

NOT FOR SALE

JOINING FORCES AGAINST TRAFFICKING IN HUMAN BEINGS

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The analysis of legislation and case law in Serbia, in the past ten years¹, illustrates that for the most effective prosecution it is important to have the proactive approach, inclusive of application of special evidentiary actions, close prosecutor-police cooperation, parallel conduct of criminal and financial investigation, good international cooperation and continuous training of law-enforcement authorities on new approaches and effective tools in combating human trafficking.

However, in practice, reactive investigations prevail, in which case it is essential for public prosecutors to establish a relationship of trust with the victim, to provide them with the information on their procedural rights and obligations and on available protective measures in timely, objective and adequate manner. Furthermore, it is crucial to constantly contribute to the respect of the victim's rights during the proceedings.

Specialization

One of possible measures for improving prosecution of human trafficking is specialized prosecution. In this respect, in 2012 within the Public Prosecutor's Office Republic of Serbia, prosecutors were appointed as contact points for human trafficking in all higher prosecutor's offices. They act and coordinate the work in human trafficking cases, and are provided with continued specialised training on this subject.

The experience so far in practice has shown that specialisation is a very efficient tool for improving prosecution, as public prosecutors can

¹ Criminal offence trafficking in human beings was introduced into national legislation by the Amendments and Addenda of the Criminal Code of the Republic of Serbia in 2003.

apply in the proceedings the knowledge acquired during the trainings, mutually exchange experience and better cooperate with other actors from governmental and non-governmental sector.

Furthermore, the Republic Public Prosecutor's Office of Serbia, signed the Memoranda of Understanding with the NGOs ASTRA and ATINA, which provide support and legal representation to the victims of human trafficking. The MOUs with the relevant NGOs stipulate the exchange of information on human trafficking cases, pay special attention to improvement of rights of the human trafficking victims in criminal proceedings and help to enhance procedural efficiency in the human trafficking cases, with consistent respect of the victims' rights.

Protection and the non-punishment of victims

Measures for ensuring better protection of victims include implementation of provisions on general protection, but also available special procedural and non-procedural protective measures.

Criminal procedure legislation of the Republic of Serbia stipulates possibility of granting the status of especially vulnerable witness to the victim, which is of enormous importance for human trafficking victims in preventing secondary victimisation. In this case the victims/ witnesses can have a legal representative, their examination can be done outside of the courtroom, with assistance of an expert and with use of audio-video transmission means, without presence of the parties, and most importantly with restricted possibility to be confronted with the defendant.

Also, the witness can be granted the status of protected witness, which implies the possibility to use special protection measures during the proceedings, like exclusion of the public from the trial and prohibition of revealing any data on the protected witness' identity. One of the options in the context of improving the legal framework for protection of victims is to stipulate the possibility for non-disclosing the victim's identity during the whole proceedings, if there are circumstances extremely difficult for the victims, with possible limitation on the probative value of its testimony.

The application of the principle of non-punishment in the Republic of Serbia is possible through general provisions of the Criminal Code, and also within Criminal Procedure Code through deferred prosecution.

Within the current legal system, it should be insisted on early and accurate identification of victims, in cooperation with the Centre for Protection of Human Trafficking Victims, and public prosecutors should be given guidelines regarding the practical application of this principle, especially in case of extremely vulnerable categories of victims and juvenile persons.

Efficient criminal justice response to human trafficking

As a conclusion, from the view-point of prosecuting human trafficking in Serbia, the preconditions for efficient criminal justice response to human trafficking are:

- adequate legal provisions, adjusted to new acts of commission of this crime and new forms of exploitation, with clearly defined terms in line with international standards;
- permanent training of all participants in the process of identifying the victims, detection, prosecution and adjudication of human trafficking;
- multi-sector approach and cooperation, at the national and international level;
- human rights approach, striving to improve victims' rights protection.