



# UNODC

United Nations Office on Drugs and Crime

UN.LOCKING IMPUNITY OF TRAFFICKERS AND SUPPORTING  
JUSTICE FOR VICTIMS OF TRAFFICKING IN PERSONS IN  
SOUTHEASTERN EUROPE

## **ANALYSIS OF CASES OF TRAFFICKING IN PERSONS IN THE REPUBLIC OF ALBANIA**

Tirana, April 2022



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## ABBREVIATIONS

<b>BCP</b>	Border Crossing Point
<b>GRETA</b>	Group of Experts on Action against Trafficking in Human Beings
<b>CCOC</b>	Court against Corruption and Organised Crime
<b>EC</b>	European Commission
<b>NCATS</b>	National Coalition of Anti-Trafficking Shelters
<b>CC</b>	Criminal Code
<b>CPC</b>	Criminal Procedure Code
<b>Moi</b>	Ministry of Interior
<b>NRM</b>	National Referral Mechanism
<b>MHSP</b>	Ministry of Health and Social Protection
<b>UN</b>	United Nations
<b>OSCE</b>	Organization for Security and Cooperation in Europe
<b>SOP</b>	Standard Operating Procedure
<b>SP</b>	State Police
<b>SPAK</b>	Special Prosecution Against Corruption and Organised Crime
<b>UNODC</b>	United Nations Office on Drugs and Crimes
<b>PVT</b>	Potential Victim of Trafficking
<b>VT</b>	Victim of Trafficking
<b>ONAC</b>	Office of the National Coordinator Against Trafficking

## INTRODUCTION

This document summarizes findings and recommendations emerging from the review and analysis of cases of trafficking in persons in Albania.

The review and analysis of cases were carried out in the framework of the UNODC project “UN. Locking Impunity of Traffickers and Supporting Justice for Victims in Trafficking in Persons in Southeastern Europe”. The Project aims at strengthening the capacities of law enforcement institutions and criminal justice practitioners in identifying, investigating, prosecuting, and adjudicating cases of trafficking in persons, supporting and assist victims of trafficking, and enhancing’s-border cooperation on criminal justice in Southeast Europe.

The analysis of trafficking in persons was carried out for 13 identified, investigated, and adjudicated cases for the period 2016 - 2020. Cases selected for this analysis include international and domestic trafficking, trafficking of minors and adults as well as different forms of exploitation.

Analyzed cases include cases of initial identification from service providers or other sources referred to the Albanian State Police, cases identified and referred to the Prosecutor’s Office by the Albanian State Police, cases registered by the Prosecutor’s Office (SPAK or District Prosecutor’s Offices) that have been investigated and filed with the court or that have been dismissed. Stakeholders were engaged in the analysis of the cases based on a coordination plan to identify the strengths and weaknesses that contribute to the investigation of trafficking in person cases, prosecution, and adjudication of perpetrators. An inter-institutional working group was set up to coordinate the selection of cases, data collection, analysis, and scrutiny, revise the report, give feedback, and provide institutional and professional support throughout the process.

The working group consists of representatives of various state institutions and civil society organizations including, the General Directorate of the Albanian State Police/ Sector against Illegal Trafficking, SPAK – Special Prosecutor’s Office against Corruption and Organized Crime, Special First Instance Court against Corruption and Organized of Crime, Special Appeal Court against Corruption and Organized Crime; National Coalition of Anti-trafficking Shelters.

## II. CONTEXT

Trafficking in persons remains a serious problem in Albania. Traffickers exploit both Albanian and foreign victims in Albania and abroad. Victims are recruited by luring them into marriage or employment abroad and in some cases by promising them education. Albanian women and children are exploited for sexual services and forced labor domestically in the country, in particular during the tourist season. Usually, traffickers force children to beg or perform other forms of forced labor, such as selling small items. Children from Roma and Balkan-Egyptian communities are also exploited for seasonal work and forced to beg. Furthermore, some reports indicate that children are exploited in the cannabis fields in Albania or may be



included in the trafficking of drugs. Destination countries for exploitation of Albanian victims, mainly for sexual services, are Kosovo under UNSCR 1244<sup>1</sup>, Greece, Italy, Belgium, Germany, Switzerland, North Macedonia, Norway, Netherlands, and the United Kingdom (UK)<sup>2</sup>.

According to statistics from the National Coordinator against Trafficking, the number of victims and potential victims of trafficking for the period from 2016 until 2020 is as follows:

Year	VT/PVT	Children
<b>2016</b>	95	44
<b>2017</b>	105	56
<b>2018</b>	95	67
<b>2019</b>	103	67
<b>2020</b>	82	52

Trafficking in persons is a complex offense that has a broad temporal scope. Domestic legislation in Albania on trafficking in persons and the rights of victims has approximated international law. Albania has ratified some international conventions in the fight against trafficking in persons, including the United Nations Convention against Transnational Organized Crime and its two Additional Protocols<sup>3</sup>, the Convention of the Council of Europe on the Action against Trafficking Human Beings<sup>4</sup>, several other international acts that served as a basis and reference for further improvement of the domestic legal framework.

The criminal acts of “Trafficking in persons” are set out in the Criminal Code<sup>5</sup> and the rights of victims of trafficking are provided by the Criminal Procedure Code of Albania<sup>6</sup>. Both mentioned laws were further amended in 2017 considering the justice reform in Albania.

Legal regulation and safeguarding the victims’ rights is one of the priorities of justice reform that aims at strengthening the legal status and position of the victim in the criminal and civil process.

Through the latest legal amendments, positive steps were undertaken towards increased justice access for victims of criminal cases, including trafficking.

Article 58 of CPC sets out the rights of the victim of an offense, including the rights of victims of trafficking. For the first time, the term victim is used in CPC (Law no. 35/2017). According to CPC (Article 9), victims of

<sup>1</sup> Kosovo under United Nations Security Council Resolution 1244 (1999). All references to Kosovo in the present document should be understood in the context of the United Nations Security Council resolution 1244 (1999)

<sup>2</sup> TIP Report 2021 - <https://www.state.gov/reports/2021-trafficking-in-persons-report/albania/>

<sup>3</sup> United Nations Convention Against Transnational Organized Crime, ratified by law no. 8920, dated 11.07.2002 "On the ratification of United Nation's Convention Against Transnational Organized Crime " and Two Additional Protocols" [https://mb.gov.al/wp-content/uploads/2019/12/Ligji\\_Nr.\\_8920\\_dat%C3%AB\\_11.07.2002\\_%E2%80%9CP%C3%ABr\\_Ratifikimin\\_e\\_Konvent%C3%ABs\\_s%C3%AB\\_Kombeve\\_t%C3%AB\\_Bashkuara%E2%80%9D\\_kund%C3%ABr\\_.pdf](https://mb.gov.al/wp-content/uploads/2019/12/Ligji_Nr._8920_dat%C3%AB_11.07.2002_%E2%80%9CP%C3%ABr_Ratifikimin_e_Konvent%C3%ABs_s%C3%AB_Kombeve_t%C3%AB_Bashkuara%E2%80%9D_kund%C3%ABr_.pdf)

<sup>4</sup> Konventa e Këshillit të Evropës “Për masat kundër trafikimit të qenieve njerëzore “, e ratifikuar me ligjin nr. 9642, datë 20.11.2006 [https://mb.gov.al/wp-content/uploads/2019/12/Ligj\\_Nr.\\_9642\\_dat%C3%AB\\_20.11.2006\\_%E2%80%9CP%C3%ABr\\_ratifikimin\\_e\\_Konvent%C3%ABs\\_s%C3%AB\\_K%C3%ABshillit\\_t%C3%AB\\_Evrop%C3%ABs\\_dhe\\_masat\\_.pdf](https://mb.gov.al/wp-content/uploads/2019/12/Ligj_Nr._9642_dat%C3%AB_20.11.2006_%E2%80%9CP%C3%ABr_ratifikimin_e_Konvent%C3%ABs_s%C3%AB_K%C3%ABshillit_t%C3%AB_Evrop%C3%ABs_dhe_masat_.pdf)

<sup>5</sup> Approved by Law no. 7895, dated 27.01.1995 as amended in 2017

<sup>6</sup> Approved by Law no. 7905, dated 21.03.1995 as amended in 2017

trafficking have a special status and have the right to be treated with dignity and respect throughout the process. Institutions must provide for the physical security of victims of trafficking and assess their legal status, including the right to be excluded from a sentence for committing offenses during the period of trafficking to the extent that the individual was forced to carry out illegal actions (Article 52/a of CC). Omissions requirement to recognize the rights was also stipulated, including the right to claim compensation as well as the responsibility of the prosecutor to ensure the rights of the victims throughout the process. The right to be informed on the progress of the case is met at all stages (from the beginning until the end of the investigation and trial).

Albania applies a harsh policy against the trafficking of human beings, governed by two special articles of the Criminal Code: Article 110/a "Trafficking of adults", and Article 128 /b "Trafficking of minors". These articles set out sentences over cases of trafficking from 8 to 15 years of imprisonment and the sentence increases to 25 years of imprisonment and life sentence in the case of death of the victim.

The amended Article 75/a of the Criminal Procedure Code regarding the mandate of the Court against Corruption and Organized Crime (CCOC) does not include crimes of trafficking in persons, articles 110/a and 128/b within its jurisdiction. Such criminal acts are now part of the District Judicial Court. In cases when these offenses have been committed by an organized criminal group or criminal organization, they will be tried by CCOC.

These amendments in the criminal procedural legislation did not have a positive impact on the prosecution and adjudication of crimes of trafficking, given that prosecutors and judges of the district courts are not specialized in the investigation, prosecution, and adjudication of criminal acts of trafficking in persons. Statistics show a significant decrease in the number of investigated and prosecuted cases by district Prosecutor's Offices.

According to the General Prosecutor's Office Report on the state of crime for the criminal acts of "Trafficking of adults" and "Trafficking of minors" provided for in articles 110/a 128/b of the Criminal Code, the number of criminal proceedings for the last 5 years is as follows:

Year	Trafficking of adults	Trafficking of minors	Total
<b>2016</b>	17	7	24
<b>2017</b>	24	6	30
<b>2018</b>	12	5	17
<b>2019</b>	13	6	19
<b>2020</b>	18	5	23

According to annual statistics of the Ministry of Justice, in the last 5 years, the number of sentences has reduced as of 2017, with only two convictions in 2020.

Year	2016	2017	2018	2019	2020
<b>Number of convictions</b>	<b>15</b>	<b>7</b>	<b>4</b>	<b>6</b>	<b>2</b>

As shown in the data above, there is an obvious decrease in cases investigated from 2017 for criminal acts related to trafficking in person. A similar decreasing trend is observed in the number of convictions.

### III. PURPOSE AND OBJECTIVES OF THE ANALYSIS

The purpose of the analysis of cases of trafficking in persons is to identify challenges that law enforcement agencies face during criminal proceedings, from the identification of victims of trafficking until the trial with the view to address these challenges and strengthen the capacities of these institutions.

The objectives of the analysis are:

- In-depth and quality analysis of human trafficking from initial identification to investigation and prosecution;
- Identification of gaps and challenges for criminal justice practitioners in identifying victims of trafficking and prosecution of traffickers;
- Identification of good practices in the investigation and prosecution of cases of trafficking in persons by taking into account a victim-centered approach;
- Application of findings and recommendations in developing a capacity-building plan for law enforcement agencies in Albania.

### IV. METHODOLOGY OF DATA COLLECTION AND ANALYSIS

Data collection for this analysis was enabled through a desk review of the legal framework in relation to criminal cases and the protection of victims of trafficking, as well as an analysis of cases carried out by UNODC<sup>7</sup> at the international level.

<sup>7</sup> UNODC (2017) Evidential Issues in Trafficking in Persons Cases CASE DIGEST

#### 4.1 Desk Review

The desk review included a review of the legislation related to the investigation of cases of trafficking of persons, identification, and protection of victims of trafficking, national and international reports on the efforts undertaken by Albania against human trafficking, and other similar analyses.

#### 4.2 Data collection tool

The tool used for data and information collection for the analysis of cases is a “Case Review Form”, which is found in Annex 2 of this document. The “Case Review Form” guided members of the working group in collecting and describing the cases for this analysis.

#### 4.3 Data collection

Members of the working group entered in the Case Review Form the data collected by case files selected for this analysis. The working group brought cases of trafficking in persons who have been investigated and tried or cases who have been investigated and dismissed or which have not been registered at all by the Prosecutor’s Office.

#### 4.4 Validation of findings

A national round table was organized with the view to discussing and validating the findings of the report.

Participants in the national roundtable were the main anti-trafficking stakeholders in Albania, including members of the National Referral Mechanism, representatives of SPAK and the Judicial District Prosecutor’s Office, representatives of the Special Court against Corruption and Organized Crime and district courts, international organizations, and NGOs active in the fight against trafficking in Albania. The data and recommendations collected by participants are reflected in the final analysis report of trafficking cases in Albania.

#### 4.5 Confidentiality and Data Protection

This Analysis does not include the use of personal data. To avoid identification of any victims or offenders in the cases subject to the analysis, personal data were encoded under Article 10 of Law no. 9887 of 10.03.2008 "On Personal Data Protection".

#### 4.6 Limitations

There are some limitations in this analysis due to the limited number of trafficking cases addressed and tried by District Prosecutor’s Offices.

Based on the analysis of the last 5 years, a higher percentage of investigated and tried cases for trafficking and sexual exploitation is observed and a very small number of cases investigated and tried for other forms of exploitation. To this end, also the 13 cases selected for the review are mainly cases of sexual exploitation, thus leaving little room to analyze other forms of exploitation.

Additionally, it is observed from the analyzed cases that victims of trafficking are women and girls trafficked for sexual exploitation and begging. No cases investigated or tried were identified with male victims.

## V. SUMMARY OVERVIEW OF ANALYSED CASES

For this Analysis, 13 cases were reviewed of which 3 include more than one victim of trafficking and multiple offenders. A total of 22 victims of trafficking were identified.

For each case, subject to this analysis, information was collected about identification, indicators of trafficking, initiation of prosecution, elements of the criminal act, access to justice and services to victims of trafficking, facts, collected evidence, victims' testimonies, national and international cooperation, judicial proceedings, tried cases, trial judgments and the outcome for each case.

A description of each case subject to this analysis is included in Annex I of this report. It contains information on the profile of the case and the circumstances of the trafficking, the identification of the case, actions by law enforcement agencies such as the Police, the Prosecutor's Office, and the courts, access to rights and services, challenges, and lessons learned.

### 1. Gender

All cases of victims of trafficking out of the cases selected for this analysis are women and girls.

### 2. Age

Out of the 22 victims of trafficking identified, 5 are minors and 17 are adults. In one of the analyzed cases, the adult, victim of trafficking, had mental health problems.

Age	Under 14	14-17	18-25	26-30	31-35
<b>Total</b>		5	16		1

### 3. Nationality

All 22 victims were of Albanian nationality.

### 4. Destination country of exploitation of victims of trafficking

In this review cases of international and domestic trafficking were reviewed.

Destination Country	No of VT
Albania	4
Italy	1
Greece	3
Germany	1
Belgium and Netherlands	1
Albania and Greece	2
Albania & Italy	1
Albania & Kosovo	1
Albania, Switzerland, Germany	8

### 5. Forms of exploitation

With regards to forms of exploitation, of the 13 cases analyzed for 9 of them, the purpose was solely for sexual exploitation and 1 case exploitation for begging, 1 case sexual exploitation and transport of narcotics, and in 2 cases were sexual and labor exploitation.

Forms of exploitation	No. of VT
Sexual exploitation	9
Begging	1
Sexual exploitation and transport of narcotics	1
Sexual and labor exploitation	2

### 6. Trial judgments

Of the 13 cases reviewed it was found that in 8 of them there was a conviction, and 5 cases were dismissed by the decision of the prosecutor.

Judgments	No. of persons convicted
Convictions	8
Case file closed in Prosecutor's Office, showing the dismissal of the case	5

### 7. Change of the legal qualification

In 4 cases subject to this review, there is a change in legal qualification by the Prosecutor's Office, wherein for two cases the offense "Trafficking in Persons", under Article 110a of the Criminal Code was changed into 'Exploitation for Prostitution' under Article 114a.

In the meantime, in another case where the victim was a minor, the defendants were prosecuted for "Sexual or homosexual activity with consanguine persons and persons in the position of trust" (Article 106 of the Criminal Code) and "Sexual or homosexual relations with minors". (Article 100 of the Criminal Code)

In one case there was a change in legal qualification by the Court, wherein, contrary to the charges of the case prosecutor for “Trafficking of adults” committed in collaboration stipulated by Article 110/a/4 of the Criminal Code, the case was tried for “Maltreatment of minors” in collaboration, stipulated by Article 124/b paragraph 2 and 25 of the Criminal Code.

## VI. FINDINGS FROM THE CASES ANALYSIS

Findings from the analysis of 13 cases include the identification and the form of initiating the prosecution; how elements of trafficking in persons are analyzed and considered; evidence and testimonies of the victim; the qualification of the criminal offense; international cooperation; good practices in investigation and trial; victims' rights and access to services.

### 6.1 Identification of victims of trafficking and initiating prosecution

Forms of identification of trafficking victims in Albania are set out in the Standard Operating Procedures for Identification and Protection of Victims of Trafficking<sup>8</sup>. Such Procedures define the initial and formal identification of victims, which is carried out by representatives of the State Social Services and representatives of anti-trafficking police for adults and by the Child Protection Worker and a representative of anti-trafficking police for minors. Initial identification is being carried out both by representatives of state and private institutions and/or individuals. Victims of trafficking are entitled to all available social services, irrespective of their status as potential victims or victims of trafficking or irrespective of their cooperation with law enforcement agencies.

In the cases subject to this analysis, victims and potential victims of trafficking were mainly identified by their members of the family who approached the Police to report the reasons why their daughters fled home. In two cases victims directly asked for the help of the police employees by identifying themselves as potential victims and providing them the reason why they were escorted by persons who were allegedly trafficking them for sexual exploitation.

It is worth pointing out that in one case it was the police officer, who, through the information provided operationally, identified the case of a potential victim of trafficking. In one of the analyzed cases, a minor victim of trafficking was identified by the police officer while working at a nightclub, a case which should have already been identified by the State Labor Inspectorate during their routine inspections of businesses, pursuant to their institutional duties.

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<sup>8</sup> Decision No. 499, dated 29.8.2018 “On approval of standard operating procedures for the protection of victims and potential victims of trafficking

*Initiation of prosecution*

The Criminal Procedure Code defines the requirements of how a prosecution shall be carried out, investigation and trial of criminal offenses, as well as the execution of trial judgments, which are mandatory for the subjects of criminal proceedings, state bodies, legal entities and citizens.<sup>9</sup>

In the investigations carried out by law enforcement agencies in the cases reviewed, it was observed that prosecution was enabled based on:

- Report by the victim
- Report by family members of the victim
- Report by another individual
- Information collected by the police
- Information collected through international police cooperation.

*Report by the victim*


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Citizen MM<sup>10</sup> reported to the border police officer at the Rinas airport that an individual that she met through social networks would traffic her to Germany to sexually exploit her.

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The initiation of prosecution following the report of the victim by her own full willingness, and her cooperation with justice was key to a successful prosecution, because of the knowledge she had about the elements of the criminal act<sup>11</sup>. However, the facts and circumstances of the criminal act are not always detailed by victims of trafficking. This is due to their fear, trauma, or their perception of what has happened<sup>12</sup>. The necessity of procedural actions and the involvement of traffickers cause psychological problems to victims who may change their statements because of fear or intimate relationship with the trafficker<sup>13</sup>.

Another observed issue is the stigma that they might have faced if they had previous contacts with law enforcement agencies. Interviews with 80 victims of trafficking in the United States found that 72% of those sexually exploited and 16% of those exploited for labor had previous experiences with justice as offenders of a criminal act. Victims of sexual exploitation shared negative experiences with the police

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<sup>9</sup> Article 2, Criminal Procedure Code

[https://www.pp.gov.al/rc/doc/kodi\\_i\\_procedures\\_penale\\_28\\_07\\_2017\\_1367\\_5285.pdf](https://www.pp.gov.al/rc/doc/kodi_i_procedures_penale_28_07_2017_1367_5285.pdf)

<sup>10</sup> Case11 in Annex 1

<sup>11</sup> Hussemann et al (2018) "Bending Towards Justice: Perceptions of Justice among Human Trafficking Survivors".

<sup>12</sup> UNODC (2017) Evidential Issues in Trafficking in Persons Cases CASE DIGEST

<sup>13</sup> Farrell, A., C. Owens, & J. McDevitt (2013). *Neë laës but few cases: Understanding the challenges to the investigation and prosecution of human trafficking cases*. Boston, MA: Northeastern University;



before and during the trafficking experience, including denigrating treatment, sexual abuse, and prosecution for offenses committed while trafficked, such as prostitution or in the field of narcotics.<sup>14</sup>

Regardless that the initiation of a criminal Prosecutor's Office through the denunciation of victims is considered successful by some researchers or prosecutors, the UNODC group of experts (2014) found that "The victim's statement is always the weak point of the case<sup>15</sup>".

#### *Initiation of an investigation based on the information collected by the police officers*

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The judicial police officer of the Local Police Directorate referred to the Judicial District Prosecutor's Office the criminal act of trafficking in persons based on the information received from confidential sources.

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The referral of the criminal act based on information collected in operational ways by the state police is more prone to a successful investigation. In the case reviewed by us, regardless that it was not proved the trafficking of citizen JM<sup>16</sup> for sexual trafficking purposes to Italy, based on a thorough examination of the information in the file, the reasonable doubt that FO might have been involved in her trafficking remains.

#### *Report of the victim's family members*

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The father of the citizen DT<sup>17</sup> reported to the Prosecutor's Office and the Police trafficking of his daughter for sexual exploitation. He was sure that her fiancé took her to Italy for this purpose.

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Reports by victims' family members have been detected in some of the reviewed cases and this is a challenge for the investigation of criminal acts. These types of reports are partial, and the information provided might refer to non-existing facts.

In the case of DT, the engagement was performed according to the traditions of the Albanian family, but when the couple wanted to leave the country, DT's father did not accept and during his report did not disclose the reason for the refusal. After several quarrels with the girl who was in Italy, he believes that she was being sexually exploited. From the investigations carried out by the Serious Crimes Prosecutor's Office, it was found that *"there is no criminal element of trafficking and exploitation of DT for sexual services."*

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<sup>14</sup> Hussemann et al (2018) "Bending Towards Justice: Perceptions of Justice among Human Trafficking Survivors".

<sup>15</sup> UNODC (2017) Evidential Issues in Trafficking in Persons Cases CASE DIGEST

<sup>16</sup> Case 3 in Annex 1

<sup>17</sup> Case 5 in Annex 1

Unlike the case of DT, in the thirteenth case reviewed<sup>18</sup>, the parents' report of their minor daughter's fleeing the apartment served as a basis to initiate an investigation into her possible trafficking. Although her trafficking could not be prevented because she crossed the border with someone's else passport, she was detected and her assisted voluntary return to her family was carried out.

## 6.2 Recruitment and preparation

Recruitment, as an integral aspect of the objective element of the criminal offense, pertains to the act of seeking out individuals who are trafficked for exploitation purposes, utilizing methods such as fraud, physical or psychological violence, or exploitation of the victim's vulnerability.

The analysis of reviewed cases found that the modus operandi employed by traffickers to recruit victims of trafficking in Albania is mainly by creating intimate relationships as well as by promising education abroad. In 80% of cases analyzed, recruitment of victims was enabled by creating intimate relations with them. Also, there is a reasonable doubt that between victims and recruiters there is a verbal agreement concerning their lifestyle abroad. This agreement might include the involvement of the victim in the sex industry, despite that they face a different reality once they get there. Recruitment through this partial deceit of the victim, makes it difficult to qualify the offense and subsequently the investigation thereof.

Recruitment of victims is easier due to their vulnerability. Traffickers usually target victims that come from families with different socio-economic problems.

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MM19, 21 years old, through the social network "Facebook" met and created intimate relations with a citizen, who, after gaining her trust, proposed to her to go to Germany where he would register her in a university, and they could live together. MM shared the problems that she, her mother, and her sister had with their father.

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The family of MM accepted her relationship, but they didn't agree for her to go to Germany, and this gave rise to quarrels between the family members and herself. On the other hand, these quarrels made it easier for her to leave and she got a passport and ticket to Germany.

Networking through social media is one of the new forms used by traffickers to recruit victims. Europol (2021) <sup>20</sup>in its report for the assessment of organized crime risk found that a part of the criminal act of trafficking is committed online including recruitment and services that display victims both in an ordinary profile or on the "dark web". Further, Polaris found that "Sexual exploitation trafficking by an individual - usually by a tutor or boyfriend - usually begins with the trafficker building a false relationship and gaining the trust of the potential victim through social media".<sup>21</sup>

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<sup>18</sup> Case 13 Annex 1

<sup>19</sup> Case 12 in Annex 1

<sup>20</sup> [https://www.europol.europa.eu/cms/sites/default/files/documents/socta2021\\_1.pdf](https://www.europol.europa.eu/cms/sites/default/files/documents/socta2021_1.pdf)

<sup>21</sup> <https://polarisproject.org/blog/2019/02/looking-for-love-online-this-valentines-day/>

In case 13, one of the victims of trafficking, was used by traffickers to recruit, and control other victims who were exploited in the sex industry in Germany and Switzerland as well as to transport narcotics to both countries. Social networking as a modus operandi for the recruitment of victims was also used in case 13, but in this case, this method was used by another victim who was incited to recruit other girls by telling them about a different lifestyle and work in the destination country. The victims targeted friends with significant socio-economic problems, who, because of their vulnerability and willingness to go abroad for a better life become prey to trafficking.

In this case also through deceit, one of the traffickers, in cooperation with his family members (parents) had made his relationship with the victim “formal” who was acting as a recruiter, supervisor, and sex worker. With the gained profits they would set up a business in the country of origin to generate income in the future.

In this case, as in the case of the MM, the victims were recruited for better education in Germany. During the investigation carried out for case 13, the victim recruited in Albania was not aware that the purpose of going there was in fact for sexual exploitation and not education.

Given the criminal purpose related to the exploitation of the victim, it is observed that the recruitment is different when the subjects of the criminal offense are relatives, i.e siblings. In case 6 review, the two brothers take advantage of the intellectual and physical disability of the victim, hence their sister, exploited her by begging. Exploitation for begging by parents or relatives is a phenomenon that is present in Albania. It was observed during the proceeding that both the traffickers and their sister were abandoned by their parents and that they lived in extreme poverty during their childhood and had survived by begging in different places and areas of Albania.

Involvement in the sex industry in the country of origin, in some cases, facilitates recruitment for the purpose of using them outside the country of origin.

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The minor citizen S.N.<sup>22</sup> was sexually exploited by some persons in the country, who tried to traffic her abroad, notably to Greece, for sexual exploitation. Three persons asked her to work as a sex worker in return for money. One of the recruiters was a friend of the minor and the two others were acquainted with her.

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The victim of trafficking was exploited domestically, but the promise of more money if she would do the same work abroad, made her accept the offer.

Given the possibility to travel visa-free in the Schengen area, the transport of victims from the origin to the destination country does not pose any risks for traffickers when the victims are adults. In case 13, where the victim was a minor and was transported to Switzerland, the traffickers used the passport of another adult citizen. The victim managed to cross the border crossing point of Rinas because they looked similar. Both applications for passports and fake documents as well as traveling tickets to destination countries were enabled by the traffickers.

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<sup>22</sup> Case 7 in Annex 1

In the case of MM, the trafficker after managing to persuade her to go to Germany took a picture of her ID and applied for a passport.

The analysis showed that the transport of victims is not carried out only by traffickers but in some cases, it is organized with other ad hoc collaborators, without any predefined role, so a simple collaboration is set out in Article 25 of the Criminal Code. Not in all cases the existence of an organized criminal group, which operates on predetermined roles according to Article 28, paragraph 4 of the Criminal Code, was proven. Transport internally was arranged by close friends of the victims of random taxis to travel from one city to the other. Traffickers themselves avoid traveling with the victim at border crossing points.

In the case of MM, the trafficker asked her to separate from each other at the border crosspoint, which indeed facilitated the communication of MM with the police officer. Also, victims identified in case 13 in order to travel to Germany used buses departing from Tirana and driving through Tirana – Montenegro – Bosnia, and Herzegovina – Croatia – Slovenia – Austria – Germany. Following a check in the TIMS system, it was found that only in one case the victim and the trafficker had traveled on the same date, but they had taken care to register at different times and had presented themselves at different checkpoints at the border crossing point. In the destination countries, depending on the form of exploitation either sexual exploitation or transport of narcotics, the transport was carried out with traffickers' vehicles in the itinerary Switzerland – Germany – Switzerland.

### 6.3 Means of controlling victims of trafficking

Pursuant to Article 110/a, of the Criminal Code, the second objective element that must exist is that *“The recruitment, transport, transfer, hiding or reception of persons through threat or the use of force or other forms of compulsion, kidnapping, fraud, abuse of office or taking advantage of social, physical, or psychological condition or the giving or receipt of payments or benefits in order to get the consent of a person who controls another person”*.

The consent of victims either to work as a sex worker, beg or transport narcotics, in the reviewed cases was received through deceit, by threatening their life and life of their family members and taking advantage of the vulnerability of victims.

The data analyzed in case 13 showed that victims were threatened that if they refused to work as sex workers and it would have consequences for them and their family members. Whereas one of the victims was persuaded to act as recruiter and supervisor of the girls who were sexually abused and to work as a sex worker against the promise that after they would make some money, they would be able to return to Albania to live together.

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The minor MD<sup>23</sup>, Roma, 16 years old, was recruited by the defendant XhT, who deceived her through a romantic relationship, in order to exploit the minor sexually and to work as a dancer in a nightclub in Tirana. The defendant managed to recruit the minor MD by taking advantage of her young age, 16 years old, and the social status of

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<sup>23</sup> Case 7 in Annex 1

her family (divorced parents) and after he recruited her, he exploited her for sexual services.

It was found that the defendant XHT met the victim in Durres, where she was living with her father who was divorced from her mother and later went to France. The defendant used to go there frequently because his grandfather was living near the house of the victim, and they exchanged phone numbers.

After meeting the victim, the defendant recruited her and after moving her to a southern city from the capital, they decided to live together, they rented a house to cohabitate, and, during this time the victim, out of love for the defendant, agreed to work as a sex worker with clients that the defendant XhT found and also, started working as a dancer, and all the money earned from work as a dancer and sexual services, she gave to the defendant XhT, which they spent to afford their life together.

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Recruitment by luring victims into marriage puts them in a difficult moral position vis a vis the trafficker who 'helped and supported them' come out of extreme poverty where they were living or difficult relations with their family members.

#### 6.4 Forms of exploitation

The third objective element of the offense of trafficking refers to the fact that the recruitment, transportation, transfer or concealment or reception of a female adult, by the subject of the criminal offense, done either by threat, or by the use of force or forms of other by coercion, or by kidnapping, or by fraud, or by abuse of office, or by taking advantage of the social status of the injured party, or by taking advantage of the physical or mental condition, or by giving or receiving payments or benefits to obtain the consent of the person controlling another person, **has to be done for sexual exploitation of others or other forms of sexual exploitation, or forced labor or services for the purpose of enslaving a person or similar forms, or for the purpose of using or transplanting organs, or for the purpose of any other exploitation.**

Trafficking of victims in the analyzed cases was done for the purpose of sexual exploitation both inside and outside Albania and in some cases for work and for transport of narcotics abroad and in one case the victim was exploited for begging within the country.

Victims of trafficking against their will, under the control of traffickers, have undertaken the activities required by them.

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The victim MD <sup>24</sup>was forced to offer sexual services because of the intimate relationship she had established with the trafficker who received all the money she made.

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“The second day I met with J<sup>25</sup>, I noticed that he was calling and texting with another girl. When I asked him who she was, he replied that she was a friend living in Italy, but I never learned who this girl was as he was hiding the texts. This is when I started getting suspicious and one day I was with J in a bar and a friend of 45 – 46 years old was with us and at that moment a text arrived on his mobile reading ‘I take girls to Italy’. I expressed my concern to J, and I asked him whether he was planning to traffic me. He replied no but I was still unsure. My relationship to J was fine. One day J went to a border city, and he called me at 4:30 AM and told me to pack his belongings and mine because we would go to Greece”.

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Despite the ongoing doubt that her fiancé might take her to Greece for trafficking purposes, FA <sup>26</sup>nevertheless did everything that he asked to arrange her trip to Greece.

In case 6 <sup>27</sup>of exploitation for begging, as discussed above, the victim had family ties with her exploiters who, by taking advantage of her intellectual and physical disability, exploited her for begging in different places.

Nonetheless, when providing her testimony at trial she tried to save her brothers from criminal liability.

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“In the past, I was living in my city, with my brother I. ...I used to beg in Tirana, in the center. I don’t know whom I was going there with, or who was accompanying me. I kept the money for myself. During the time that I was begging in Tirana, I was living with my brother in a rented place. I don’t know in which neighborhood. I don’t know whom I was going there with. In Tirana it was my choice to beg, no one forced me. I don’t know how long I begged. I didn’t count the money. I kept the money for myself, to buy something. I want to go back to my brothers. My brother didn’t beat me, they were taking good care of me. Take my brothers out of there, don’t keep them there because they didn’t do anything.”

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<sup>24</sup> Case 8 in Annex 1

<sup>25</sup> Case 4 in Annex 1

<sup>26</sup> Case 4 in Annex 1

<sup>27</sup> Case 6 in Annex 1

### *Evidence*

Several evidence were used to establish charges or to dismiss them in the cases analyzed.

The majority are statements from victims of trafficking, and it is noticed that they are either partial or the chronology of events is not complete because of their relation to the trafficker, including their recruitment. In some cases, the victim's statement is influenced by the trauma they have experienced and, in some cases, in the statement, they don't list factual circumstances chronologically or they even alter some of them.

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In the trial judgment of 09.12.2011 the Serious Crimes First Instance Court, after deliberating a trafficking case initiated based on the victim's report, found non-guilty the offender by reasoning that: "The trial panel, based on the evidence that was examined in this trial, contrary to what the indictment claims, finds that the testimony given by the injured party K. C, is not confirmed, rather some parts of evidence in statements are clearly untrue because:

According to her statement, the defendant bought the house at "Don Bosko" street with her money gained as a sex worker in Rome, after their return to Albania between September – November 1997, however according to the purchase contract no .X Rep, no. Y Kol, it's proved that the defendant bought his hose on 24.02.1997.<sup>28</sup>

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In this case, the court didn't consider the psychological effect on the victim when listing facts and the time when it happened. The court didn't ask for a psychological assessment about that.

In a similar case, in Canada, the victim's testimony in the trial was, among other things, contradictory and she had moments of hesitation or exaggeration. Despite these, the court ruled that the victim was credible, considering the effects of the trauma on her. According to the court, if the victim's testimony would have been detailed and in chronological order that would have been a matter of concern. The defendant was sentenced to the criminal offense of trafficking, a decision which was upheld by the Court of Appeals.<sup>29</sup>

Unlike the case above, in case 7, the psychologist assigned to assess the victim and her statement concluded that:

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The victim constantly changes her testimony and attitude towards her sister, friends, and acquaintances. Her recollections are partial, and her testimony is not in chronological order.

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<sup>28</sup> Simoni et al (2017) Commentary on the criminal offense of human beings.

<sup>29</sup> UNODC (2017) Evidential Issues in Trafficking in Persons Cases CASE DIGEST, pg.154

In many cases, her answers do not seem to be true because nonverbal communication does not match verbal communication. She is not consistent in what she says and has significant emotional fluctuations.

### Conclusion:

As mentioned above, I noticed that the explanations given by the victim at different times are not coherent, partially altered, or repeated from time to time, are not convincing, and are not supported by external objective elements to confirm their veracity. In her testimony, she is contradictory and unclear about the moments related to the facts she was referring to.<sup>30</sup>

The Serious Crime Prosecutor's Office employed this positive approach by undertaking a psychological assessment of the victims, however, it is not reflected whether they considered the trauma that the victim experienced as a minor who was exploited.

Similarly, in the case of ML<sup>31</sup>, the police officer summoned to trial to testify about the circumstances of receiving her statement declared that *"...the victim was not at ease when telling her narrative (she started to tell something and then realized that she was wrong). Initially, she stated some episodes without any logical connection and later she started telling chronologically what had happened". In its conclusion the trial panel found that "the police officer guided the victim when he observed lack of coherence in the statement because of her feelings for the defendant"*.

In some of the cases reviewed, it is noticed how the relationship between traffickers and victims influences the way in which the criminal offense is reported. Due to the relationship between them, the victims try to negate facts that hold criminally liable the trafficker because they know the person who tried to 'help' them in a moment of need. The victim ML<sup>32</sup> in the presence of the police officer declared for one of the defendants that *"he was the only person who took care of her a bit more than the others"*.

In the case of ML<sup>33</sup> in addition to the victim's statement also the statement of one family member of the trafficker was heard concerning the way how they met the victim or about her relation to the trafficker.

Victims' statements are essential in investigating the criminal offense and provide relevant information as opposed to family members' statements when the latter are the initiators of the criminal prosecution.

Victims' reports, when the court concluded with a conviction, are supported by other evidence gathered by the judicial police officers upon authorizations issued by case prosecutors.

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<sup>30</sup> Case 7 in Annex 1

<sup>31</sup> Case 9 in Annex 1

<sup>32</sup> Case 9 in Annex 1

<sup>33</sup> Case 9 in the Annex 1



### 6.5 Discussion regarding the qualification of the criminal act

SK was arrested as an accomplice in the trafficking of the minor citizen ML<sup>34</sup>, charged with the criminal act “Failure to report a crime” stipulated by Article 300 of the Criminal Code.

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The criminal act for which the defendant SK was charged and tried is provided for by Article 300 of the Criminal code, reading as below:

“Failure to report, to the criminal Prosecutor’s Office bodies, to the court, to the public order bodies, [or to the appropriate] authorities or administration, a crime that is being committed or which has been committed, is punishable by a fine or up to three years of imprisonment.

Lineal ascendants and descendants, brothers and sisters, spouses, stepparents and stepchildren, as well as persons obliged to keep secrecy because of their capacity or profession, are excluded from the obligation to report”.

The trial found that the defendant SK, despite being aware that a crime was being committed i.e exploitation of the minor ML, didn’t report it to the responsible agencies. From the victim’s and defendant’s statements, the presence of the defendant SK in the bar was confirmed, at the time when it was discussed and agreed that the victim would stay in the accommodation that she was sharing with the defendant ED. Also, it was found that the defendant was present in the apartment where she was cohabiting with the defendant ED, when the defendant ED, S., and the victim agreed that the latter would work as a sex worker. The defendant SK, being part of such a network, was also present during the preparation and work of the victim as a sex worker.

The defendant SK through omissions, by failing to report the crime of trafficking, being fully aware of it and the possibility to report to responsible bodies, is found guilty of the criminal act of “Failure to report a crime”, as provided for in Article 300, paragraph 1 of the Criminal Code. Regardless that the motive that urged the defendant in committing the criminal act is not relevant for its legal qualification, for the court, most likely, it is related to the fact that she is part of a prostitution network.

According to Article 49 of the Criminal Code, the court considers mitigating circumstances for the defendant, such as a low level of education, and family problems which have been brought forward both in the records of the criminal file addressed above in the decision (pp. 19 and 20) also in the acts annexed to the final litigation. It

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<sup>34</sup> Case 9 in the Annex 1

was found that the defendant was divorced and was the legal guardian of a minor child with disability problems.

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In its litigation, the Panel considered only the fact that the defendant didn't try to report the crime or help law enforcement bodies investigate the criminal act. During deliberation, the Panel shall consider mitigating circumstances such as low level of education and family problems, but they didn't try to understand whether the defendant herself was a victim of trafficking and if the reason for not reporting the crime was due to fear of her cohabitor.

The court was informed by the Social Service that SK has a child that suffers from the disorder "Autism - Epilepsy", and that the child is disabled and needs constant family care.

However, no efforts were made to understand what the position of SK in relation to her cohabitor was and how did she become part of the network where ML was also exploited.

By profiling victims, UNGIFT (2008) found that fear of violence by traffickers is one of the reasons why victims of trafficking switch from victims to traffickers. "It has been reported that some people get involved in trafficking because of fear and intimidation by traffickers as well as because of an addictive relationship. This can be better understood through the "Stockholm Syndrome" and the psychological state of the victim who relies on the trafficker and develops a kind of sympathy for him."<sup>35</sup>

Indeed, SK in her statements in the trial said that she worked as a dancer in Tirana and that after being in a relation to ED, he was covering all her expenses. Contrary to what she stated, it was found that she was a sex worker, however, the investigation didn't go into details about how she started that. Criminal Code, Article 110/a "Trafficking of adults", stipulates the commission of a criminal act through recruitment, as part of the objective element, finding persons and taking advantage of their social status. The investigation didn't try to understand how SK met her partner and how she provides for her child, who, according to SSS must have the support of the family. Additionally, it is not clear when was she involved in the sex industry.

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MM<sup>36</sup> agreed to travel to Germany with her boyfriend to study there. After meeting her boyfriend on social networks, MM met him several times with her boyfriend and shared with him her family problems. AB, taking advantage of her vulnerable status, suggests going together to Germany and helping with the application for a passport and traveling ticket.

In the BCP they appear separate from each other and MM reports to the police officer the real reason why AB was taking her to Germany.

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<sup>35</sup> UNGIFT 2008, The Vienna Forum to fight Human Trafficking 13-15 February 2008, Austria Center Vienna Background Paper; WORKSHOP 016 PROFILING THE TRAFFICKERS; <https://www.unodc.org/documents/human-trafficking/2008/BP016ProfilingtheTraffickers.pdf>

<sup>36</sup> Case 11 in Annex 1

The police officer recorded her report and referred it to the Judicial District Prosecutor's Office for the criminal offense "Trafficking of adults" provided for by Article 110/a of the Criminal Code.

The prosecutor has submitted the request for the trial of defendant AB for the criminal offense of "Trafficking in Persons" remaining in the attempt envisaged by Article 110/a 2 and 22 of the Criminal Code, also during the development of the preliminary hearing, the prosecutor requested the change of charge for defendant AB from "Trafficking in persons" to "Exploitation of prostitution" envisaged in Article 114§1 of the Criminal Code.

The prosecution office has presented the request for a judgment of the defendant AB for the criminal act of "Trafficking in persons" remaining as tentative envisaged by articles 110/a 2 and 22 of the Criminal Code. Also during the preliminary hearings, in the application of article 332/d of the Code of Criminal Procedure that anticipates *"When during the preliminary hearing the fact comes out differently than described in the application for sending the case to trial, another criminal offense results, according to the letter "b", paragraph 1, of Article 79, or a major circumstance that has not been mentioned, the prosecutor changes the charge and communicates it to the defendant present. When the defendant is not present, the new charge is communicated to his defenders, who are given no more than 10 days to communicate with the defendant."*

When during the preliminary hearing in charge of the defendant, a new criminal fact is not mentioned in the application for sending the case to trial and for which it must be prosecuted primarily, the court allows the communication of the prosecution for the new fact, when the prosecutor submits, and the defendant gives consent. In the opposite case, the court returns to the prosecutor the acts related to the new charge and notifies the prosecutor", the prosecutor sought to change the charge for defendant AB from "Trafficking in persons" to "Exploitation of prostitution" envisaged in Article 114§1 of the Criminal Code.

However, is this a different criminal act from the one that was initially referred to?

Objectively the criminal act of trafficking of adults is committed through active illegal actions which must comprise the following elements:

- a) First element: Recruitment, transport, or transfer, hiding or receiving adults.
- b) The second element which must be present in any case, from the objective side, is the recruitment, transport, transfer, hiding, or reception of persons through threat or the use of force or other forms of compulsion, kidnapping, fraud, abuse of office or taking advantage of social, physical, or psychological condition or the giving or receipt of payments or benefits in order to get the consent of a person who controls another person.
- c) The third element of this criminal act refers to the recruitment, transport, transfer, hiding, or reception of an adult female person from the subject of the criminal act, through the use of force or other forms of coercion, kidnapping, fraud, abuse of office or taking advantage of social, physical or psychological condition or the giving or receipt of payments or benefits in order to get the consent of a person who controls another person, must be committed with the purpose of exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or forms similar to slavery, putting in use or transplanting organs, as well as other forms of exploitation.

d) The criminal act of trafficking of human beings is a formal criminal act, which is considered completed when recruitment, transporting, etc. is carried out with the purpose of exploitation..., hence, in any case, this criminal act cannot be considered as remaining in the attempt, as the case prosecutor found in this case. It shall suffice to prove the purpose of exploitation and the criminal act shall be considered committed. It shall not have an impact on the qualification of the criminal act whether a victim was exploited or not, but it will be considered when deliberating on the conviction.

e) The case in question is a typical case where the perpetrator undertook all necessary actions for the trafficking of the victim. Collected evidence fully supports this fact.

Recruitment of an adult female person, as an objective element of this criminal offense, concerns finding the person and persuading them either through physical or psychological violence or deceit, by taking advantage of their vulnerability, etc., with the purpose of trafficking. This means that in order for the legal element of “recruitment of person” to exist, the subject of the criminal act must undertake specific active actions, including finding and persuading the victim.

Finding and persuading the victim must be carried out by the subject of the criminal act either through physical or psychological violence or through deceit by taking advantage of her vulnerable situation, etc.

Subjectively, this criminal act is committed with direct intent for the purpose of financial gain.

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MM<sup>37</sup> was recruited via social networks by AB, who, started an intimate relationship to her, regardless that he was married, and taking advantage of the social problems in her family he suggested she go to Germany. After MM applied and received the passport, AB shortly after bought the travel ticket to Germany and drove her from her city to Tirana with the help of an accomplice and then towards Rinas. The Panel in the course of changing the qualification of the criminal act argued that MM was aware of what she was going to do there, and she didn't take any actions to withdraw. In fact, MM objected but AB told her “You have now agreed and there is no turning back”. Also, MM, with the first opportunity she had, i.e., contact with the police officer at the BCP reported her situation.

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Furthermore, during the examination of mobile content between the defendant AB and his spouse, a message was found reading “This girl will make 40000 Euro”. Further, he and his wife communicated about any other action concerning the transport and type of work that MM would do in Germany.

We believe that the requalification of the offense simply mitigated the position of the defendant, because a criminal act is considered committed when AB has carried out all the active actions regarding recruitment, transport, and transfer of MM by means of deceit and by taking advantage of her social status, with the purpose of sexual exploitation. All actions undertaken by AB were proved by the court.

In a similar case, the Serious Crimes First Instance Court regarding the criminal act of trafficking argues:

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<sup>37</sup> Case 11 in Annex 1

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“The court notes that the criminal act of trafficking in persons, stipulated by Article 110/a of the Criminal Code, is a formal act and doesn’t require any criminal consequences to be considered committed. For this crime to be considered committed it suffices to establish the existence of all its elements related to the scope, objective element, subject, and subjective element and does not necessarily require any consequences....” (Decision no.31 dated 14.06.2007 of the Serious Crimes Instance Court vs. the defendant E.M)

Similarly, the Serious Crimes Appeal Court by decision no. 47 dated 23.10.2007 states: “The criminal act of trafficking in persons shall be considered committed even if one of its elements exist and when committed in the forms and with the purposes set out above. Accordingly, one element of recruitment or transport, etc., in the form and purposes above mentioned shall suffice for the defendant to be held criminally liable under this provision. The fact that the defendant didn’t achieve the end purpose to exploit the injured party, does not mean that he will not be criminally liable, because he has exhausted all the elements of this criminal offense.”

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Further, during the investigation the information was received that AB collaborated with other persons who would take care of the accommodation in Germany; however, the Prosecutor’s Office didn’t go further to understand the role of the persons that AB was communicating with prior to departure. There is no data as to whether they were operating under the scope of an organized criminal group or whether it was a random collaboration only in the case of MM<sup>38</sup>.

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A minor went to the Police Commissariat and reported her father who has done some immoral acts to her since she was 7 years old, and repeatedly told her “You have to get used to this stuff”.<sup>39</sup>

Similarly, her older brother was doing immoral acts toward her. Later the victim met and started a relationship with a 16-year-old guy, and her father was aware of this relationship.

The father of the victim encouraged her to have sexual intercourse with this guy. The father of the victim went to Greece, and he was constantly urging her to get some experience because that would serve her in Greece when she would go there to live with her father.

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<sup>38</sup> Case 11 in Annex 1

<sup>39</sup> Case 12 in Annex 1

Not only he was harassing her, kissing, and touching her, but constantly he told her “You need to train to work as a sex worker in Greece.”

The father was trying all the time to have detailed information about the situation of his daughter's relationship and asked her to make a video during the intercourse and send it to her father, to find out if she could work afterward as a sex worker.

The Judicial Court Prosecutor's Office investigated the case and submitted charges for the following criminal acts:

- Immoral acts, Article 108/2 of the Criminal Code (against the father)
  - Repeated sexual harassment. (Against the brother) Article 108/a/2 of the Criminal Code.
  - Sexual relation with minors (Article 100/1 of the Criminal Code against F.M)
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Regardless that the acts were performed by the victim's relatives, her father, in this case, it was not investigated or even considered the possibility investigate as a criminal act of trafficking of minors, under Article 128/b of the Criminal Code.

Provision 128/b is not limited when it comes to subjects of the criminal act and neither does it exclude them if they are family members. Statistics show that almost half of the identified cases of child trafficking start with a family member<sup>40</sup>.

In the case under review, the father with his active acts incited the minor to prepare to work in the sex industry in Greece. Judicial Police officers conducted a search of both the victim's phone and her Facebook account and found communications between her and her father indicating the work she would do in Greece.

## 6.6 International cooperation

Of the cases under review, only in two cases, did their cooperation with law enforcement of other destination countries, notably Greece, Italy, Switzerland, and Germany.

By Law no.8498, dated 10.6.1999 Albania ratified the Convention of Council of Europe “On Mutual Legal Criminal Assistance” and its Additional Protocol which paved the way for information exchange between countries by means of rogatory letters.

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[https://www.iom.int/sites/g/files/tmzbdl486/files/our\\_work/DMM/MAD/Countertrafficking%20Data%20Brief%20081217.pdf](https://www.iom.int/sites/g/files/tmzbdl486/files/our_work/DMM/MAD/Countertrafficking%20Data%20Brief%20081217.pdf)

Also, by Law no. 9604, dated 11.9.2006, Albania ratified the “Convention on Police Cooperation in Southeast Europe” which facilitates police information exchange between countries in the region.

Two forms of international cooperation are identified, i.e., police cooperation through information exchange with police liaison officers deployed at the premises of diplomatic bodies as well as by receiving data through rogatory letters.

The criminal proceeding in case 13 was initiated based on three different information sources. In the context of police cooperation Interpol provided information concerning the illegal activity of two unidentified Albanian citizens, likely operating in Switzerland. The Albanian State Police carried out all actions to cross-check information and detect the suspects.

An organization also received information from its counterparts in Switzerland seeking the assisted return of an Albanian minor victim of trafficking who was identified there and was being treated at a psychiatric hospital due to trauma she had suffered. An adult went to the Local Police Directorate Tirana and reported that she was exploited by two Albanian brothers living in Germany and that there were also other girls traveling from Germany to Switzerland and vice versa. The three pieces of information were coordinated together to result in a single proceeding. For the first time, in the investigation of the criminal offense of trafficking in persons the approach of joint investigation teams was applied, between Albania, Switzerland and, Germany for the exchange of police investigative information in real-time.

In all three countries, the investigation was carried out simultaneously and the coordination was in real time because of interception and surveillance. Nonetheless, because of the lack of a legal framework regulating the functioning of joint investigation teams, with the aim to receive evidence relevant for trial, pursuant to Law no.8498, of 10.6.1999 and Article 509 of the Criminal Procedure Code, the Serious Crimes Prosecutor’s Office sent rogatory letters to the two countries, Germany, and Switzerland.

Concerning the proceeding of case 3<sup>41</sup>, with the purpose of conducting an in-depth investigation to identify whether criminal elements existed or not, the Serious Crimes Prosecutor’s Office decided to send rogatory letters to justice authorities in Greece and Italy. Judicial Police Officers at the Police Directorate received information concerning the involvement of FO in trafficking in persons. The person in question was married to JM, and the father of the latter reported that he was exploiting her for sexual services. Based on information received through rogatory letters from both countries, it turned out that JM was indeed searched several times by the local police of the countries where the alleged prostitution was happening. Law enforcement authorities in destination countries didn’t find any proof indicating she was exploited by others. Based on that information, the case prosecutor dismissed the investigation for this criminal proceeding.

### 6.7 Trial practices

An in-depth investigation conducted by the Prosecutor’s Office leads to a good trial. In the cases of trafficking in persons, the role of the Pre-Trial Judge is essential as the first judicial line of control of the prosecutor’s investigation concerning identification and access of victims of the offense during the

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<sup>41</sup> Case 3 in the Annex 1

investigation, control, and investigative actions as well as evidence collected with the view to unfold fully the events/fact and for the proper legal qualification of the case.

During the trial the Panel pays maximum attention to the case, with a focus on the circumstances of the event/historical fact without ignoring the judicial economy (research with the view to developing an expeditious trial), complying with the rights of victims of a criminal act by taking into account their emotional situation.

Several good trial practices were identified during the analysis:

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*Good trial practice in case 1*

In the relevant trial judgment:

- Extrajudicial parties were informed properly and in the introduction section of the decision full identification of defendants and victims of the criminal act were reflected.
  - An ordinary trial procedure was selected and the reasons for the selection thereof were set out.
  - The evidence examined were analyzed in details and their evidentiary material was analyzed.
  - In the final judgement, claims from parties were considered and the issues raised were resolved.
  - The court conducted a detailed analysis of the trial evidence to assess authenticity, accuracy and the relevance of the evidence for the case.
  - The factual legal qualification subject to trial was analyzed vis a vis the material criminal law and international acts.
  - The degree of the sentence was decided by considering the perpetrator's danger to society and their individual liability.
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In case 10, both when the trial hearing was scheduled and during the trial, the right of the victim to be informed at the start of the trial was not complied with, (Article 58 paragraph 1/ "ë" i). The reason for that



was that, according to the new legal amendments by Law no.35/2017 (date of entry into force was 01.08.2017), the court is not obliged to inform and did not inform the victim concerning the start of the trial. Anyhow, during the trial, the Panel informed the victim on her rights as provided for by Article 58 of the Criminal Procedure Code, and during her testimony asked to have her informed concerning the change of security measures for the two defendants as well as on the conclusion of the trial.

In the same decision, the subject matter concerning the start of the trial was also argued. At the outset, the court, under Article 75/a of the Criminal Procedure Code, prior to the amendments by Law no.35/2017 as well under Article 285 paragraph 1 and 5 of the Law no.35/2017, titled "Transitory provisions", assessed its power to adjudicate and determine accordingly. According to paragraph 1 Article 285 of Law no.35/2017 until the Court against Corruption and Organized Crime is established, criminal cases subject to Article 75/a of the Code, as amended by this Law, shall be tried by the Serious Crimes Court and district court, whereas under paragraph 5 of the same provision, the Serious Crimes Prosecution, and district Prosecutor's Offices shall continue to investigate these criminal cases. In continuation of the trial in another case that is not subject to this analysis, pursuant to the Decision of the Supreme Court Collegial Panel and Article 83 paragraph 1 and Article 85 of the Criminal Procedure Code, during a trial hearing, the court declares its non-competence.

The Supreme Court Criminal College, in the above-mentioned decision concerning the dispute of competence between Serious Crimes First Instance Court of Tirana and District Court of Tirana concerning the adjudication of the criminal case against the defendant ET and EJ, charged with the criminal act of "Trafficking of narcotics in collaboration", remaining in an attempt, according to Articles 283/a paragraph 2 and Article 22 of the Criminal Code, determined as the responsible court the District Court of Durres. Based on the reasoning of the College, paragraph 1 of Article 285 of Law no.35/2017 does not explicitly refer to the competence of the Serious Crimes Court. By literally interpreting the amended law, on one hand the lawmakers abolished the competence of the Serious Crimes Court, previously stipulated in Article 75/a of the Criminal Procedure Code and on the other hand stipulated that the adjudication of cases would be under the competence of the specific jurisdiction court, which is yet to be established, notably the Serious Crimes Court and district courts.

After becoming familiar with the content of the Criminal Justice College, referred to Article 83, paragraph 1 of the Criminal Procedure Code, the court mainly deemed the need to raise the question of its subject matter non-competence. Based on this consideration, pursuant to Article 85 of the Criminal Procedure Code, it declared its subject matter non-competence and issued an order to transmit the files to the competent court, which, based on Article 76, paragraph 1 of the Criminal Procedure Code, is the District Court of Tirana. The latter, by decision submitted to the Supreme Court the issue of subject matter non-competence. The Supreme Court College, with a decision, based on Articles 86 paragraphs 2, 90, and 91 of the Criminal Procedure Code, resolved the dispute of jurisdiction, determining as competent court the First Instance Court of Serious Crimes in Tirana. After the above determination of the subject matter competence, this court consisting of the same trial panel continued the adjudication of the criminal case at the same stage as it was before the transmission of the case file to the Judicial District Court of Tirana. In the trial judge of case 8, it is observed that the introduction section of the judgment does not contain the full identification of the victim of the criminal act "Trafficking in minors". Also, what procedure was applied in the trial is not identified. However, further, in the decision the evidence examined is analyzed in detail to assess the authenticity, accuracy, and relevance of the case. Also, the claims of the parties were considered with a view to resolving the issues raised and the legal qualification of the case subject to trial

was analyzed according to material criminal law and international acts. All these steps resulted in the conviction of perpetrators based on their actions against the victims also vis a vis the danger to society and individual criminal liability.

### 6.8 The rights of victims of trafficking and access to services

In nine of the reviewed cases, the victims of trafficking were referred for assistance and social services by law enforcement and received services as needed, while 4 cases were not referred and did not receive services.

Four (4) cases received a full package of services including safe housing, healthcare services, psycho-social support, legal aid, education, vocational training, monitoring, and follow-up in the reintegration process.

Four (4) cases were provided with housing, psychological, legal, and healthcare support. 1 case received support for her child.

Two cases received psychological support only after they provided their statements but were not referred to other services.

In two other cases no support was provided, and no one reached out to the victims of trafficking.

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It is observed that cases that were referred and received services are those cases where the cooperation and testimony of the victims were stronger.

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Legal aid was provided to 8 cases subject to this review.

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For the case of the minor FA, in addition to the entire package of services, legal aid was also provided for a criminal proceeding initiated against her for malicious use of telephone calls.<sup>42</sup>

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In the cases reviewed compensation was neither claimed nor initiated for the victim/victims of trafficking.

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<sup>42</sup> Case 4 in Annex 1

## VII. CONCLUSION AND RECOMMENDATIONS

### 7.1 Conclusion

Conclusions and recommendations that emerged from this analysis about trafficking cases are focused in improving identification, investigation, and adjudication of criminal acts of trafficking by considering the rights of the victims of trafficking. The recommendations shall inform the preparation of training materials for law enforcement authorities in Albania. The investigation of criminal offense of trafficking is focused on trafficking for the purpose of sexual exploitation, thus neglecting other forms of exploitation such as labor, criminal activity etc. Most of the cases analyzed were based on reactive investigation, no proactive investigation was identified.

Concerning the analysis of cases dismissed by the Prosecutor's Office or in the pre-trial hearing, it is observed the reasons are due to the incomplete investigation, and instead, further investigative actions should have been carried out. In some cases, no timely actions were taken to collect relevant evidence, and, in some cases, special investigative methods were not applied. In some cases, the qualification and requalification of the criminal act were done without a proper analysis of the elements of the offense. Given the relation of the victims with the traffickers, sometimes the statements were partial, or the facts were altered in order to strengthen the position of the defendant. There was a lack of information in the statements of family members or what they reported did not exist.

Furthermore, in some instances, the Prosecution Office didn't contact all the victims of trafficking. Cooperation between Police and service providers appears at better levels compared with the cooperation between Prosecutor's Office and service providers. In some of the cases analyzed the victim-centered approach was not applied. The court did not request a psychological assessment for the victim of trafficking and as a result, did not consider the psychological effect the exploitation of any form might have had on the victim.

The analysis found that law enforcement institution while exercising their duty, do not always have an approach toward victims that considers the trauma they have experienced during trafficking. It would be necessary to further strengthen capacities in this regard. Also, it is observed that law enforcement agencies in Albania recognize and implement the rights of victims of trafficking to receive services, either in cooperation with State Social Service or other organizations that provide relevant services.

### 7.2 Recommendations

#### *Recommendations regarding identification*

- To increase the capacities of Child Protection Workers in relation to familiarization and application of SOPs for the identification of children victim of trafficking of any form of exploitation.
- Enhance the capacities of Labor State Inspectorate in identifying potential victims of trafficking according to PSV into effect and strengthening the cooperation of this institution with anti-trafficking units of Albanian State Police.

*Regarding the investigation*

- It is recommended to conduct an in-depth and careful investigation of any report given by both victims of trafficking and their families in cases of trafficking for any form of exploitation;
- It is important to collect as soon as possible any evidence for these criminal offenses;
- In cases of international trafficking, consideration must be given to immediate information exchange with transit and destination countries through liaison officers and the Ministry of Justice;
- Taking into account the complexity in the investigation of cases of trafficking in persons, it would be very effective to create special units for the investigation of this category of criminal offenses at the District Prosecutor's Offices;
- Prosecutors and Judicial Police Officers should employ a holistic approach, not superficial, mainly focused on proactive and victim-centered investigations;
- When there is a qualification of the criminal action against the defendant, it is advised to specify the form of exploitation/exploitations of the recruited/transported victim, e.g. "Trafficking of minors for labor or sexual exploitation, etc.";
- It is recommended to inform and guide victims on their right to compensation, by submitting a civil lawsuit in the criminal proceeding. For an effective application of this right, exhaustive investigative steps should be undertaken to establish the degree of harm that the victim has suffered due to trafficking;
- A fair analysis of the elements of the criminal act, of the vulnerability of the victim, from recruitment until the final purpose of exploitation, means employed by the trafficker for the recruitment, the in-depth analysis of the prosecutor in the events when there is "consent"
- by the adult victim for exploitation should be undertaken, in order to find out whether it is a combined consent, meaning the combination of the criminal aspect with the psychological and social aspect.
- It is recommended to increase communication and cooperation with victims of trafficking. Good cooperation with the victim increases credibility and trust in justice by encouraging victims to be an active part of the process, as well as providing evidence and giving evidence, which leads to a proper and successful trial of the perpetrators.
- It is recommended to Judicial District Prosecutor's Office and service providers to reach out to victims of trafficking for the referral thereof to Shelters for their protection;
- When legal criteria stipulated in CPC are met, then evidence and the victim's statement should be collected at the investigation stage not to leave room for the perpetrators to tempt the victims with promises in return for changing their statements, which would subsequently lead to failure of the proceeding.
- In order to avoid re-victimization, and to avoid questioning the victim, it is recommended to conduct the examination only once if possible.
- To enforce the provisions of the criminal legislation for non-criminalization of the victim for offenses committed while they were a victim.
- In the case of trafficking of minors, Article 128/b, regardless that the law does not specifically stipulate domestic trafficking, Prosecutor's Office should refer to international agreements, ratified by law, which prevail on the national law in the event of a legal contradiction. Also logically, if it is provided for in Article 110/a "Trafficking of adults" it does not make sense not

to apply it in the case of minors. However judicial practice has advanced concerning domestic trafficking of minors.

- The financial investigation of the suspects, alongside the criminal investigation, is an element that, in addition to the application of the anti-mafia law, would also serve as evidence in the criminal proceeding related to the criminal fact of trafficking.

#### *Regarding the adjudication*

- Increasing the sensitivity of the judicial on the matter of trafficking of human beings;
- Establishing in the courts a special and hosting environment for victims of criminal acts;
- Upgrading technical tools for collecting remotely the statement of victims of criminal acts;
- Providing psychological and legal support to victims of crime in line with the standards enshrined in the Juvenile Code;
- Enhancing confiscation of criminal assets in criminal proceedings, based on the type of criminal act of trafficking human beings.
- Enhancing cooperation between institutions, including with the judiciary.
- Training the judiciary at the regional and central levels both in multidisciplinary training and training tailored to their role.

In order to have successful adjudication in prosecuting trafficking in persons, in addition to the need for all judges dealing with these cases to receive specific training in adjudicating these cases, some critical steps are very important such as:

- Regular notification of intrajudicial parties, with a special focus on the defendant and victim(s) of the criminal act;
- Selecting a proper trial process to find the truth about the case in trial and finding a balance between truth and judicial economy;
- Cross-checking the evidence and the manner in which they were collected (invalidity, unitability)
- Conducting a full judicial investigation to clarify unclear details of the event with the prosecutor's evidence;
- Taking a final decision informed by a detailed analysis of the trial evidence by assessing authenticity, accuracy, and relevance to the case;
- Proper legal qualification of the fact subject to trial pursuant to the material criminal law and international acts based on the principle *iuria novit curia*.
- Giving the right sentence to perpetrators for their acts against victims of the criminal act *vis a vis* their danger to society and individual criminal liability.

#### *Regarding the compliance with the rights of the trafficking victims during the criminal proceeding:*

- Law enforcement agencies should have a trauma-informed care approach to support the victims, and victims of trafficking should be approached by first addressing their need for protection;

- It is important to respect the rights of the victim and to establish a good relationship throughout the investigation and trial;
- Communication with the victim should be considered a part of cooperation wherein the Prosecutor's Office and the Police guarantee the security of the victim(s) in the process, followed by specific measures for the physical security of victims as well as guaranteeing other rights, including compensation and reintegration;
- It is essential at all stages of the process to apply a victim-centered approach in all actions with the purpose to do justice and at the same time putting to trial perpetrators of the trafficking in persons;
- Victims of trafficking ought to be informed of their rights throughout the criminal proceeding and assist them in benefiting from these rights;
- Victims of trafficking should be referred for protection and services to service providers and institutions specialized in the protection of victims of trafficking;
- Victims of trafficking are entitled to compensation, and they should be assisted to claim compensation and they should be assisted throughout the process regarding this right;
- Protection should be provided to victims of trafficking in case of life threats, and they should be provided with the opportunity to become part of the Witness Protection Program and collaborators of justice.
- It is recommended to provide regular monitoring of the rights of victims of trafficking and of services provided to them.

#### *Interinstitutional cooperation:*

- Improvement and enhancement of cooperation between Judicial District Prosecutor's Office and service providers of victims of trafficking, in particular with victims of trafficking shelters.
- Strengthen the role of Victims Coordinator at the Judicial District Prosecutor's Office in protecting victims of criminal acts including victims of trafficking. To become more active in enhancing cooperation with service providers. Regular communication between coordinators at the Judicial District Prosecutor's Office and service providers to guarantee the protection of and compliance with the rights of victims of trafficking.

#### *International cooperation*

- To investigate the possibility of establishing joint investigation teams in cases when there is doubt that victims of trafficking are recruited to be exploited abroad.
- To exchange regular and real-time information with liaison officers deployed at the Embassies for any alleged case of trafficking.
- The information received should serve to initiate proactive investigations for these criminal acts.

*Capacity building and training*

- Ongoing training should be provided to law enforcement staff, including police officers, prosecutors and district judges on the investigation of trafficking offenses, the identification of VoTs and their referral for protection as set out in SOP;
- The training module related to the investigation should include, inter alia, the legal qualification of the criminal acts of trafficking, the use of special investigation methods, as well as the initiation of proactive investigations;
- Staff of labor inspectorates should also be trained in relation to human beings trafficking indicators as per the SOPs, in order to identify cases of exploitation for labor;
- Senior SPAK prosecutors should provide training and support to district prosecutors;
- It is recommended to provide multidisciplinary training and sector-specific ones.
- It is important that the training be focused on legal amendments concerning the rights of the victims, of the victims of trafficking both during the criminal proceeding and social support by service providers.

*Capacity building plan*

The capacity-building plan should be comprehensive and drafted in cooperation with law enforcement institutions, the Office of the National Coordinator, the School of Magistrates, the Academy of Security, service providers for victims of trafficking, child protection system institutions including the State Agency for the Protection and Rights of the Child.

The capacity-building plan should include practical and dedicated activities for law enforcement institutions at the local and central levels.

It is proposed to include in the plan mentoring by senior and specialized prosecutors in the area of trafficking to prosecutors in the Judicial District Prosecutor's Office who are investigating cases of trafficking. Mentoring should be provided about specific ongoing cases investigated by District Prosecutor's Office. International experts should provide mentoring to SPAK prosecutors and prosecutors of District Prosecutor's Office Offices.

It is proposed to develop a manual of good investigation practices and trials for cases considered for this analysis.

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## ANNEX I. DESCRIPTION OF REVIEWED CASES

### **Case 1- Trafficking of two adult girls for sexual exploitation and forced labor**

#### *1. Case description*

Case 1 is that of the trafficking of two women for sexual and labour exploitation in Albania and abroad. The mother of victim 1 of the trafficking offense reported the trafficking abroad of her daughter by citizen N who got engaged with the victim in order to deceive her and her family members, while he was still married. At the same time, the father of victim 2 reported that his daughter was trafficked internally for sexual exploitation by citizen F, brother of the citizen N.

First, F started an intimate relationship and appears in love with the victims, and later he starts controlling them. The recruiter sent one of the victims abroad, in Kosovo to exploit her for labor as a waitress in a bar, while later in time the first and second victims were exploited both sexually and for forced labor as dancers in a bar with random clients in his hometown. He was assisted by citizen D, owner of the bar where the victims worked. Following, F, in cooperation with another citizen S, resident in Italy planned to exploit them abroad, in Italy. Their journey abroad (Kosovo) <sup>43</sup>was carried out by vehicle, while to Italy it was planned by sea. The trafficker F would initially cover transport costs and the victims would later pay back the costs.

#### *2. Actions by the police*

Judicial police at the Local Police Directorate, after receiving the reports from family members, arrested the defendants in flagrante delicto and prevented the victims from going abroad. The Police referred the victims to a Shelter, and at the same time referred the cases to Serious Crimes Prosecutor's Office and registered the respective proceeding.

#### *3. Actions by the Prosecution*

The Prosecutor's Office for Serious Crimes registered the criminal proceeding for the criminal offense of "Trafficking in adults" provided for by Article 110/a of the Criminal Code. During this investigation, the two victims of trafficking, who were accommodated in a Shelter, were questioned their statement was documented as provided for by CPC. Also, statements of family members of victims and of the suspects were collected. As additional evidence to support the investigation, mobile surveillance, examination of mobile phone data, interception of telephone communications, and environmental interceptions were used. The Prosecutor's Office managed to secure the evidence of one of the victims, who, because of pressure that the defendant and his family members could put on her to change the statement.

At the end of the trial, the prosecutor requested:

- To pronounce defendant 1 guilty for the criminal offense "Trafficking of adults" in collaboration, against victim 1, stipulated by Article 110/a/4 of the Criminal Code, and to sentence him with 17 (seventeen) years of imprisonment.

<sup>43</sup> Kosovo under United Nations Security Council Resolution 1244(1999). All references to Kosovo in the present document should be understood in the context of the United Nations Security Council resolution 1244 (1999).

- To pronounce defendant 1 guilty for the criminal offense “Trafficking of adults” in collaboration, against victim 2, stipulated by Article 110/a/4 of the Criminal Code and to sentence him with 17 (seventeen) years of imprisonment. In imposing the sentences according to Article 55 of the Criminal Code, defendant 1 receives one single sentence of 18 (eighteen) years of imprisonment.
- To pronounce defendant 2 guilty of the criminal offense “Exploitation for prostitution” against some persons, stipulated by Article 114/2 of the Criminal Code, and to sentence him with 8 (eight) years of imprisonment.

#### *4. Actions by the Court*

The process was conducted in an ordinary trial at the First Instance Court of Serious Crimes, and it lasted for a year, due to the rogatory letter to inform the defendant who was abroad. All evidence collected during the investigation was subject to litigation. The victim during examination in trial maintained her statements during the investigation. For one of the victims, the evidence was secured during the investigation. No claims on invalidity or unitability of the evidence were submitted. The testimony was received in a hearing. There were no issues in collecting trial evidence. The victim during trial confronted the defendant and there was no need for procedural protection measures. Acquainted and friends of the victim were questioned. The defendant and the defense did not submit any evidence and litigated the evidence supporting the charges.

At the end of the process, the court found the defendants guilty and sentenced of them to 17 (seventeen) years of imprisonment for the criminal offense “Trafficking of adults”, in collaboration, stipulated by Article 110/a/4 of the Criminal Code, and the other defendant to 7 years and 6 months of imprisonment for providing the premise where victims of trafficking were forced to work as dancers.

#### *5. Compensation for the victim of trafficking*

No compensation was claimed for the victims of trafficking.

#### *6. Institutions involved*

Sector against Illegal Trafficking in the Local Police Directorate, the Serious Crimes Prosecutor’s Office, the First Instance Court of Serious Crimes, and a Shelter for victims of trafficking were involved in investigations of this case.

#### *7. Main challenges*

- Fully tracing actions carried out by the offenders;
- The relation and cooperation of victims of trafficking with law enforcement agencies;
- Collecting and documenting in full statements of the two victims when they were under the control of the trafficker all the time;
- Clarifying the timeframe of the offense from the victims, in particular from the victim who was exploited for a longer time;

- Searching and finding evidence that supports statements of the victims of trafficking.

### *8. Lessons learned*

The case was investigated carefully and with due diligence on all actions committed by the perpetrators of criminal offenses.

## **Case 2 – Trafficking of a minor of 17 years old for sexual exploitation**

### *1. Case description*

Case 2 is related a 17-year-old minor girl who was trafficked for sexual exploitation abroad, in Belgium and Netherlands respectively. She was recruited by taking advantage of her vulnerable situation, she didn't have stable accommodation, her parents were divorced, and she didn't get along with her mother (legal guardian). The recruiter created an intimate relation and promised her a safe future taking advantage of her feelings for him. The case was reported to the Local Police Directorate by her father (who was not the guardian parent), who was informed via text message by a relative that his daughter could be trafficked.

The sudden departure of the minor abroad, the telephone calls with contradictory statements, and the subsequent halting of all telephone communications made her father suspect the likelihood that his daughter could be trafficked and reported the case to the police.

### *2. Actions by the Police*

The Sector for the Fight against Illegal Trafficking received the report and then the statement of the father of the victim of trafficking, and referred the case to the District Prosecutor's Office, which registered the relevant criminal proceedings file.

### *3. Actions by the Prosecutor's Office*

District Prosecutor's Office initiated the proceeding/case after conducting preliminary investigative actions (questioning witnesses, checking data in the TIMS system) and transferred the case due to the subject matter competence to Serious Crimes Prosecutor's Office.

The latter collected the testimonies of the victim of trafficking and her relative. Additionally, they examined the mobile phone owned by the minor (victim) and examined TIMS, ID, and passport. The case prosecutor received a statement from the victim but did not secure the evidence. The interview of the minor was

done in the presence of a psychologist. Special means of the investigation were not employed in this case and the Prosecutor's Office did not submit a request for international cooperation.

The process lasted two months from the moment the case was reported until it was dismissed. Eventually, the competent body found that "the criminal element of trafficking is only based on the perception of the father, unsubstantiated by facts". The case prosecutor decided to dismiss the case for the criminal offense "Trafficking of minors".

#### *4. Actions by the Court*

The case was not transferred for trial as it was dismissed by the Serious Crimes Prosecutor's Office.

#### *5. Access to justice and services*

The case was not referred for services .

#### *6. Main challenges*

- The challenge in this case was receiving the statement of the minor, who refused to cooperate with justice authorities when giving her statement, by denying that someone abused or exploited her;
- Meanwhile the Prosecutor's Office didn't go further in the investigation by collecting additional evidence;
- The Prosecutor's Office in its decision on dismissing the case does not mention anywhere if further actions were undertaken concerning the way how the minor obtained a passport and her trips abroad;
- No actions were carried out regarding the places she stayed in Tirana during the time she claimed she was attending a hairdresser course; who were her friends during her stay and who covered the costs of her stay and the fee of the course;
- The decision says that the minor was living with her grandparents, however, no inquiry was made if they were the legal guardians of the minor;
- Moreover, the Prosecutor's Office did not go in-depth regarding the relation of the minor with her boyfriend, his profile, and financial resources for covering the costs of her trip abroad;
- It is still contradictory how the minor traveled so frequently abroad when she met her boyfriend only a few months ago;
- The Prosecutor's Office did not undertake any actions to interview the minor's friends, with whom she claims that she has traveled abroad;
- The Prosecutor's Office did not collect any information regarding the travel route of the minor abroad, including the taxi to Durres;
- The Prosecutor's Office did not seek legal aid from the countries that the minor traveled to and stayed outside Albania, including the identification of the telephone number that she used to call her father, the documents she used to travel and stay in the Schengen zone;
- It is unclear from the Prosecutor's Office's decision how she traveled to Amsterdam where a relative of hers waited for her and then she stayed for about a week in a city in Belgium;

- The decision does not mention whether the relative of the minor was contacted or interviewed to provide information regarding her trip and stay;
- The decision does not mention whether a psychological assessment of the minor was carried out to understand under which circumstances she gave her statement to the Albanian State Police.

### *7. Lessons learned*

- The Serious Crimes Prosecutor's Office has not gone into details to identify any of the elements of the criminal offense.
- It appears that no contacts were established with the victim of trafficking who most likely was recruited and exploited by taking advantage of her vulnerability;
- The Prosecutor's Office did not conduct any investigation concerning the financial position of her boyfriend and the reasons why he paid the costs of her travels abroad;
- She was not referred to any support services nor in her contacts with the Prosecutor's Office or the Police which could subsequently affect her cooperation with justice.

## **Case 3 – Trafficking for sexual exploitation of a woman of 24 years old**

### *1. Case description*

JM is a 24-year-old girl who comes from a southern city of Albania. JM was lured into marriage through deceit by SO, but she ended up sexually exploited in Italy.

SO who trafficked her was in fact already married to another person, but JM was not aware. She traveled abroad through the expedited procedure with the person in question with whom she had

an intimate relationship. They left through the Border Crossing Point of Murriqan, without the consent of her family members, who were suspecting her trafficking.

### *2. Actions by the Police*

The case was referred by the judicial police officer at the Local Police Directorate, who received information from confidential police sources that the suspect, through deceit, after establishing intimate relations with various citizens of the area, trafficked them for sexual exploitation abroad. The trafficking indicators are:

- Sudden departure of the victim abroad,
- Expedited procedure for issuing the documents,

- Change of personal data of the suspect a few days prior to departure,
- Objection from family members,
- The ongoing marriage of the suspect with another citizen.

### *3. Actions by the Prosecutor's Office*

The Serious Crimes Prosecutor's Office initiated the proceedings based on the referral of the judicial police officer at the local police directorate.

The Prosecutor's Office conducted several investigative actions such as questioning witnesses and checking data in the TIMS system. The case prosecutor of the case also received evidence from the victim's father and the suspect's wife, as well as another sexually exploited person. Meanwhile, the prosecutor of the case did not conduct an interview with the victim as she lived in Italy. She was married to an Italian citizen and had started her new life there. A rogatory letter was sent through the judicial authority of the Court in Italy where the victim stated that he knows the person suspected of this criminal case, but he has not exploited her.

The prosecutor decided to close the criminal proceeding and dismiss the criminal offense of "Trafficking of adults".

### *4. Actions by the Court*

The case did not go to trial as it was dismissed by Serious Crimes Prosecutor's Office.

### *5. Access to justice and services*

No support was provided, and the victim was not contacted or questioned.

### *6. Main challenges*

- The suspect was married during all the time that he traveled to Italy with the potential victim, but the Prosecutor's Office does not mention whether they asked his ex-wife during the interview if she was aware of these trips;
- It was found that the potential victim arrived in the destination country, in Italy, only a few days after she left Albania, and shortly after arrival she started to work as a prostitute, but the Dismissal Decision does not say how did the victim enter Italy, what was the reason of her trip and who was waiting for her there.
- The responses to the rogatory letter do not mention whether the Italian spouse of the victim was questioned regarding the marriage and their relation.
- The prosecutor in his decision concludes that no action was undertaken by the suspect for trafficking the potential victim. However, it is not clear whether further investigation as to why he provided the passport with an expedited procedure.

- There is no in-depth investigation if we are facing a criminal act by the suspect in terms of recruiting the victim, preparing her, and transporting her to Italy for the purpose of her sexual exploitation.
- The Decision refers to some investigative actions, but in no case is it clear whether the suspect was interviewed concerning his alleged actions.

### *7. Lessons learned*

The case was dismissed without going further into the investigation. Relevant evidence was not collected timely, there was no real contact with the victim and no special investigative method was applied.

## **Case 4 – Trafficking of a minor girl of 17 years old**

### *1. Case description*

Case 4 is that of a minor who reported the person that was going to exploit her to Greece. Such reporting was carried out after she and the suspect were escorted to the Police Commissariat as they were found sleeping outside a bar by the border police. The minor explained to the border police that they were planning to travel illegally given that they had no papers, and she had no passport. In Greece, he was going to introduce her to a friend who was going to teach her how she was going to do her job.

### *2. Actions by the police*

Border Police based on some indicators detained and escorted her and her companion to the Police Commissariat. Inappropriate stay near the BCP of the victim and the suspect, lack of traveling documents made the police officer suspect case of trafficking. The police officer received the report from the victim and reported the case to the District Prosecutor's Office and in the meantime referred the victim of trafficking to a Shelter.

### *3. Actions by the Prosecutor's Office*

District Prosecutor's Office initiated a criminal proceeding based on the report of the minor and declared non-competency and transmitted it to the Serious Crimes Prosecutor's Office which accepted the act and took forward the investigations.

The case prosecutor carried out some investigative actions such as interviewing witnesses, checking data in the TIMS system, examining the mobile phone, interviewing the suspect, telephone, and environmental



interception, and used statements of the victims who stated that whatever she declared to the police was not true and that she was tired and scared for her boyfriend who was accused of a criminal act in his hometown. In the end, the prosecutor prepared a request to dismiss the case.

#### *4. Actions by the Court*

The case was dismissed by a decision of the pre-trial court in the court of the first instance for serious crimes at the request of the prosecutor.

#### *5. Access to justice and services*

The case was supported with services such as safe accommodation, health services, and psychological support provided by the staff of the Centre.

#### *6. Main challenges*

Taking a full statement by the victim including details of the event, considering her age and emotional situation.

#### *7. Lessons learned*

The case was dismissed in a pre-trial hearing following failure to complete the investigation. The court did not exercise properly its role concerning judicial oversight of investigations conducted, which appear superficial for this case and evidence collected by means of special investigative measures is missing.

### **Case 5 –Trafficking of a woman 19 years old**

#### *1. Case description*

Case 5 was engaged to a person with whom she had previously established an intimate relationship. After performing family ceremonies, they went abroad to Italy without the consent of her family members who were suspecting trafficking for the purpose of sexual exploitation. The case was reported by the father of the victim who informed the police of the likelihood of his daughter's trafficking given the sudden departure of the newly engaged couple without his consent.

The sudden departure of the girl abroad, telephone calls with contradictory statements, and her willingness to spend significant amounts of money on her family members, shortly after settling in Italy made her father suspicious.

## *2. Actions by the Police*

The sector against Illegal Trafficking in the Local Police Directorate received the statement of the father, but a month after decided not to initiate a case because of the insufficient evidentiary data from which it could be found whether the criminal offense was carried out or was still ongoing.

## *3. Actions by the Prosecutor's Office*

The Serious Crimes Prosecutor's Office initiated a criminal proceeding based on the repeated reports of the father of the victim and after carrying out some investigative actions (interviewing witnesses, checking data in the TIMS system, telephone interceptions) dismissed the case. The case prosecutor did not interview the victim. Special investigative actions were carried out such as interception of telephone calls. A request for international cooperation was not submitted in this case. The criminal proceeding was ended following the decision of the prosecutor to dismiss the case "Trafficking of adults".

## *4. Actions by the Court*

The case was not filed for trial as it was dismissed by the Serious Crimes Prosecutor's Office.

## *5. Access to justice and services*

The case was not referred for services and the victim was neither contacted nor interviewed.

## *6. Main challenges*

The prosecutor in his decision mentions that after the report by the victim's father, the relatives of the suspect went to her family to perform the engagement according to family tradition, such a thing was mentioned even before the report was made about the possible trafficking of the victim. It is not clear whether these traditions have been performed twice.

Based on the report, the father of the victim asked the father of the suspect not to allow his daughter to go abroad, however, it does not say in the request whether the latter was interviewed regarding the reason for this request.

The prosecutor in his decision does not mention whether he reached out to the potential victim in order to interview her about the circumstances of the case in question.

## *7. Lessons learned*

The case was dismissed without going further into the investigation.

Actions were not taken in time to collect relevant evidence, but there were no contacts with the victim of the trafficking, and cooperation with Italian justice authorities was not requested.

## **Case 6 - Trafficking of a woman exploited for begging**

### *1. Case description*

Case 6 was begging in the streets of Tirana, when she was noticed by the journalists of one television station, who, after interviewing the victim and the brother, broadcasted the case on TV.

After the judicial police were informed about the case, they referred it to Serious Crimes Prosecutor's Office. The victim is a physically disabled woman who was exploited for begging in the center of Tirana by her brothers. She started begging when she was a minor (12 years old) being exploited by her brothers.

### *2. Actions by the Police*

No actions because the proceeding was initiated directly by the Prosecutor's Office Office.

### *3. Actions by the Prosecutor's Office*

Judicial police at the Serious Crimes Prosecutor's Office referred the case based on the information received by a TV channel broadcasting the case of the victim and the Serious Crimes Prosecutor's Office initiated a criminal proceeding "Trafficking of adults" with the purpose of exploitation for begging, under Article 110/a/4 of the Criminal Code.

The Prosecutor's Office gathered as evidence statements by the victim and her family members; Indicative evidence; examining the mobile phone, questioning the suspect, recording of calls, telephone interceptions, and acts of the victim's expertise. Two interviews were conducted with the victim.

### *4. Actions by the Court*

The First Instance Serious Crimes Court used the typical trial procedure in this case. Defendants were summoned as per the procedure (with the security measure of imprisonment) and they were present throughout the trial and were provided with effective defense by special counsels chosen by the defendants themselves. All gathered evidence during the investigation was subject to litigation.

During the examination in the trial, the victim changed her testimony by altering the facts she had already provided. No inquiries have been made into the invalidity or unitability of the evidence. The testimony was taken during the trial. There were no issues with obtaining evidence at trial.

The victim confronted the defendants during trial and there was no need to apply procedural tools in favor of the victim. Family members of the victim, who are also family members of the defendants were questioned. The defendants and Defense did not submit any evidence and instead litigated the evidence of the accusing party.

There was a change in the legal qualification from the court, from the charge of the case prosecutor "Trafficking of adults" in collaboration, provided for by Article 110/a/4 of the Criminal Code, to "Mistreatment of minors" in collaboration, provided for by Article 124/b paragraph 2 and 25 of the Criminal Code.

Lastly, the court concluded with a conviction where the sentence for the perpetrators is 5 (five) years of imprisonment for one of the defendants and 4 years and 6 (six) months for the other defendant. Imprisonment in the ordinary security prison was executed.

### *5. Access to justice and services*

The case was not referred for services, and there was no request for reparation.

### *6. Main challenges*

Ensuring the testimony of the victim considering her in kin relation to the defendants.

### *7. Lessons learned*

- The case was not adjudicated under the offense of trafficking by the Serious Crimes Prosecutor's Office and another criminal provision was applied;
- Gathered evidence was not properly assessed as well as the relevance of each item to the case;
- In kin relation of the victim to the defendants was overseen, by paying more attention to the economic and social circumstances of individuals involved in the event;
- Even though the victim was assessed as a minor due to the intellectual disability of the victim, the court did not consider that the elements of the criminal offense of trafficking
- were fulfilled. Albanian criminal legislation also recognizes internal trafficking, so the movement does not necessarily have to happen abroad, but also within the country from one city to another;
- Also, consent by the victim is irrelevant because of her intellectual disability she was considered a minor.

## **Case 7- victim of trafficking a minor girl of 17 years old**

### *1. Case description*

Case 7 is a minor girl who was sexually exploited by some persons domestically, who also tried to traffic her abroad to Greece for sexual exploitation. The girl was recruited by three persons who proposed to her to work as a sex worker abroad for financial gain. One of the recruiters was a friend of the girl and two other her acquaintances.

The recruiters moved the minor from her apartment to a border town near Greece from where they would transport her abroad.

The mother reported to the Local Police Directorate the case and she informed them regarding the departure of the girl for 18 days, without any information to her family, that her mobile was turned off after leaving her apartment, and how the minor's friend changed her statements as to the location of the girl.

## *2. Actions by the Police*

The Officer of the Sector against Illegal Trafficking at the Local Police Directorate, after receiving the report, referred the case to the Serious Crimes Prosecutor's Office.

## *3. Actions by the Prosecutor's Office*

The Serious Crimes Prosecutor's Office registered the criminal proceedings for the offense "Trafficking of minors" in collaboration provided by Article 128/b of the Criminal Code. The recruitment of the minor was allegedly done for the purpose of sexual exploitation.

The Prosecutor's Office used as evidence the statements taken from the victim, her relatives, and the relatives of the suspect; unconfirmed indicative evidence; mobile phone examination, interception of telephone calls, and an environmental interception.

The Prosecutor's Office conducted two interviews with the victim. Also, the Prosecution Office authorized the application of special investigative methods but eventually decided to dismiss the case.

## *4. Actions by the Court*

The case was not tried for substance. Upon the request of the Serious Crimes Prosecutor's Office, the criminal proceeding was closed pursuant to a dismissal determination by the Court in a pre-trial hearing.

## *5. Access to justice and services*

The case was not referred for services.

## *6. Main challenges*

Gathering evidence in order to unfold the events by paying attention to details.

## *7. Lessons learned*

- The case was investigated and dismissed following the argument that "the fact clearly does not exist", without an in-depth investigation and analysis of collected evidence.
- The decision refers to the fact that the girl was sexually exploited domestically, however, this fact was not investigated;
- The investigation did not go in-depth regarding the persons related to the girl, her movements within the country, and the arrangements to travel abroad.

- The fact that the girl gave her consent to work as a sex worker is irrelevant in the case of trafficking of minors. The criminal act shall be considered fulfilled if the recruitment or transportation or housing has been carried out for the purpose of exploitation, etc., without the need for the existence of means such as intimidation, deceit, etc.
- The court did not perform properly the judicial control function.

### **Case 8 – Victim of trafficking a minor girl of 16 years old**

#### *1. Case description*

Case 8 is that of a minor who was recruited through deceit for a romantic relationship but ended up exploited for labor and sexual services by her recruiter. He displaced the minor out of her apartment into a bar in the capital where she was sexually exploited by random customers and for labor as a dancer.

The minor was found during a police raid in the bar where she was allegedly exploited for sexual services and was escorted to the Police Commissariat to be questioned regarding the event.

#### *2. Actions by the Police*

The Sector against Illegal Trafficking in the Local Police Directorate, following a police search in the bar where the minor was suspected of being exploited, found the minor girl who worked as a dancer in the bar, away from her place of residence, in the company of some girls who did not know each other regardless that they were sitting at the same table. The police escorted the minor to the police station, and they referred her for services in a shelter.

Upon identification and referral of the minor for services, the Police referred the case to Serious Crimes Prosecutor's Office that registered the criminal proceeding.

#### *3. Actions by the Prosecutor's Office*

The Prosecutor's Office initiated the proceeding for the criminal offense of "Trafficking of minors" Article 128/b/1 of the Criminal Code "Recruitment for sexual exploitation of minors".

Evidence used by the Prosecutor's Office consists of statements of the victim, her family member, and the family members of the suspect; examination of the mobile phone; expertise of the mobile content; interception of calls; environmental interception. The victim was interviewed twice, and special investigation methods were applied.

#### *4. Actions by the Court*

The First Instance Serious Crimes Court in this case held the ordinary trial procedure. All evidence gathered during the investigation was subject to litigation. During the examination, the victim maintained the statements provided during the investigation.

There were no issues with the collection of evidence in the trial. The victim provided her testimony and confronted in the trial the defendant as well as the acquaintances and friends of the victim questioned.

The defendant and the Defense did not submit any evidence and litigated based on the evidence of the accusing party.

By trial judgment, the Panel pronounced the defendant guilty and sentenced him for the offense “Trafficking of minors” as provided for by Article 128/b/1 of the Criminal Code. There was no change in legal qualification by the court, thus remaining the same as the charge of the prosecutor.

The defendant was sentenced to 11 (eleven) years of imprisonment. The sentencing was executed in an ordinary security prison. The duration of the trial was 8 months.

#### *5. Access to justice and services*

The case was referred for services to a Shelter and the victim was supported with accommodation and all respective services, as needed.

#### *6. Main challenges*

- Establishing a connection with the victim with the purpose of collaboration with justice authorities.
- Receiving her statement and the statement of other girls working at the bar regarding their work and potential exploitation for another illegal service.
- Establishing the connection between the defendant and the victim as well as the role he had while she was trafficked.
- Identification of accomplices of the defendant.

#### *7. Lessons learned*

This case was properly investigated thus leading to a successful trial. In the case, careful consideration was given to evidence both in receiving and documenting them.

## **Case 9 – Two adult victims of trafficking**

### *1. Case description*

Two citizens, a father, and a son recruit and exploit minors and adults for sexual exploitation within the country and abroad in Italy. They recruit their victims by establishing intimate and seemingly loving affairs and then exploit them by threatening them and their families. Recruiters transferred the girls to Italy where they were sexually exploited. The trips were carried out by ferry from Tirana to Italy. Costs were borne by the traffickers (father and son).

### *2. Actions by the Police*

Albanian State Police Headquarters, the Organized and Serious Crimes Department through case preventive interceptions and observing the money transferred by the girl to the defendants informed the Serious Crimes Prosecutor's Office regarding the potential criminal activity of the two citizens, i.e father, and son, concerning the recruitment of girls for sexual exploitation in Italy.

### *3. Actions by the Prosecutor's Office*

Based on this information the Serious Crimes Prosecutor's Office of the First Instance Court recorded the criminal proceeding for the offense "Trafficking of adults" as provided for by Article 110/a/2 of the Criminal Code charging the two individuals with in-kin relations, i.e the father and son.

The Serious Crimes Prosecutor's Office of the First Instance Court sent a letter of judicial assistance to the Italian authorities, to make some checks related to both citizens. The Ministry of Justice has forwarded to the Serious Crimes Prosecutor's Office of the First Instance Court the material received from the Italian authorities regarding the execution of the rogatory letter.

### *4. Actions by the Court*

The Serious Crimes First Instance Court in Tirana, in the two respective judgments, issued the security measure "imprisonment" for the father and the son and two other citizens involved in the trafficking of adults. In the end, the court decided:

- To pronounce guilty defendant 1, for the commission of the offense "Trafficking of adults" in collaboration more than once, as provided for by Article 110/a paragraph I 4 of the Criminal Code, and sentenced him to 20 (twenty) years of imprisonment.
- Pursuant to Article 406 paragraph 1 of CPC, the defendant shall be deducted 1/3 of his sentence and shall be sentenced to 13 (thirteen) years and 4 (four) months of imprisonment total.
- Found guilty defendant 2 for the commission of the offense "Trafficking of adults" in collaboration, as provided for by Article 110/a paragraph I 4 of the Criminal Code and sentenced him to 15 (fifteen) years of imprisonment.
- Found guilty defendant 2, for the commission of the offense "Trafficking of minors" in collaboration, as provided for by Article 128/b paragraph 3 of the Criminal Code and sentenced him to 16 (sixteen) years of imprisonment.



- Found guilty defendant 2 for the offense “Exploitation for prostitution” in collaboration, as provided for by Article 114 paragraph 2 of the Criminal Code and sentenced him to 8 (eight) years of imprisonment.
- Pursuant to Article 55 of the Criminal Code (Law No.144, of 2013), by the imposition of sentences, defendant 2 was imposed a single sentence of 18 (eighteen) years of imprisonment.
- Pursuant to Article 406 paragraph 1 of the CPC, defendant 2 shall be reduced 1/3 of the sentence and shall be sentenced to 12 (twelve) years of imprisonment.

#### *5. Access to justice and services*

The case was not referred for services.

#### *6. Main challenges*

- Identification of victims of trafficking and their collaboration with justice.
- Receiving the victim’s statements and the arrival of the rogatory letter in time.
- Application of special investigative methods.

#### *7. Lessons learned*

- Successful case of trafficking initiated by proactive investigation of the Albanian State Police;
- Application of special investigative methods (interception, surveillance) in order to identify the modus operandi used by suspects to recruit victims and their exploitation domestically and abroad;
- Identification of locations where victims were exploited, and tools used to force them;
- Attention to obtaining and documenting each piece of evidence is an important indicator of the steps following the proceedings until it closes with its final decision.

### **Case 10 – Minor victim of trafficking**

#### *1. Case description*

Case 10 at the age of 14 years old fled home, situated in a village in northern Albania, where she was living with her father, stepmother, and siblings. Her mother passed away when she was 8 years old.

After fleeing home, she arrived in the capital. Police informed her sister, who was living with a person, in Kosovo. Together with her sister, she went to Kosovo<sup>44</sup>. During her stay there, she was exploited by her sister's cohabitant, then she was exploited again in Tirana by a man and a woman who took advantage of her vulnerable situation. They introduced her to someone else who proposed to her to go to Greece together in order to earn more money. Feeling scared, she escaped and went in person to the police station, where she made filed charges.

## *2. Actions by the Police*

The police officer at the Local Police Directorate received the report of the minor and referred the case to the Prosecutor's Office at the Judicial District Court of Tirana. Additionally, the case was referred to a Shelter of Victims of Trafficking.

## *3. Actions by the Police*

District Court Prosecutor's Office Tirana registered the criminal proceeding for the offense "Exploitation for prostitution", as provided for by Article 114 of the Criminal Code, based on the report of the minor who claimed that she was exploited for prostitution by an unknown citizen. The Prosecutor's Office, following the examination of investigative materials, found that the suspects recruited and exploited the minor citizen, and announced its non-competence. Through their actions, the suspect fulfilled the elements of the offense "Trafficking of minors", as provided for by Article 128/8 of the Criminal Code which falls under the competence of the Prosecutor's Office of the First Instance Serious Crimes Court in Tirana.

## *4. Actions by the Court*

The First Instance Serious Crimes Court after deliberation:

- Found guilty defendant 1 for the criminal offense of "Trafficking of minors" in collaboration, against the victim, as provided for by Article 128/b paragraph 3 of the Criminal Code and sentenced to fifteen years of imprisonment.
- Found guilty defendant 2 for the criminal offense of "Trafficking of minors" in collaboration, against the victim, as provided for by Article 128/b paragraph 3 of the Criminal Code and sentenced to fifteen years of imprisonment.
- Found guilty defendant 3 for the offense of "Not reporting a crime" as provided for by Article 300, paragraph 1 of the Criminal Code and sentenced with one year of imprisonment.
- Execution of sentence for all three defendants in an ordinary security prison.

## *5. Access to justice and services*

The case was referred for services to a Shelter and was granted a full package of services.

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<sup>44</sup> Kosovo under United Nations Security Council Resolution 1244(1999). All references to Kosovo in the present document should be understood in the context of the United Nations Security Council resolution 1244 (1999).

### *6. Main challenges*

Documenting the victim's testimony and collecting in a timely manner any evidence relevant to the case.

### *7. Lessons learned*

Investigation step by step by the prosecutor in identifying and documenting relevant evidence in a timely manner and keeping them away from any influence during the trial of the case.

## **Case 11- An adult victim of trafficking**

### *1. Case description*

Case 11 is a 21-year-old living with her parents and two sisters. They had an average economic situation. Family relations in general were good. She met a boy and established a relationship with him for about 1 year. The family was aware that she was dating this boy and they didn't stop her from doing so nor were they supporting it. After he gained her trust, he asked her to go to Germany where she could enroll in a university, and they would live together. She was tempted by the proposal and informed her parents who got worried and felt the danger.

They strictly prohibited her to go to Germany and started quarreling with each other. On the other hand, the boy made all the traveling arrangements. She fled home and didn't answer the phone to her parents. Parents were worried and reported to the police her departure. She left her hometown for the capital in the car of her boyfriend's friend. They spent the night in a hotel and the next day they wanted to travel to Germany but were detained by the border police.

### *2. Actions by the Police*

Border Police arrested in flagrante delicto the trafficker at the Border Crossing Point of Rinas, Mother Teresa Airport. That morning, at the border control booth the victim following a detailed interrogation by the police employee reported to him that the person that was escorting her intended to sexually exploit her in Germany.

Rinas Border Police referred the case to the Sector against Illegal Trafficking where it was interviewed by the police officer and the specialist from the Regional Directorate of State Social Services, who, following a formal interview granted her the status of victim of trafficking.

The Police received the report and referred the case to a Shelter.

The police referred the materials to the Prosecutor's Office for the criminal offense "Trafficking of adults" in the attempt, as provided for by Article 110 / a / 2 and Article 22 of the Criminal Code.

### *3. Actions by the Prosecutor's Office*

District Prosecutor's Office during the pre-trial hearing asked for a change of the charge of the defendant to "Exploitation for prostitution" as provided for by Article 114 pg 1 of the Criminal Code. Incitement, mediation, or receipt of compensation for prostitution shall be sentenced to imprisonment from two to five years.

The evidence relied upon by the Prosecutor's Office for this case are; the duty report and logbook of detaining the travelers; the offense report; tickets; travel insurances; applications for enrollment in the University of APPLIED Sciences Europe in Germany (fake); 2 telephones; passports; copy of hotel reservation in Germany.

### *4. Actions by the Court*

The Court under Article 403 of the CPC received the request of the defendant for a summary trial. The victim was not present at the trial.

The Defence of the defendant agreed with the charge and the "Request on summary trial".

During the pre-trial hearing, the prosecutor requested to change the charge of the defendant from the offense from "Trafficking of adults" in the attempt, as provided for by Articles 110/a pg 2 and 22 of the Criminal Code into "Exploitation for prostitution" stipulated b Article 114 pg 1 of the Criminal Code, by communication it to the defendant and his Counsel.

Pursuant to Article 406 of the Criminal Procedure Code (summary trial) 1/3 of the sentence shall be reduced and the defendant shall be sentenced to 2 years of imprisonment in an ordinary security prison. The trial lasted for 8 months (pre-trial hearing and trial).

### *5. Access to justice and services*

The case was referred for services and received the full package of services.

### *6. Challenges*

- Changing the legal qualification of the criminal act;
- In the same decision, the Prosecutor's Office despite of identifying a number of actions by the defendant concerning the transport of the victim abroad for sexual exploitation, during trial changed the qualification of the criminal offense from "Trafficking of adults" remaining in the attempt, to "Exploitation for prostitution".
- The Court did not provide any arguments why they granted the change of the legal qualification;
- The collaboration requirement has not been fully investigated by the Prosecutor's Office.
- In the current case it is agreed that third persons are aware of the criminal offense, however, they have not been investigated and no charges have been filed against them.

**Case 12 – A minor victim of trafficking 15 years old***1. Case description*

Case 12 went to the Police Commissariat and filed criminal charges. The situation in the family of the victim was serious, where she was living with her parents and two brothers. Since she was 7 years old her father was committing immoral acts on her and repeatedly told her “You will have to get used to these acts”. Additionally, the older brother of the victim was also committing immoral acts to her. The minor met a minor boy 16 years old, and she started a relationship with him, and the father was aware of this relationship. The father encouraged her to have sexual intercourse with him. The father of the victim went to Greece and urged her to get experience because it would serve her in Greece when she would get there to live with her father.

The victim was encouraged by her teacher, who also informed the school principal, to go to the Police Commissariat. Along with the teacher and the school principal she went to the Police Commissariat to file charges against her father and brother.

*2. Actions by the Police*

After bringing charges, the minor was referred to Minor’s Shelter for VT and PTV. The Police identified the case as a potential victim and referred the investigative materials to Judicial Court Prosecutor’s Office.

*3. Actions by the Prosecutor’s Office*

The Prosecutor’s Office initiated the criminal proceedings based on the report material received from the Police Commissariat for the criminal offense of sexual intercourse with consanguine persons (against the victim's father and brother), and for the criminal offense of sexual intercourse with a minor (against a minor in conflict with the Law)

At the outset, the Prosecutor’s Office upon the report initiated criminal proceeding number 637 for the following offenses:

- a. Sexual intercourse with consanguine persons or at a position of trust, remaining in the attempt, Article 106 and 22 of the Criminal Code, charging the father and brother of the victim.
- b. Sexual intercourse with minors, as provided for by Article 100 of the Criminal Code, against the minor that was allegedly in a relationship with the minor girl.

Initially, it was suspected of international trafficking of the girl, which would be committed by her father. Forms used by the father were constant threats and pressure as well as attempts to have sexual intercourse with her, but also urging the daughter to start a love affair and have sexual intercourse. The father wanted to have details all the time about the situation of the girl's relationship, as well as he asked her to make a video during the intercourse and send it to her father, to find out if she was capable of working afterward as a sex worker.

Special means of investigation, notably environmental interceptions, were used as evidence for trial. The testimony was substantially used as relevant evidence for this process.

#### **Others**

- a. Forensic report of the victim.
- b. Phone contact data and Facebook accounts of the victim and her father were examined. There are reports regarding the Facebook messages between the victim and the father.
- c. Psychological report of the minor victim establishes that the minor has been the victim of sexual acts over the years and that her statements are credible.

#### **Changes in the legal qualification by the Prosecutor's Office**

The criminal offense was not recorded as "Trafficking of minors" but:

- a. Sexual intercourse with consanguine persons, remaining in the attempt (Articles 106 and 22 of the Criminal Code)
- b. Sexual intercourse with minors" (Article 100 of the Criminal Code.)

Following, after extensive investigations and based on the relevant evidence, the proper legal framework was corrected. Accordingly, in the trial request submitted by the Prosecutor's Office against the defendants, the charges against them were:

- a. Immoral acts, Article 108/2 of the Criminal Code (against the father) b. Repetitive sexual harassment against the brother, Article 108/a/2 of the Criminal Code.
- b. Sexual intercourse with minors (Article 100/1 of the Criminal Code).

#### ***4. Actions by the Court***

District Courts conducted a summary trial because it was requested during the re-trial hearing by the official representative of the two defendants and the Court granted their request.

The victim was present during the investigation where not only did she maintain her report but she confirmed relevant facts. Also, she was informed by the Court about the start of the trial, and she was invited to provide her testimony, and she was also present in the final hearing for her concluding statement wherein she confirmed the facts and requested the conviction of the defendants.

The defendant, the father of the victim, was not present during the entire trial, but he was tried in absentia, is represented by a lawyer holding power of attorney, and the brother was also investigated and tried in absentia.

The father was found guilty of the offense of "Immoral acts" and was sentenced to 7 years and 6 months imprisonment. Given the summary trial, under Article 406 of the CPC, he was sentenced to 5 years of imprisonment.

The brother of the victim was sentenced for the offense “Sexual harassment”, Article 108/a/2 of the Criminal Code. The defendant was sentenced to 3 years of imprisonment. Given the summary trial, the sentence was reduced to 2 years of imprisonment.

The juvenile defendant was convicted for the criminal offense "Sexual intercourse with a minor", Articles 100/1 and 51 of the Criminal Code, and was sentenced to 3 years and 6 months' imprisonment. Due to the summary trial, the sentence was reduced to 2 years and 4 months imprisonment.

The trial lasted 18 months.

### *5. Access to justice and services*

The victim was referred for services to a center for minors.

### *6. Challenges*

- Reaching out to the victim of trafficking and her collaboration with justice;
- Receiving statements by victims and other persons who were aware of the circumstances of the event;
- Application of special means of investigation;
- Identification of the elements of the trafficking of minors' criminal acts.

### *7. Lessons learned*

Given that the subjects of the criminal act were family members of the victim, the investigation was focused on criminal acts involving these relations. The Prosecutor's Office and the Court did not go in-depth to identify the trafficking element, regardless that the minor was urged to have sexual intercourse in order to prepare her to go and work abroad.

## **Case 13 – Trafficking of minors and adults**

### *1. Case description*

Interpol informed the Albanian State Police about the potentially criminal activity of Albanian Citizen T and Kosovo<sup>45</sup> citizen F, and the picture of the Albanian citizen standing in a car parking in Switzerland and the number plate of his vehicle was made available to the Police.

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<sup>45</sup> Kosovo under United Nations Security Council Resolution 1244(1999). All references to Kosovo in the present document should be understood in the context of the United Nations Security Council resolution 1244 (1999).

About two months after receiving the intelligence from Interpol, one of the victims collaborates with the Illegal Trafficking Sector at the Local Police Directorate and filed charges concerning her exploitation by two Albanian brothers residents in Switzerland and Germany respectively.

The report received was referred to the Serious Crimes Prosecutor's Office which recorded the criminal proceedings for the criminal offense "Trafficking of adults".

At the same time when the report of Victim 1 was received, the responsible authority received information from an organization that a victim of trafficking had been identified in Switzerland.

When reviewing the intelligence, it turned out that Victim 2 was part of the report given by victim 1 to the Albanian State Police. Victim 2 was deported to Albania without prior notice and without being identified as a victim of trafficking. Due to the trauma she experienced she received services at a psychiatric hospital in Switzerland.

Victim 2 was recruited and trafficked to Switzerland using an adult's passport. After she fled the apartment, her family members addressed the police in an effort to find the minor. The materials were referred to the Judicial District Prosecutor's Office.

Following the coordination of all information, the Serious Crimes Prosecutor's Office grouped all the materials in one proceeding.

Eight victims of trafficking were identified and saved as a result of this process in the three countries involved.

## *2. Actions by the Police*

Upon receiving the intelligence from Interpol, the police identified some girls who had traveled with the persons who were allegedly involved in criminal activities of human trafficking.

One of the victims of trafficking who was deported from Switzerland was reached out and she agreed to collaborate with the law enforcement authorities in Albania.

The suspect was identified.

The other girls suspected of trafficking in Germany and Switzerland were identified.

The vehicles used by traffickers to enter and exit Albania and the travelers in them were checked in the TIMS system.

## *3. Actions by the Prosecutor's Office*

Upon registration of the criminal proceeding, a joint meeting between the case prosecutor, case prosecutor in Switzerland, and liaison officer at the German Embassy was held in the Serious Crimes Prosecutor's Office.

The Serious Crimes Prosecutor's Office authorizes the surveillance of individuals and the environment.



The Prosecutor's Office addressed a rogatory letter to Swiss and German judicial authorities.

#### *4. Actions by the Court*

The First Instance Serious Crimes Court allows the call interception of individuals allegedly involved in trafficking.

The Court pronounced guilty the defendants for the criminal offense "Trafficking of adults", in collaboration, provided for by Article 110/a paragraph 4 of the Criminal Code for the offense "Trafficking of minors" and they were sentenced to 10, 12, and 8 years of imprisonment respectively.

#### *5. Access to justice and service*

Victims of trafficking were referred for protection and services.

#### *6. Main challenges*

- Coordination with destination countries in conducting joint investigative actions for the identification of victims of trafficking.
- Real-time exchange of information concerning the outcome of interception and surveillance in the three involved countries.
- Identify the perpetrators of the crime and their accomplices, including the role that each of them played.
- Conducting the police search of houses and businesses of the perpetrators to find evidence.
- Execution of rogatory letters within a certain timeframe to avoid exceeding the investigation deadline.

#### *7. Lessons learned*

- The relevance of international cooperation in successful investigation and trial of trafficking offense;
- The relevance of reaching out to victims for them to collaborate with justice;
- Supporting victims of trafficking through the provision of social and legal services to avoid their re-victimization.

## ANNEX I. CASE REVIEW FORM

1. Case data	Notes
Case code: Age: Gender: Nationality: Place of birth:	
<b>2. Identification of the case</b>	
Description of the case Who detected the case? Trafficking indicators	
<b>3. Recruitment</b>	
How was the victim recruited? Relationship with the recruiter (verbal) Agreement with the recruiter	
<b>4. Transport</b>	
Who arranged the transport? Means of transport Documentation used Costs	
<b>5. Exploitation</b>	
Form/s of exploitation Place/s of exploitation Documents used at the workplace	
<b>6. What services have been provided to the victim?</b>	
Safe housing/shelter Health services Psychological support Legal aid Child support Education Vocational training Employment Housing	
<b>7. Facts on the case</b>	
Summary of facts Which district initiated the case? Which criminal act/offense is committed?	
<b>8. What is the legal provision used to refer to the case?</b>	
International trafficking Domestic trafficking Means used Forms of exploitation How is the legislation applied to the case?	

Changes to the legal reference made by the Prosecutor's Office.	
<b>9. Who initiated the case?</b>	
Report from the victim Police information Report from a family member An incident linked to another offense Others	
<b>10. What type of evidence is used</b>	
Material evidence Evidence from the testimony (proved or not) Others	
<b>11. Report made by the victim</b>	
The period between the report and the occurrence of the crime Complete/partial report Proved report Number of the interviews conducted Identification Referred to the service providers	
<b>12. Services provided to the victim</b>	
Safe housing/shelter Health services Psychological support Legal aid Child support Education Vocational training Employment	
<b>13. Provision of evidence</b>	
Reasons why it was used as evidence Who compiled the request?	
<b>14. Special investigation techniques</b>	
List the techniques used List the authorized ones, but which cannot be applied Prevailing techniques	
<b>15. International cooperation</b>	
Cooperation with a liaison officer Use of rogatory letter Joint investigation teams	
<b>16. Investigation chronology procedure</b>	
Type of adjudication applied in this case Recording the victim's presence during the trial Issues related to her/his notification on the case Ensure delivery of the notification and the presence of the defendant Ensure protection of the victim and defendant	
<b>17. The allegations of the concerned parties</b>	
The allegations of the defense in the case The allegations and the claims of the victim in the case	

Filing the victim's claim for compensation for damages Court settlement on the civil claim	
<b>18. Evidence during trial</b>	
Which evidence was used? Issues raised regarding taking them to trial Claims that the evidence is invalid or unusable Taking the testimony of the victim The procedure of taking such testimony and its documentation Issues raised during this process Confrontation with the defendant and the procedural instruments used to defend the victim Taking the testimony of the persons close to the victim Evidence provided by the defendant	
<b>19. Resolve the case by court decision</b>	
Applied law Legal qualification Changes in the legal qualification of the prosecutor The sentence was given to the perpetrator Selection of security level to serve the sentence	
<b>20. The duration of the trial</b>	
<b>21. Conclusions</b>	