

ANALYSIS OF INTEGRATION POLICIES FOR VICTIMS OF TRAFFICKING, THE NECESSITY OF THEIR MULTIDISCIPLINARY EVALUATION

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Abstract: *Extensive developments and changes in the economic, political, social, cultural and scientific fields have undoubtedly brought problems and disturbing phenomena in many parts of the world, such as the trafficking and exploitation of human beings. Every year many women, girls and children are illegally transported across the borders of their countries of origin, sold or bought, bringing to mind all the primitive ways of human slavery, seen in stark contrast to the galloping development that society has taken today, as well as aspirations for a worldwide civilization and citizenship. Regarding Albania, the beginning of trafficking in human beings dates in 1995 (Annual Analysis of 2003 of the State Social Service, Tirana), where the country found itself in a situation of instability of political, economic, social and cultural changes, as well as in a transitional geographical position to was used by traffickers, mostly Albanians, as an “open door” for the recruitment, transportation and sale of women, girls and children from Moldova, Russia, Romania, Turkey, Albania, China, etc. Albania is identified as a source and transit country for trafficked women and children. In addition, many NGOs and international organizations report significant increase cases in the trafficking of human beings. In 1999, official sources reported that young women and girls had been lured or abducted from refugee camps in Albania during the Kosovo crisis and then sold for prostitution in Italy and the United Kingdom. Reports from Italy, Germany, Belgium and the UK suggest that Albanian women and girls, which are trafficked for prostitution mostly are from rural areas (Organization for Security and Co-operation in Europe Review Conference, September 1999). It is almost common to talk about the phenomenon of trafficking in human beings, about the motivating and attractive factors, the consequences associated with this phenomenon of Albanian society. Given the extent of the trafficking phenomenon during the last 30 years transition period in Albania, the Government has made different legislative and institutional efforts, through a strategic approach to combat and mitigate this phenomenon. However, the elements of identification, protection, reintegration and long-term rehabilitation for victims of trafficking remain issues of concern and still not properly addressed, in the context of the institutional fight against trafficking in persons, which should have as its primary goal the protection of the human rights for victims of trafficking and not their further violation or re-victimization (Annual Report of the European Commission, 2007).*

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1. INTERNATIONAL INSTRUMENTS AGAINST TRAFFICKING IN HUMAN BEINGS. DEFINITION OF “TRAFFICKING IN PERSONS”

Trafficking in persons is a crime of an international nature, which requires a coordinated response to anti-trafficking measures at the national and international levels.

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1.1. Additional Protocol (Palermo Protocol) to the UN Convention against Transnational Organized Crime 2000, “Preventing, Suppress and Punishing Trafficking in Persons, in Particularly Women and Children”².

The Palermo Protocol, for the first time, defines the crime of trafficking in persons, which does not have as its sole purpose the definition of the scope of the Protocol and the Convention against Organized Crime, related to trafficking and activities that related to it but also to serve as a model on which domestic legislation should be drafted, in terms of criminalizing activities related to trafficking, criminal proceedings and measures to protect victims of trafficking.

“Trafficking in persons” means the recruitment, transportation, transfer, detention or extradition of persons using threats or the use of force or other forms of coercion, kidnapping, fraud, forgery or abuse of power or a vulnerable position or by giving or receiving payments or benefits to obtain the consent of one person, having control over another person, for the purpose of exploitation.

The measures set out in the Palermo Protocol focus on three main areas: preventing and combating trafficking; protection and support for victims of trafficking; as well as the promotion of cooperation between member states (Article 2).

Regarding the protection of the rights of victims of trafficking in Protocol:

- Member states should protect the privacy and identity of victims of trafficking, including the confidentiality of procedures relating to trafficking in persons³;
- States must provide them with adequate housing; counseling and information, especially on their rights, in a language that trafficked persons can understand; medical, psychological and material assistance, as well as employment, education and training opportunities⁴;

1.2. OSCE Action Plan On Combating Trafficking In Human Beings (OSCE Permanent Council Decision No. 557)

Albania is a member of OSCE (Organization for Security and Co-operation in Europe) and therefore, the recommendations of this Plan should be taken into consideration by the responsible structures (at the political level and law enforcement structures) of the fight against trafficking in human beings. The plan focuses on the protection of human rights for victims of trafficking and in this context recommends to the member states among others:

- Non-punishment of trafficked persons for trafficking-related offenses, such as possession of forged passports or working without authorization even if they have agreed to keep these documents or to perform such work;
- Establishment of the National Referral Mechanism through the establishment of a cooperation framework, which will guarantee the protection and promotion of the rights for victims of trafficking in partnership with civil society and other actors involved in this process (such as anti-trafficking units and regional police, immigration and border control staff, health institutions, social services, non-governmental organizations providing services in this field), etc.

² Ratified by Law no. 8920, dated 11/07/2002, Official Journal 41, July 2002.

³ Article 6, paragraph 1, of the Protocol.

⁴ Article 6, paragraph 3, of the Protocol.

Given to political instruments and international strategies, which strongly influence and intervene, not only in mitigating trafficking but also in protecting the rights and lives of victims of trafficking around the world, in Albania legislation are included policies and instruments, obligations that arise as a member of political and military bodies in this field.

2. ALBANIAN LEGISLATION AGAINST TRAFFICKING IN HUMAN BEINGS

2.1. Constitution of the Republic of Albania

In the Constitution of Albania, the right to be protected from trafficking is not defined, however, the constitutional basis of measures against trafficking in human beings is found in Part Two, Chapter Two of the Constitution “Personal rights and freedoms”. On the other hand, Article 3 of the Constitution provides that “... the dignity, rights and freedoms of the person, ... are the basis of this country, which has the obligation to respect and protect them”.

Regarding the link between trafficking and exploitation for work and the performance of forced services, the Constitution provides for the human rights not to perform forced labor in Article 26, which is in accordance with Article 4 of the European Convention on Human Rights and Freedoms. The fundamental human being states that “No one shall be required to perform forced labor except in the case of the execution of a judgment, the performance of military service, a service arising from a state of war, a state of an emergency or a natural disaster that threatens the life or health of people”. An important provision of the Albanian Constitution is that of the supremacy of International Legislation (international agreements ratified by law) over the law of the country in case of non-compliance, which means the direct application of international legislation (anti-trafficking legislation) in case of domestic legislation.

2.2. Criminal Code

During the 90s there was no criminal offense of trafficking in human beings. This criminal offense was established in the Criminal Code in 2001 (Law no. 8733, dated 24/01/2001), which provides three figures of the criminal offense of trafficking: Trafficking in human beings, Article 110, paragraph a; Trafficking in women for pros title, article 114, paragraph b; Child trafficking, Article 128, paragraph b.

2.3. Inter-institutional cooperation in the fight against trafficking in human beings

- National Strategy to Combat Trafficking in Human Beings (VKM Nr. 1083, dated 23/07/2008), National Strategy for Combating Trafficking in Children and Protection of Children Victims of Trafficking (VKM Nr. 1083, dated 23/07/2008).

Since 2005, the Government has had a strategic approach to prevent and combat trafficking in human beings, by coordinating the work of central administration institutions, independent institutions, civil society and international organizations in the fight against trafficking in human beings, provided for in the above strategies, together with the respective action plans.

Regarding the implementation of the main objectives for the National Anti-Trafficking Coordinator Office (structure responsible for coordinating and monitoring anti-trafficking efforts) it could be mentioned:

- Implementation of the National Referral Mechanism, which has set up the Responsible Authority but the structures that support it are not functional. The main function of this Authority is to coordinate the referral process for initial assistance, protection and rehabilitation for potential victims of trafficking. The main link of identification and referral support for people at risk are the Regional Offices of the State Social Service in the Municipality or Commune but the lack of specialists in these offices (social worker, psychologist) or the non-existence of a database for people at risk in village or town, renders the Responsible Authority inefficient, and consequently the work of the entire National Referral Mechanism.
- Identification and referral of alleged trafficked persons -There is uncertainty regarding the standard procedures for identification / interviewing and referral of suspected victims due to the lack of clear indicators and guidelines for police officers. The only Guide is in the Appendix to the National Referral Mechanism, which provides for a limited list of “direct indicators” in identifying each of the elements of trafficking (exploitation, actions and ways of exploitation) and does not provide for other indicators (indirectly) to assist police officers in identifying alleged trafficked persons as soon as possible.

2.4. Context today

Women and girls of Albania are trafficked in Greece, Italy, Macedonia, and Kosovo as well as EU countries (also as the final destination region). Recruitment in most cases is carried out through fraud, by persons familiar with the victim, who make fake job offers or marriage vows. Children continue to be trafficked, mainly in Greece, by their parents or family members.

A worrying increase in numbers has been observed in the internal trafficking of women and children, mainly for prostitution and labor exploitation, especially in the new informal areas of urban centers. The full extent of the problem remains to be assessed and mechanisms for identifying, referring and reporting such cases are beginning to be set up. The same applies to labor trafficking from Albania, to Albania and within Albania.

3. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING

Identifying a victim of trafficking has been assessed as the most important phase of the protection and assistance process. This process paves the way for a victim to be rescued from the clutches of trafficking and makes possibilities to be supported by social institutions.

Albania offers many opportunities for the victims of trafficking to receive the necessary assistance and a second chance to start a normal life. All identified cases have received the necessary protection and assistance. Residential centers for victims of trafficking have offered a fundamental contribution to this, thanks to the National Referral Mechanism⁵. A very important element of the fight against and prevention of trafficking is the encouragement for victims of trafficking to testify in criminal proceedings, but in fulfilling this goal institutions must ensure the protection of the victim during the trial and beyond. Victim assistance and protection are not conditional for the victim to cooperate with the judicial institutions.

⁵ The National Referral Mechanism for Victims of Trafficking has been set up on the basis of the cooperation “On the Establishment of a National Reference Mechanism for Improved Identification and Assistance for Victims of Trafficking” between the Ministry of Labor, Social Affairs and Equal Opportunities, Center for National Reception for Victims of Trafficking, State Police Directorate, Ministry of Foreign Affairs, Non-Profit Organization “Vatra”, Non-Profit Organization “Tjetër Vizion” and Organization for International Organization for Migration (IOM).

3.1. Completion of the legal framework for the protection and assistance for victims of trafficking

The adoption of the Law “On Assistance and Services Social”, which is focused in the following directions. First of all, funding from the state budget for non-public reception centers. Pursuant to Article 4 of the Law no. 10252, dated 11.03.2010 “On some changes in Law 9355, as well as pursuant to Law no. 10355, dated 02.12.2010” On the Budget of 2011 “, Instruction of the Ministry of Finance no. 4, dated 27.01.2011 For the Implementation of the State Budget for 2011, the Ministry of Labor transfers funds (food) to the Program “Social Protection” for beneficiaries Victims of Trafficking, who receive social services to non-public service providers: “Tjetër Vizion” – Elbasan, “Different and Equal” Organization – Tirana, “Vatra” Organization – Vlora and Gjirokastra Community Center for 6 months.

This change in the law regarding the temporary funding of non-governmental organizations is insufficient, assessing the needs and requirements faced today by organizations assisting victims of trafficking because, in addition to food, the victims also include many other services such as medical, psychological, legal, educational assistance, which as it is known today have a high financial cost. In addition, what it was mentioned, the law does not clearly define the criteria, on the basis of which the distribution of the financial amount should be done and how the sustainability of these organizations will be ensured. The most appropriate way to provide certain financial amounts should be in proportion to the number of victims of trafficking that assists each organization, setting a daily quota for each assisted, a practice which is applied in the public center e.g. “National Reception Center for Victims of Trafficking”.

3.2. The Law “On the Protection of the Rights of the Child” was adopted, no. 10347, 04.11.2010.

This law aims to create appropriate conditions for the design and implementation of policies that affect the rights of children, bringing them in line with international standards. Also, for the first time was established an effective system of monitoring and reporting on the realization of children’s rights at the central and local level and institutional mechanisms are provided, which will be responsible for the implementation of this law and guarantee for the protection of children’s rights, in general.

3.3. National Action Plan 2011-2013 in the fight against trafficking in human beings

Among the many goals and objectives included in this action plan, it mentions concrete aspects about the phenomenon of trafficking, consequently in its prevention such as:

- Enriching the school curriculum with topics on trafficking in human beings (including issues of child protection, children’s rights, gender equality and domestic violence, as well as sex education).
- Organizing the educational training of the staff to address these topics.
- Inclusion of anti-trafficking awareness training in the programs of orphanages.
- Inclusion of trafficking awareness training in life skills / vocational training programs for dropouts.
- Ensure that children and their parents are made aware of community trafficking issues.

Specific objectives are the following:

- Establish/strengthen coordination and referral mechanisms for the identification of persons at risk and to provide preventive and supportive interventions as part of the “National Referral Mechanism”.
- Creation of case management systems at the municipality/commune level to identify and assist persons in need and those trafficked, as well as to identify groups/communities in need, including integrated units for social assistance and child protection; case management system and local interdisciplinary referral groups and systems, where all relevant actors participate (contact points in schools/child advocates, community organizations/community counseling groups, police, labor inspectors, etc.).

4. CONCLUSION AND RECOMMENDATIONS

It can be concluded that the National Reception Center for Victims of Trafficking and other non-state centers of the International Organization for Migration (IOM) (represented by) the organization “Different and Equal” -Tirana; “Vatra” -Vlora, “Tjetër Vizion” – Elbasan; parts of the National Referral Mechanism are geographically distributed, making it possible to cover the needs in different regions of the country (Tirana, Elbasan, Vlora, Gjirokastra) with the exception of the northern part of Albania, the area where exploited girls, women and children are detained or deported at border crossing points in Kosovo, Montenegro, Serbia, etc.

This is an anomaly in the reintegration process for victims treated at border crossings in this area because:

- Without having a nearby reintegration center, victims prefer to return to their families, rather than travel to unknown places or destinations, which based on the experiences experienced have turned into a nightmare.
- Unless the victims refuse to receive social services at residential centers, there are also cases when women, girls and children trafficked are not offered the opportunity to assist at these institutions due to the lack of specialists in the field (social worker, psychologist), who must be present during the process of interviewing victims of trafficking at the time of their deportation or detention at police stations (referring to the National Referral Mechanism, Responsible Authority at the ONAC).

Recommendations for further improvement of the system are the following.

1. Improvement of legal procedures for victims of trafficking:
 - set and respect standards (environmental standards; quality of life standards; standards of results, professionalism and commitment).
 - supervised the quality of services (licensing, accreditation and certification, periodic inspection and measurement of indicators, the People’s Advocate).
 - improving working conditions and processes (improving motivation, providing training, developing a Code of Conduct, setting up the management system and form and ensuring the involvement of users and service providers).
2. The state is needed to expand and increase the monitoring capacity of the well-being of victims of trafficking before the end of the rehabilitation and reintegration process, as they are very limited and extended in a short period of time (6 months, taking into account the risk that they carry for their lives and the lives of their families from tutors and users), which would positively affect the success of the rehabilitation process, as well as the once and for all detachment of VT from the phenomenon of trafficking. Not only that, but the

opportunities for involvement in the process of their “recycling” or in the change of status from VT to recruiters of victims of trafficking would be less, or would have been zero.

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