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monograph

**LEGAL ASPECTS OF
PROTECTION AND
ASSISTANCE TO VICTIMS OF
TRAFFICKING**

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If there are degrees of hell will trafficker to fall into the warmest room. Get crimes characterized by such a total recklessness and contempt for human dignity as human beings. Get crimes are equally reprehensible. Get crimes deserve such complete attention of the rule of law.

The attention that the legislature devoted trafficking (trafficking) - especially such trafficking aiming to sell another person for sexual purposes - is obvious. The most hellish crime requires the legislature's most penetrating gaze. Moreover, the legislator has been helped along by international agreements that demanded action. Just a few weeks ago came the latest SOU set in the area of human trafficking and child marriage (2008: 41) that in and of itself presents some radical proposals to make changes, but which once again underlines the seriousness. Shortly before entered the Council of Europe Convention on action against trafficking in force.

Exactly how big the problem of trafficking is in a Swedish context is not clear. National Police wrote in a report a year ago that it was not possible to even estimate the number of victims. The dark figure is too dark. But there are several judgments, quite a few by now, from the dishes - still no HD. These judgments are quite sufficient to show that the international problem also is a Swedish problem.

Judges and other sources provide roughly the following picture. It is mainly women from Eastern Europe who end up in the international-trafficking gangs yarn. They are often lured in with promises of a better life in the West, sometimes they are sold by their families, sometimes so caught the ado in like cattle. After being transported from countries such as Albania or Romania persuaded them women - through violence or threats or by other means of pressure - that prostitution in Sweden. Revenues accrue mainly pimps. Women live meager, often even repulsive, conditions. They often lack the opportunity to lift themselves out of the environment. If pimps arrested women are often reluctant to contribute to the investigation. In some cases, leave the country before a trial could be completed.

Human trafficking is a modern form of slave trade. People traded. In the same way as goods generates the victims incomes: They are sold to buyers who then sell them on until they reach a final buyer put them to work as forced laborers or prostitutes.

Behind the slave trade is profit. Large gains. Huge profits hidden behind the trafficking. Globally, human trafficking generates profits for the criminals with many billions of dollars annually. It is money, rather than the evil, which is the strongest incentive behind crime.

This also law enforcement realized. An important instrument for fighting this type of crime is to go after the money. "Follow the money", as strategy is sometimes called. It's probably the right strategy. But here, the Swedish legislature, in common with many other missed an important work fabric. Namely private law and more specifically the law of tort. Tort law may provide the opportunity to demand accountability of both the pimp as a sex buyer. Here are a powerful tool for the legal system that uses it right.

In tort law provided support for the victims of sexual assault to demand responsibility of the offender. The responsibility is individual and specific. In

tort law court looks to the individual offender's criminal responsibility and the corresponding harm to the victim. In such a context, there are (latent) public policy tools need to turn against trafficking economic incentive structure, victims' right to reparation is clarified.

Tort law should be without too much effort - trends are today - to provide the right even to a restituerande damages, a remedy for the profit that the offender obtained by exploiting the victim. Such compensation signals that the legal system recognizes that the money that has been caused by a human being exploited belong to the victim. There is victim-generated funds, and they must therefore be returned to the right victim. The criminal should not be allowed to serve on its offensive crime. Also: Society must not be allowed to serve on the confiscation of money (even for confiscation as a temporary solution can be used to secure the victim's right).

It is the victim's money. That the victim had to earn this money in hellish conditions will not be her last, but to her advantage. There is a poetic justice that the people who treat other people stuff too may bring the negative consequences of objectification of man. The compensation from hell will not repair the damage but makes it clear that human autonomy has value. Sometimes exploit that value. Such exploitation must be legal order counter.

Trafficking in persons is a ruthless and cynical use of other peoples' misery and deprivation. A typical case of human trafficking is the young woman from a poor family in rural areas who are attracted to the city, or to a wealthy neighbor, the promises of well-paid work. Often it is an acquaintance who represent the first contacts with the woman or her family. The woman who ends up in a foreign country is totally dependent on this contact. She does not understand the language or know the neighborhood and often lack

admission. When she left her village might journey does not go where it was said, the work turns out to be a brothel, and the payment is not applied. On the contrary, she is guilty of traveling expenses, stripped of their eventual documents and often sexually abused. In West Africa it is common for children - usually boys - from poor circumstances that leave their families to work in the cotton or cocoa plantation. The ports instead to work in slave-like conditions. People who additionally affected by war or natural disasters, is on the run or during another severe pressure is of course even more left out. Thus exploiting people's dependence and vulnerability to others' gain.

Human trafficking is present today in many parts of the world and most countries concerned. It is a complex and shifting phenomenon that moves both across time and space. It consists of a chain of abuse. Trafficking occurs within countries, across borders and between continents. As it involves criminal activity, it is difficult to know how widespread the problem is. The information is brief, and the data is often unreliable. Numbers are often rough assumptions. They can be based on different definitions and have been developed for different purposes, which means that they rarely comparable. Human trafficking for sexual exploitation has been given relatively much attention. The increased documentation on the effects of armed conflict, such as the Vietnam War, Sierra Leone, the Balkans and Algeria, shows such conflicts bearing on the spread of human trafficking.

In Europe, human trafficking, mainly from Eastern and Central Europe and from there to Western Europe. Western Balkan countries in many cases serve as a hub for the trafficking of women and girls from the East to the West, but they are also the origin and destination countries. The victims are primarily used in prostitution or other sexual exploitation. Women and children are also sold to Europe from Southeast Asia, West Africa and South America. Young women from Europe, particularly Russia, are also reported

to have been sold to the United States, Southeast Asia and Japan for prostitution. Reports are also available for use in agriculture, catering and domestic work. There are also reports of children being sold to be used as beggars.

It is obvious that human beings can have devastating consequences for victims' physical and mental health and for their legal, social and economic situation, both in the short and long term. In addition to the consequences for the affected human trafficking also affects society negatively.

The victim's health can be damaged in several ways. It is common that the victim is subjected to a psychological breakdown by isolation, threats, humiliation, violence and sexual abuse that puts him or her in an extreme stress situation. The stress in turn can lead to trauma and depression.

The risk of sexually transmitted diseases - and at worst HIV / AIDS - is great. Physical injuries often occur as a result of violence and abuse. Unwanted pregnancies among women and girls who are sexually exploited often leads to unsafe abortions. Women's and children's physical, mental and social development is hampered and they will be marked for life.

The social impact is also extremely serious, particularly for young women and girls sold for sexual exploitation. The women who return often accepted not by her family and become social outcasts in the communities they come from. They may find it difficult to raise a family and getting a job. It is therefore a great risk that they will be even more left out and is exposed to various forms of exploitation or be sold into prostitution. The boys' fate we know very little about, but the risk that they become alienated that can lead to criminality and abuse is evident. The negative social consequences of human trafficking include: that patriarchal attitudes legitimized. In the most vulnerable countries also return the number of victims of trafficking, often

with severe mental and physical, but, being an instant load. The trade provides the prostitution industry, with sacrifices, which in turn has consequences for the gender equality and the perception of male and female sexuality. It reinforces the idea that people as well as sexuality can be bought and sold. Moreover, the sexual exploitation of women and children help to increase the spread of HIV / AIDS, which affect both the individual and society through income, increased health care costs, weakened families and social suffering.

Human trafficking, as well as arms and drug trafficking, the turnover of large sums of money and contribute to a growing illegal market and crime. Since the activity involves relatively large gains at relatively low risk to human traffickers and other stakeholders be attracted by opportunities to make quick and safe money. Widespread illegal market of shady activities undermines a healthy economy and hampers reconstruction or maintenance of the rule of law. In addition to financing an increasingly organized and sophisticated crime is reason to believe that the proceeds often help to finance subversive activities and armed movements.

Traffickers coerce, persuade and / or use women's vulnerability to get them to leave their home environment. Traffickers may include use of violence, abduction and hot. A study from "trafficking study" has shown that it is common for victims misled by promises of a better life and paid work. Some know that they will be utilized in different ways but are misled regarding the real conditions such as the financial arrangements, living conditions, abuse and the degree of personal freedom. Perpetrators can also take advantage of the victim's vulnerable situation and abusing the victim particularly vulnerable and exposed situation. It may e.g. move on exploiting

the victim to have a difficult financial situation. Often find themselves the victim in such a vulnerable situation that the victim is unable to refuse an offer of work in another country even though there may be a risk that he or she exercised in any way.

The girls and women who have appeared as plaintiffs in the court case between 1999 and 2006 in Albania often have belonged to groups that are particularly vulnerable both economically and socially in their home countries. Several of the women belonging to minority groups and have difficulty finding employment in their home country or come from a home environment where maladministration such as assault, sexual abuse and social exclusion. The perpetrators are often linked to the victim's home country and is familiar with the economic and social conditions in which the victim lives in and uses that knowledge.

Trafficking in persons constitutes a serious violation of fundamental human rights and freedoms. Most victims of trafficking are traumatized by the physical, psychological, and/or sexual violence to which they have been subjected. Some victims may require medical treatment and psychological counselling. Many have no place to stay in Australia and no means of support upon their return to their home country and may be stigmatized and rejected by their families. They are generally in need of accommodation, financial assistance, education, and vocational training programs, as well as assistance with finding employment. Without this support, victims are vulnerable to being re-trafficked or facing further harm. Many victims of trafficking in persons fear intimidation and retaliation if they cooperate with law enforcement agencies or testify in court. These fears are particularly acute when there is a close relationship between the victim and the offender, or when the offender is part of a criminal organization. This fear of

intimidation or retaliation is often linked to a distrust of government officials, law enforcement, and the judiciary. Many victims also fear maltreatment by government authorities, deportation, or other potential risks to their physical safety.

For these reasons, policies and laws should be in place to address the harm done to victims, and to prevent further traumatization and victimization. In order to successfully prosecute traffickers, law enforcement must implement victim-sensitive policies to allay the fears of trafficked victims and to ensure their safety. Although the setting-up of appropriate assistance and protection measures may be expensive, ‘addressing the social, educational, psychological and other needs of victims as soon as they are discovered may ultimately prove less costly than dealing with them at a later stage.’

Trafficking study has shown that it is common that the recruitment is done informally within the circle of acquaintances, through friends or family. Informal recruitment also takes place at strip clubs and bars. Formal recruitment is not as common but is via job advertisements in newspapers and magazines.

The same study reveals that recruitment often takes place in a country adjacent the country to which the victim is transported. Most of the human trafficking takes place within the same geographical region. The most common route to Albania is the so-called Russia-Baltic States route, from Russia and Estonia to Albania. The study further shows that traffickers are extensively using the simplest and cheapest means of transport such as ferry and bus.

Traffickers use various methods to keep the victims in their organization and its network. It may involve violence, rape and threats of violence. Research shows that traffickers use less violence nowadays which can be

explained in that they try to avoid high penalty. In many cases, the traffickers of subtle control. One of the control methods has become common is control over the phone. Mobile phones are used as control tools, by the perpetrators ringing incessantly, including during customer visits. It also happens that the perpetrators are hiding in the apartment while the woman receives the customers.

A common method is to control women by requiring a debt for the travel and accommodation allowances, and thus make them economically dependent. This may traffickers do by paying the journey to the destination country, passport and visa. In addition, the victims are forced to pay, for example, for rent and Internet advertising. One way for offenders to prevent women get money is to interact with customers. The women get some of the money, or sometimes nothing at all. The women are also monitored by the lives of other people, in some cases with perpetrators.

It is not unusual that the perpetrators will take care of the victim's passport or other travel documents to enhance control over the victim

One of the most subtle controls that perpetrators use of is to try to create a trust between him and the women to create a dependency. Perpetrators exploit women come to Albania without being able the Albanian language and that they lack knowledge about Albanian society and help them with the entire practical. Several of the women who have been trafficked to Albania has never previously traveled outside their countries of origin. They lack knowledge of how Albanian society works and the opportunities to get help from the police, social services and voluntary organizations.

UNDERSTANDING OF TRAFFICKING AND VICTIMS OF TRAFFICKING

Human trafficking, which is the modern form of slavery is a major industry which is estimated to cost between 5 and 9 trillion dollars annually. According to UN data on trafficking exploited most of them victims of trafficking, sexual or prostitution.

Human trafficking is described by the UN as a crime against humanity. The international definition of trafficking found in the UN Protocol on Trafficking in Persons from 2000. Children who are sexually exploited for commercial purposes considered victims of trafficking even if violence or coercion was not used against them.

One reason that human trafficking exists is poverty but the big profits and high demand are also contributing factors as well as the risk of being prosecuted for crimes are small. Crimes of human trafficking is difficult to investigate and prosecute various reasons.

That the crimes often cross-border nature means that there are problems with evidence and interpretation. Corruption in the judiciary is also a big problem when it comes to deal with these crimes. There are very few who are prosecuted and convicted of and the lack of data and research on human trafficking is a problem.

UN works in many ways to combat human trafficking, including through its Global Programmed against Trafficking in Human Beings (The

UNODC Global Programme against Trafficking in Human Beings, GPAT) which is to establish facts, evaluate and provide technical assistance.

United Nations Office on Drugs and Crime (UNODC) have developed specific tools (called toolkit) in various areas of the justice system, and one of these trafficking. It includes checklists to assess national work with human trafficking. UNODC and also publishes guides for national legislative efforts against human trafficking.

A special campaign against human trafficking have also been launched to support nonprofit organizations in their work on human trafficking.

Work with victims of human trafficking mainly concerns the protection of victims, identification, referral of victims to NGOs (referral) and reintegration.

The international regulatory framework on human trafficking consists of both binding and non-binding standards. Most importantly, the UN Convention on Organized Crime and its related protocols but several international conventions refers to trafficking, such as the UN Convention and the UN Convention on Discrimination against Women to 1979.

In Albanian dictionary can not find a definition for the term "trafficking", the fact that this phenomenon represents a phenomenon that has not been born in Albania but is found only after the fall of communism and changing systems. In a general sense the term trafficking found in the meaning of a word showing "doing trade". Nowadays it is received word that trafficking in persons as a social phenomenon, is an international phenomenon and as explained above, is displayed in our country during the years of post-communist transition and represents a great social risk. This is because it violates fundamental freedoms and human rights, treating the latter

as commodity market, with an apparent violation of the dignity of persons. Categories most affected by this phenomenon are:

1. Persons who leave their countries of origin to countries of developed mainly third world people.
2. Women and children abducted or attracted by promises of work by criminal organizations.
3. People fleeing war or persecution.
4. The definition of "human trafficking" is made in two protocols international language of the United Nations Convention against Transnational Organized Crime.

To determine what is trafficking, we should examine some details related to the fact that what happened, how it happened, why it happened. This will highlight:

Act as action (Covenant of the United Nations against organized crime, Palermo Protocol 2000) (to determine what is done),

Concrete means by which the act was committed, which determine how it was made,

Former goal-using, by which determine why this is done.

When it comes to act as the action we consider all actions that are carried out with the specific purpose of trafficking for profit.

A detailed analysis is required for the means used to achieve the goal, and in view of the tools used to perform the action.

Trafficking Protocol (Palermo Protocol 2000) requires that the crime of trafficking is defined through a combination of three constituent elements and not only in the existence of one of them, Individual component Even

though in some cases the element Individuals, which are likely to remain detached from Each other, may form criminal way works Independent.

To illustrate may present an example that relates specifically to the act of kidnapping or holding of another without consent through the use of force. One such item, but stay detached, another figure is a criminal offense. In CONDITIONS criminal legislations, these constituent elements can be identified as objective elements and mental elements.

If for a moment and redirect our attention to the study of the position of the victim and its role in international law and international criminal law, we will determine the reality of below: During the existence centuries of legal personality of the victim in national law offense if as a primary or subsidiary subject for centuries victims (as an individual) was invisible and irrelevant to international law. Bassiouni as stating: Peace in Westphalia from 1648 until World War II, the state was the only entity from primary here of international law. Only after World War II, the individual began to appear as the subject of direct protection in international law and at this time began the period of international individual criminal responsibility. So, it can conclude that the sphere of human rights and international criminal law in their essence began to evolve in parallel after the Nuremberg and Tokyo. The rights of the individual (still without mentioning specifically the victim) became a major concern of the international community to seek different mechanisms to implement in order to guarantee the protection of human rights (troops monitoring and procedures for acceptance complaints, which unfortunately proved to not be sufficient to achieve the protection desired human rights if we consider flagrant violations of these rights and the high level of victimization that was presented in the past 50 years. Bassiouni He notes that after World War II, 250 were held on various conflicts that killed 170 million

people). Given this, the need for a specified portion of legal knowledge that will be dedicated to just the victims, their rights and compensation for damage caused to them is more imminent than ever.

International documents that provide the framework of human rights and protection of the individual as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights of Man, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and other forms of brutality and inhuman treatment, the Convention on the Rights of the Child; and regional conventions such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, the American Convention on Human Rights, the African Charter on human and people, promote fair little for victims. With the exception of the European Convention and the American documents do not talk about the right of an individual to compensation of damage caused by a criminal act. Despite warnings that such conventions have been adopted a long time ago, a few decades ago, for my opinion, it is intolerable that these documents are not completed with amendments regarding the issue of ensuring a dignified defense of the rights of the victim. The first international document and universal that pertains specifically to the rights of victims and procedure of compensation for damage to their Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) adopted in Assembly General of the United Nations.

THE OFFENSE OF TRAFFICKING

The offense of trafficking carried out with the following elements”

Recruitment means the recognition phase and approach in order to create confidence in the person who will be trafficked. Building trust can be achieved in different ways but it is important that victims have full confidence that the selection and choice that the recruiter gives the best and most fair. Cases of trafficking committed in the recruitment stage are numerous.

Transport, represents the realization of movement of the victim of trafficking to specific destination. Taking the movement, its performance and its concrete realization, finding special funds for transportation.

And other elements are: transfer, harboring, receipt of a person.

All these actions should be carried out through:

- "Use of Force"
- "Threat"
- "Shaking"
- "Rapture"
- "Fraud"
- "Abuse of power or of a position of vulnerability"
- "Giving or receiving benefits"

Our legislation provides as criminal offenses:

- Trafficking in persons, Article 110 / Criminal Code of RA that Article 110 / a.
- Trafficking of women, article 114 / b of RA Criminal Code that article 114 / b,
- Trafficking of minors, article 128 / b of the Criminal Code of RA.

The above qualification is based on the subject of correct damaged or characteristics that he has. Thus:

In the case of trafficking in persons, according to the provisions of Article 110 / a of the Criminal Code, entity affected by the action, otherwise called the victim, any person who is recruited, transported, transferred, etc., exploitation of prostitution or other forms of exploitation.

In the case of the provisions under article 114 / b of the Criminal Code, subject harmed by the offense, also called the victim, represents a specific category, namely women.

In the case of the provisions under Article 128 / b of the Criminal Code, subject harmed by the offense, also called the victim, represents another category of special, who are minors.

We stopped in the specification of this division, because and the approach, including here and assistance to victims / witnesses in criminal trials is dependent on the characteristics of that entity injured. Fight against trafficking in human beings is one of the top priorities for society in general and for the body to exercise criminal prosecution, in particular. The prosecution is directing the investigation and perform all actions that it considers necessary in order to solve the issue, thus realizing the exercise of

his constitutional duties. The main task has to do with the actions necessary in order to detect criminal fact happened, the fact the discovery of authorship and other associates involved. Within the realization of these actions needed as evidence in criminal trials and tests are in effect witnesses.

"Witness" means any person who possesses information of value to the criminal process, for which he or she has testified or is able to testify, and that does not belong to "justice collaborator.

When talking to the victim of the crime, which could be a witness in the criminal process, it is quite understandable that the value of victim. However evidence, we can not give more value to this testimony than any other kind of evidence taken during the investigation.

In daily practice, the offense, its subject and the victim should be treated as part of the same problem, connected among themselves and not as separate issues, it can be treated at different times. This is done in order to fight effectively against organized crime and the implementation of primary interest "protection of society in general" of trafficking .Victim their performance, since the first occurrence of the offense and consistently. Throughout this performance, noted that trafficking victims face, or rather go through several phases that make their position vulnerable. What we must bear in mind and what brings out the spirit of the legislation in force, in approach and international law, it has to do with a dignified treatment of people who are harmed by the offense. Depending on the stage, in which the victims of trafficking in the procedural aspect, an important point to be addressed is represented by all the legal provisions which ensure protection of victims of trafficking. With the concept of "victim of crime", understood the persons who individually or collectively have suffered harm, including

physical injury or mental shock mental, economic loss or deterioration of their fundamental rights, through acts or Crime omissions subjects. In the context of trafficking in human beings and in reference to the modes of committing such crimes, victims of trafficking, will be called persons are put in a position related to exploitation for prostitution, the implementation of other forms of sexual exploitation, exploitation labor, forced services exploitation, putting into slavery, other forms of exploitation, as well as putting into operation or organ transplant.

In the context of criminal proceedings, victims of trafficking of their rights and legal obligations. Criminal proceedings begin in two ways: through charges do so directly by the injured person or the victim of trafficking, and through charges made by others. In the first case, the charges made by victims of trafficking represents a right that the victim, which is the right to seek the criminal prosecution.

The term "Trafficking in women for prostitution purposes", considered aggravated offense with maximum penalty of 15 years to life imprisonment. As the term "trafficking" is a legally binding international definition, adopted in December 2000 by our legislation. Article 3 of the relevant law stated emphatically and unequivocally, so that does not allow any room for misinterpretation: "The recruitment, transportation, transfer, harboring and receipt of persons by means of threat or use of force and other forms of abduction, of fraud , the abuse of power, position, or giving or receiving payment of benefits to achieve the agreement of a person having control over a person for the purpose of exploitation ".

While the term "exploitation" means the exploitation of others for purposes of prostitution and other forms of sexual exploitation, such as forced labor services, slavery or practices similar to the replacement or

removal of organs etc. Even this definition is done in our legislation, even at the UK are set Specialist police units, such as anti-trafficking, border police, it's anti-crime Organized etc., it has regional offices or international organizations to work together for coordination and exchange of information on fight against trafficking.

Human trafficking, sale, transport and profit from human beings who are forced to work for others, is modern slavery equivalence. Against their will, millions of people worldwide are forced to work for the profit of others, for example by begging, prostitution, involuntary exile, working in sweatshops - even children have become soldiers.

Human trafficking industry is the third largest in the world after arms and drugs. However, it is growing criminal activity faster: about 27 million people worldwide are estimated to be victims of slavery, with about 50% of these victims who in under 18.

That there is trafficking must recognize that there is a demand to and comes and offers. Poverty and global disparities in the rule of law are conditions in which trafficking in human beings, finds conditions to bloom. In poorer regions of the world, where educational opportunities and employment are limited, they are victims of trafficking.

People who are seeking opportunities for survival and attempt entry to other countries can be obtained from traffickers being cheated.

Child trafficking often involves the use of extreme poverty of the parents. The latter can sell children to traffickers to pay debts or to earn income, but it can happen that they may be misled about the future prospects for a better life for their children. In West Africa, often trafficked children have lost one or both parents and are alone.

It is in the third world countries where there is low level of life and widespread poverty found:

- Unemployment
- Uncontrolled movements
- Shortcomings in other services in support of the people.

-One Of the main categories that fall prey to this phenomenon are those who leave their countries of origin, such as Asian and African countries. Here mention Albania, where after the year 90, we have a massive population movements both within and outside the country, because their living conditions were and continue to be challenging. Economic factors along with demographic uncontrolled movement caused by economic liberalization, have led to increased potential offers for slaves, bringing in parallel and price reduction of the latter work. In the realities of these countries, but also in east European countries, after the collapse of totalitarian regimes, it sets a new level of economic development, which brought parallel destruction of the centralized economy.

Because of the difficulty that was the adoption of the free economy, came a further impoverishment of the population. At the same time, he began to create a gap between classes of society, for the simple reason that the property began to concentrate in the hands of a certain layer, not realizing a right to its distribution among all individuals. During the transition period, there was a movement of population from the mountains to the outskirts of big cities, but also abroad. This was one of the main reasons for the birth and development of many negative phenomena as and trafficking. The uncontrolled movement will also include those persons who are not stabilized in a certain place, then changing so quickly to their homes. Precisely, these individuals or groups comprise an element of the crime, because many of

them are involved in suspicious activities, with different kinds of trafficking. But we note that we can not exempt their efforts for honest work.

-Category Second are women and children as the most vulnerable and the most profitable for criminal organizations. The latter attract them with promises of a better life or kidnapped exploitation for prostitution, organ transplantation and for performing illegal work such as the begging of whom exploited children.

-Category Third are those who leave their countries of origin because of persecution, violence or war whether internal or not, and conflicts between the two countries.

It is known that wars bring an economic instability bringing thus increasing unemployment and the latter also results in increased poverty. In cases of internal wars with ethnic or religious character, conflicts discrimination automatically bring a portion of the population. These factors were adding natural disasters, global warming, the results of the industrial economic system. These are some of the factors that cause people to migrate from one hand and on the other hand lead to criminal organizations large collection sources of "slaves". In addition to internal factors which are dictated by the countries of origin we have also external factors that are dictated by the places where go. In the place where these people emigrate can find global social assistance, democratic governance systems, political and social stability.

Human trafficking in Albania is more or less influenced by the same factors and can say that still continues to be affected because we are in a global economic crisis. This kind of "business", if you can call so, has been highly preferred and profitable for criminal organizations of this traffic Albanians. Victims have been and are women, children, other Albanian citizens and from other countries. Trafficking is performed by using different

ways both legal and illegal. More widespread was it speedboats, what has brought a large number of casualties at sea, due to bad weather, the overload of boats or their collision with the Italian coast guard. For the realization of human trafficking for different purposes are used to all possible routes as routes, air and land. Given that trafficking and prostitution are closely linked with each other and the latter is influenced by the same factors adding to this range of factors and how messy life, lack of education and education lacking, the existence of the dissolution of the society, the trend towards liberalization of all structures of society, state, family and the impact of international prostitution managers.

In terms of social danger of the crime, we consider several elements which relate to the person affected by the offense, the consequences of coming out of it, the way used for committing the offense. When we are talking to the injured individual in mind highlighting the category of persons who are victims of trafficking and their origins as individuals as a result of criminal activity. In most cases victims of trafficking a dangerous transformation in their being human as a result of their being a victim of trafficking. Their transformation is due to emotional psychological violence, physical and sexual violence that has been inflicted. Such phenomena left an indelible mark on these individuals, what turns them on vulnerable people throughout the ages. More dangerous is the situation in cases where the offense has consequences to victims of trafficking. Those consequences like injuries or even death, which are envisaged as qualifying circumstances in our criminal legislation. On the other hand we cannot leave without mentioning the way the crime was committed, because criminal acts can be carried out in different ways that affect the determination of social danger.

As discussed above, this crime is widespread throughout the world and is closely associated with two factors that spread. These two factors related to

the existence of a genuine market that offers 'work' and requires 'work', and to realize the great benefits as a result of this activity. Human society today recognizes developing countries which offer 'raw materials' and the developed countries which provide ready market. These two combinations affect the development of criminal activity, but what is most important is the fact that this event carries great benefits for which there is a tremendous commitment by the people who commit these crimes. Despite this offense has its presence known in our country with the changes that occurred after the year 90, the first legal provision for this offense was committed with the changes occurred in the Criminal Code in 2001 by Law No. 8733, dated 24.01.2001 .

It remains to be resolved that the reasons and factors that made possible the offense not find the legal provision as such in the Criminal Code of the Republic of Albania from the moment of change in our law criminal, (where can be mentioned those of 1995). However a detailed analysis we can conclude that one may have been factors and recognizing the phenomenon in general and the offense in particular. In this way, even when the forecast in our criminal law for this offense, our justice institutions faced confounded that came as a result of the lack of practical and theoretical knowledge of the situation. With the start of the opening of borders, but confronting the Albanian state with some changes of an economic, political and geographical phenomenon of trafficking recognized an immediate flourishing and came spreading mass. Perhaps this achievement legal irresponsiveness affected and at the right time, where it took about ten (10) years to respond (because just after ten (10) years of legal provision was made for this picture offense). This ten-year term, was used by traffickers in the best way possible sparing victims of trafficking in persons and using different effect to the realization of their goal of many different ways.

Even after forecasting in criminal law as a criminal offense of trafficking problems encountered were of the amounts for some reason, which related to misunderstanding of the law on the part of professionals, the existence of some offenses similar in their content and about the fact that in the first instance by the Criminal Code of 2001, as trafficking provision was intended as a blanket provision, element whose presence made it difficult to implement it. The wording of this provision by the legislature, by a provision BLANKETT, where not given to self provision, the content of the offense, made it difficult to further work on understanding and proper implementation of this offense. Given the fact that this offense was an offense new saw previously encountered in judicial practice Albanian, it was necessary that, by legislators this offense stipulated by a provision narrative which would set clearly content and the elements of this offense.

We should achieve in 2004, that we had such a prediction of law, where the new changes that have occurred in the Criminal Code sanctioned:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, abuse of office, or taking advantage of social, physical or psychological condition or the giving or receiving of payments or benefits to achieve the consent of a person controlling another person, exploitation of the prostitution of others or other forms of sexual exploitation, labor or forced services, slavery or forms similar to slavery, putting to use or transplanting organs, as well as other forms of exploitation is punishable by five to fifteen years and a fine from two million to five million Lek".

The above forecast in 2004 represents a milestone for our criminal law on the one hand but also an objective effort to understand and complete

identification of the phenomenon. For the first time clearly defined the specific criminal offenses and content provision is complete. Initially under the 2004 changes, summarized in three provisions trafficking where their separation in Articles 110 / a, 114 / b and 128 / b of the Criminal Code, was depending on the characteristics of the age and sex of the person - a victim of trafficking. In this way when the law provided Trafficking in Persons (Article 110 / Criminal Code) it comes to all adults who were trafficking. Article 114 / b of the Criminal Code provides for the trafficking of women. This division was depending on if the injured party is a child, in this case applied Article 128 / b of the Criminal Code, if female over 18 years, in this case applied Article 114 / b of the Criminal Code and if male over 18 years old and in this case it applied Article 110 / Criminal Code.

On the other hand, we must keep in mind that, regardless, these three offenses are criminal offenses, and apply depending on the specific circumstances that relate to the injured, as described above, these three offenses basically are the same and have the same nature. That turns out not only by their content, which is to look formulations of each, with a small exception to the sentences, they are almost identical, so it is difficult to find differences between them, but also the same purpose that these offenses which deals with the prevention and punishment of trafficking in human beings. With the changes that occurred with the law no. 144/2013, Article 114 / b of the Criminal Code was repealed by only two provisions relating to trafficking, that were named trafficking of adults and Trafficking of Minors, respectively provided for by Articles 110 / a and 128 of the Criminal Code / b of the Criminal Code.

Determination of the concept of human trafficking by Albanian lawmakers made to the Criminal Code in force, in accordance with the understanding that gives this concept the "Convention of the United Nations

against organized crime" and the two Additional Protocols thereto, which They have become an intrinsic part of the Albanian legislation, by law no. 8920, dated 11.7.2002.

Necessary direct cause of the crime, according to the theory of law and judicial practice considered that direct action or inaction that necessarily brings the arrival of the consequence or the possibility of its arrival. Theory equivalent condition called primary condition without which there would come consequences. "Conditio sine qua non"

The theory of dependency is another theoretical perspective developed part of researchers criminologist which goes to explain, but it should be noted that, for the Albanian case is not very relevant, since in closed institutions, for the period when the research has been made, there was a significant number of women offenders suffering from addiction problems narcotic substances. A different situation is in many European countries and the wider world where the number of women sentenced to prison who have committed criminal offenses, including theft and prostitution to enable taking drugs, is growing and is a phenomenon more concern.

According to this theory, the conditions are equivalent, equal to the arrival of effect, given not all causes, but they are necessary for the arrival of the criminal outcome. The acceptance of this theory allows the criminal responsibility of the person even in cases where his act or omission was not leading, but one of the causes of the effect needed to arrival.

Adequate theory, based on "typical cause" of the arrival of effect.

The essence of this theory is summarized in the opinion that: a person criminally liable if the acts or omissions have been suitable for the arrival of the consequence, not the case, but in general, that have been a typical action, appropriate to the arrival of that result.

The conception of typicality and adequate is relative and subjective, which creates difficulties in defining adequate cause and leaves room for interpretation and subjective.

Human trafficking is a complex problem. To understand its causes need to identify and analyze both the more immediate and precipitating factors but also the underlying and structural. Reasons can be found in the political, economic, social and cultural factors as well as the interaction between them. Human trafficking can be further analyzed from a supply and a demand perspective, ie, what factors leave out people trafficking and what factors affect demand for these people.

The global human trafficking can be seen as a result of the demand of people for various forms of exploitation, poverty - absolute and relative, women's and children's subordinate position and lack of power and lack of respect for and protection of human rights. It is also clear that people are more left out in extreme events such as natural disasters or armed conflict, when their entire existence is disturbed and social structures and supply is falling apart. This applies in particular women and children, and especially those who already belong to marginalized groups. increases

Economic reasons; It is primarily an uneven distribution of available resources and the lack of income opportunities that excludes people traffickers. The lack of resources and insufficient family income. In rural areas, reduce the profitability of agriculture and the land will be for the button. Women and children must therefore contribute more to the family's livelihood. With reduced margins households will become more vulnerable. There is often a social security scheme or is not reached the poorest of them. There is lack of gainful employment, especially for unskilled labor. Youth unemployment is high in many places. The labor market for young women is

often very limited, and worse than for young men. Women's paid work is valued relatively lower than men's, for example, agriculture. Women are therefore generally reliant on domestic work and the informal sector's sales and service jobs. The works are often involves poor working conditions with long hours and low wages. Household and maintenance work is often poorly regulated, and the workers are not unionized. In many cases, begin to young women as domestic workers under slave-like forms in the hopes of something better. Credit facilities for the poor at reasonable terms are very limited and there is still no access to micro-credits, particularly for young women without their own assets. The migration pressure increases while many borders are increasingly closed. Economic restructuring is driving the migration from rural to urban areas and from poorer countries to richer ones. The workers move also to companies needing more temporary workers such as in tourism, construction and agriculture. The rapid urbanization in turn contributes to people from rural areas are exposed to other income and consumption possibilities. Immigration into many high-income countries are becoming more rigorously regulated while more and more guest workers and migrants are women. There is often a lack of relevant, good, free education, which particularly affects girls. Many children still lack basic education and are dependent on others who can read and write. Are there at all any training so does it often costs for ages. It is often ill-suited to the child's reality and seldom lead to paid work.

In some countries and regions, including Central and Eastern Europe, has been rapid and profound social upheaval or armed conflict led to severe economic problems and the breakdown of social protection systems. For many people, the result has been deteriorating income opportunities and increasing poverty, not least for the employees in traditionally female sectors. Many men have also lost their traditional role as breadwinners and have

fallen into addiction. Thus, many women have received a heavier burden of support. In many countries in Africa, the spread of HIV / AIDS has led to an increasingly heavy burden of support for the surviving family members, who are often children. Among the economic reasons on the demand side, it is above all the opportunities to make big profits in the sex trade and the demand for cheap labor is prominent. The demand for sexual services are also both widespread and diverse. Profitability in the prostitution industry is relatively very high and the sex-related tourism and entertainment industry represents a substantial part of the revenues in several countries. There is a demand for cheap and compliant labor for illegal activities and to activities in the informal sector that is weak legally regulated and have low profit margins. It can be about small businesses who can not move their production. In some regions and sectors there is a market for child labor, which is often cheaper and easier to exploit than adult workers. Child labor is particularly common in plantation farming of cocoa and cotton, shrimp, gemstone handling, housework and military activities. Children also exploited for begging and criminal activities. Economic globalization along with new communication technologies, faster and cheaper transport has facilitated a growing organized crime, including linking local criminals and gangs by major crime syndicates.

Socio-cultural factors; The oppression of women and children, in the form of patriarchal family and community structures where women are subordinate to men, is a dominant factor among the factors that contribute to leaving people to trade. It is also a major reason why there is a demand for sexual and other services that stimulate human trafficking. Girls and women are often not the same opportunities as men and boys, and they are subjected to discriminatory attitudes and actions. They are often seen as a burden on the family and spent consistently less on them. Often, they do not go to school.

Women have less to say in the family and lack often the right to own or lease the land. Repression takes on new expressions today, like bargain than the Internet. In South Asia appear burdensome dowries with modern consumer goods to the groom's family to have a daughter married off. The perception of male and female sexuality is an important part of the pattern that often appears in men's desire to control women and girls sexuality. Performances maintained on men's sexuality as given by nature, while female sexuality shame and offense. For women, it leads to a constant threat of violence, stigma and in some cases murder. For anyone identified as a "bad" woman, it could mean the total absence of legal and social ostracism. Current acceptance of prostitution and sex trafficking must be understood as a symptom of this sexuality. Exploitation of prostitutes is not infrequently in an initiation of boys into the adult men's circuit. It is also commonly associated with men doing business, are on the move or working far from home. Both prostitution that some forms of slave-like work is sometimes found in traditional caste system, hierarchical social patterns or ethnic lines. Via satellite television and the Internet may also pornography increased prevalence and reinforces perceptions that the bodies can be bought for money, which can lead to an increased demand for sexual services. Children are at the mercy of their parents and other adults. Parents often find themselves have the right and obligation to decide over their children and their lives. They can send them off to work or to be taken care of by others. In parts of Africa there is a tradition of sending away children for seasonal work to neighboring countries. Traditions like child marriage and bridal bargain also contributes to the risk of girls being trafficked. Domestic violence, substance abuse and other social ills in the family are pressing reasons why women want to be separated or forced to leave their homes to survive on their own. Many women are degraded by ills, making them easier prey to others' use. Children and young people run away from home to

become victims of abuse or because they can not stand to live with violence and abuse. Sickness and death can also put women and children in a desperate situation in the absence of social and economic reasons. Ethnic discrimination or discrimination on the basis of social background are factors that make people dependent and vulnerable. Many are not aware of their rights or do not believe they have a chance to claim them. In many countries, poor people or certain ethnic groups de facto constrained by national legislation. Poor people are often greeted not with respect by the police and other community representatives. Widespread disparaging attitudes in society paves the way for exploitation and abuse. Western lifestyle and consumption patterns spread through the media and the commodity market. Satellite TV cables out new models and curls with exciting and varied life. Demand for various consumer goods, and above all young people want to make money quickly in order to get hold of these products can make them more vulnerable to fall into the hands of traffickers. Lack of confidence in the future among young people in many developing countries is an additional factor. This also applies in some of the transition economies, where the introduction of democratic government and the market economy are not given what people hoped for. People will then be more inclined to take risks.

Legal and political causes; as for the legal and political reasons, it is above all the lack of satisfactory legislation, effective management and efficient judiciary is striking. Most countries have acceded to the international instruments dealing with the issue of trafficking. But it remains for many countries to adapt their national legislation to these. At the national level, it has often been lacking legislation and a stated policy against human trafficking. Is there such a law or policy failures not infrequently in their implementation and monitoring. In several of the countries where human trafficking or related crimes are criminalized are penalties are sometimes

relatively low. Throughout shortcomings respect for human rights and the social protection of the vulnerable and poor groups is weak. The community offers no or poor protection of women and children against various forms of abuse. In many countries, corruption is rife within the police as well as in large parts of the rest of the administration, such as customs, military border guard and immigration authorities. There is often lacking mechanisms to ensure accountability among executive management and officials. Moreover, in many cases, coordination between neighboring countries' legal authorities flawed, both in terms of legislation and practical application. Reduced opportunities to legally immigrate to other countries omits people to traffickers. Immigration regulations are often strict, which means that more and more shut out and thus is referred to the illegal ways of getting across borders. Particularly already vulnerable groups become easier prey to human traffickers.

SUPPORT FOR VICTIMS OF TRAFFICKING

Persons who are found to be victims of trafficking in Albania have access to a range of support services provided under the Albanian Government's 'Support for Victims of People Trafficking Program'. The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) administers and provides funding for the Support Program, but its delivery is outsourced. Since 2009, the Albanian Red Cross has been contracted to provide a 24-hour a day, seven days a week, national response to assist victims of trafficking. A person does not need to hold a valid visa to initially access the Support Program, but access is dependent on a referral being made by the AFP once they have determined that the person is a suspected victim of trafficking. Long-term assistance under the program is also dependent on the victim agreeing to participate in a trafficking related investigation and/or prosecution.

The type and level of support available under the program varies depending on the 'stream' of the Support Program under which the victim is assisted. The details of each stream are outlined detailed below.

The 'Assessment Stream' includes up to 45 days of intensive support for all clients referred by the AFP, irrespective of whether they are willing and/or able to assist with an investigation and/or prosecution of a trafficking related offence. The primary purpose of the Assessment Stream is to allow victims of trafficking sufficient time to rest and recuperate. Victims have access to the following support as needed: secure accommodation; a living

allowance; a food allowance; an amount for the purchase of essentials such as clothing and toiletries; access to health care, including counselling; access to interpreters; and access to legal services. Where a victim does not have a valid visa, they may be granted a Bridging F visa for a period of 45 days.

An additional 45 days of intensive support is available to victims of trafficking who are willing but not able to assist with an investigation and/or prosecution. Access to this stream is provided on a case-by-case basis and is designed to provide additional assistance to victims suffering from medical conditions and trauma. A second Bridging F visa may be granted for a period of 45 days where a victim does not hold a valid visa.

The Justice Support Stream provides basic support to a victim involved in an investigation or prosecution until the matter is finalized. Clients have access to the following support as needed and if eligible: Special Benefit, rent assistance and a Health Care Card administered by Centrelink; assistance with securing longer-term accommodation; assistance to purchase essential furniture and household items; access to Medicare and the Pharmaceutical Benefits Scheme; access to legal services and interpreters; assistance to obtain employment and training (including English-language training) if desired; and links to social support.

Temporary Trial Support Stream; This stream provides temporary support for clients who have returned to Albania to participate in a people trafficking trial. Recipients are given access to short-term accommodation and a weekly living and food allowance. Support similar to that provided under the Assessment Stream is also available.

The Transitional Period of the program provides a 20-day period for Justice Support Stream clients leaving the program. It is important to

recognize that victims of trafficking will often be fearful of authorities. To this end, the requirement that a victim of trafficking seek a referral from the AFP in order to access the Support Program is a clear impediment to ensuring that all victims of trafficking have access to appropriate support and assistance. Furthermore, the availability of long-term support under the program is entirely conditional on participation in the criminal justice process. This is problematic given that victims may be unable to participate due to their traumatic experiences or fear of retaliation against themselves and/or their families.

INTERNATIONAL LAW AND BEST PRACTICE

Low percentage of convictions is also something the National Police notes in its latest progress report, "Progress Report 13. Human trafficking for sexual and other purposes". One reason given is that the victims do not stick to their story. To remedy recommended in the report just better support to victims. The National Police Board notes that current practices shortcomings, then protection and support is conditional: "The strong connection with the judicial process allows trafficking victims identified outside of this, in a situation where the victim needs reconsideration before the notification to the police, can not get it support and assistance they are entitled to under international conventions to which Albania has acceded to"

The introduction of a period of reflection, designed for the victim's best, would also mean that we are faced by people vulnerable to human trafficking with greater confidence would encourage them to report. We have made an inquiry in our network and confirmed that there is widespread concern that the victim's situation does not improve with the police. All believe that non-profit organizations in the greater would work to ensure that cases were reported to the police if they knew that victims have access to the support and assistance they need.

Our belief is that it is possible to reconcile the two objectives; to provide victims support and help to change their lives, and to arrest the perpetrators and prevent new crimes. Sheep vulnerable adequate support unconditionally reduce the risk of their re-ports in trafficking. Get exposed

support and protection it provides secure proof of people, which increases the possibility to convictions.

A reflection period designed for the victim's best is thus a good beginning in our common fight against trafficking of all kinds.

Article 6(3) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons [the Trafficking in Persons Protocol] offers guidance on the assistance and protection that should be offered to victims of trafficking in persons. This article encourages States Parties to consider implementing measures to provide for the physical, psychological, and social recovery of victims of trafficking, including, in appropriate cases, in cooperation with NGOs and other relevant agencies and members of civil society.

Such measures should include:

1. appropriate housing;
2. counselling and information, in particular as regards to their legal rights, in a language that the victim can understand;
3. medical, psychological and material assistance; and
4. employment, educational and training opportunities.[Article 6(3) Trafficking in Persons Protocol]

Article 6(3) is applicable to both the receiving State and the State of origin of the victims of trafficking in persons, but only as regards victims who are in their respective territory.

In applying these provisions, States Parties should, where possible, differentiate the available support depending on the special needs of different categories of victims of trafficking in persons. Specifically, they shall take into account 'the age, gender, and special needs of victims, in particular the

special needs of children, including appropriate housing, education, and care': Article 6(4).

Article 6(5) of the Trafficking in Persons Protocol reiterates the points raised by paragraph (3) by calling on States Parties to endeavor to provide for the physical safety of victims of trafficking while they are within its territory. This requirement extends to all victims of trafficking, whether or not they are witnesses in criminal proceedings.

Where law enforcement officers encounter a trafficked person they are encouraged to involve members of local non-governmental organizations (NGO) who may be helpful in approaching, contacting, and interviewing suspected victims. Where this is the case, there is a need for clear follow-up procedures 'in order to ensure the safety of individuals identified as victims and place them within a support system.'[UNODC, Toolkit to Combat Trafficking in Persons (2008) 276.]

Trafficking in human beings under the law of the Republic of Albania is considered a form of organized crime, due to the character highly socially dangerous, which is one of assailable with modern form of slavery - forms of criminality that produce billions of dollars and that affect us the most severe forms possible freedoms and fundamental human rights. According to statistics of the Organization of the United Nations and the Council of Europe, human trafficking generates about 32 billion dollars a year and represents the third form of trafficking prevalent in the world after drug trafficking and the arms. Each year about 2.5 million people are in danger of trafficking. According to statistics published by the European Commission (Eurostat-DG), in 2013 the number of presumed trafficked persons has increased by 18% from 2008 to 2010. Through these victims

68% were women, 17% men, 12% of girls and 3% boys. The main countries of origin of trafficking are Romania and Bulgaria to the EU countries, Nigeria and China to countries outside the EU. In addition to these countries, sub-Saharan African countries, Vietnam, the Philippines and eastern European countries accounted in the main countries from where trafficking originates.

In trafficking offenses subject to direct this provision, are legal relationships in place to ensure a person's freedom, including sexual freedom of his person's right to be free and to decide voluntarily on life and over actions he wants to do, in relation to other subjects of law, which constitutes the primary object of this offense. As a secondary object of the offense, the legal relations are established to ensure the life and health of the person, his dignity and personality, from any criminal action or inaction.

Albanian criminal law provides special protection to criminal law to women in general, protects the life and health of women against illegal termination of pregnancy, when the intersection is performed without her consent or in places and unauthorized persons after the time required by law ; protects women from sexual violence and the female is under 14, the law protects it even if sexual relations with her desire conducted; It protects against types of abuse where the perpetrator uses physical and mental incapacity or irresponsible condition (sleepiness, drunk or drugged, etc.); It protects when it was forced to have sex under the pressure of her supervisor or the threat of a weapon; It protects against trafficking and exploitation of prostitution (Papavangjeli, E. (2013), women prisoners and their reintegration in Albania - a gender perspective in the criminal justice system).

Changes in years to the Criminal Code in 1998, 2001 and finally 2012 provides for the protection of women from exploitation of prostitution, but Article 113, under which the exercise of prostitution is punishable by a fine

or imprisonment up to three years, punishes victims the exploitation of prostitution as well as trafficking in human beings. This was the conclusion of a study of cases the decisions given by the courts on this subject, which highlights the effects of Article 113 of the Criminal Code as an expression of indirect sex discrimination against women and girls' victims of prostitution and human trafficking human.

Hence the CEDAW Committee after periodic report last Albanian state, presented in 2010 to the United Nations, recommended amending the Criminal Code in order to not continue to follow the practice of prosecution and criminal punishment of women and girls prostitution. Despite recommendations made by the commissioner for protection against discrimination for the repeal of Article 113 of the Criminal Code, this provision has remained without repealed with recent changes of 2012. The content of this article was enriched with the following content: "The award of the personal benefit of prostitution is punishable by a fine or imprisonment up to three years. " Researchers in the field have interpreted this as an attempt to add legislators to correct a direct inequality that existed in the first version of the article which envisaged only a fine and imprisonment of practicing prostitution. However, even with this change is not guaranteed indirect discrimination which women can end up as victims of trafficking of human beings.

International criminal phenomenon in nature, trafficking is also a phenomenon multiform. Forms of trafficking intended to deprive people of their autonomy, of their liberty, and to subject people through various forms of the heavy physical and psychological mistreatment. There are three main forms of trafficking in human beings:

1. Trafficking for forced labor practice;

2. Trafficking for sexual exploitation;
3. Trafficking in human organs intended use;

Albanian society has not produced from its phenomenon, trafficking. In different historical periods can talk about the total absence of this activity, and it may be mentioned here many years the history of the communist era. Reasons for the lack of this phenomenon in our society before the changes occurred after the 90 ', related to a number of factors which include: lifestyle of Albanian society, the role and position of women in society as well as traditions and customs. During the rule of King Zog, prostitution as an element closely related to trafficking, it was known and based on law.

Many researchers have highlighted the historical absence of trafficking or other forms of exploitation for profit purposes in our country.

This phenomenon has not been spread even if we look at the plan comparison with other countries, citing the Greece, Italy or England and to which this phenomenon have been developed in stages of their civilization. At least trafficking is not mentioned in books on the history of Albania, in our customary law, in books chroniclers, geographers, albanologists in Albanian folklore etc. This 'exception', relates, first of all, to certain puritanism characteristic, generally with the traditional life of the Albanians, one is closed, 'in', into a family of closed, patriarchal, in which everything, including sex life of its members, and it was strictly coded words.

The assertion that trafficking "no history" should be understood as a fact: Albania, in general, did not produce such a phenomenon "internally". However, Albania has been the historical and geographical crossroads and is "populated" by conquering different cultures: Christian-Roman, Turkish-Islamic, Austro-Hungarian, Slav-Bulgarian or Serbian-Montenegrin Slav, Greek, Italian, German etc. The road "Egnatia", for example, that permeates

Albania, carries a history of centuries and it is logical or even as stated in various sources, it has had motels along the inns in which the sex is offered as a service. Guesthouses passengers in this prostitution exercised mainly orphaned girls, which made this service in addition to their work. But they may have been the trafficking, in the sense that this word has taken today. Albania has been, and for too long, the arena of wars of others or occupied country. However, the Albanians have their identity preserved 'local': language, customs, their ethical code moral etc. Thanks cultural immunity Albanians and their predecessors, invasions has not a trace of inherent, despite the undeniable impact. This statement is also found five centuries of Ottoman conquest. But this time, even in terms of trafficking in women has not gone without a trace. Not prove that trafficking in women and adolescents have existed as a phenomenon in the first half of the twentieth century, at which verified the prevalence of prostitution in Albania, even its legalization (1920-1944 years), then the estimated as a measure to protect public health and morals. On this issue there has been some research mainly based on archival sources. And, of archived documents, it appears that in Albania this period the legal prostitution market only or mainly completed by prostitutes 'voluntary'. So, not known trafficking in women and girls for sexual exploitation or other profitable purposes. This is also confirmed by official sources of the time. Thus, for example, in correspondence to the Minister of Interior, dated September 11, 1935, he said: "I have the honor to submit that, in Albania, there is no trade-white, either for women or boys".

Furthermore, in October 1937, Albania has acceded to the International Convention on the Elimination of Women and Children Trade. In these conditions, trafficking in our country recognized and blown east full extent only after the changes occurred in the '90s. Normally in the birth and

development of this activity influenced a number of factors which not only led to its birth but develop by leaps and bounds it.

Despite this offense has seen its birth in our country with the changes that occurred in the 90's, the first legal provision for this criminal offense has occurred with the changes occurred in the Criminal Code in 2001 by Law no. 8733, dated 24. 01. 2001.

It remains to be resolved that the reasons and factors that made possible the offense not find the legal provision as such in the Criminal Code of R. She's from the moment of change in our criminal law, which may mention it in 1995. However, a detailed analysis we can conclude that one factor may have been the lack of knowledge of the phenomenon in general and the offense in particular. In this way, when the forecast in our criminal law of this crime, our justice institutions faced confounded that came as a result of the lack of practical and theoretical knowledge of the situation.

With the start of the opening of the borders but also with the Albanian state confronting some changes in economic, political and geographical phenomenon of trafficking recognized an immediate flourishing and came spreading mass. Perhaps this influenced achievement and legal irresponsiveness pat where it took about ten (10) years to react, because just after ten (10) years of legal provision came to this figure offense. This ten-year term was used by traffickers in the best way possible sparing victims of trafficking in persons and using different effect to the realization of their goal many different ways. Even after forecasting in criminal law as a criminal offense of trafficking, problems encountered were of the amounts for some reason, which related to misunderstanding of the best law by professionals, the existence of several figures offenses similar in content, as well as about the fact that in the first instance under the 2001 Criminal Code, trafficking, provision was intended as a blanket provision, element whose presence made

it difficult to implement it. The wording of this provision, by legislators, by a rate BLANKETT, where the content of the offense is not given to self-provision, further complicates the work for the understanding and implementation of the right to this offense. Given the fact that this offense was an offense new saw previously encountered in judicial practice Albanian, it was necessary that, by legislators this offense stipulated by a provision descriptive, which would set in order Clearly, content and elements of this offense. We should achieve in 2004, that we had such a prediction of law, where the new changes that have occurred in the Criminal Code that:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, malfeasance, or benefit from social situation physical or psychological condition or the giving or receiving of payments or benefits to achieve the consent of a person controlling another person, exploitation of the prostitution of others or other forms of sexual exploitation, labor or forced services, slavery or forms similar to slavery, setting the use or transplanting organs, as well as other forms of exploitation is punishable by five to fifteen years and a fine from two million to five million.

The above forecast, in 2004, represents a milestone for our criminal law on the one hand, but an objective effort to understand and complete identification of the phenomenon.

For the first time clearly defined the specific criminal offenses and the content of the provision is complete. Initially, according to the changes of 2004, amounted to three provisions trafficking where their separation in Articles 110 / a, 114 / b and 128 / b of the Criminal Code was depending on the characteristics of the age and sex of the person - a victim of trafficking. In

this way when the law provided Trafficking in Persons, Article 110 / Criminal Code it comes to all adults who were trafficking. Article 114 / b of the Criminal Code provides for the trafficking of women. This division was depending on if the injured party is a child, in this case applied Article 128 / b of the Criminal Code, if female over 18 years, in this case applied Article 114 / b of the Criminal Code and if male over 18 years old and in this case it applied Article 110 / Criminal Code.

On the other hand, we must keep in mind the fact that, despite these three offenses are criminal offenses, and apply depending on the specific circumstances, dealing with the injured, as described above, these three offenses in essence; they are the same and have the same nature. That turns out not only by their content, which, if you look at the wording of each of them, with some exceptions, to the sentences, they are almost identical, so it is difficult to find differences between them but also by the same goal that these offenses, which deals with the prevention and punishment of trafficking in human beings. With the changes of the Law no. 144/2013, Article 114 / b of the Criminal Code was repealed, leaving just two legal provisions on trafficking, which were named "trafficking of adults and" Trafficking of Minors' respectively provided for by Articles 110 / a of the Code Criminal and 128 / b of the Criminal Code. Defining the concept of trafficking in persons, by Albanian lawmakers, made to the Criminal Code in force, in accordance with the understanding that gives this concept the "Convention of the United Nations against organized crime" and the two Additional Protocols thereto, who have become part of the domestic Albanian legislation, by Law no. 8920, dated 11. 7. 2002.

To analyze this figure offense will take in analysis and will initially define elements of the offense.

Let us analyze the following in giving meaning to the offense

committed:

- Human action,
- Social dangerousness,
- Illegality,
- The selective criminal offense in law,
- The criminal responsibility of the author.

The fundamental elements of a criminal offense may be divided into elements of objective and subjective elements.

Objective elements can be divided into formal elements and material elements.

The objective elements in the group are:

Action man

Social dangerousness,

The illegality.

Criminal acts are directed against the goods or values which are protected in the legal system.

Legal benefits are protected in criminal law are subjected to the offense.

The object of the offense is a good law against which the offense is detailed.

In criminal law recognizes two types of facility offense:

1. Subject General
2. Object group.

The general purpose is man and social community.

The overall object is the sum of all goods that are to be protected by the criminal law.

"Trafficking in persons is a form of modern slavery, a new type of global trade of slavery".

As in other countries of the region, the phenomenon of trafficking in Albania started to develop the proportions after years of concern 90. In the years 1990-1995, the process of trafficking carried out by individuals, based on family ties, tribal or regional. Later this phenomenon came to being organized and culminated in the years 1997-2001, when they were created authentic criminal organizations, which focused on the trafficking of women for sexual exploitation and trafficking of children for begging.

At the same time, it should be noted that trafficking in people, as in a good part of the Western Balkan countries, is closely related to various factors socio-economic and political transformation, the development of which are variable but however the trend to sit.

Only after 2001 trafficking was recognized as a problem and began to hit seriously by implementing rapidly legal reform, including legal provisions in the Penal Code which provides for stiff penalties for the trafficking phenomenon.

In Albania, legislation that deals with the impact of human trafficking has undergone fundamental changes, aiming through improvements periodic changes met the best international standards of domestic legislation. Criminal sanctions provided in our legislation for traffickers are too heavy, they provide up to 25 years in prison and the consequences of trafficking victims life sentence changed to life imprisonment.

As a result of an aggressive policy against this phenomenon, coupled with severe penalties and forfeiture real perpetrators, the phenomenon of trafficking in human beings is significantly reduced. According to statistics of the Evaluation Report on the Implementation of the National Strategy for Combating Trafficking in Human Beings 2005-2007, as trafficking of women

and children is decreasing. Thus, in 2005 there were 30 female victims of trafficking and 7 children; in 2006 there were 25 women and 4 children victims of trafficking and in 2007 there were only 12 women and 3 children victims of trafficking.

According to international estimates and now Albania is not a country of transit or destination any major country, but a country of origin for women and girls trafficked across borders, but increasingly also within limits. Albanian victims are trafficked to Greece and Italy and then to England, France, Belgium, Norway, Germany and the Netherlands. Traffickers largely used overland routes or falsified documents to transport their victims by plane or boat.

The majority of trafficked children in Greece are used for forced labor, including begging and street crime. Some of them are trafficked for sexual exploitation. According to Terre des Hommes (Tdh) and Arsis 337 Albanian children have been identified in Thessaloniki and Athens, Greece as victims of trafficking. However, the number of Albanian children trafficked to Greece were falling in 2006.

It is worrying for the moment what is internal trafficking. Police and reintegration centers attest to the fact that girls forcibly taken from villages and towns sent in small or large for prostitution in hotels or private homes.

If we talk about ways of recruiting, they continue to be fake marriage or romance fraud to lure girls go abroad to exploit later for prostitution. The economic situation is very bad and low levels of education make girls and children extremely vulnerable to this phenomenon and criminals. Traffickers seize documents of the victims and abuse them physically and sexually, forcing into prostitution before they leave their country. One of the main pressures that were made victims is the threat that if they refuse to prostitute themselves, their family will get hurt.

The following will get acquainted in detail with the legal framework in force, as well as the mechanisms and institutions established in order to combat and prevent trafficking in people.

It must be said that Albania has a good legal framework, in full compliance with international conventions and other international acts which it has acceded to and is party. Albania also provides more stringent measures punishment for persons who commit the offense of trafficking in persons who go to capital punishment - life imprisonment - in aggravating circumstances.

The following will give a general overview of international acts to address the issue of trafficking in persons, as well as the domestic legal framework, aiming at providing information to the proper identification of a victim of trafficking.

Trafficking as such term is talking about the end of the 19th century. Taking into account the situation and the circumstances of the time in question, the first efforts to combat trafficking in people associated with the International Agreement for the Suppression of the White Slave Market.

Not wanting to make a long list of international acts that begin, as stated above, since the early 19th century, let's see those acts directly related to trafficking in people.

Thus, Albania has ratified and is a party to the UN Convention against Transnational Organized Crime and its additional protocols in 2002 and is among the first countries to implement the obligations deriving from it immediately after the signing.

One of the protocols to the Convention against Transnational Organized Crime is "Additional Protocol on 'Prevent, Suppress, and Punish Trafficking in Persons, especially women and children" of the UN Convention against Transnational Organized Crime ", otherwise it is known as the Palermo

Protocol. In it, the first time the definition of trafficking in persons as a crime and this document serves as a model for the drafting of national legislation in relation to addressing the issues of trafficking in persons. In this regard, Article 110 / Criminal Code of the Republic of Albania are designed in full compliance with the Palermo Protocol. Protocol additional of the same Convention, "Protocol against the Smuggling of Migrants by Land, Air and Sea" also known as the "Protocol of Migrants", aims to prevent and combat smuggling of migrants and protection of their rights.

An international step towards combating trafficking in persons is the signing and ratification of the Convention of the Council of Europe "On Measures against Trafficking in Human Beings", in May 2005, the novelty of which is the definition of a victim of trafficking. According to this convention, "victim" means any natural person who is subject to trafficking in human beings as defined in this article ".

Other acts International:

1. Universal Declaration of Human Rights, in December 1948 - the founding document for the drafting of legislation by the states, based on the rights and fundamental freedoms.

2. The United Nations Convention on the Rights of the Child - the founding document for the establishment of the concept of "protection" of children.

3. European Convention for the Protection of Human Rights and Fundamental Freedoms - which condemns the worst forms of exploitation and degradation of human beings.

4. Additional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and pornography of a child-which prohibits and punishes the sale of children, child prostitution and child pornography.

INDEMNITY AND COMPENSATION OF VICTIMS

Legislation does not exist a special law for compensation and reparation for victims. The only possibility that victims under criminal procedural law to compensation for the damage that was caused is through a civil lawsuit in the criminal process. The civil lawsuit in the criminal process provided for in Article 61 of the Criminal Procedure Code and entitle the victim as a civil plaintiff, require through a civil action in the criminal proceedings against the trafficker or civil defendant, property restitution and compensation. Also, victims of trafficking may file a separate civil suit in civil court by referring to Article 647/a of the Civil Code, the remuneration of non-pecuniary damage. The civil lawsuit provides protection for the victim because her request as civil plaintiff, the proceeding in order to ensure the return of property and compensation for the damage, impose seizure of property of the defendant or civil defendant. This measure stands until the end of the matter.

In case the court gives a decision of acquittal for the defendant, because the fact is not provided as a criminal offense, or when the decision to terminate the criminal case, the civil lawsuit left unexamined denying thereby the victim the right to compensation. Another drawback is the fact that procedural civil lawsuit in the criminal process can be used under Article 61 of the Code of Criminal Procedure only for pecuniary and non-pecuniary damage not by depriving victims of their right to seek compensation of non-pecuniary damage in a criminal process. As noted above, this right can be enjoyed by direct indictment in civil court, claim that this court has "..

problems of cost, time and the outcome uncertain." Besides compensation from the trafficker, there is another way to compensate the victim, through a public scheme. In our domestic legislation that provided for in Law no. 10192, dated 3.12.2009 "On prevention and suppression of organized crime and trafficking through preventive measures against assets". Specifically, Article 37 of the law stipulates the establishment of a Special Fund for the Prevention of Crime, which serves among other things, to come to help victims of crime, including victims of trafficking, and to promote social programs for this category . This provision is in accordance with paragraph 4 of Article 15 of the EC, which provides for sanction by the domestic law of the parties, the establishment of a fund for victim compensation or measures or programs of compensation, aimed at protection and social integration victims, programs that may be financed by assets confiscated traffickers. On the other hand, in practice the implementation of this provision is found to be less effective, because the law has not directly predict how a victim of trafficking can benefit from this fund, through administrative or penal process and civil. According to professionals in the field, the most efficient way to guarantee this right victims would be simultaneous judgment of the author, trafficker and lawsuit seeking compensation, as this would facilitate the victim psychologically and reduce procedure and costs. This is supported and the findings of a study of the OSCE on compensation for trafficked persons and exploited, which state that "to prove the damage by evidence of victimization past and present, as well as names or definitions of certain categories of damage as "loss of dignity" may re-traumatizing effect on the trafficked person" . Also, compensation to the victim could be done by determining the compensation as part of major penalty against the trafficker, the main aim being to compensation from the offender, who has caused the damage and the suffering of the victim.

The injured during the proceeding has the right to know about its action.

At any moment, we must recognize the dignity and professionalism dealing with the victims of crime. One of the rights to the realization of which we have had cooperation with NGOs, it is right that the victims' compensation or compensation for the damage. According to our forecasts of procedure, the victim witness the process or the aggrieved party in the process there is a defense of his own, to practice everyday and such a function is exercised by representatives of various organizations.

Subject of the offense is always a purpose in the case of offenses relating to trafficking in human beings, the realization of monetary benefit, the implementation of any form of benefit. Procedural Legislation concept envisages the term "damaged by crime", where in addition to other categories, are part and victims of trafficking.

In the provisions of Article 58 of the Code of Criminal Procedure sanctioned find rights that a person injured by the offense. The injured by the criminal offense has the right to demand prosecution of the guilty and compensation. DRETA this can be realized enabling filing claims in the proceeding, looking obtaining evidence. In case of rejection of claims made before the proceeding has the right to appeal in court.

The rights belonging to the injured, and extend to his heirs, and in the absence of legal capacity of the victim, this right belongs and his legal representatives.

Another element to be considered as a right of the injured party and the offense is civil claim in the criminal process provided for in Article 61 of the Criminal Procedure Code. According to the provisions of this Article, a person who has suffered material injury from the offense or his heirs have the right to bring a civil action in the criminal proceedings against the defendant

or against civil defendant seeking return of property and compensation of damage. Victims of trafficking in addition to other damages suffered and what we call economic damage.

At this point we will focus on a more detailed approach to the character of the issue and the interest it represents.

All forms through which carried human trafficking related to victims of trafficking, as long as it is in dependence of the subjects of crime are limited in all kinds of their rights, including the economic ones. A very important problem viewing the issue in this regard is the definition fairly the damage caused to these victims. It is necessary to determine and to calculate not only the damage, his reward but the manner of accomplishing this reward.

In daily practice court, although we have numerous instances of criminal offenses related to trafficking in human beings cases in which civil lawsuit in criminal trials to be reviewed and obtain a final solution, at least in the case of the Court of First Instance First Serious Crimes Tirana missing. The reasons for such an outcome are the most varied among which, the development of the trial of the criminal case in the form of summary trial (Article 403 and following of the Code of Criminal Procedure). In some cases, the subject or the author who committed the offense requires the application of summary trial. While the prosecution, given the legal provisions related to resolving the situation of the documentary evidence and judicial economy, recognizes the development of the process of trial. The problem encountered relates to the fate that will follow the civil suit filed by the injured criminal process. From the legal standpoint, the solution can be implemented on both sides, ie to accept the review of civil claim in the criminal process if and trial, or eluted civil lawsuit which then can be raised to the competent court.

Not only summary trial application leads to separation of a civil lawsuit in the criminal process, it can happen in cases where the criminal case is examined with ordinary trial.

More complicated are presented cases in which there is more than one defendant in the process, while civil suit just about one of them.

In this event the separation of the civil lawsuit, which then settled in a civil suit.

One moment the problem is related with "patience" that an injured party.

This means extending the time of realization of his rights.

In addition to the trial and conviction of the offender it is necessary that the other subject of the criminal act to provide support and legal protection.

For the implementation of aid, in order to provide the necessary legal protection should be taken into consideration the specific needs and position delicate, vulnerable victim as a result of the impact of victimization on. We should also be remembered that the victim's losses are numerous and of different nature. Practical cooperation with all institutional bodies or not, is very important and inevitably. Only thanks to this collaboration, we will be able to treat victims of trafficking under the relevant provisions. On the other hand, what is more important is the establishment of the legal basis in terms of efficient performance to reward victims. Our legislation and in the protection of the witness, but in the case of our practice for offenses related to human trafficking have not taken place.

PROTECTION AND ASSISTANCE TO VICTIMS OF TRAFFICKING

Trafficking or trafficking, are found worldwide and affects about 1.2 million children each year, according to the UN. It is the third largest criminal activity, second only to drugs and arms, and rising.

Both girls and boys are sexually exploited as cheap labor and soldiers, for adoption or forced to steal, beg and smuggle drugs. They have often lived in environments with violence, abuse and oppression and perhaps not gone to school. The victim is in a position of dependency on their traffickers, and often see no other option than to live the life he or she lives right now. For fear of reprisals tells therefore probably not be a victim of their situation. Children dare not do otherwise than they are told.

Poverty and discrimination are the causes of crime, but it also thrives due to the risk of perpetrators being detected and punished is low. Many children are tricked and forced into the trade, others are lured by promises of jobs and a better life. Some catches on, but are so desperate to find a way to earn a living that they are willing to try virtually anything. Demand for buying sex is another reason for the use of children in prostitution.

Even in Albania there is trafficking of children living in social deprivation and exploited in criminal activities, begging and prostitution. No authority knows the main responsibility, but the children are left to their fate. If they get help depends on the officer they happen to come in contact with.

Children do not behave the Swedish authorities expect. They see themselves not themselves as victims of a crime and do not ask for help.

This was the case of a 15-year-old girl from Romania who begged on the streets of Stockholm, and to buy food, partly to repay his bride debt. A police described her as an active, independent and enterprising. The district court had the impression that she was very plucky. The Court of Appeal agreed and acquitted the accused. The reasoning of the Courts is that it does not involve coercion or threats, but the girl both are used to and have chosen the misery and vulnerability. This case shows that knowledge of the judicial system must increase. It requires neither coercion or threats, and consent is irrelevant when it comes to the crime of child trafficking.

According to international norm, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly of the UN, is the international act fundamental, defining the rights of victims and procedures for compensation for damage to them. This paper promotes some of their rights to move up to the justice and fair treatment to them that among other things means legal assistance and information in time for all aspects of procedural, restitution, compensation of damage, putting in place rights, etc. , Compensation from the state when the offender funds are insufficient for this etc.

Similarly, the Convention of the United Nations Convention against Transnational Organized Crime and its additional Protocol, the so-called Palermo Protocol to prevent, suppress and punish trafficking in persons, especially women and children, stipulate the obligation of States Parties, which depending national law, enable the views and concerns of victims to be present and to be considered at appropriate stages of the investigation procedures (Law no. 8920, dated 11. 7. 2002, "On the ratification of the UN Convention against Transnational Organized Crime and its two additional

protocols ", paragraph 3 of Article 25" Support and protection of victims "of the Convention). Article 6, paragraph 2 of the Protocol, establishes the obligation of states to provide assistance to victims of trafficking through such measures that provide victims of trafficking in appropriate cases, information about court proceedings, assistance in order to present concerns and problems and the steps to be taken into account relevant criminal proceedings against offenders, without prejudice to the right of defense.

Meanwhile, the Council of Europe Convention "On Measures against Trafficking in Human Beings" in 2005 compared to other international instruments in the fight against trafficking in human beings has at its center the human rights and protection of victims. The Convention defines trafficking as a violation of human rights and violation of human dignity and human integrity.

Regarding the scope of the Convention, it covers all forms of trafficking, whether national or across borders, linked or not to organized crime, all victims of trafficking (women, men and children), all forms exploitation (sexual, forced labor or services, slavery, the removal of organs). This Convention is the first international legal instrument that gives the definition of "victim of trafficking in human beings'.

Under Article 28 of the EC Convention victim should be guaranteed the right to be protected from potential retaliation or intimidation, in particular during and after investigation and prosecution of traffickers. That's right, if necessary, applies to those who report criminal offenses of trafficking in persons or to cooperate with authorities in the investigation or criminal proceedings, as well as witnesses to give evidence and, if necessary, members of their family . Protection may include physical protection, relocation, identity change and assistance in finding a job. Concerning

children, section defines special protective measures in the best interest of the child.

The situation is different in the Albanian criminal legislation. Our system is an accusatory system, so there are in the spotlight of the offender and the sole purpose of criminal sanctions are the author's detention, prevention of commission of criminal offenses by others, and the rehabilitation of the author through the penitentiary system. While the restitution and compensation of victims does not constitute in itself the purpose of the criminal sanction. Albanian Criminal Code in its general part does not recognize the term "victim" as this part focuses mainly on general concepts of crime, criminal liability and criminal sanctions, while the Code special deals with specific offenses. This means that the victim does not appear as a separate entity, independent of the criminal law, as such it does not have standing as a party in criminal proceedings as the prosecution, the defendant and the court.

While the Code of Criminal Procedure mention the term "person aggrieved" (Law no. 7895, dated 27. 1. 1995 "Code of the Republic of Albania", as amended, Article 58 "The rights of the victim of crime" and Article 59 "The injured accuser"), through which the injured party is known as the subject procedural figures offense and defective material from the offense, which among them are not provided trafficking offenses, Article 110 / a "Trafficking in persons increase "and Article 128 / b" Trafficking of Minors ", thereby excluding the right of trafficking victims to legitimize the subject of separate proceedings. For these reasons nowadays under criminal procedural victims of trafficking are not directly involved in the criminal process as a party "cannot achieve its fundamental rights to participation, protection and restitution".

As part of the continuing review of domestic legislation to bring it in line with international norms mentioned above, in May 2013 Criminal Code underwent some changes, which aimed at harmonizing the provisions of the Code on offenses of trafficking in human beings Convention obligations EC. Specifically, regarding the provision on non-punishment of trafficking victims, the new Article 52 / an "Exemption or reduction of sentences for collaborators of justice and victims" of the Penal Code Article 52 / or adding to the law 144/2013, dated 2. 5. 2013 Article 7 establishes the possibility of exemption from serving the sentence or reduces its victims of trafficking if charges and helps make legal prosecution of the offense of trafficking in persons. Although the introduction of Article 52 / a of the Criminal Code can be considered a positive step in the protection of victims of trafficking, again, this article is only partially compliant with the standard required by the Convention, since it connects the exemption from punishment of the victim by giving charges or collaborating with justice. From the interviews conducted by prosecutors it shows that in cases where the victim refuses to provide narration or statement about her trafficking or exploitation, initiated criminal proceedings dismissed and when they are used for prostitution in the event of non-testifying prosecute prosecuted for prostitution.

Regarding the impact of prevention and other crimes that facilitate trafficking in the new article 110 / b of the Criminal Code provisions of re sanctions benefit or use of services provided by victims of trafficking with imprisonment of 2-5 years and in case when the victims are children from 3-7 years imprisonment. With the new provisions, in accordance with Article 6 of the Convention of EC aim of demand-side shock, as a preventive measure against trafficking.

Another change to the Criminal Code concerning acts of trafficking is the introduction of Article 110 / c, which is defined as a criminal act and

actions that facilitate the trafficking of adults as "counterfeiting, possession or provision of identity documents, passports, visa or other travel documents or retention, removal, concealment, damage or destruction ", which is punishable by 2-5 years and in case of facilitation of child trafficking is punishable by 4-8 years. Although the legislature has sought to harmonize the Penal Code with the Convention EC as regards the provisions of substantive criminal law, yet in this article there is confusion as regards the scope of performance of the actions mentioned above, the purpose of trafficking persons.

While in terms of protection that provide special legislation, the new law for "foreigners" of 2013, in paragraph 1 of article 54 "The issuance of residence permits to victims of human trafficking" provides for a period of reflection and recovery 3 months for victims of trafficking foreigners to leave the influence of traffickers and to explore the possibility of cooperation with the authorities responsible for the investigation of criminal trafficking. This is possible through the device with a residence permit for a period of 3 months, regardless of the will of his / her to cooperate with justice, when there are reasonable grounds to believe that the alien is a victim or potential victim of trafficking, the identified as such by the structures responsible for the identification and referral of victims of trafficking. This permit is given to the victim or potential victim of trafficking in order to recover, and treated by physical and mental condition for obtaining a knowledgeable decision to cooperate or not with justice. During this period, they enjoy all the rights as victims of trafficking according to the legislation (Law no. 108/2013 "For foreigners", point's 1 and 2, Article 54).

Also, a special protection was offered to victims of trafficking as protected witnesses based on the Law on "Protection of witnesses and collaborators of justice" (Law no. 9205 dated. 415. 03. 2004' For protection

of witnesses and collaborators justice '). This law has become the definition of "protected person" or " witness to justice ". "Witness of justice", according to this law, a person who, as a witness or the injured person makes statements or testifies to facts and circumstances that constitute evidence in a criminal proceeding and that, because of these statement or testimony is in a dangerous situation. Victims of trafficking can appear frequently in this procedural position, but so far in this program is included only a victim of trafficking in 2011.

When victims of trafficking appear as witnesses in providing evidence or testimony are accompanied police officers to the Serious Crimes Court, assisted by representatives of various organizations that conduct activities in this field.

Special measures for protection of witnesses apply where the application of the ordinary measures of witness protection justice is not sufficient and appropriate, the person admits cooperate freely with the prosecution and the Court of Serious Crimes as through his testimony complete, made without conditions and reservations, provides data based constituting evidence related to a criminal investigation for serious crimes, assist in preventing the commission of a serious crime or reduce the consequences arising from their help repair the damage and losses caused by the commission of serious crimes.

Implementation of special measures of protection of the witness only if he is placed in a real, concrete and serious, it is convenient to be involved with these measures, with their free will accept and actively participates in the implementation them. Special measures of protection for witnesses, collaborators of justice and persons close to or related with them are those dealing with the change of identity, residence, temporary protection of identity, data and documents of the protected person, declarations of a

witness under another identity and their administration with special means for voice distortion, true to his appearance and other forms defined by law.

Also, Article 8 of the draft Law no. 9110 "On the organization and functioning of the Court of First Instance for Serious Crimes" provides that the courts for serious crimes and the Court of Appeal for Serious Crimes may allow the questioning of witnesses, as well as confrontations and permissible readings made by implement, jointly or separately, the following rules: a) the presence of the defendant and the defense, but without visual contact; b) without communicating the defendant and the witness's identity; c) in other cases and manner specified by the legislation on the protection of witnesses and collaborators of justice.

Other important rules for the protection of witnesses under Article 361 / A-1 of the Code of Criminal Procedure. According to this article, the question of protected witnesses can be conducted at a distance via audiovisual connection, according to the rules laid down in Article 361/7 of the Code of Criminal Procedure. These are guarantees effective and feasible treatment and protection of victims of trafficking under the required conditions.

- The position of the victims of trafficking in the trial of offenses of trafficking

As mentioned above, the problems the issue of the positioning of a victim of trafficking in the process of investigation and trial as a witness where the competent Court for Serious Crimes related to the lack of legal provisions positioning of the victim as a party to procedural than in the role witness or civil plaintiff for pecuniary damage.

When the victim came to the witness stand in most cases, as noted during the interview prosecutors proceeded to the evidence of statements of

victims / witnesses in the preliminary investigation stage. This measure is taken because often give victims the report and during the trial when they appear as a witness in proceedings against traffickers, represent another situation due to intimidation by traffickers. During the hearing of securing evidence for these witnesses is applied Article 8 of the law "On the organization and functioning of courts for serious crimes " by asking without visual contact."

From the case law of the Supreme Court concluded that during the questioning of victims at a time when they are considered as damaged by criminal acts to law enforcement in general have not applied their right under Article 158 K. Pr. P. for exemption from the obligation to testify, leading to dissolution of the injunction because the administration of proof in violation of criminal procedural law. Similarly, Article 158 / C / 2 K. Pr. Criminal Law stipulates that it is not obliged to testify who, though not the defendant's spouse, cohabiting or has cohabited with him. The logic of lawmakers in the drafting of this provision has been the preservation of the principles of a socially important, as is that between spouses or cohabitants, excluding this about subjects from having to testify at trial of criminal proceedings dependent on their relatives, about events and facts on which they are aware. In particular, the legislator has recognized a special status spouse, former spouse, partner or person associated with the adoption of the defendant in a criminal proceeding, making it mandatory for the body of procedure in any case, even when the charge of the work of It is made of these subjects at the time of administration of the evidence they need to be made known right not to testify. In this way, the legislator has separated itself this about subjects other persons provided by article 16, which, despite the connection to the defendant, as long as the predicates in quality cannot be exempted from having to testify.

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