rapporteur, Kiro Todorovski.
8. The Special Representative commends the former Yugoslav Republic of Macedonia for having become a party to major international instruments providing high standards in the fight against trafficking in human beings, such as the United Nations Convention against Transnational Organized Crime ratified in 2000 and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children in 2008, the Council of Europe Convention on Action against Trafficking in Human Beings ratified in 2009. The country also ratified a number of conventions addressing slavery and forced labour such as the ILO Forced Labour Convention (No. 29), ratified in 1991, the ILO Convention on the Abolition of Forced Labour (No. 105) in 2003 and the ILO Convention on Worst Forms of Child Labour (No. 182) that was ratified in 2002.
9. However, the Special Representative regrets that the former Yugoslav Republic of Macedonia has not yet signed and ratified the 2011 ILO Convention 189 concerning Decent Work for Domestic Workers which entered into force on 5 September 2013 and serves as a powerful instrument for the prevention of THB for labour exploitation, especially for domestic servitude and the International Convention on the Protection of the Rights of all Migrant Workers and members of their Families of 1990. The ratification of this Convention is of particular importance, taking into account the fact that the former Yugoslav Republic of Macedonia has become a country of transit and destination for an increasing number of migrants.
10. Likewise, as a participating State to the OSCE, the former Yugoslav Republic of Macedonia has pledged to implement the commitments it has undertaken in the OSCE framework, in particular the 2003 Action Plan to Combat Trafficking in Human

Beings, as well as its 2013 Addendum<sup>5</sup>. The Special Representative commends the former Yugoslav Republic of Macedonia for its co-operation with the OSCE Mission to Skopje.

11. In the national context, the Special Representative welcomes the recent reforms of the Government in harmonizing, amending laws and adopting new policy documents to tackle trafficking in human beings. In that regard, the Special Representative would like to highlight the broad definition of human trafficking in Art.418-a and inclusion of numerous important provisions in the Criminal Code of the former Yugoslav Republic of Macedonia. In particular, she believes that the inclusion of paragraph 2 of Art. 418-a on retention and destruction of identity documents, and paragraph 5 of the Art. 418-a on the irrelevance of the consent of the victim in case of existence of means set forth in paragraph 1 of the same article, is a step forward in the fight against human trafficking. She also notes with appreciation that penalties related to imprisonment in cases of forced labour (ranging from 5 to 15 years) and confiscation of criminal assets can strongly contribute to it.
12. Furthermore, the Special Representative commends the authorities of the former Yugoslav Republic of Macedonia for including paragraph 6 of Art. 418-a providing the legal grounds for the confiscation of all proceeds of THB (real estate, items, and means of transport) by a court decision which shall be utilized to pay compensation to the victims. In this regard, the Special Representative strongly urges the Government of the former Yugoslav Republic of Macedonia to speed up the process of adoption of a special Law on the State Fund for Compensation of Victims of Crime and make it fully operational. In addition, clear procedural rules should be developed to ensure the victims' access to compensation.
13. The Special Representative welcomes the inclusion of Art. 418-d on trafficking in minors with a special emphasis on the protection of children from being trafficked. In addition, the amendment of 2009 to the Law on Protection of Children forbids all forms of sexual use and abuse of children, envisaging a higher level of protection of rights and freedoms of the child.
14. The Special Representative welcomes the fact that the new National Strategy and National Action Plan on Countering Human Trafficking reflects current trends in human trafficking in the country. She further positively notes the key innovative characteristics of the National Strategy and the National Action Plan which establish among others, local commissions for trafficking in human beings in co-operation with the local self-government units; establish mobile teams at the local level for identification, assistance and support of potential victims and risk groups; provide free healthcare and free legal aid to victims of trafficking; specify identification of potential victims of trafficking among illegal migrants and, finally, establish a centralized database for victims and perpetrators with due consideration to the gender dimensions of trafficking in human beings<sup>6</sup>. She further notes the programs adopted by the Government of the former Yugoslav Republic of Macedonia in 2014 such as "Program for re-socialization and reintegration of children victims of THB", "Program for re-

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<sup>5</sup> OSCE Permanent Council Decision No.1107 on Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later, PC. DEC/1107/Corr.11

<sup>6</sup> National Strategy for Combating Trafficking in Human and Illegal Migration in the Republic of Macedonia, 2013-2016.

socialization and reintegration of victims of THB” and “Indicators for identification of THB victims”.

15. The Special Representative welcomes the fact that the New Strategy envisages trade unions and the chamber of private business as partners in the National Commission and recommends their inclusion to ensure the effective implementation of the strategy in particular in monitoring and preventing forced labour in work places.
16. The Special Representative commends the Government of the former Yugoslav Republic of Macedonia for amending the Law on Free Legal Assistance in 2014 which provides trafficking victims to access free legal aid as a fundamental right. The Special Representative also recommends the Government of the former Yugoslav Republic of Macedonia to develop simple procedures and to enhance concrete measures to foster victims’ access to free legal assistance.
17. The Special Representative welcomes the 2001 establishment of the National Commission, which is an inter-ministerial body comprising the Ministries of Interior, Foreign Affairs, Labour and Social Policy, Basic Public Prosecutors Office for prosecution of organized crime and corruption, Judge from Primary Skopje Court 1, Ministry of Justice, Education and Science, Health and Customs Administration. The task of the Commission is to monitor and analyse the situation in regard to human trafficking and illegal migration; co-ordinate activities of relevant government institutions and co-operate with relevant international organizations and civil society. The Secretariat of the National Commission was established in 2003 with the aim of supporting the implementation of the decisions of the National Commission, including representatives of NGOs and international organizations active in this area as well.
18. The Special Representative notes with appreciation the establishment of a sub-group for Combating Trafficking in Children in 2003. She notes the sub-group’s focus on prevention of child trafficking and improving the protection of adolescent victims. In this regard, the SR emphasizes the need to strengthen the current system of child protection, and the overall child care strategy, and to tackle any type of exploitation and violence against children, child abuse or neglect.
19. The Office of the National Co-ordinator was established in 2007 within the Ministry of Interior with the aim of providing technical and logistic support to the National Commission. The National Co-ordinator is State Secretary at the Ministry of Interior. The Special Representative positively assesses the fact that the work of the National Co-ordinator and the National Commission is complimentary to each other without undue overlap.
20. The Special Representative stresses the importance of the role of the National Rapporteur in monitoring and evaluating anti-trafficking efforts in the country and considers it as an essential tool to improve the effectiveness of operational strategies in order to adapt them to the ever-changing nature of the trafficking phenomenon and make them cost efficient. In this regard, the Special Representative commends the authorities of the former Yugoslav Republic of Macedonia for establishing the National Rapporteur mechanism in 2009 with the comprehensive responsibility for monitoring and evaluating overall counter-trafficking activities, collecting and analysing data, providing recommendations through two thematic reports per year.

While assessing the good efforts made by the National Rapporteur since its establishment, the Special Representative recommends making the National Rapporteur function fully independent from the Ministry of Interior and the Government to ensure independent evaluation of the counter-trafficking activities in the country.

21. The OSCE Permanent Council Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking in Human Beings of 2005 and the OSCE ODIHR Handbook, National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons published in 2004<sup>7</sup>, recommend the establishment of the identification and referral mechanisms for trafficking victims. In this respect, the Special Representative is pleased to note that the Government of the former Yugoslav Republic of Macedonia established its National Referral Mechanism (NRM) in 2005 with the support of the OSCE Mission to Skopje. In 2009, the Office of the NRM was set up within the Ministry of Labour and Social Policy, which includes a Co-ordination Office and a total of 61 professionals in 30 centres for social work in the former Yugoslav Republic of Macedonia, as well as one representative from the Institute for Social Activities. The NRM has been reinforced with the adoption of Standard Operating Procedures (SOPs) in 2010, which provides detailed guidance in the overall assistance and co-operation of actors on the local, national and transnational levels<sup>8</sup>.
22. Co-ordination among different stakeholders – both governmental and nongovernmental – is a key factor to increase the effectiveness of anti-trafficking measures. In this regard, the Special Representative takes note of the key characteristics of the National Action Plan of the former Yugoslav Republic of Macedonia which focuses on strengthening co-operation and co-ordination between the institutions at the central and local level<sup>9</sup> and commends the former Yugoslav Republic of Macedonia for establishing local commissions in co-operation with the local self-government units with the aim to co-ordinate the central and local level authorities in countering human trafficking. In this regard, the Special Representative also recalls the concern of the domestic NGOs and some of the stakeholders about the existence of gaps in the co-operation and co-ordination at the central and local level and calls on the authorities of the former Yugoslav Republic of Macedonia to improve the internal co-ordination and exchange of information between and among different agencies and units.
23. Furthermore, the Special Representative positively notes Principle 2 of the Guiding Principles of the National Action Plan for Combating Trafficking in Human Beings and Illegal Migration that describes the participation of the civil society sector in combating human trafficking through conducting research and analysis, conducting preventive activities, providing assistance and support to victims in the shelter for trafficking victims and in the process of their reintegration in the social environment.

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<sup>7</sup> See OSCE Permanent Council, Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking in Human Beings (Vienna, 7 July 2005), Chapter V “Protection and Assistance”, paragraph 3. See also OSCE ODIHR, National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook (Warsaw, 2004), <<http://www.osce.org/odihr/13967>>, accessed 11 June 2013.

<sup>8</sup> [http://www.mtsp.gov.mk/content/pdf/operativni\\_eng.pdf](http://www.mtsp.gov.mk/content/pdf/operativni_eng.pdf)

<sup>9</sup> National Action Plan for Combating Trafficking in Human Beings and Illegal Migration in the Republic of Macedonia. Art 3. Strengthening already existing tools and policies

She welcomes the Memorandum of Understanding signed between NGOs<sup>10</sup> and the Ministry of Labour and Social Policy, the Ministry of Interior and the Ministry of Education. Moreover, the Special Representative notes that the shelter for victims under the Ministry of Labour and Social Policy operates based on a public-private partnership – the state provides the facilities and utilities (11,000 EUR per annum), whereas the assistance services are provided by two NGOs. She is pleased to hear that in 2014, the Ministry conducted the first analysis on the situation of child victims of trafficking, elaborated and adopted indicators for identification and programmes for reintegration of victims, and supported mobile teams that work with at-risk marginalized families and children in three municipalities. However, their efforts are hindered by limited funding. In this respect, the Special Representative calls on the authorities of the former Yugoslav Republic of Macedonia to increase dedicated State funding for the Shelter to ensure sustainability of assistance and support to trafficking victims.

24. The Special Representative commends the Government of the former Yugoslav Republic of Macedonia for including a 30-day recovery and reflection period for domestic victims and up to 60 days for foreign victims (Article 81 of the Law on Foreigners). In case of child victims of trafficking this period can be extended. According to Article 82 of the Law on Foreigners, upon the expiry of the decision-making period, a foreign victim of THB may be granted a temporary residence permit on the following conditions: his/her stay in the country is necessary for court proceedings, he/she shows a clear intention of co-operation with the competent authorities in the detection of criminal offences, and he/she has severed contacts with the suspected traffickers. The permit is issued for a period of up to six months, which can be extended if the previously-mentioned conditions persist. The Special Representative reiterates that it is important that the recovery and reflection period should not be conditioned to the co-operation of a victim with the law enforcement and prosecution authorities.
25. The Special Representative further commends the will of the Government of the former Yugoslav Republic of Macedonia to co-operate with international and bilateral representations alongside the representatives of NGOs and Government officials in the work of the Secretariat of the National Commission and its sub-group on the prevention of trafficking of children.
26. The Special Representative is concerned about the increase of minors in forced criminality, including forced begging, pickpocketing, especially trafficking of minors from other countries in the region to the former Yugoslav Republic of Macedonia and seasonal sex trafficking involving minors. Furthermore, the geographic location of the former Yugoslav Republic of Macedonia makes the country an attractive transit route for irregular migrants on move to Europe, frequently led by Afghan and Pakistani guides who are forced by criminal groups under debt bondage to work in this capacity<sup>11</sup>. While identification and assistance to victims of trafficking remain among the main challenges in the OSCE region, the SR notes that figures on identified victims of trafficking are decreasing, while the above mentioned forms of human trafficking

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<sup>10</sup> NGO Open Gate/La Strada, NGO 'For Happy Childhood', NGO "Equal Access" (Ednakov pristap), NGO Ezerka in Struga and the Macedonian Red Cross.

<sup>11</sup> Chapter II Analysis of the Situation and Evaluation of Existing Institutional Framework, National Strategy and National Action Plan for Combating Human Trafficking and Illegal Migration of the former Yugoslav Republic of Macedonia, 2013-2016

are rapidly increasing in the former Yugoslav Republic of Macedonia. In 2014, the number of identified and assisted victims of trafficking constituted 8 with 6 victims of forced marriage and sexual exploitation being minors. This is a 50 per cent decrease from 2013 where 15 victims were identified and assisted. The SR takes the view that a greater identification capacity in participating States will most often lead to higher numbers of identified victims. In this light, the SR strongly recommends strengthening early and proactive identification of victims of trafficking, especially among irregular migrant and unaccompanied migrant children, considering that migrants' vulnerability tends to be exacerbated by serious and organized crime. Moreover, the SR urges the authorities of the former Yugoslav Republic of Macedonia to improve identification and investigation of new emerging forms of trafficking such as forced/early marriages and forced begging, including among the Roma community.

27. The Special Representative draws attention to the fact that a “*potential victim*” of human trafficking is not defined in the former Yugoslav Republic of Macedonia legislation and notes that there were 83 potential victims in 2014. In this regard, the Special Representative recommends the Government of the former Yugoslav Republic of Macedonia to include a clear definition of a potential victim of human trafficking which is a key to develop and focus prevention programmes on their social protection and economic empowerment.
28. The Special Representative notes the shift in human trafficking trends since 2005 when the former Yugoslav Republic of Macedonia was traditionally considered mainly as a country of origin for THB especially for women and girls for the purpose of sexual exploitation. Now there are growing indications of trafficking for the purpose of labour exploitation in particular in agriculture, catering and manufacturing. In addition, the Special Representative considers that increased attention and efforts should be paid to the phenomenon of internal trafficking of children and adults, both for sexual and labour exploitation with a view to developing targeted responses. In this regard, the SR notes with appreciation her meeting with the Unit for CTHB and Smuggling of Migrants of the Ministry of Interior where the parties discussed current human trafficking trends involving minors from the Roma population for sexual and labour exploitation and encourages the Government of the former Yugoslav Republic of Macedonia to increase efforts to identify victims of labour exploitation.
29. The Special Representative is concerned to find out that irregular migrants can be kept in the Holding Centre for up to 8 months while awaiting criminal proceedings and urges authorities in the former Yugoslav Republic of Macedonia to strengthen efforts to ensure full and correct implementation of the existing legislation, especially regarding its most innovative aspects, as outlined in the National Strategy and the National Action Plan. Furthermore, the Special Representative strongly recommends enhancing registration and reception arrangements for people in need of international protection and reducing their vulnerability to falling under the risk of human trafficking.
30. The Special Representative draws attention to the fact that the former Yugoslav Republic of Macedonia legislation does not contain a non-punishment clause which is fundamental for exempting victims of trafficking from civil, administrative or criminal liability for offences committed under coercion or intimidation. The Special Representative highlights the need to ensure the non-punishment of child victims,



especially those involved in illegal and criminal activities, in line with international instruments and OSCE commitments in the present situation of increased trafficking for forced criminality of minors, including forced begging and pickpocketing<sup>12</sup>. She strongly recommends that the authorities of the former Yugoslav Republic of Macedonia issue guidelines on the application of the non-punishment clause, taking into account OSCE recommendations<sup>13</sup> and effective implementation of the CoE Convention<sup>14</sup>. In addition, she recommends that this clause be explained to all stakeholders and interpreted in a broad way by judges and prosecutors. She therefore suggests that the OSCE plays a role in organizing trainings accordingly.

31. The Special Representative commends the authorities of the former Yugoslav Republic of Macedonia for including harsh penalties for the complicity of officials in human trafficking and related crimes. In this regard, the SR notes the provisions in the Art/s. 418a-418d which stipulate strict penalties commensurate with at least ten years of imprisonment for officials' complicity in the crime and commends the recent conviction of police officers involved in protecting brothels.
32. With regard to international co-operation, the Special Representative notes the Law of the former Yugoslav Republic of Macedonia on International Legal Assistance in Criminal Matters and provisions of the Criminal Procedure Law. Furthermore, she welcomes the efforts of the authorities of the former Yugoslav Republic of Macedonia to co-operate with the authorities in South East Europe as well as other countries, such as the Netherlands (on the case of 28 female mushroom pickers) or Azerbaijan (on the "SerbAz" case) and encourages authorities in the former Yugoslav Republic of Macedonia to further improve bilateral co-operation with relevant States, in particular with Western European countries such as Switzerland, Italy, the Netherlands, Belgium and Austria to follow up on cases of its citizens trafficked for forced/early marriages and Azerbaijan, Qatar and UAE on cases of trafficking for labour exploitation.
33. The Special Representative acknowledges the fact that the relevant Government agencies have been trained on counter-trafficking and strongly recommends to continue sensitizing relevant front-line officers, including law-enforcement agencies, judges, prosecutors and border, custom officials and social workers on key indicators to identify trafficking victims, rights of trafficking victims and legal interpretation of national legislation in particular in the context of the emerging forms of human trafficking. In this regard, the Special Representative wishes to extend an invitation to the relevant authorities of the former Yugoslav Republic of Macedonia to actively participate in the upcoming capacity building activities organized by the Office of the SR/CTHB.

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<sup>12</sup> OSCE Ministerial Council, *Decision No. 13/04 on the Special Needs for Child Victims of Trafficking for Protection and Assistance* (Sofia, 2004); OSCE Permanent Council, *Decision no. 685 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special Needs of Child Victims of Trafficking for Protection and Assistance* (Vienna, 7 July 2005); OSCE Ministerial Council, *Decision No. 9/07 Combating Sexual Exploitation of Children on the Internet* (Madrid, 2007); OSCE Ministerial Council, *Decision No. 15/06 Combating Sexual Exploitation of Children* (Brussels, 2006); OSCE Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings (OSR/CTHB), *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking* (Vienna, 2013)

<sup>13</sup> Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking, OSCE OSR/CTHB, 23 June 2013

<sup>14</sup> Article 26 of the CoE Convention on Action against Trafficking in Human Beings.

34. The Special Representative believes that child trafficking for various forms of exploitation, including in forced and organized begging, deserves specific attention. In this regard, the Special Representative notes the major deficiencies in the protection of children and unaccompanied minors (UM) at the Holding Centre. She further draws attention to the fact that at the time of the visit it was reported that more than 200 migrant children were in the centre, although the centre only has a capacity for up to 150. This is a significant increase compared to 2014, when the centre accommodated 82 accompanied minors and 64 unaccompanied minors. The Special Representative is concerned about the fact that access to the centre is limited to some social workers and is provided on a random basis to UNHCR and the former Yugoslav Republic of Macedonia Red Cross and that NGOs are not allowed to access the centre. The Special Representative strongly urges the Government of the former Yugoslav Republic of Macedonia to conduct a proactive identification of human trafficking victims among unaccompanied minors and to establish a single screening mechanism to avoid interviewing children multiple times, as well as to ensure that NGOs and other civil society members can access the Centre on a regular basis.
35. The Special Representative highlights the problems faced by Roma communities with regard to birth certificates and registration and welcomes the establishment of an operative working group comprising representatives of the Ministry of Labour and Social Policy, the Ministry of Interior, the Ministry of Justice, the Birth Registry Administration and Roma NGOs. The Special Representative calls on the government of the former Yugoslav Republic of Macedonia to secure the registration of Roma children and thus reduce vulnerability to trafficking and enhance preventive measures targeting Roma children and youth. Moreover, the SR urges the Government of the former Yugoslav Republic of Macedonia to develop sustainable reintegration programmes – addressing family vulnerability factors, assuring access to education, vocational training, and regularization of documents for at risk groups.
36. The Ministry of Interior’s Specialized Police Unit against Human Trafficking and Illegal Migration has a responsibility to investigate cases of human trafficking in the former Yugoslav Republic of Macedonia. With regard to the investigation and prosecution of human trafficking, the Special Representative notes the convictions in 2014 where 3 criminal cases were sent to the Prosecution Office on Art. 418-a (Human Trafficking) and Art. 418-d (Child Trafficking). The SR further notes the high conviction rates with regard to Art. 418-b (Smuggling of migrants) and 418-c (Organizing a group and inciting THB and migrant smuggling). In this respect, the Special Representative recommends that authorities in the former Yugoslav Republic of Macedonia develop a specialized training for prosecutors and judges with a view to ensuring that crimes related to THB are effectively prosecuted and also to conduct training on the application of non-punishment provisions with respect to actual and potential victims of human trafficking. In particular, she encourages law enforcement and prosecutorial officials to target higher level organized crime actors involved in THB, not only those involved in the recruitment or transportation phases.
37. The Special Representative notes the major work done by civil society organizations in raising public awareness about human trafficking through conducting regular training sessions throughout the country and organizing awareness raising campaigns in schools. The Special Representative encourages the authorities of the former Yugoslav Republic of Macedonia to pay enhanced attention to public awareness as a tool for the

prevention of human trafficking in particular in the eastern and the central part of the country as the primary areas from which victims originate.

38. In conclusion, while positively noting the commitment and the numerous steps taken in the prevention and countering of trafficking by the Government of the former Yugoslav Republic of Macedonia, the Special Representative encourages the authorities to continue their efforts and invites them to consider the following recommendations to enhance the implementation of OSCE anti-trafficking commitments, in particular the OSCE Action Plan to Combat Trafficking in Human Beings and its Addendum<sup>15</sup>. The Special Representative and her Office stand ready to provide technical assistance, if requested, by national and local authorities as well as civil society, and welcome further dialogue and co-operation to promote the appropriate follow-up to these recommendations.

## **Recommendations**

### **1. Enhance legal and policy framework by:**

- Ratifying ILO Convention 189 concerning Decent Work for Domestic Workers which serves as a powerful instrument for the prevention of THB for labour exploitation, especially for domestic servitude;
- Ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 1990. The adoption of this Convention is of particular importance, taking into account the fact that the former Yugoslav Republic of Macedonia has become a country of transit and destination for increasing flows of migrants;
- Amending the relevant legislation to ensure the non-punishment provision is applied with regard to victims of human trafficking;
- Improving co-ordination between central and local level authorities to ensure effective implementation of the National Strategy and the National Action Plan for Combating Human Trafficking;
- Facilitating the inclusion of trade unions and the Chamber of private business in the National Commission and the National Secretariat as envisaged in the National Strategy document;
- Increasing dedicated State funding for the activities envisaged under the National Action Plan.

### **2. Enhance prevention of child trafficking through child protection measures, including by:**

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<sup>15</sup> OSCE Permanent Council, Decision No. 557/Rev.1 *OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005); OSCE Permanent Council, Decision No. 1107 *Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later* (Vienna, 6 December 2013).

- Prioritizing proactive investigations on possible cases of trafficking of children for forced marriages and forced begging, both internal and transnational;
- Decreasing the vulnerability of Roma children by providing birth certificates and other proper documentation needed to enable them to access healthcare, social protection and school enrolment; conducting a needs assessment regarding the vulnerability of Roma communities to prevent child trafficking (including for the purpose of exploitation in begging and in forced marriages);
- Strengthening existing child protection services, and building capacities for intervening in situations of neglect, abuse and violence against children, including trafficking. More specifically, prioritizing interventions for protecting and caring for children who live, work or beg in the streets (regardless of whether these situations qualify as trafficking cases);
- Introducing life skills education in the school curriculum for children, and as a priority in boarding schools as a preventative measure;
- Developing a database to provide updated and valid statistics on the number of children and forms of trafficking the children are forced into.

### **3. Enhance identification and prevention of trafficking by:**

- Conducting targeted qualitative research to analyse the features and trends of the phenomenon of internal trafficking, and in particular trafficking of children for the purpose of sexual exploitation, forced marriage and forced begging;
- Ensuring that victim identification is conducted on a non-discriminatory basis and is extended to non-nationals of the former Yugoslav Republic of Macedonia, as well as those trafficked internally, with a view to enhancing their protection and simultaneously avoiding discrimination and stigmatization of people, especially women and children;
- Enhancing registration and reception arrangements for people in need of international protection and reducing their vulnerability to fall under the risk of human trafficking;
- Developing standard operating procedures for the identification of trafficked victims among irregular migrants, asylum seekers and other at-risk groups;
- Involving civil society organizations in the identification of victims and ensuring their access to the Holding Centre for Illegal Migrants or other such facilities;
- Developing reintegration programmes – addressing family vulnerability factors, assuring access to education, vocational training, and regularization of documents for at risk groups;
- Defining the term “*potential victim of human trafficking*” in the policy documents and practices to expand the prevention campaigns and assistance programmes to all risk groups;
- Continuing to raise awareness among professionals and the general public with regard to the scope of the definition of human trafficking, specifically that it includes labour exploitation and internal trafficking;

#### **4. Enhance assistance and protection of victims of human trafficking by:**

- Ensuring that services of the NRM are accessible to foreign potential and actual victims; in particular ensuring assistance and protection measures regardless of foreign victims' willingness to co-operate with law enforcement;
- Establishing a State Compensation Fund for victims of crimes, including trafficking in human beings, to ensure victims receive compensation for the damages they have suffered;
- Developing procedural rules to ensure victims' access to compensation;
- Developing simple procedures and enhancing concrete measures to foster victims' access to free legal assistance;
- Ensuring that law enforcement and prosecutorial authorities inform and explain to victims their rights (and the way to concretely access them) in a language that they understand, and in particular the right to legal assistance and representation including by pro-bono lawyers; the right to be accompanied by a trustworthy person (e.g., a psychologist or a social worker) and the right to compensation for damage suffered.
- Delivering specific training to enhance the capacity of pro-bono and legal aid lawyers representing victims of trafficking;
- Increasing funding support for the state shelter and the assistance and referral of human trafficking victims.

#### **5. Enhance the criminal justice response to all forms of human trafficking by:**

- Ensuring that criminal investigations are aimed at detecting and dismantling the whole criminal network behind the trafficking operation, including those who organize and/or direct and those who aid and abet;
- Issuing guidelines on the application of the non-punishment clause, taking into account OSCE recommendations based on analysis carried out by the OSCE Mission to Skopje;
- Organizing, in co-operation with OSCE structures and institutions, in particular the OSR/CTHB and the OSCE Mission to Skopje, seminars with prosecutors and judges from the former Yugoslav Republic of Macedonia involving experts from countries that have extensive and positive experience in prosecuting THB-related cases, with an emphasis on key indicators for identification of emerging forms of human trafficking for forced labour, forced marriage and forced begging, *modus operandi* of traffickers and the implementation of the non-punishment provision for victims of human trafficking;
- Ensuring effective implementation of the victim's right to justice and access to legal remedies, especially by improving free legal aid and the legal representation of victims of trafficking.

## APPENDIX I

### **Comments of the Republic of Macedonia on the Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova, following her visit to the Republic of Macedonia, 23-26 March 2015**

(received on 7 June 2016)

#### **Paragraph 29:**

*The special representative also expresses concern that the illegal migrants may be detained in the Detention Centre up to 8 months within the duration of the criminal procedure...* we believe that additional explanation is needed in terms of whether the Detention Centre is actually the Reception Centre for Foreigners (RCF). If the clause refers to the Reception Centre for Foreigners, we would like to inform you that in accordance with Article 109 of the Law on Foreigners, foreigners remain accommodated in the Center up until there are reasons preventing them to be deported from the territory of the Republic of Macedonia, but not longer than 12 months, which is in accordance with the European legislation in the area. The maximum legally allowed period is almost never applied into practice.

#### **Paragraph 34**

*“During the visit it was stated that the Centre had more than 200 children, although the capacity allows only 150...”* we would like to mention that 200 children were never accommodated at the same time in the Reception Centre for Foreigners. In the period from 01.01.2015 to 25.03.2016 inclusive, a total of 672 persons were accommodated in the RCF Gazi Baba, whereas in the entire first quarter (01.01.-31.03.2015) a total of 704 foreign citizens were accommodated of which 156 were minors.

In relations to the concerns *about the limited access to the Centre only for some social workers and occasionally for the UNHCR and the Macedonia Red Cross while NGOs are not allowed to access the Centre*, we will appreciate this formulation to be revised due to the following reasons: the doctor engaged in the RCF for the needs of foreign citizens at the time of the visit, as well as the current medical team, have been engaged by the Red Cross of the Republic of Macedonia. Neither the Red Cross nor UNHCR have been denied a visit to the RCF. According to the jointly established practice, they perform their visits by previous announcement. Just in the first 3 months of 2015, the Reception Centre for Foreigners was visited by delegations of the Committee for Prevention of Torture of the Council of Europe, Amnesty International, Human Rights Watch, Doctors Without Frontiers (they had a meeting with the representatives of the Ministry of Interior of the Republic of Macedonia), the Office of the Ombudsman of the Republic of Macedonia, the UNHCR Representation in Skopje, representatives of several Embassies in the Republic of Macedonia, etc.

## APPENDIX II

### PROGRAMME OF THE OSCE SPECIAL REPRESENTATIVE AND CO-ORDINATOR FOR COMBATING TRAFFICKING IN HUMAN BEINGS

#### IN THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

23-26 MARCH 2015

<b>MONDAY, 23 MARCH 2015</b>	
<b>13:00 – 14:30</b>	<b>Working lunch with the OSCE Mission Senior Management</b> <ul style="list-style-type: none"><li>- Deputy Head of Mission - Ambassador Marianne Berez</li><li>- Head of Human Dimension Department - Ms. Ioana Cosma</li><li>- Head of Rule of Law Unit - Ms. Rezarta Schuetz</li><li>- Anti-Trafficking Focal Point - Ms. Tatijana Temelkoska</li></ul>
<b>15:00 – 17:00</b>	<b>Consultations with anti-trafficking NGOs</b> <ul style="list-style-type: none"><li>- NGO “Open Gate/La Strada” - Ms. Jasmina Dimiskovska-Rajkovska, President and Ms. Marija Todorovska, Executive Director</li><li>- NGO “Sepmer” Bitola - Ms. Zala Bojkovska, President and Mr. Bojan Bojkovski, Project Manager</li><li>- NGO “Women Forum Tetovo” - Ms. Slogana Josifovska, Programme Manager</li><li>- NGO “Ambrela Center for Integration” - Ms. Ljatifa Shikovska, President</li><li>- NGO “Ezerka Struga” - Ms. Dragica Popovska</li></ul>
<b>19:00</b>	<b>Working dinner hosted by MARRI Director</b> <ul style="list-style-type: none"><li>- Mr. Trpe Stojanovski</li></ul>
<b>TUESDAY, 24 MARCH 2015</b>	
<b>09:30 – 10:45</b>	<b>Deputy Minister of Labour and Social Policy - MLSP</b> <ul style="list-style-type: none"><li>- Mr. Ibrahim Ibrahimi</li></ul> <b>National Referral Mechanism - NRM</b> <ul style="list-style-type: none"><li>- Ms. Elena Grozdanova, State Advisor for Equal Opportunities</li><li>- Ms. Svetlana Cvetkovska, Children Sub-group Coordinator</li></ul>

<b>11:00 – 12:00</b>	<b>Deputy Minister of Justice</b> <ul style="list-style-type: none"> <li>- Ms. Biljana Brishkovska- Boshkovski</li> </ul> <p style="text-align: right;"><i>Ambassador Marianne Berez, DHoM</i></p>
<b>14:00 – 15:30</b>	<b>President of the Basic Court Skopje 1 (Criminal Court)</b> <ul style="list-style-type: none"> <li>- Mr. Vladimir Pancevski</li> </ul> <b>Judge of the Organized Crime Department within Criminal Court Skopje</b> <ul style="list-style-type: none"> <li>- Ms. Vesna Dimishkova</li> </ul>
<b>15:30 – 16:30</b>	<b>Prosecutor General</b> <ul style="list-style-type: none"> <li>- Mr. Marko Zvrlevski</li> </ul> <b>Prosecutor in the Basic Prosecution Office for Organized Crime and Corruption (confirmed)</b> <ul style="list-style-type: none"> <li>- Ms. Vilma Ruskovska</li> </ul> <p style="text-align: right;"><i>Ambassador Marianne Berez, DHoM</i> <i>Ms. Rezarta Schuetz, RoLU Head</i></p>
<b>16:45</b>	<b>Holding Center for Foreigners</b>
<b>WEDNESDAY, 25 MARCH 2015</b>	
<b>09:00 – 10:00</b>	<b>Ministry of Interior’s Unit for Combating Trafficking in Human Beings and Smuggling of Migrants</b> <ul style="list-style-type: none"> <li>- Mr. Sande Kitanov, Head of Unit and Deputy National Coordinator</li> <li>- Mr. Ljupco Markudov, Chef of THB Department</li> <li>- Ms. Blagica Petkovska, Chief Inspector on THB</li> </ul>
<b>10:00 – 10:45</b>	<b>National Rapporteur on Combating Trafficking in Human Beings and Smuggling of Migrants</b> <ul style="list-style-type: none"> <li>- Mr. Kiro Todorovski</li> </ul>
<b>11:00-12:00</b>	<b>Ministry of Foreign Affairs – MFA</b> <ul style="list-style-type: none"> <li>- Ambassador Igor Dzundev, Director for Multilateral Cooperation</li> </ul> <p style="text-align: right;"><i>Mr. James DeWitt, Chief of Political and Reporting Unit</i></p>
<b>13:30 – 14:15</b>	<b>Minister of Interior</b> <ul style="list-style-type: none"> <li>- Ms. Gordana Jankulovska</li> </ul> <p style="text-align: right;"><i>Ambassador Marianne Berez, DHoM</i></p>



<b>14:30 – 15:30</b>	<b>National Commission on Combating Trafficking in Human Beings and Smuggling of Migrants</b> <ul style="list-style-type: none"> <li>- Ms. Anastasija Ilieska, National Coordinator</li> <li>- Ms. Ana Burageva, Secretary of the National Commission</li> </ul>
<b>16:15 – 17:15</b>	<b>US Embassy</b> <ul style="list-style-type: none"> <li>- Ambassador Bart Putney, Deputy Chief of Mission</li> </ul>
<b>17:30</b>	<b>Shelter for THB victims</b> (no victims at the moment)
<b>THURSDAY, 26 MARCH 2015</b>	
<b>9:15 – 10:45</b>	<b>Consultations with international partners</b> <ul style="list-style-type: none"> <li>- ICMPD – Ms. Melita Gurevska-Graham, ICMPD Representative and Project Manager</li> <li>- IOM – Ms. Ivona Zakovska</li> <li>- UNHCR – Mr. Tihomir Nikolovski, Officer in Charge and Associate Legal/Protection Officer</li> <li>- UNICEF – Mr. Bertrand Desmoulins, Country Representative and/or Ms. Biljana Lubarovska, Child Protection Officer</li> <li>- GIZ (German Foundation for International Cooperation) – Mr. Vlatko Aleksovski, Project Coordinator</li> </ul>