



ASSISTÊNCIA ÀS VÍTIMAS DE TRÁFICO DE SERES HUMANOS PARA EXPLORAÇÃO SEXUAL E AVALIAÇÃO DOS CUSTOS DAÍ DECORRENTES

Lisboa, 4-5 dezembro 2017

**UP
GRADE**
YOUR LEGAL
EXPERTISE

**Criminal
Law**



Tópicos chave

- Foco nos grupos vulneráveis (mulheres e crianças) e como melhorar a assistência prestada às vítimas
- Aspectos judiciais e de aplicação da lei em relação às vítimas e a necessidade de uma melhor cooperação transfronteiriça e interinstitucional
- Identificação e procedimentos de interrogatório das vítimas e custos materiais, humanos e emocionais daí procedentes

Línguas:

Inglês e Português
(interpretação simultânea)

Evento número
317DT73

Organizador

ERA (Ramin Farinpour) em cooperação com o *Centro de Estudos Judiciários*, a Associação Portuguesa de Apoio à Vítima (APAV), LEFÖ, a Agência Nacional da Roménia contra o Tráfico de Pessoas (ANITP), a Comissão Nacional da Bulgária para o Combate ao Tráfico de Seres Humanos, e o *German Weisser Ring*

O conteúdo deste programa reflete apenas a perspetiva da ERA e a Comissão não pode ser responsabilizada pelo uso da informação aqui contida.

**CENTRO
DE ESTUDOS
JUDICIÁRIOS**



Co-financiado pelo Fundo de Segurança Interna (FSI) 2014-2020 da União Europeia

ASSISTÊNCIA ÀS VÍTIMAS DE TRÁFICO DE SERES HUMANOS PARA EXPLORAÇÃO SEXUAL E AVALIAÇÃO DOS CUSTOS DAÍ DECORRENTES

Segunda-feira, 4 dezembro 2017

08:30 Chegada e registo dos participantes

09:00 **Boas-vindas e introdução**
João da Silva Miguel e Ramin Farinpour

I. A UE E A MOLDURA INTERNACIONAL – E RESPETIVAS MEDIDAS NACIONAIS – NO COMBATE À EXPLORAÇÃO SEXUAL E PROTEÇÃO E ASSISTÊNCIA ÀS VÍTIMAS DE TRÁFICO DE SERES HUMANOS

Moderador: Ramin Farinpour

09:10 **A definição de tráfico de seres humanos (TSH) nas normas internacionais no contexto de exploração sexual e de proteção e assistência às vítimas, e seus direitos: podem tais custos (financeiros e humanos) ser alvo de avaliação?**
Ryszard Piotrowicz

09:45 **A necessidade de recolher, analisar e disseminar informação sobre TSH no contexto de exploração sexual e a existência de um plano nacional: uma visão geral dos custos financeiros e humanos associados.**
Rui Belchior

10:15 Debate

10:45 Pausa-café

II. RESPOSTAS À EXPLORAÇÃO SEXUAL, ASSISTÊNCIA ÀS VÍTIMAS E AVALIAÇÃO DE CUSTOS NO CONTEXTO DO TSH: MEDIDAS ADOTADAS PELOS ESTADOS-MEMBROS

Moderador : Ryszard Piotrowicz

11:15 **Medidas adotadas pela Itália na proteção e assistência às vítimas de TSH para exploração sexual: utilização de técnicas anti-máfia e novas formas de assistência psicológica**
Giorgia Spiri

11:45 **O apoio às vítimas desde a cooperação interna ao nível dos tribunais até à investigação efetiva e compensação: a perspetiva espanhola**
Teseida García García

12:15 Debate

12:45 Almoço

13:45 **A importância da não-punição e da não-acusação das vítimas e a necessidade de cooperação eficaz entre as autoridades judiciais, a polícia e outros intervenientes na proteção e assistência às vítimas**
Warner ten Kate

14:15 **O papel da polícia na inquirição e no apoio às vítimas**
Orlando Ribeiro

15:00 Debate

15:30 Pausa-café

16:00 **A perspetiva de um advogado: assistência e representação de vítimas de TSH para exploração sexual e garantia da proteção dos seus clientes no contexto do interrogatório durante o processo**
Alexios Athanassopoulos

16:30 **A perspetiva de um país de origem de vítimas de exploração sexual em relação ao TSH: identificação, proteção e apoio às vítimas, sua reintegração na sociedade e avaliação de custos daí provenientes na Roménia**
Cristina Dragota

17:00 Debate

Objetivo

Este seminário (o segundo de uma série de quatro seminários co-financiados pela Comissão Europeia) sobre combate ao tráfico de seres humanos (TSH) irá focar-se na assistência às vítimas de exploração sexual, tanto a nível da UE como a nível nacional, e na avaliação dos custos daí decorrentes.

Quem deve assistir?

Juízes, procuradores, advogados, agentes da autoridade e representantes da sociedade civil/ONGs.

CPD

Os programas da ERA obedecem aos requisitos estabelecidos para a certificação *Continuing Professional Development* (CPD). Este evento corresponde a 11.5 CPD horas.

Local

Centro de Estudos Judiciários
Largo do Limoeiro, Lisboa

Próximas formações

INVESTIGATING WEB 2.0
Lisboa, 13-14 Março, 2018

O CICLO DE VIDA DA PROVA ELETRÓNICA

Os desafios colocados pela “Nuvem Informática”
Praga, 10-11 Abril, 2018

Os seus contactos



Ramin Farinpour
Advogado
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Elizabeth Klopocki
Assistente
E-mail: eklopocki@era.int

17:30 Fim do primeiro dia do seminário

19:30 Jantar

Terça-feira, 5 dezembro 2017

09:00 **Elaboração de um programa nacional para a prevenção do TSH e proteção e assistência às vítimas de exploração sexual no país de origem: cooperação a nível local e transfronteiriço no contexto da avaliação dos custos materiais e humanos**
Dobryana Petkova

09:30 **Proteção às vítimas através da prestação de apoio psicossocial e legal e no acesso aos cuidados de saúde e alojamento: a perspetiva da avaliação de custos por uma ONG dedicada ao apoio às vítimas no contexto**
Evelyn Probst

10:00 Debate

10:30 Pausa-café

III. O QUADRO LEGISLATIVO NA UE PARA OS DIREITOS DAS VÍTIMAS NO CONTEXTO DO TSH

Moderador: Ramin Farinpour

11:00 **Da negociação à implementação: a aplicação de instrumentos jurídicos na Alemanha, as reformas nacionais no contexto da proteção às vítimas de exploração sexual do TSH e a possibilidade de avaliação dos custos associados**
Alexander Herr

11:30 **O quadro legislativo para os Direitos das Vítimas na UE: das normas mínimas para o apoio e proteção às vítimas (Diretiva 2012/29/EU) ao reconhecimento mútuo das medidas de proteção na jurisdição civil (Regulamento 606/2013) e penal e sua aplicação em Portugal no contexto do TSH e na proteção das vítimas de exploração sexual**
João Lázaro

12:00 Debate

12:15 Workshops simultâneos

- **Técnicas de investigação no contexto da assistência e proteção às vítimas de TSH para exploração sexual**
Teseida García García
- **Declarações de vítimas e não punição e cooperação entre diferentes plataformas**
Warner ten Kate
- **Proteção e assistência às vítimas**
Júlia Cardoso, Evelyn Probst

13:15 Resultados do *workshop* e debate

13:45 Almoço e encerramento do seminário

Para atualizações do programa: www.era.int
O programa poderá ser sujeito a alterações.

Apesar da disponibilização de interpretação simultânea durante a realização deste seminário, apenas algumas das apresentações dos oradores estão disponíveis em todas as línguas faladas.

Oradores

Alexios Athanassopoulos, Fundador e Sócio da *AA Law Firm*, Atenas

Rui Belchior, Técnico Superior, Observatório do Tráfico de Seres Humanos (OTSH), Lisboa

Júlia Cardoso, Gestora do Gabinete de Apoio à Vítima de Loulé, Associação Portuguesa de Apoio à Vítima (APAV), Lisboa

João da Silva Miguel, Diretor da CEJ, Lisboa

Cristina Dragota, Inspetora Especialista, Unidade de Monitorização, Avaliação e Coordenação para as Vítimas, Agência Nacional Contra o Tráfico de Pessoas (ANITP), Bucareste

Ramin Farinpour, Advogado, Diretor de Curso, Direito Penal Europeu, ERA, Trier

Teseida García García, Procuradora Adjunta da Imigração e Cooperação Judiciária Internacional, Ministério Público, Las Palmas

Alexander Herr, Assessor jurídico, Unidade para os Direitos das Vítimas, Assuntos Internacionais e Trabalho Honorário, *Weisser Ring*, Mainz

Warner ten Kate, Procurador, Serviço de Ministério Público para o Nordeste dos Países Baixos, Zwolle

João Lázaro, Presidente, Associação Portuguesa de Apoio à Vítima (APAV), Lisboa; Presidente, *Victim Support Europe*, Bruxelas

Dobryana Petkova, Chefe Especialista, Comissão Nacional para o Combate ao Tráfico de Seres Humanos (NCCTHB), Conselho de Ministros da Bulgária, Sófia

Ryszard Piotrowicz, Professor de Direito, Departamento de Direito e Criminologia, Universidade Aberystwyth, Aberystwyth; Membro do GRETA, Conselho da Europa, Estrasburgo

Evelyn Probst, Chefe do Centro de Intervenção para Mulheres e Jovens Vítimas de Tráfico, *LEFÖ* (Informação, Educação e Apoio às Mulheres Migrantes), Viena

Orlando Ribeiro, Inspector-chefe, Chefe da Unidade Anti-tráfico de Pessoas, Direção Central de Investigações, Serviço de Imigração e Fronteiras, Ministério da Administração Interna, Lisboa

Giorgia Spiri, Procurador, Direção Especial Anti-máfia, Ministério Público, Palermo

Protecting the Victims of Trafficking in Human Beings for Sexual Exploitation

Prof Ryszard Piotrowicz

Law School, Aberystwyth University and Vice-President of GRETA
Assisting Victims of Human Trafficking for Sexual
Exploitation and Measuring the Costs

4 December 2017

Centro de Estudos Judiciarios, Lisbon



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

NETIKĖK

LENGVU UŽDARBIU UŽSIENYJE

TAVE PARDUOS KAIP LĖLĖ



Trafficking of human beings

- **Prostitution**
- Sweat shops
- **Domestic labour**
- Forced marriage
- **Agricultural labour**
- Construction
- **Hospitality**
- Sport
- **Adoption**
- Organ transplants
- **Begging**
- Forced criminality

Trafficking and smuggling

- Trafficking is enforced
- **Smuggling involves consent**
- Trafficking is a process with several actors involved:
 - Recruitment agencies
 - Friends or relatives
 - Hotels
 - Sub-contractors
 - Bar owners
 - Exploiters/clients

Definition of THB

- Council of Europe Convention on Action against Trafficking in Human Beings, Art 4
- Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, Art 2
- “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Three elements

- The act
 - The method
 - The motivation
-
- Consent of victim not relevant where any of methods in mentioned are used – one cannot consent to be trafficked
 - Where victim is under 18, there is trafficking if only act and motivation are present
 - None of the methods need to be proved

Exploitation

- Directive, Article 2.3
 - Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude , or the exploitation of criminal activities, or the removal of organs

Rantsev v Cyprus and Russia

European Court of Human Rights

Application No. 25965/04, Judgment of 7 January 2010

- Para. 284:

The State's human rights obligation includes having in place legislation "...adequate to ensure the **practical and effective protection** of the rights of victims or potential victims of trafficking..."

Rantsev v Cyprus and Russia

- Para 286
- “...Article 4 may, in certain circumstances, **require a State to take operational measures to protect victims, or potential victims, of trafficking...** In order for a **positive obligation** to take operational measures to arise in the circumstances of a particular case, it must be demonstrated that the State authorities were aware, or ought to have been aware, of circumstances giving rise to a credible suspicion that an identified individual had been, or was at real and immediate risk of being, trafficked or exploited within the meaning of ... Article 4(a) of the Anti-Trafficking Convention. In the case of an answer in the affirmative, there will be a violation of Article 4 ... where the authorities fail to take appropriate measures within the scope of their powers to remove the individual from that situation of risk”.

European Commission's Group of Experts on Trafficking in Human Beings

- Opinion No.6/2010 of the Group of Experts on Trafficking in Human Beings of the European Commission, On the decision of the European Court of Human Rights in the Case of *Rantsev v Cyprus and Russia*, 22 June 2010

International Journal of Refugee Law, Volume 22, Issue 4, 2010, Pages 673–676

Protection of victims of sexual exploitation

- Directive, Art 11 –general measures – sexual exploitation is not treated separately
 - Assistance and support before, during and after criminal proceedings – as soon as there are reasonable grounds to believe the person has been trafficked
 - Not conditional on cooperation in the prosecution

Nature of Assistance

- Must be enough to include “at least standards of living capable of ensuring victims’ subsistence through measures such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate”.

Protection during criminal investigation and proceedings

- **Art 12**
- access to legal counselling and legal representation, including for claiming compensation
- shall be free if the victim cannot pay
- Avoid secondary victimisation:
 - Unnecessary repetition of interviews
 - Direct visual contact between victim and accused
 - Giving evidence in open court
 - Unnecessary questioning about victim's private life

Measures to protect child victims

- Arts 13-16
- Recognises the particular vulnerability of child victims of trafficking, both in general and during criminal investigations and proceedings
- Obligation to take account of the personal and special circumstances of unaccompanied child victims

Council of Europe Convention


- **Art 10** – duty to have personnel who are trained to identify and help victims
- If there are reasonable grounds to believe a person has been trafficked, they cannot be removed from the State until identification process is complete; and they must receive assistance

Protection of private life

- **Art 11**
- Duty to protect the private life and identity of victims
- Special duty to protect the identity of children

General Assistance Measures

- **Art 12** – obligation to assist victims in their physical, psychological and social recovery. The minimum:
 - Standards of living to enable subsistence, including appropriate and secure accommodation, psychological and material assistance
 - Access to emergency medical treatment
 - Translation and interpretation services
 - Counselling and information on their rights and the services available
 - Assistance to have their interests taken into account during criminal proceedings
 - Access for children to education

- 
- General duty to take “due account” of the victim’s safety and protection needs
 - Provide necessary medical or other assistance to victims who do not have adequate resources
 - Assistance is not to be conditional on the victim’s willingness to act as a witness
 - Services are to be provided on a “consensual and informed basis”

Recovery and reflection period

- **Art 13** – a period of at least 30 days for those for whom there are reasonable grounds to believe they are victims of THB
- To enable them to recover and escape influence of traffickers and/or take informed decision on cooperating with the authorities
- They are entitled to assistance

Residence permit

- **Art 14** – duty to issue a renewable residence permit to foreign victims of THB, in one or other of two situations or both:
 - Where it is considered necessary owing to the victim's personal situation
 - Where it is necessary so that the victim can help the authorities in investigation or criminal proceedings

See also: **EU Residence Permits Directive: 2004/81/EC**

Repatriation and return of victims

- Possible entitlement to refugee status or subsidiary protection
 - **UNHCR, GUIDELINES ON INTERNATIONAL PROTECTION**: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked (2006)
 - **Council Directive 2011/95/EU** of 13 December 2011 (“Qualification Directive”) , Art 15

The Cost of Human Trafficking

- ILO, *Profits and Poverty: the Economics of Forced Labour* (2014)
 - http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf
- “It is estimated that the total illegal profits obtained from the use of forced labour worldwide amount to US\$150.2 billion per year.” (p 13)

Costs for the Victims

- Unpaid earnings
- Medical, physical and psychological trauma
- Shelter and maintenance
- Rehabilitation
- Legal assistance for compensation claims (against the State and/or traffickers)
- Reintegration

Costs for the State

- Training of relevant professionals
 - Police
 - Border guards
 - Social workers
 - Medical staff
 - Judges and prosecutors
 - Consular staff

Costs for the State

- Assisting and helping trafficked people
 - Shelters
 - Medical, psychological and practical assistance
 - Interpretation and translation
 - Financial support for NGOs assisting trafficked people
 - Awareness-raising
 - Rehabilitation programmes
 - Repatriation

Costs for the State

- Criminal law
 - Investigation and prosecution
 - Police costs and court costs
 - Cost of maintaining convicted traffickers
 - Cost of law reform to address THB

Ministry of Internal Administration
Observatory on Trafficking in Human Beings (OTSH)

THE NEED TO COLLECT, ANALYSE AND DISSEMINATE INFORMATION ON THB WITHIN THE CONTEXT OF SEXUAL EXPLOITATION AND A NATIONAL ACTION PLAN: AN OVERVIEW OF RELATED FINANCIAL AND HUMAN COSTS

ASSISTING VICTIMS OF HUMAN TRAFFICKING FOR SEXUAL EXPLOITATION AND MEASURING THE COSTS THEREOF
Lisbon, 4-5 December 2017

ERA (Ramin Farinpour) in cooperation with the *Centro de Estudos Judiciários*, the Portuguese Association for Victim Support (APAV), LEFÖ, the Romanian National Agency Against Trafficking in Persons (ANITP), the Bulgarian National Commission for Combating Trafficking in Human Beings, the German Weißer Ring



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

1. The need to COLLECT, ANALYSE AND DISSEMINATE INFORMATION on THB within the context of SEXUAL EXPLOITATION

What do STATISTICS tells us (or NOT)?

- ❑ Between 2008 and 2016 = 1.570 registers of (presumed) Victims of Trafficking.
- ❑ 569 **Confirmed** Victims of Trafficking and 308 **Considered** Victims of Trafficking.
 - ❑ Of which:

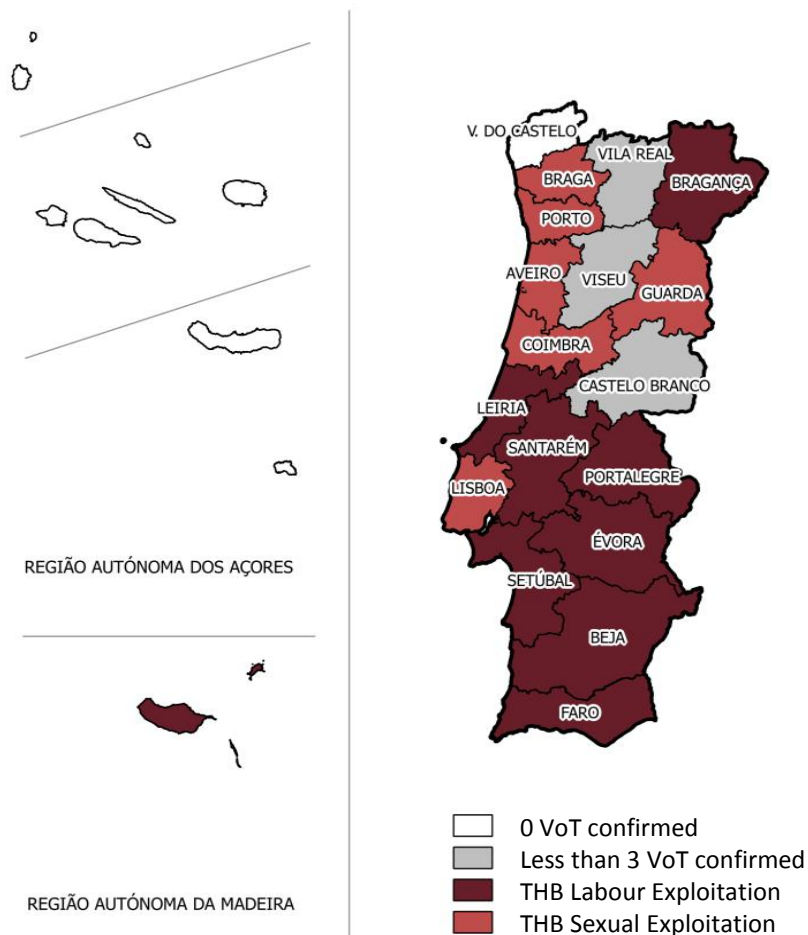
Table 1- Total of confirmed and considered VoT, by main purpose of THB

Purpose Register classification → ↓	<i>THB for Labour Exploitation</i>	<i>THB for Sexual Exploitation</i>	<i>Other purposes</i>
<i>Confirmed VoT</i>	417	111	41
<i>Considered VoT</i>	92	146	70

(Data last update: August 2017)

1. The need to COLLECT, ANALYSE AND DISSEMINATE INFORMATION on THB within the context of SEXUAL EXPLOITATION

Cartogram 1 – Confirmed victims/Purpose of THB, per district (2008-2016)



- ❑ **Spatial prevalence of confirmed VoT for the purposes of sexual exploitation** is especially found in:
 - ❑ Centre of Portugal (e.g. **Coimbra**),
 - ❑ North of Portugal (e.g. **Oporto** and **Braga**).

Table 1 a)- Total of confirmed and considered VoT for sexual exploitation

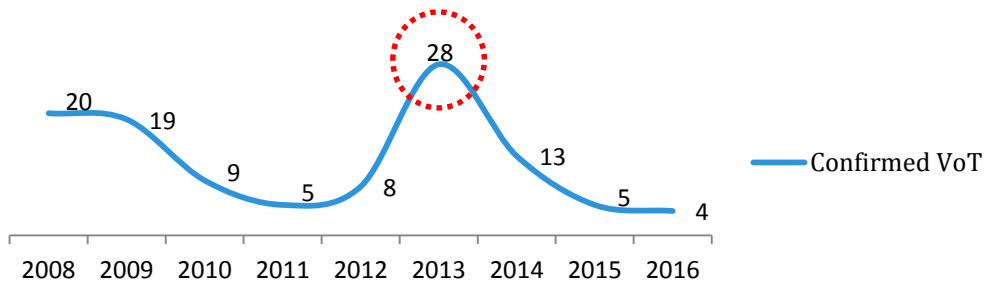
Purpose → Register classification ↓	<i>THB for Sexual Exploitation</i>
<i>Confirmed VoT</i>	111
<i>Considered VoT</i>	146

1. The need to COLLECT, ANALYSE AND DISSEMINATE INFORMATION on THB within the context of SEXUAL EXPLOITATION

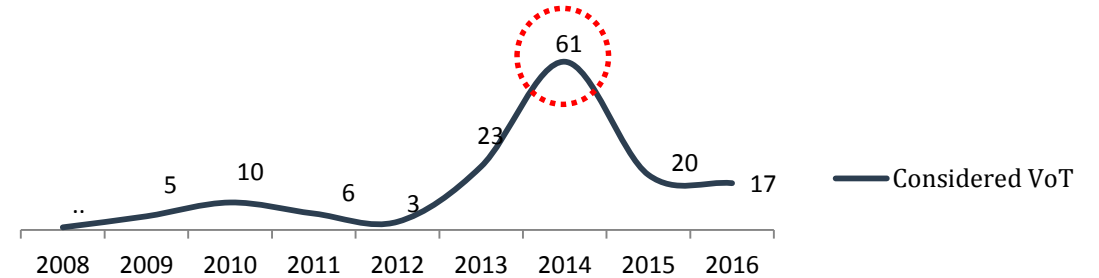
What do STATISTICS tells us (or NOT)?

□ Longitudinal analysis:

Graph 1- Annual distribution of confirmed VoT for sexual exploitation, 2008-2016



Graph 2- Annual distribution of considered VoT for sexual exploitation, 2008-2016



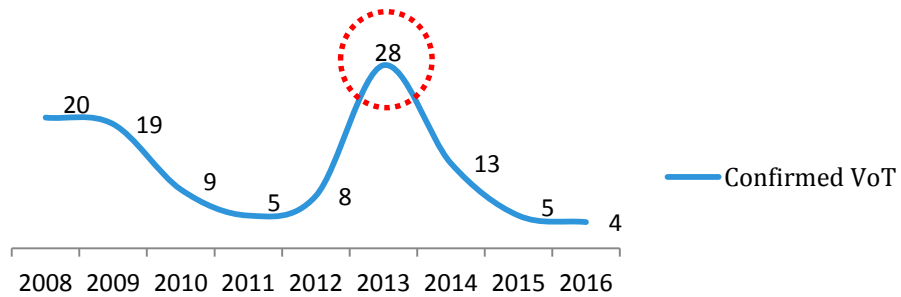
.. Data protected by statistical secrecy

1. The need to COLLECT, ANALYSE AND DISSEMINATE INFORMATION on THB within the context of SEXUAL EXPLOITATION

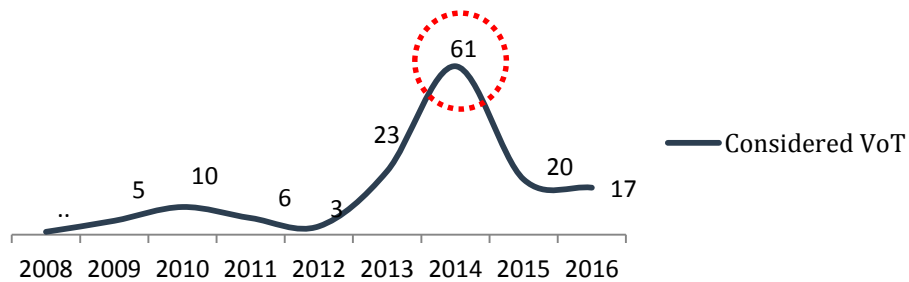
What do STATISTICS tells us (or NOT)?

❑ The Person in the context of the Event

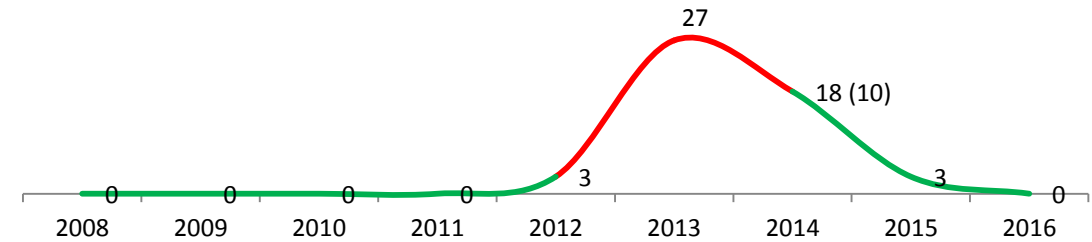
Graph 1- Annual distribution of confirmed VoT for sexual exploitation, 2008-2016



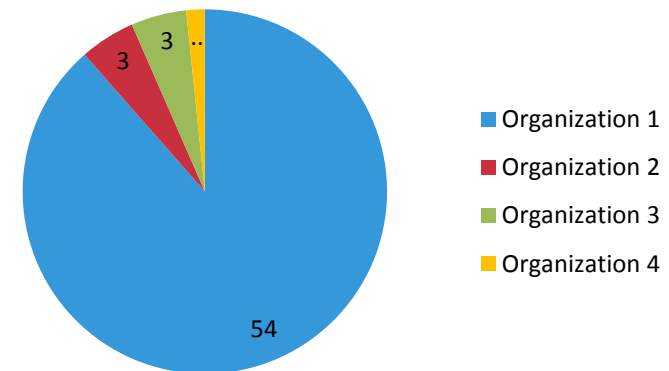
Graph 2- Annual distribution of considered VoT for sexual exploitation, 2008-2016



Graph 3- Annual distribution “Portugal as country of Transit”, 2008-2016



Graph 4 - Total of registers in 2014, per organization




.. Data protected by statistical secrecy

2. The need to collect, analyse and disseminate information on THB within the context of sexual exploitation and a national action plan: an overview of related FINANCIAL and HUMAN COSTS



- Some categories:
 - Direct medical costs
 - Costs of direct social consequences
 - Human costs



Ministry of Internal Administration
Observatory on Trafficking in Human Beings (OTSH)

MANY THANKS!

RUI BELCHIOR

RBELCHIOR@OTSH.MAI.GOV.PT

ASSISTING VICTIMS OF HUMAN TRAFFICKING FOR SEXUAL EXPLOITATION AND MEASURING THE COSTS THEREOF

Lisbon, 4-5 December 2017

ERA (Ramin Farinpour) in cooperation with the *Centro de Estudos Judiciários*, the Portuguese Association for Victim Support (APAV), LEFÖ, the Romanian National Agency Against Trafficking in Persons (ANITP), the Bulgarian National Commission for Combating Trafficking in Human Beings, the German Weißer Ring



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

VICTIM SUPPORT FROM IN-HOUSE COOPERATION AMONGST COURTS TO EFFECTIVE INVESTIGATION AND COMPENSATION: THE SPANISH PERSPECTIVE

Lisbon, 4-5 December 2017

Teseida García García
Migration and International
Cooperation Prosecutor's Office
Las Palmas
Spain

One of the most serious crimes in the world

A serious human rights violation

TRAFFICKING IN HUMAN BEINGS

The modern slavery

A very lucrative activity of organized crime. It is the second most lucrative criminal activity after weapons trafficking and before drugs trafficking.

Is THB one of the most serious manifestations of violence against women ?

Very complex crime

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graph LR; A[Very complex crime] --- B[Difficulties to investigate]; A --- C[Difficulties to obtain evidence: it is necessary many different investigation techniques]; A --- D[Legal technical difficulties]; A --- E[The special position of the victim];
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Difficulties to investigate

Difficulties to obtain evidence:
it is necessary many different
investigation techniques

Legal technical difficulties

The special position of the
victim

The interest of
the State to
punish and give
a strong answer

INTERESTS

The interest of
the victim to be
protected

ALWAYS THE VICTIM'S PROTECTION

DIGNITY

A 3D illustration featuring a white, stylized human figure sitting on a large, red, three-dimensional question mark. To the right of the figure, a red cube is shown falling or rolling away. The background is a plain, light gray surface.

REASONS TO PROTECT VICTIMS OF THB

HUMANITARIAN REASONS

➤ WHY?

- Vulnerable persons (some times they are unaccompanied minors)
- Foreigners .
- They are alone or in charge of babies or small children.
- Not speaking the language of the country.
- They don't trust in justice or in any person who tries to approach them.
- No money, no studies, no training to get a job in a short time.
- Difficulties to integrate into society by themselves.

➤ HOW CAN WE PROTECT THEM?

- Giving them the maximum facilities for exercising their rights.
- Reduction of unnecessary procedures that involves the second victimization.
- Granting them effective information: guidance on the rights and services.
- Giving them the possibility of being accompanied by the person that they designate in all their paperwork.

➤ WHO CAN PROTECT THEM?

- Public institutions
- Law enforcements
- NGO's
- Civil Society

JUDICIAL REASONS

➤ WHY?

- They are special witnesses.
- Traffickers will try to influence their testimonies.
- Traffickers will have an extra effort to discrediting them, maintaining all types of threats, direct or veiled coercion to them or their families wherever they are.

➤ HOW CAN WE PROTECT THEM?

- With special laws to protect witnesses.
- Avoiding visual confrontation with the traffickers.
- Using voice distorters.
- Avoiding the formulation of questions that are completely inappropriate.
- To be accompanied during the trial and in their statements with someone they trust.
- Using the right interpreters.

➤ WHO CAN PROTECT THEM?

- Prosecutors.
- The criminal inquiry judge.
- Court Magistrates.

POWERFUL JUDICIAL REASON IN SPAIN

- ✓ Victims statement is the most important evidence for the Tribunal.
- ✓ Magistrates want to listen to them directly to conform their conviction about the facts.
- ✓ For Magistrates, although there are other evidents, normally their sentence will be based on the testimony of the victim.

THE THB VICTIM'S PROTECTION IN SPAIN

A preliminary issue

To be considered a victim it is necessary to be identified as such and also be declared as such in an administrative procedure.


This procedure will be resolved by an administrative authority depending on the government.

During this process the victim is an alleged victim and law enforcements should give them the same protection as other victims.



Critics

1º If the Prosecutor is the authority in charge of the protection according to our regulation, and who must coordinate all the people who deal with them, it is not reasonable that this important decision is beyond the control of the prosecutor.

2º The administrative decision can not be appealed. It is not possible a jurisdictional revision  VIOLATION OF THE RIGHT TO EFFECTIVE JUDICIAL PROTECTION THAT EVERYONE HAS.



THE LEGAL FRAMEWORK



1. THE INTERNATIONAL FRAMEWORK

UNITED NATIONS

Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children

Officially Published the 11.12.2003. It is not directly applicable.

COUNCIL OF EUROPE

The Convention on Action against THB

Officially Published the 10.11.2009 and entered into force the 9.08.2009

EUROPEAN UNION

Directive 2001/36/EU on preventing and combating THB and protecting its victims.
This Directive introduces the THB crime in the Spanish Criminal Code (2010)

Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims crime.



2. THE NATIONAL FRAMEWORK

General normative

Arts 109 – 122 Criminal Code. They contain the regulation of the right to have a civil liability inside the penal process, when someone has been harmed by a crime. Normally it is a monetary compensation.

Organic Law 19/1994. Protection of witnesses and experts. This law should be deeply revised

Law 2/2015 on the standing of victims of crime. This law is a consequence of the Directive 2012/29/EU. This law establishes all the judicial measures that can be applied to a victim whatever the crime they have supported

Specific normative

Art. 59 bis Organic Law 4/2000 Foreigners Law. Here we can find the legislation about the reflection and recovery period.

Art. 177 bis 11 Criminal Code. Exception of criminal liability when victims have committed offences while they were suffering exploitation

Arts. 140 – 146 RD 577/2011 (Foreigners Rules). We can find the regulation of the proceedings to recognized officialy a victim of THB

Asylum Law 12/2009, recognized the specific needs and protection of THB's victims that are also asylum seekers. The problem is that this Law has not been developed by the goverment.

Conclusion...



Although there are specific laws in Spain to protect certain victims

- Law 35/1995 of help and assistance for victims of violent offenses and against sexual freedom
- Organic Act 1/2004 of Protection Measures against Gender Violence.
- Law 29/2011 of Comprehensive Recognition and Protection of Victims of Terrorism.

THERE IS NOT A SPECIFIC LAW FOR THE PROTECTION OF THE VICTIM OF THB.



3. THE SPANISH PROTOCOL FOR THE PROTECTION OF VICTIMS IN THB (2011)

<http://www.msssi.gob.es/va/ssi/violenciaGenero/tratadeMujeres/ProtocoloMarco/DOC/ProtocoloTrataEN.pdf>

PRELIMINARY TOPICS

1. It was a result of the work of the High Foreign Prosecutor in 2011.
2. It was created to provide victims an holistic protection.
3. The importance of the document is undeniable because it was signed by many Ministries (Justice, Home Office, Labour, Social Security, Health, Social Service and Equality, The Judicial Power and The General Public Prosecutor's Office).
4. This Protocol has to be completed by the Protocol for Unaccompanied Minors (2014) that has previsions for the protection of these kind of victims.
5. The document is only a Protocol. IT IS NOT A SOURCE OF RIGHT.
6. The Protocol place the Prosecutor as the ultimate responsible for all actions by all the agents involved. It is a consequence of the competences and functions that the Prosecutor has in Spain.



Object

- To establish operational guidelines for detection, identification, support and protection victims of THB.
- Foster coordination among the institutions involved.
- To define the mechanisms for the relationship among authorities with responsibilities in the field



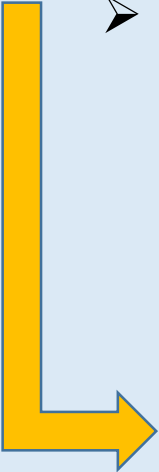
Give Guidelines for

- Detection and identification: who? Police, Labour Inspection; Social Services and NGO's, Bordering law enforcements, Responsibilities at the migrant detention centers.
- Evaluation of the risks that the victims are exposed to.
- Information about their rights.
- Protection measures as victim and as witness.
- Reflection and recovery period: exemption of administrative liability in case of a foreign victim and assisted return.

A 3D white figure stands on the right side of the image, leaning its right hand on the top of a stack of gold coins. The figure is positioned next to several stacks of gold coins of varying heights, arranged in a row from left to right. The coins are rendered with a metallic sheen and are set against a plain white background. The text "Financing Protection" is overlaid in the center of the image.

Financing Protection

- The assistance and the protection will be given by specialized NGO's but also by the public institutions.
- As there is no comprehensive law against trafficking in human beings, there is no economic memory for its development.
- But a budget is necessary.



We can find it in The National Action Plan to combat THB 2015 - 2018

Priority 1	Strengthen, prevention and detection of victims	5.727.551,48 €
Priority 2	Identification, protection and assistance of victims	19.253.154,24 €
Priority 3	Analisis of THB the purpose of Sexual Exploitation	2.867.648,00 €
Priority 4	Prosecution of traffickers	55.359.804,00 €
Priority 5	Coordination and participation of civil society	20.903.000,00 €

An illustration featuring two stylized human figures and two stacks of gold coins. On the left, a blue figure stands upright. In the center, there are two stacks of gold coins; the left stack is taller than the right one. On the right, a pink figure is kneeling and resting its head on its hand in a contemplative or distressed pose. The background is a light, neutral color.

THE RIGHT OF THE VICTIM TO A FINANCIAL COMPENSATION

BY THE
TRAFFICKERS OR
OTHERS
PERPETRATORS

conditions

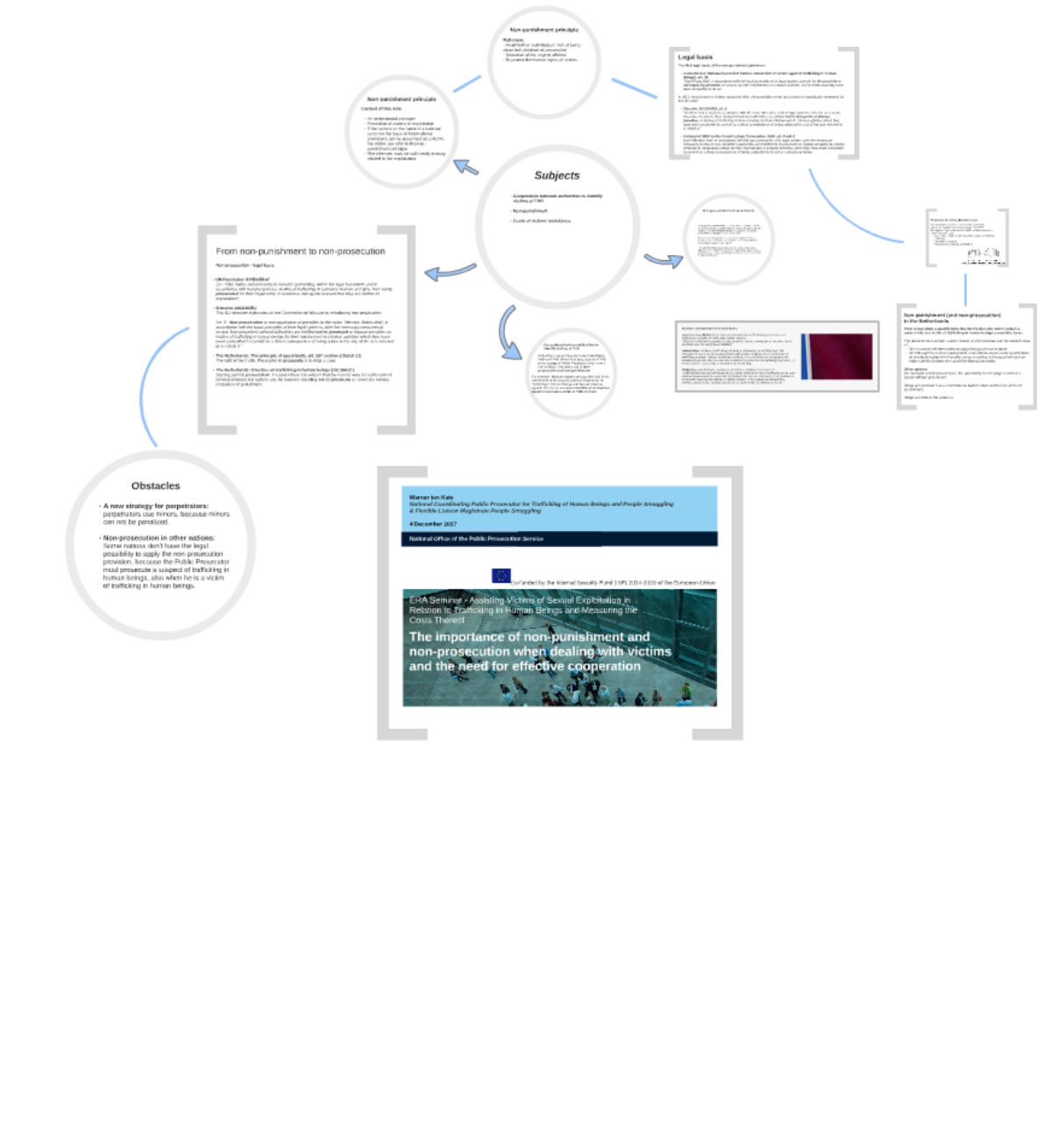
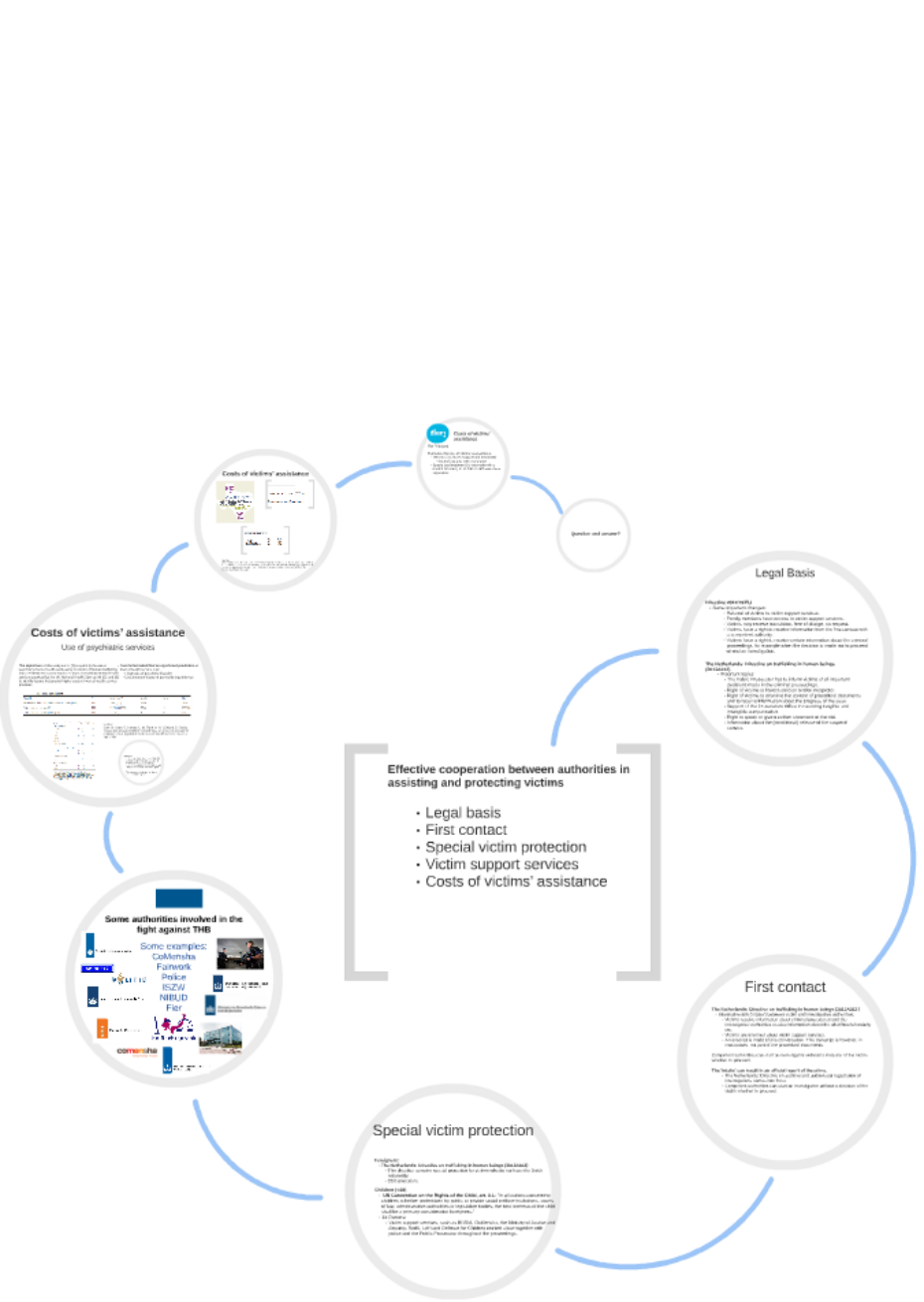
- ➔ There must be a sentence that condemns the payment of that responsibility
- ➔ The cooperation of the victim is necessary
- ➔ The victim must show interest in that compensation
- ➔ To calculate it, it is advisable to have a report from a specialist in forensic medicine (an independent doctor).
- ➔ To guarantee the right, a patrimonial investigation would be necessary
- ➔ Confiscation of assets and seizure are necessary

BY THE STATE

- ➔ There is no right of the victim to receive an economic benefit from the State. For other victims, such as crimes of sexual violence or gender, the right is recognized



THANKS FOR YOUR ATTENTION



Warner ten Kate

*National Coordinating Public Prosecutor for Trafficking of Human Beings and People Smuggling
& Flexible Liaison Magistrate People Smuggling*

4 December 2017

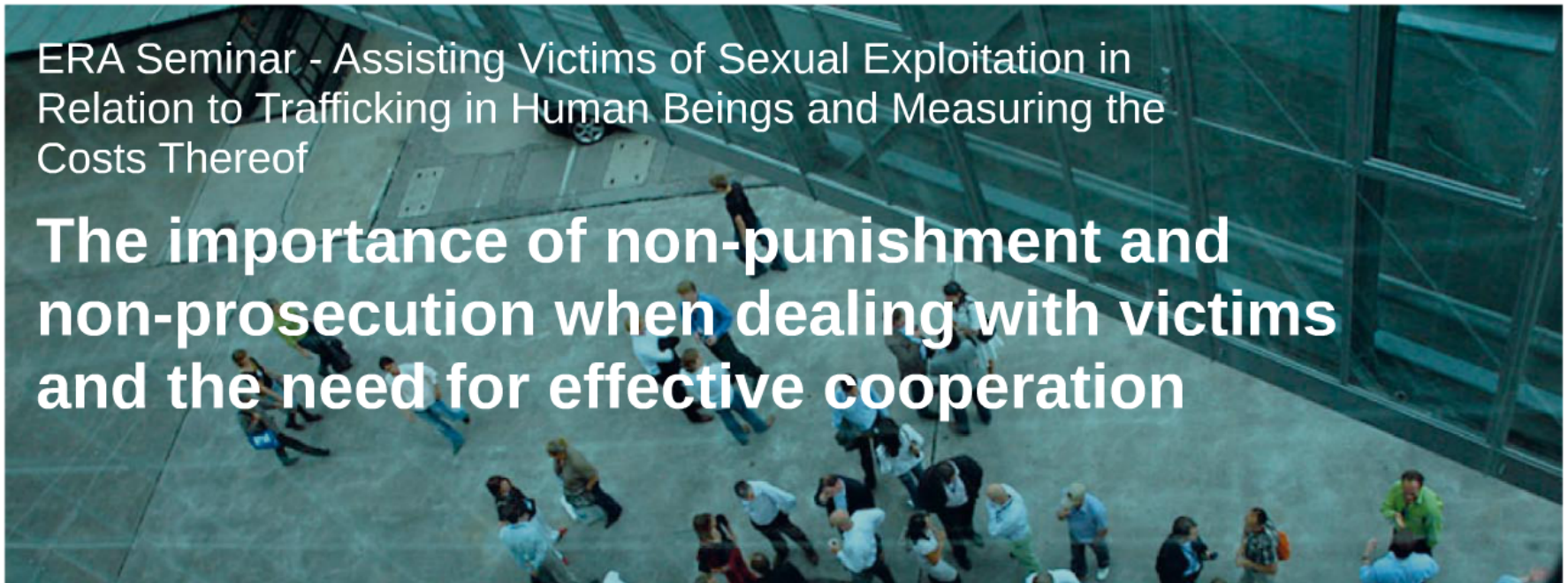
National Office of the Public Prosecution Service



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

ERA Seminar - Assisting Victims of Sexual Exploitation in
Relation to Trafficking in Human Beings and Measuring the
Costs Thereof

**The importance of non-punishment and
non-prosecution when dealing with victims
and the need for effective cooperation**



Subjects

- **Cooperation between authorities to identify victims of THB**
- **Non-punishment**
- **Costs of victims' assistance**



Cooperation between authorities to identify victims of THB

Authorities play an important role in identifying victims of THB. When they pass signals of THB on to a judge or Public Prosecutor, they have a role in filling in the principles of ***non-prosecution and non-punishment!***

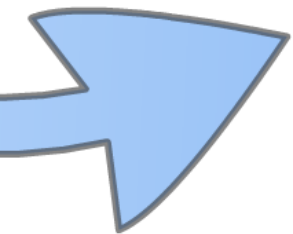
For example: Medical experts can play this role! In the 10th Report of the (Dutch) National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children is concluded that **50% of all medical experts have had a victim of THB as client.**

Non-prosecution/ non-punishment

Starting point is **prosecution**. In cases where it is evident that the victims were forced to commit criminal offenses the options are, for instance, deciding **not to prosecute** or requesting the court to convict without imposition of any punishment.

The decision not to punish the perpetrator (a victim of human trafficking him- or herself) can be made in case of self defense/ excess/psychological force majeure.

Although the formal requirements of an offense are met and a justification or exculpation ground in the strict sense is lacking, is the occurred such an edge case that prosecution or punishment would be disproportionately.





Non-punishment principle

Content of this rule:

- An international principle
- Protection of victims of exploitation
- If the person on the basis of a national act or on the basis of international provisions can be appointed as a victim, the victim can refer to the non-punishment principle.
- The offenses must be sufficiently directly related to the exploitation

Non-punishment principle

Rationale:

- Avoid further victimization: risk of being deported, detained or prosecuted
- Detection of the original offense
- To protect the human rights of victims

Legal basis

The first legal basis of the non-punishment provision:

- **Convention of Warsaw (Council of Europe Convention on Action against Trafficking in Human Beings), art. 26**

*“Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of **not imposing penalties** on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so”.*

In 2011, the provision is further expanded. Also, the possibility of non-prosecution is specifically mentioned by this directive:

- **Directive 2011/36/EU, art. 8**

*“Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled **not to prosecute or impose penalties** on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2.”*

- **Protocol of 2014 to the Forced Labour Convention, 1930, art. 4 sub 2**

Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

Protection of victims (Rantsev case)

The protection of victims is an essential element in combating trafficking in human beings. The ECHR emphasizes the importance of a victim-centered approach in the “Rantsev” case:

- States must adopt an effective policy against combating trafficking
- Preventive measures
- Protection and assistance of victims



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Non-punishment (and non-prosecution) in the Netherlands

From 1 May 2014, a specific Directive for the decision not to punish a person who is a victim of trafficking in human beings comes into force.

The decision not to punish a victim, based on this Directive, can be made in case of:

- 06: In case of self defense/excess/psychological force majeure
- 42: Although the formal requirements of an offense are met and a justification or exculpation ground in the strict sense is lacking, is the occurred such an edge case that prosecution would be disproportionately.

Other options:

Art. 9a Dutch Criminal Code (CC): the opportunity for the judge to convict a person without punishment.

Judge can consider it as a circumstance beyond one's control (no convict or punishment)

Judge can reduce the sentence

Examples non-punishment in other States:

Argentina Law, 26.364, Prevention and Criminalization of Trafficking in Persons and Assistance to Victims of Trafficking of 2008, Article 5

"Victims of trafficking in persons are not punishable for the commission of any crime that is the direct result of having been trafficked."

United States, Victims of Trafficking and Violence Protection Act of 2000, Sect. 112

"Penalties for the crime of unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labour do "not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, [...] if that conduct is caused by, or incident to, that trafficking."

Philippines, Anti-Trafficking in Persons Act (RA No. 9208) of 2003, Sect. 17

"Trafficked persons shall be recognized as victims of the act or acts of trafficking and as such shall not be penalized for crimes directly related to the acts of trafficking [...] or in obedience to the order made by the trafficker in relation thereto. In this regard, the consent of a trafficked person to the intended exploitation set forth in this Act shall be irrelevant."



From non-punishment to non-prosecution

Non-prosecution - legal basis

- **UN Resolution A/RES/55/67**

13 - "Also invites Governments to consider preventing, within the legal framework and in accordance with national policies, victims of trafficking, in particular women and girls, from being **prosecuted** for their illegal entry or residence, taking into account that they are victims of exploitation";

- **Directive 2011/36/EU**

This EU-directive elaborates on the Convention of Warsaw by introducing non-prosecution.

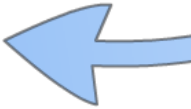
*Art. 8 - **Non-prosecution** or non-application of penalties to the victim "Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled **not to prosecute** or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2."*

- **The Netherlands: The principle of opportunity, art. 167 section 2 Dutch CC**

The right of the Public Prosecutor to **prosecute** or to drop a case.

- **The Netherlands: Directive on trafficking in human beings (2013A012)**

Starting point is **prosecution**. In cases where it is evident that the victims were forced to commit criminal offenses the options are, for instance, deciding **not to prosecute** or conviction without imposition of punishment.



Obstacles

- **A new strategy for perpetrators:**
perpetrators use minors, because minors can not be penalized.
- **Non-prosecution in other nations:**
Some nations don't have the legal possibility to apply the non-prosecution provision, because the Public Prosecutor must prosecute a suspect of trafficking in human beings, also when he is a victim of trafficking in human beings.

Effective cooperation between authorities in assisting and protecting victims

- Legal basis
- First contact
- Special victim protection
- Victim support services
- Costs of victims' assistance

Legal Basis

Directive 2012/29/EU

- Some important changes:
 - Referral of victims to victim support services.
 - Family members have access to victim support services.
 - Victims may receive translation, free of charge, on request.
 - Victims have a right to receive information from the first contact with a competent authority.
 - Victims have a right to receive certain information about the criminal proceedings, for example when the decision is made not to proceed or end an investigation.

The Netherlands: Directive on trafficking in human beings (2013A012)

- Important topics:
 - The Public Prosecutor has to inform victims of all important decisions made in the criminal proceedings.
 - Right of victims to have a solicitor and/or interpreter.
 - Right of victims to examine the content of procedural documents and to receive information about the progress of the case.
 - Support of the Prosecutors Office in receiving tangible and intangible compensation.
 - Right to speak or give a written statement at the trial.
 - Information about the (conditional) release of the suspect/convict.

First contact

The Netherlands: Directive on trafficking in human beings (2013A012)

- Informative talk ('intake') between victim and investigative authorities.
 - Victims receive information about criminal procedures and the investigative authorities receive information about the what/how/when/why etc.
 - Victims are informed about victim support services.
 - A transcript is made of this conversation. This transcript is however, in most cases, not part of the procedural documents.

Competent authorities can start an investigation without a decision of the victim whether to proceed.

The 'intake' can result in an official report of the crime.

- The Netherlands: Directive on auditive and audiovisual registration of interrogations comes into force.
- Competent authorities can start an investigation without a decision of the victim whether to proceed.

Special victim protection

Foreigners:

- **The Netherlands: Directive on trafficking in human beings (2013A012)**
 - This directive contains special protection for victims who do not have the Dutch nationality.
 - B8/3 procedure

Children (<18):

- **UN Convention on the Rights of the Child, art. 3.1:** "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration foreigners."
- 13 Oceans:
 - Victim support services, such as BNRM, CoMensha, the Ministry of Justice and Security, RvdK, LdH and Defence for Children worked close together with police and the Public Prosecutor throughout the proceedings.



Ministerie van Sociale Zaken en
Werkgelegenheid

Some authorities involved in the fight against THB



Ministerie van Veiligheid en Justitie

Gemeente ?



Ministerie van Buitenlandse Zaken



Koninklijke Marechaussee



Ministerie van Volksgezondheid,
Welzijn en Sport

Some examples:
CoMensha
Fairwork
Police
ISZW
NIBUD
Fier



Immigratie- en Naturalisatiedienst
Ministerie van Veiligheid en Justitie



Ministerie van Binnenlandse Zaken en
Koninkrijksrelaties



Costs of victims' assistance

Use of psychiatric services

The objectives of this study were: (1) to quantify the use of secondary mental health services by survivors of human trafficking; (2) to estimate the cost of survivors' use of secondary mental health services provided by the UK National Health Service (NHS); and (3) to identify factors that predict higher costs of mental health service provision.

- **Two factors identified as significant predictors of mental health service cost:**
 - Diagnosis of psychotic disorder
 - Documented history of pre-trafficking violence

Total costs per patient

Variable	N	Mean (s.d.) ^a	Median	Min	Max
Number of days over which contacts took place	119	1490 (757)	1727	1	2325
Total cost per person (£)	119	27,293 (80,985)	3,366	59	633,970
Total cost per person per day (£)	119	57 (147)	3	0	725

Univariate associations with total cost per patient			
Variable	N	Mean cost (£)	P-value
Type of exploitation			
Sexual	58	21,324	0.435
Other ^a	61	32,970	
Gender			
Male	28	49,899	0.091
Female	91	20,338	
Disorder			
Psychotic disorders ^b	20	98,452	0.000
Other/psychological distress ^c	99	12,918	
Age when admitted (split at median)			
≤ 22	60	32,058	0.012
> 22	59	22,447	
Violence pre-trafficking			
Yes	57	41,840	0.090
No	62	13,920	
Violence post-trafficking			
Yes	69	23,060	0.505
No	50	33,135	

^a Financial, labour, domestic and unknown exploitation
^b Bipolar and schizophrenia and other non-affective psychoses
^c Childhood emotional, depression, emotionally unstable PD, enduring personality change following catastrophic experience, mixed conduct disorder, OCD, PTSD, severe stress and adjustment, substance misuse, unspecified mental retardation, unspecified disorder of psychological development, psychological distress, and not assessed

Source:

Cary, M., Oram, S., Howard, L. M., Trevillion, K., & Byford, S. (2016). Human trafficking and severe mental illness: an economic analysis of survivors' use of psychiatric services. *BMC health services research*, 16(1), 284.

Conclusion:

- Trafficked patients' use of mental health services is highly variable, but patients with psychotic disorders and with experiences of pre-trafficking violence are likely to require more intensive support.
- The mean cost per patient per day is approximately 57 pounds

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Source:
Cary, M., C
Human tra
survivors'
16(1), 284

Conclusion:

- Trafficked patients' use of mental health services is highly variable, but patients with psychotic disorders and with experiences of pre-trafficking violence are likely to require more intensive support.
- The mean cost per patient per day is approximately 57 pounds

Costs of victims' assistance



Lifetime Cost of Care for Victims of Minor and Youth Sex Trafficking

High-Risk Sex Trafficking Community Segments*	Estimated Victims	NPV of Cost of Care Required as Consequence of HT (Victims)	Estimated Lifetime Cost
Child abuse/neglect	72,018	\$83,125	\$6,036,358,005
At-risk youth being served by DFPs	6,024	\$83,125	\$500,742,076
Homeless	351	\$83,125	\$29,126,190
Total			\$6,566,226,271

* The research team acknowledges the limitations of this narrow definition of human trafficking. Future benchmarks will incorporate additional segments such as adult sex trafficking, other economic sectors, etc.

Annual Value of Labor Exploited from Trafficking Victims

High Risk Labor Trafficking Segments*	Estimated Victim	Estimated Annual Value Wages Lost
Signar bus/workers	36,970	\$94,214,966
Cleaning services	84,100	\$714,349,393
Construction	35,488	\$90,406,591
Kitchen workers in restaurants	60,825	\$155,426,806
Landscaping and grounds keeping workers	17,024	\$43,450,207
Total		\$599,127,942

* The research team acknowledges the limitations of this narrow definition of human trafficking. Future benchmarks will incorporate additional segments such as adult sex trafficking, other economic sectors, etc.

Source:
 Busch-Armendariz, N., Nale, N. L., Kammer-Kerwick, M., Kellison, J. B., Torres, M. I., Cook-Heffron, L., & Nehme, J. (2016). Human trafficking by the numbers: The initial benchmark of prevalence and economic impact for Texas. Institute on Domestic Violence and Sexual Assault (IDVSA), The University of Texas at Austin.

APPROXIMATELY

79,000

MINORS AND YOUTH
ARE VICTIMS OF
SEX TRAFFICKING

IN TEXAS ★ ★

APPROXIMATELY

234,000

WORKERS ARE
VICTIMS OF
LABOR TRAFFICKING

THERE ARE CURRENTLY AN ESTIMATED

313,000

VICTIMS OF
HUMAN TRAFFICKING
IN TEXAS ★ ★ ★ ★ ★

TRAFFICKERS
EXPLOIT
APPROXIMATELY

\$600 MILLION

FROM VICTIMS OF LABOR TRAFFICKING

★ ★ ★ ★ ★ IN TEXAS

MINOR AND YOUTH
SEX TRAFFICKING COSTS
THE STATE OF
TEXAS

APPROXIMATELY

**\$6.6
BILLION**

Lifetime Cost of Care for Victims of Minor and Youth Sex Trafficking

High-Risk Sex Trafficking Community Segments*	Estimated Victims	NPV of Cost of Care Required as Consequence of HT (Lifetime)	Estimated Lifetime Cost
Child abuse/maltreatment	72,618	\$83,125	\$6,036,358,905
At-risk youth being served by DFPS	6,024	\$83,125	\$500,743,976
Homeless	354	\$83,125	\$29,426,190
Total			\$6,566,529,071

* The research team acknowledges the limitations of this narrow definition of human trafficking. Phase 2 benchmarks will incorporate additional segments such as adult sex trafficking, other economic sectors, etc.

Annual Value of Labor Exploited from Trafficking Victims

<u>High-Risk Labor Trafficking Segments*</u>	<u>Estimated Victims</u>	<u>Estimated Annual Value Wages Lost</u>
Migrant farmworkers	36,970	\$94,314,906
Cleaning services	84,100	\$214,549,192
Construction	35,438	\$90,406,591
Kitchen workers in restaurants	60,925	\$155,426,986
Landscaping and grounds keeping workers	17,024	\$43,430,267
Total		\$598,127,942

* The research team acknowledges the limitations of this narrow definition of human trafficking. Phase 2 benchmarks will incorporate additional segments such as adult sex trafficking, other economic sectors, etc.

The logo for Fier Friesland, featuring the word "fier!" in white lowercase letters on a blue circular background. The exclamation mark has a dot above it.

fier!

Costs of victims' assistance

Fier Friesland

Estimates the cost of victims' assistance at:

- 260 euro (24 hours support and treatment)
 - Around 100.000 euro every year
- Specialized treatment (for example with a mental disorder), is 10.000-15.000 euro more expensive.



Question and answer?

Vítimas de tráfico de pessoas

O papel da polícia

Centro de Estudos Judiciários, 04 e 05 de Dezembro de 2017

FACTOS

- ✓ O Tráfico de Seres Humanos (TSH) é um crime contra a liberdade pessoal, que afecta milhões de pessoas em todo o mundo.
- ✓ Implicando ou não a movimentação de pessoas entre fronteiras internacionais, o objectivo do crime é sempre sujeitar as suas vítimas a exploração.

FACTOS

- ✓ Em Portugal, os números apontam para uma prevalência de tráfico de pessoas para fins de exploração laboral
- ✓ Entre 2015 e 2016, o número de vítimas confirmadas quadruplicou, passando de 32 para 118

FACTOS

- ✓ As vítimas de tráfico são difíceis de identificar, e os esforços para a sua detecção podem ser prejudicados pelo seu medo de denunciar a situação ou porque as vítimas são pouco receptivas a fornecer informação significativa, quando entrevistadas pela polícia

Porquê?

- Por terem sido instruídas por elementos da estrutura criminosa sobre o comportamento a adoptar perante a polícia
- Por terem medo de retaliação – contra as próprias ou contra a sua família
- Por sentirem vergonha perante a família e amigos
- Por sentirem desconfiança relativamente à efectiva aplicação da lei

Porquê?

- Por suspeitarem da conivência da polícia com os traficantes
- Por terem medo de serem presas ou expulsas do país onde são detectadas

Assim:

A menos que os elementos policiais estejam familiarizados com a dinâmica do tráfico humano

- As vítimas não serão identificadas e ajudadas
- Os traficantes não serão identificados, julgados e condenados

Como?

- Compreendendo a distinção entre tráfico de pessoas e imigração ilegal: o tráfico implica fraude, uso da força ou coacção para indução da vítima numa situação de exploração
- Percebendo que os traficantes elegem vítimas desesperadamente pobres e vulneráveis, atraindo-as com promessas de bons empregos e melhores condições de vida

Solução:

- Ganhar a confiança das presumíveis vítimas de tráfico de pessoas é essencial para a sua cabal identificação e auxílio
- O elemento policial deve estar atento a determinados indicadores e saber quais as perguntas a fazer às presumíveis vítimas detectadas

Boas práticas

- Na fase de preparação de uma acção policial contra uma organização criminosa suspeita da prática do crime de tráfico de pessoas, contacte com as ONG's que prestam apoio especializado a vítimas de tráfico para que estas possam estar disponíveis para intervir no decurso da acção

Boas práticas

- Durante numa entrevista a uma possível vítima de tráfico:
 - Olhe para debaixo da superfície
 - Tenha em mente que quaisquer atos ilícitos ou crimes cometidos por pessoas traficadas podem-no ter sido como resultado do processo de tráfico ao qual foram sujeitas
 - Vá devagar e seja paciente, mantendo uma atitude calma e conciliatória

Boas práticas

- Respeite sempre a dignidade humana da pessoa que está a entrevistar
- Perceba que as vítimas provavelmente não se consideram como tal: podem considerar estar perante uma dificuldade temporária que lhes vai permitir uma vida melhor no futuro, ou acreditar que são as únicas culpadas do abuso que sofrem

Boas práticas

- Separe as presumíveis vítimas de todas as outras pessoas que as acompanham, antes de entrevistar cada vítima individualmente – mesmo que essas pessoas sejam também elas vítimas, pois podem não se sentir seguras na divulgação de informações que as podem colocar em perigo

Boas práticas

- Nunca pergunte “Porque é que não se veio embora?”
- Trate as vítimas de tráfico com profissionalismo e compaixão, independentemente da sua situação em território nacional ou das circunstâncias em que foi detectada.

Boas práticas

- Explique sempre que o seu objectivo passa por garantir a sua segurança e protecção, e informe-as dos seus direitos, inclusive do direito à residência legal e reunificação familiar
- Perceba que parte do seu trabalho consiste na prestação de auxílio imediato e apoio à vítima de tráfico

Conclusão

- ✓ A polícia é geralmente quem primeiro interage com a vítima, e tem mais contacto com ela do que qualquer outro profissional de justiça criminal
- ✓ Essa primeira interacção é um fator chave para saber se a vítima necessita de assistência imediata ao nível da prestação de cuidados

Conclusão

- A polícia desempenha um papel crítico e está normalmente numa posição única para prestar ajuda imediata e incentivar a participação dessa vítima durante a investigação - A resposta inicial da polícia determinará a visão do sistema de justiça e a participação na realização dessa justiça que a vítima identificada venha a deter.

Questões?

Obrigado!

Orlando Ribeiro

Inspector-Chefe

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Victims of trafficking in persons

The role of the police

Centro de Estudos Judiciários, 04 e 05 de Dezembro de 2017

FACTS

- ✓ Trafficking in Human Beings (TSH) is a crime against personal freedom, affecting millions of people around the world
- ✓ Whether or not it involves the movement of persons between international borders, the aim of crime is always to subject its victims to exploitation

FACTS

- ✓ In Portugal, figures point to a prevalence of trafficking in persons for purposes of labor exploitation
- ✓ Between 2015 and 2016, the number of confirmed victims quadrupled, from 32 to 118

FACTS

- ✓ Trafficking victims are difficult to identify and efforts to detect them may be hampered by their fear of reporting the situation. Also, they may not be receptive to providing meaningful information when interviewed by the police

Why?

- ✓ Because they were instructed by elements of the criminal structure about the behavior to be adopted before the police
- ✓ Because they fear retaliation - against themselves or their family
- ✓ Because they feel ashamed before family and friends
- ✓ Because they distrust on the effective application of the law

Why?

- ✓ Because they may suspected of police collusion with the traffickers
- ✓ Because they fear being arrested or expelled from the country where they are detected

SO:

- Unless the police forces are familiar with the dynamics of human trafficking

→ Victims will not be identified and helped

→ Traffickers will not be identified, tried and convicted

How?

- Understanding the distinction between trafficking in persons and illegal immigration: trafficking involves fraud, use of force or coercion to induce the victim in a situation of exploitation
- Realizing that traffickers elect desperately poor and vulnerable victims, attracting them with promises of good jobs and better living conditions

Solution:

- Gaining the confidence of presumed victims of human trafficking is essential for their full identification and assistance
- The police elements should be aware of certain indicators and know what questions to ask the alleged victims

Good Practices

- At the stage of preparing a police action against a criminal organization suspected of trafficking in persons, contact the NGOs that provide specialized support to victims of trafficking so that they may be available to intervene in the course of the action

Good Practices

- During an interview with a potential trafficking victim:
 - ✓ Look below the surface
 - ✓ Keep in mind that any unlawful acts or crimes committed by trafficked persons may have been as a result of the trafficking process to which they were subjected
 - ✓ Go slowly and be patient, maintaining a calm and conciliatory attitude

Good Practices

- Always respect the human dignity of the person you are interviewing
- Realize that victims probably do not consider themselves as such: they may consider themselves facing a temporary difficulty that will allow them to live a better life in the future, or believe that they are the only culprits of the abuse they suffer

Good Practices

- Separate the presumed victims from all others who accompany them before interviewing each individual - even if they are also victims, they may not feel secure in disclosing information that could endanger them

Good Practices

- Never ask "Why did not you leave?"
- Realize that victims probably do not consider themselves as such: they may consider themselves facing a temporary difficulty that will allow them to live a better life in the future, or believe that they are the only culprits of the abuse they suffer

Good Practices

- Always explain that your objective is to ensure their safety and protection, and inform them of their rights, including the right to legal residence and family reunification
- Realize that part of your job is to provide immediate help and support to trafficking victims

Conclusion

- The police are usually the first to interact with the victim, and have more contact with the said victim than any other criminal justice professional
- That first interaction is a key factor in determining whether the victim needs immediate assistance in the provision of care

Conclusion

- The police plays a critical role and are normally in a unique position to provide immediate help and encourage the victim's participation during the investigation. The initial police response will determine the vision of the justice system and participation in the realization of that justice that the identified victim will come to hold

Questions?

Thank you!

Orlando Ribeiro

Inspector-Chefe

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**The perspective of a lawyer:
Assisting and representing victims of THB for
sexual exploitation and ensuring their clients' protection within the
context of questioning in proceedings**

Alexios Athanassopoulos

Attorney at Law

Founder and Managing Partner, AA Law Firm, Athens



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European
Union

The problems and the challenges

- Earns victim's trust
- Make them feel safe and comfortable
- Ensure to take out all "difficult" details
- Know the truth
- Make them understand the upcoming criminal procedure

Preliminary procedure

- Police questioning
 - A) Before legal advice
 - B) After legal advice

- Investigation Judge questioning
 - A) Before legal advice
 - B) After legal advice

Courtroom

- Preparing for deposition
 - A) The Judges – DA questioning
 - B) Defendant's attorneys questioning
- Representing the victim by PoA
 - Is it possible and if so is it right?
- In person testimony
- The time gap between the starting point of the case and the hearing

- The postponements
- The Court of Appeal
- The victim's relocation
- The victim's new life

Compensation

- The legal framework
- The practical difficulties
- The costs

Difficulties

- Distinguishing the victims
- Realize the case you should go after (the offences, the circumstances etc.)
- Victims – offenders
 - Same offend (Trafficking – sexual exploitation)
 - Other offends (drug dealing etc.)
- Victims non-punishment clause

Statistics

GLOBAL REPORT ON TRAFFICKING IN PERSONS



Greece

Institutional framework

The specific offence of trafficking in persons was established in Greece in 2002. A national action plan to combat trafficking in human beings was adopted in 2006.

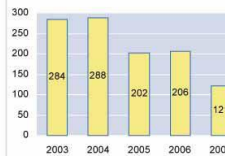
Criminal justice response

At the central, strategy level, an anti-trafficking group has been operating within the Public Security Division of the Hellenic Police Headquarters since 2002. At the operational level, regional level, the Hellenic Police counts up to 16 anti-trafficking groups, one in each General Police Division of the country and 2 Sections to Combat Trafficking in Human Beings in the Security Divisions of Attica and Thessaloniki, which constitutes the 3rd Section of the Suppression of Organized Crime Sub-Division.

Services provided to victims

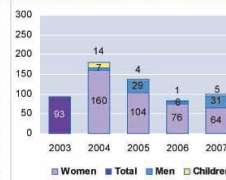
State authorities provide legal protection, temporary stay permits, medical and psychosocial services, and housing and shelter to support victims of trafficking in persons. NGOs also offer medical and psychosocial support and housing and shelter.

Fig. 311: Persons arrested for trafficking in persons in Greece (2003-2007)



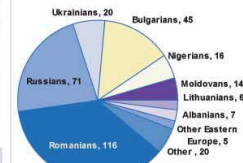
Source: Ministry of Public Order

Fig. 312: Victims of trafficking in persons identified by State authorities in Greece, by gender and age (2003-2007)



Source: Hellenic Police Headquarters

Fig. 313: Victims of trafficking in persons identified by State authorities in Greece, by citizenship (2005-2007)



Source: Hellenic Police Headquarters

Additional information

The shelters of the National Centre for Social Solidarity (E.K.K.A.) provided accommodation to 18 trafficking victims in 2005 and one victim during the first semester of 2006. Overall, the E.K.K.A. services helped 72 trafficking victims from the beginning of 2005 to mid-2006.

Protection of victims of trafficking in criminal investigations and proceedings

- **Article 12:**
- Article 12(1): Rights set in Council Framework Decision on the standing of crime victims
- Article 12(2): Access to free legal counseling and representation
- Article 12(3): Protection on the basis of an individual risk assessment
- Article 12(4): Avoiding secondary victimization

Key players

- Police
- DA
- Investigation Judge
- National Center for Social Solidarity
- A21
- Other NGO's

THANK YOU VERY MUCH
FOR YOUR TIME AND ATTENTION

ERA

LISBON, 4-5 December 2017

**ASSISTING VICTIMS OF SEXUAL EXPLOITATION IN RELATION TO TRAFFICKING
IN HUMAN BEINGS AND MEASURING THE COSTS THEREOF**

**The perspective from a country of origin of victims of
sexual exploitation in relation to THB:
victims identification, protection and support as well as
reintegration into society and measuring the costs thereof
in Romania**

Lisbon

04-05 December 2017



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

The dynamics of human trafficking in Romania

Number of identified victims



Victims of sexual exploitation

- **About 50% minors and 50% adults**
- **Aged between 14-17 and 18-25**
- **Over 95% female**
- **From rural areas and urban areas**
- **From different regions of the country**
- **Mostly recruited by known people**
- **Majority trafficked internally**

Romanian Anti-Trafficking Response

- ✓ **Legal framework**
- ✓ **Institutional network**
- ✓ **Support for assisted repatriation**
- ✓ **Support for recovery and reintegration**
- ✓ **Support during criminal proceedings**

Legal framework

Assistance and protection

Relevant national legal instruments

- **The national anti-trafficking law**
- **The National Identification and Referral Mechanism**
- **The methodology for the repatriation of Romanian citizens victims of trafficking**
- **The methodology for the repatriation of unaccompanied minors**
- **The methodology for multidisciplinary intervention in cases of child trafficking**
- **The law on certain measures to ensure protection of victims of crime**

National anti-trafficking law

- **Specific protection and assistance for trafficking victims, especially for children and women**
- **The right for physical, psychological and social recovery**
- **Protection of privacy and identity**
- **Recovery and reflection period**
- **Accommodation in specific centers for assistance and protection**

National Identification and Referral Mechanism

Approved by joint order of institutions with responsibilities in the field of trafficking (Ministry of Internal Affairs, Child Protection Authority, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Labor, Ministry of Education, Prosecutor's Office)

Structure

Principles

Legal framework (national and international legal instruments)

Operational definitions

Identification methods

List of indicators to identify possible cases of trafficking

Referral procedures

Referral procedures

Specific situations:

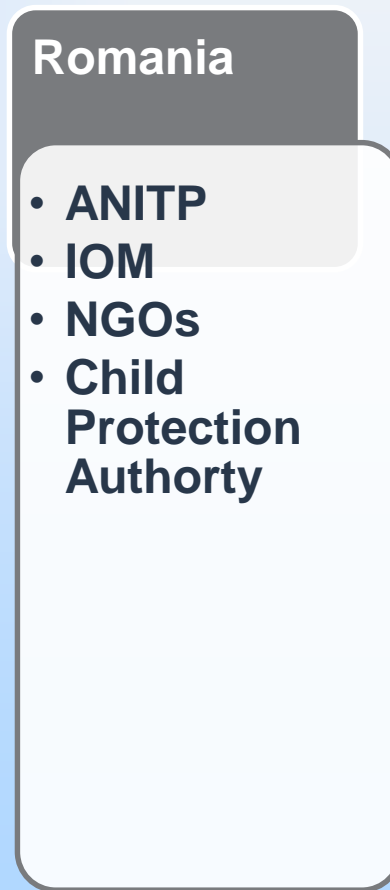
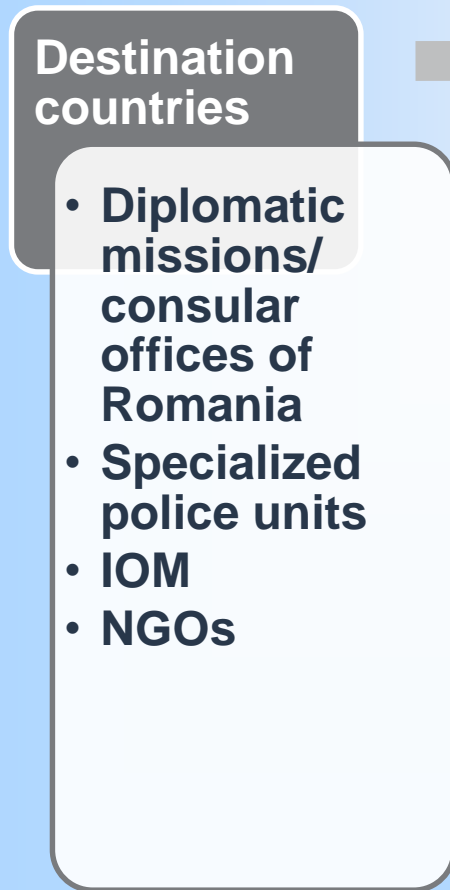
1. Victim identified by law enforcement authorities
2. Victim referred and returned by IOM
3. Victim identified by an international NGO
4. Romanian victim identified by diplomatic mission/consular office of Romania
5. Foreign victim of trafficking
6. Child victim of trafficking

National Agency against Trafficking in Persons (ANITP)

- ✓ ***National contact point for national and transnational referral of victims***
- ✓ ***Organised within the Ministry of Internal Affairs***
- ✓ ***Responsibilities mainly related to policy development, prevention, coordination and monitoring***
- ✓ ***Multidisciplinary team: police officers, social workers, psychologists***
- ✓ ***15 Regional Centers***
- ✗ ***Does not investigate cases of trafficking in persons***

Transnational referral

Support for assisted repatriation



- Issue travel documents
- Conduct risk assessment
- Receive the victim at the point of arrival
- Information and counseling
- Facilitating access to specialized assistance

Challenges

- **Late notification/ no notification on repatriation/ hastiness in doing the return**
- **Incomplete data regarding the victims' specific situation**
- **Different interpretation on protection of personal data**
- **Limited knowledge and confusion on the role of ANITP within the anti-trafficking national system**

Costs of inaction

Costs to the quality of assistance

- **Loss of contact with the victim**
- **Risk of re-trafficking**
- **Lack of access to specialized services**
- **Lack of adequate support for victims**
- **Return of the victim in poor conditions**
- **Potential health risks for both victims and specialists**
- **Gaps in monitoring and further cooperation**

ANITP – National Contact Point for victims referral

Notification of a trafficking case to ANITP

What it means:

Enhanced opportunities to offer and to receive answers and support

- ✓ Support for *assisted repatriation, initial evaluation of victim' needs, referral to appropriate services, monitoring the assistance provided, support for victim during criminal proceedings*
- ✓ Accurate statistics, identification of real problems, tailored policies and instruments

What doesn't mean:

- ✗ Victim's cooperation with law enforcement

Support for recovery and reintegration

- **Public or/and private social services providers**
- Accommodation in a shelter run by the state or an NGO**
- Medical care**
- Support for other basic needs**
- Psychological counselling**
- Legal assistance**
- Financial and material support**
- Vocational counselling and training**
- Educational assistance**

Support during criminal proceedings

National program for victims' coordination during criminal proceedings

- ✓ Available for those victims willing to participate in criminal proceedings
- ✓ Aims to create a unitary and co-coordinated inter-institutional response to victims of trafficking
- ✓ To maintain a permanent contact with the victims
- ✓ To provide emotional support, physical security
- ✓ To provide information about their rights, about judicial procedures and updated information with regards to developments of the criminal case

Measuring some financial costs of direct assistance in 2017

Psychological assistance
Support for basic needs
Legal assistance
Vocational training

2500 €

Residential assistance
Psychological assistance
Support for basic needs
Medical assistance
Legal assistance
Vocational training

2900 €

Residential assistance
Psychological assistance
Medical assistance
Vocational training

6700 €

How much?

Residential assistance
Medical assistance
Psychological assistance
Basic needs
Legal assistance
Vocational training
Support for child care

5900 €

Psychological assistance
Support for basic needs
Educational assistance
Medical assistance
Legal assistance

3900 €

Fitting the costs to person

5900 €

14 years old

Meets a boy, falls in love

He forced her to have sex with other men

Sexually exploited for almost two years (2014-2015)

Identified at 16 years old – she was pregnant

Gave birth to a baby boy

Three month later her father died

Threats from traffickers

2900€

23 years old

Trafficking attempt - 2017

History of domestic violence

She left her partner, not having resources, she couldn't take her child

Knows a man through facebook who suggested her to spend the holidays together in Ireland and to find jobs there

He paid for her ticket and sent her first

No one met her there as she was told

Fitting the costs to person

3900 €

17 years old

Started chatting with an older man

He convinced her to go at his house

He became violent, forced her to have sex with him

He threatened her with a knife and left her naked in a room

He brought two other men who had sex with her

6700€

27 years old, male

Several forms of exploitation: ID theft for fraud, sexual exploitation, domestic servitude

Comes from a placement centre

Raped at the age 13

Other experiences with men

Many humiliations and punishments from traffickers

Diagnosed with aggressive syphilis

Needed eye surgery due to repeated beatings of traffickers

Fitting the costs to person

2500€

2009 - 2017 years old

Raped, sequestered for a week, sold to an Albanian

Five days sexually exploited in Italy

Car accident while being transported from the place of exploitation

Serious neurological trauma, hospitalized for almost an year in Italy

Supported to return home without notification of Romanian institution/NGO

Started to go to school again

2011 - Kidnapped by the same man and re trafficked for almost two months

The most valuable resources

„Not everything that can be counted counts, and not everything that counts can be counted” William Bruce Cameron, sociologist

- ✓ Empathetic peoples
- ✓ Reliable professionals
- ✓ Best professional relationships
- ✓ Availability and will to listen, to communicate, to get involved
- ✓ Joint allocation of resources
- ✓ A lot of phone calls



THANK YOU!

National Agency against Trafficking in Persons

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NATIONAL COMMISSION FOR
COMBATING TRAFFICKING
IN HUMAN BEINGS



FROM POLICY TO ACTION

AGAINST TRAFFICKING
IN HUMAN BEINGS



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

FROM POLICY

TO ACTION

AGAINST TRAFFICKING IN HUMAN BEINGS



**Putting together a NATIONAL PROGRAMME for
the prevention of THB and the protection of
VICTIMS OF SEXUAL EXPLOITATION in a country of origin:
COOPERATION at a local level and beyond national borders
within the context of MEASURING THE MATERIAL AND HUMAN
COSTS**

**ASSISTING VICTIMS OF HUMAN TRAFFICKING FOR SEXUAL EXPLOITATION AND
MEASURING THE COSTS THEREOF**

Lisbon, 4-5 December 2017



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

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EVEN THOUGH WE ARE ALL WITH CLEAR UNDERSTANDING THAT COOPERATION IS THE KEY (WHICH WOULD FROM ONE SIDE IMPROVE THE IDENTIFICATION AND SUPPORT OF VOTs & FROM ANOTHER – ENHANCE INVESTIGATION AND PROSECUTION & THUS LOWER THE EFFORTS & COSTS) – DOES IT ALWAYS HAPPEN & WHAT`S THE CITERIA FOR SUCCESS?

HUMAN TRAFFICKING for SEXUAL EXPLOITATION: BULGARIA

Bulgaria still remains mainly a **country of origin** for victims of trafficking; in **fewer cases** it is also a country of **transit** and **destination**.

Root causes:

- Social and psychological (pre)conditions; economic;
- Many victims do not perceive themselves as victim of the crime or are in intimate relations with the trafficker
- Lack of social experience and/or poor education; Normalization of violence and lack of supportive family background

Methods for recruitment:

- Extortion through the Internet (Facebook, Instagram, job search and/or dating sites)
- Working or sometimes studying abroad – “mouth to mouth” advertisement;
- “Lover boy” phenomenon;
- Marriage proposals; “Family business” (especially for the Roma minority)



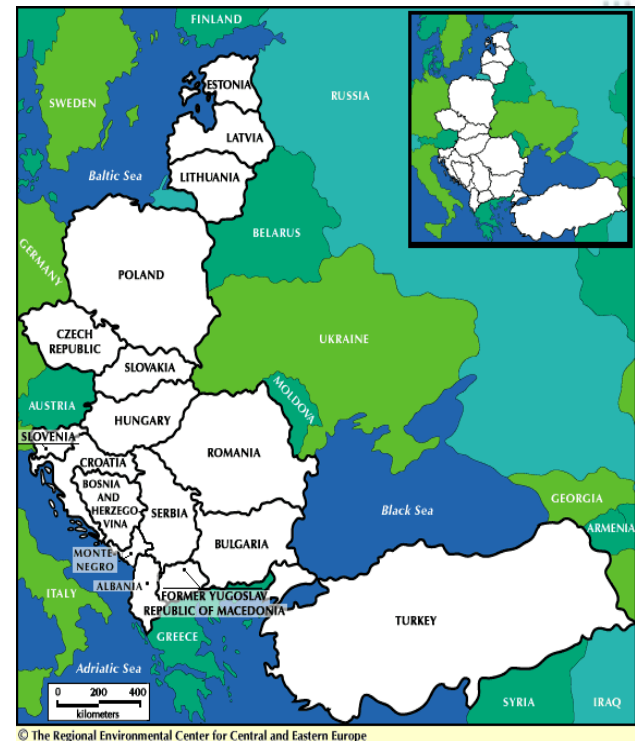
THB FOR SEXUAL EXPLOITATION: DEMAND/ DESTINATION

■ Destination countries for Bulgarian victims

- Germany, Belgium; Netherlands;
- Greece; Cyprus;
- United Kingdom;
- Italy, Spain, France;
- Switzerland;
- Nordic region (Sweden, Norway)
- Czech Republic.

■ Foreign victims in Bulgaria

- Romania, Moldova, Ukraine, Russia;
Non-EU nationals (in relation to the migration crisis).



FROM POLICY TO ACTION

AGAINST TRAFFICKING IN HUMAN BEINGS

- ✓ **Legislation (International, EU and national legal instruments)**
 - Transposed international legal instruments – directives, protocols and conventions
 - Provisions in the Penal code + Penal Procedural Code + specialized Law for combating THB + Law on compensation of victims of crime (including VoTs)
- ✓ **Institutional Framework: National commission for combatting trafficking in human beings (NCCTHB)** with the Council of Ministers of Bulgaria – a **collective body** placed on highest institutional level (not a section/department of a separate ministry as in many other EU countries). The chairman of the NCCTHB – by law - a Deputy Prime Minister
- ✓ **Operational Mechanisms:**
 - **Administration and executive secretary of the NCCTHB** - *Equivalent mechanism of a national reporter* (data collection and analysis)
 - The NCCTHB – part of the **TRM** development and coordination
 - Coordinating the **NRM (2 more coordination mechanisms related to CHILDREN)** coordinated by the SACP and MOI)
 - Development and coordination the **Annual National operational Anti-THB programme** (approved by the Council of Ministers)
- ✓ **NATIONAL STRATEGY FOR COMBATING THB (2017 – 2021)**

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AGAINST TRAFFICKING IN HUMAN BEINGS

National Commission for Combatting Trafficking for Human Beings

NCCTHB (collective body) with
the Council of Ministers of Bulgaria

SECRETARIAT of the NCCTHB

Permanent expert
working group

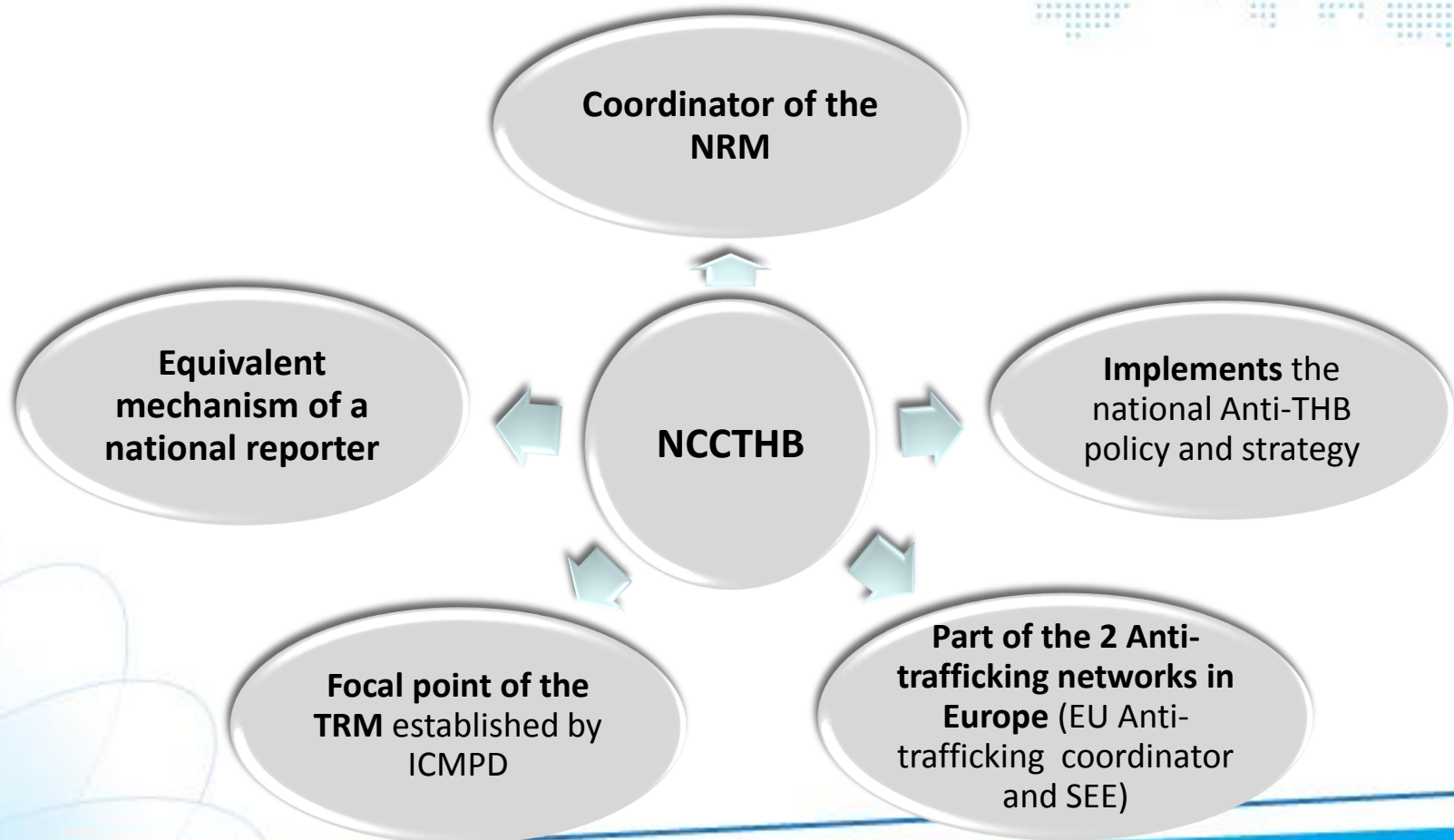
10 Local/ Municipal
Commissions for
Combating THB

8 specialized services
for VOTs

FROM POLICY TO ACTION

AGAINST TRAFFICKING IN HUMAN BEINGS

National Commission for Combatting Trafficking for Human Beings



FROM POLICY TO ACTION

AGAINST TRAFFICKING IN HUMAN BEINGS

10 Municipalities involved in prevention and combating THB

- Blagoevgrad
- Burgas
- Varna
- Veliko Tarnovo
- Montana
- Pazardzhik
- Plovdiv
- Pleven
- Ruse
- Sliven



NATIONAL OPERATIONAL ANTI-THB PROGRAM (Developed on annual basis)

- **Institutional and organizational measures**
- **Data collection and analysis**
- **Prevention (including volunteers network development)**
- **Capacity building and training**
- **Assistance, protection and (re)integration of victims of trafficking**
- **International cooperation**
- **Legal amendments and proposals**

NATIONAL PROGRAM: PREVENTION

1. MAPPING AND ANALYSIS – FOLLOWED BY TARGETED PREVENTION:

Based on case work of potential THB situation in South of **France!**

2. Indirect and direct work with the public and risk groups

- Specific focus on THB for sexual exploitation (including development of specialized short film material used in prevention sessions with *migrants and asylum seekers*);
- **PREVENTION VIA DETECTION**: Action weeks (Mol and Europol; within **BG-SWISS** Anti-THB Programme)
- **TARGETED PREVENTION**: cooperation with mediators, including entering the issue of THB via other subjects (health; educational and economic measures)
- **LOOKING FORWARD**: 1. involvement of the **PRIVATE SECTOR** (Facebook; Manpower group, Advertisement agencies; IKEA; Job search & dating sites; advertising sites - OLX) ; 2. **DEMAND SIDE OF THB** (Campaign with Post Bank; SEE Network) – based on case work – targeted actions with **Czech Republic** partners

WHOM DO WE TARGET (THB for SEXUAL EXPLOITATION)?

Risk groups:

- Young women – at highest risk (18 – 30)
- Children (the age is dropping!), especially teenage girls and boys
- (Young) man

Professionals (building the capacity of experts and practitioners):

- On identification (incl. 1st level of identification) and referral;
- Detection and investigation;
- Prosecution & Victims centered approach!
- Legal counsel and courtroom protection

DETECTION AND INVESTIGATION: WORKING BEYOND BORDERS

- In 2016 and early 2017, 25 police operations were carried out;
- Parallel investigations were conducted with result: 5 agreements were signed for JITs – with the Netherlands, the Netherlands and Belgium, with Germany, and with Spain;
- In regard to international cooperation, 8 operations with foreign partner services were conducted, including 2 in the framework of Europol, 1 international operation with Spain and 2 for parallel investigations with Italy and Belgium; the total number of detained persons (in Bulgaria and on the territories of other European countries) is 28.

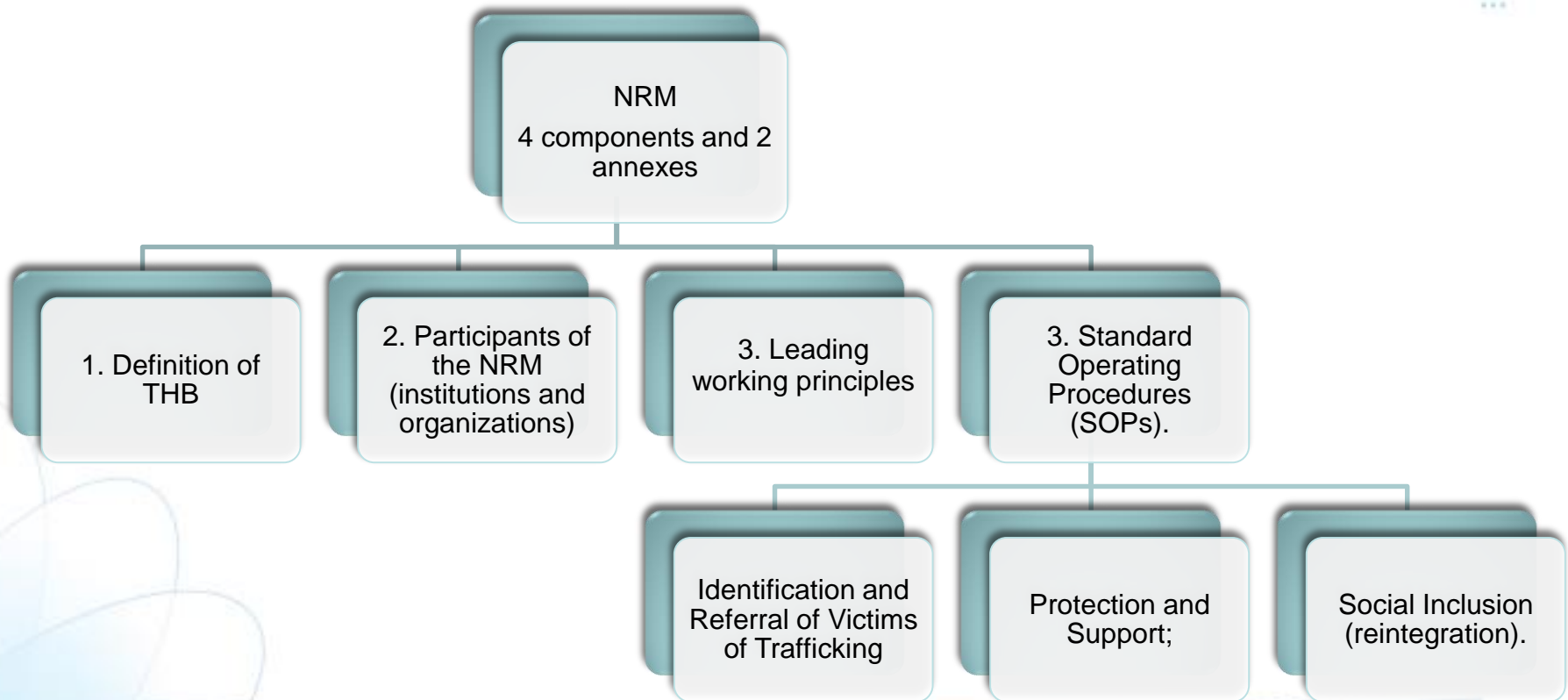
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TO ACTION

AGAINST TRAFFICKING IN HUMAN BEINGS

Multi-disciplinary, multi-agency team on coordination of cases (developed to enhance the practical implementation of the NRM; victim centered approach) – with main members from institutions and coordinated by the Secretariat of the NCCTHB

National Mechanism for Referral and Support of victims of human trafficking (NRM)



FROM POLICY TO ACTION

AGAINST TRAFFICKING IN HUMAN BEINGS



NRM: Standard Operating Procedures (SOP)

SOP: Identification and Referral

- Measure 1.1. **Identification**
- Measure 1.2. **Risk Assessment**
- Measure 1.3. **Identification of immediate needs**
- Measure 1.4. **Referral**

SOP: Protection and support

- Measure 2.1. **Crisis Intervention**
- Measure 2.2. **Support During the Reflection Period**

SOP: Social Inclusion (re- integration)

- Measure 3.1. **Long-term psychological support and empowerment**
- Measure 3.2. **Safe return**
- Measure 3.3. **Participation in criminal proceedings**
- Measure 3.4. **Financial Compensation**

NATIONAL PROGRAM: REINTEGRATION

❑ Residential and social services:

State shelters, crisis centers, safe houses for victims of THB:

- 22 Crisis Centers for adults and children, victims of violence and human trafficking (11 of which only for children)
- **8 services financed by the NCCTHB: shelter houses, consultation and support centers, crisis center and shelter for long-term reintegration**
- Other types of shelter houses under the Agency for Social Assistance;
- Shelter houses and support programmes with private funding and donations (Red Cross; Concordia; A21 Campaign/ Daughters of BG);
- IOM strategic partnership – in relations to safe and voluntary return

❑ Social and consultative support:

Psychological, social and legal support and representation; Educational and Empowerment programs; Job consultations and support

Basic cost-estimate: the FINANCIAL aspect

Funds earmarked in the NCCTHB budget

Year	Funds spent from the NCCTHB budget	Additionally mobilized external financing	Total
2014	BGN 395,118	BGN 5,185	BGN 400,303
2015	BGN 231,897	BGN 36,507	BGN 268,404
2016	BGN 392,185	BGN 128,167	BGN 520,352
2017	BGN 376,000	BGN 254,021	<u>BGN 630,021</u>

Note: Please take into account the fact that **budgets of individual agencies also include funds, specifically appropriated for combating trafficking in human beings**, the precise accounting of which is difficult in view of the total “budget line”, in which they are classified. For example, funds are envisaged in the budget of the MoI for combating/operations against organized criminal activities, which include also trafficking in human beings (together with those against the traffic in drugs, arms etc.). The inclusion of funds from the budgets of agencies would significantly increase the above amount of BGN 630,021 in overall financing (see the table for details).

FROM POLICY TO ACTION

AGAINST TRAFFICKING IN HUMAN BEINGS



THANK YOU FOR YOUR ATTENTION!

Bulgarian National Commission for
Combating Trafficking in Human Beings
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LEFÖ- Intervention Centre for Trafficked Women
Mag.a Evelyn Probst
November 2017

**Protecting victims by providing
psychosocial and legal support as well as
access to health care and secure
accommodation:
the perspective of a
victims' support NGO
within the context of measuring costs**



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

Union





LEFÖ

LEFÖ – Information, Education and Support for Migrant women:

- Founded in 1985 migrant women
- Migrants/womens rights organization
- various working areas



LEFÖ-Intervention Centre for Trafficked Women (short LEFÖ-IBF)

- Founded in 1998: 20 years of experience
- Officially recognised victims support organization
- Working on a comprehensive definition focusing on exploitation from a gender perspective
- Working on the behalf of the Ministry of Interior, the Ministry for Women and the Ministry of Justice



LEFÖ-IBF

Unconditional direct assistance for trafficked women & girls

Objectives:

- Recovery
- Informed decision-making
- Empowerment



Rights of potential victims

- Right to assistance: including health and housing
- Right to residence
- Right to legal support: including the right to compensation
- Right to access to the labour market
- Right to non punishment



Access to assistance

- Contact from the first moment on!
- Coordinating the intervention process!
- Working Nationwide
- 24 hours accessibility for trafficked women and girls and law enforcement
- Client confidentiality and sociocultural mediation



- Brought from Bulgaria to Austria with the promise of a cleaning job, by a friend of the neighbour
- Exploited in the streets in the capital of a region of Austria
- Treath and physical violence
- Escape after two months, living on the street earning money for being able to go back home; arrested by police, put into detention due to administrative fines



- Identification as a potential victim of trafficking - referred to LEFÖ – IBF
- Legal representation: criminal procedures, non punishment for administrative procedures
- Secure housing – safe return
- Treat back home: international cooperation for support



- Criminal procedure: testimony via video from Bulgaria to Austria
- Conviction: two years on THB
- Compensation: 2000 Euros
- Confiscation of the assets, execution of the compensation?
- Compensation of the state for detention?
- Reintegration?



Assistance

- Psycho-social counselling
- Access to health
- Secure accommodation: housing with secret addresses
- Legal assistance
- Psychosocial and legal assistance during the criminal procedure



Psycho-social counselling

- crisis intervention
- individually tailored security concepts
- processing of trauma
- Accompany through the criminal procedure
- future steps



Access to health and accommodation

- Accompaniment to doctors and other organizations
- Accommodation and care in shelters - Intensive care through cultural mediators around the clock



Legal assistance: including compensation

- Criminal law
- Administrative laws
- Civil law
- Migrants rights
- Labour and social law



Costs

As longer the duration of exploitation as higher the costs!

Costs to re-establish human rights

Social economic costs

Costs of the criminal procedures

Costs of the civil and administrative procedures



Criminal Court

Working conditions + violence

- physical injuries
- illnesses, trauma, depression
- inability to work
- psycho-social and legal assistance
- compensation for
 - material damages
 - immaterial damages

no risk of litigation costs

no explanations for the compensation



Criminal Court

Calculation of compensation for pain and suffering:

periods of pain - psychological and /or physical are calculated for 24 hours:

100/200/300



Labour and Social Court

Working conditions :

- low or no wages
- no health and social insurance
- health and safety standards are not met
- no free time/overtime
- psycho-social assistance and possibility of legal representation and support by the Austrian chamber of labour
- compensation: wages, remuneration, payment for overtime, payment in lieu of vocation, costs of the process

risk of litigation costs



Civil Court

Working conditions + violence

physical injuries

Illnesses, trauma, depression

inability to work

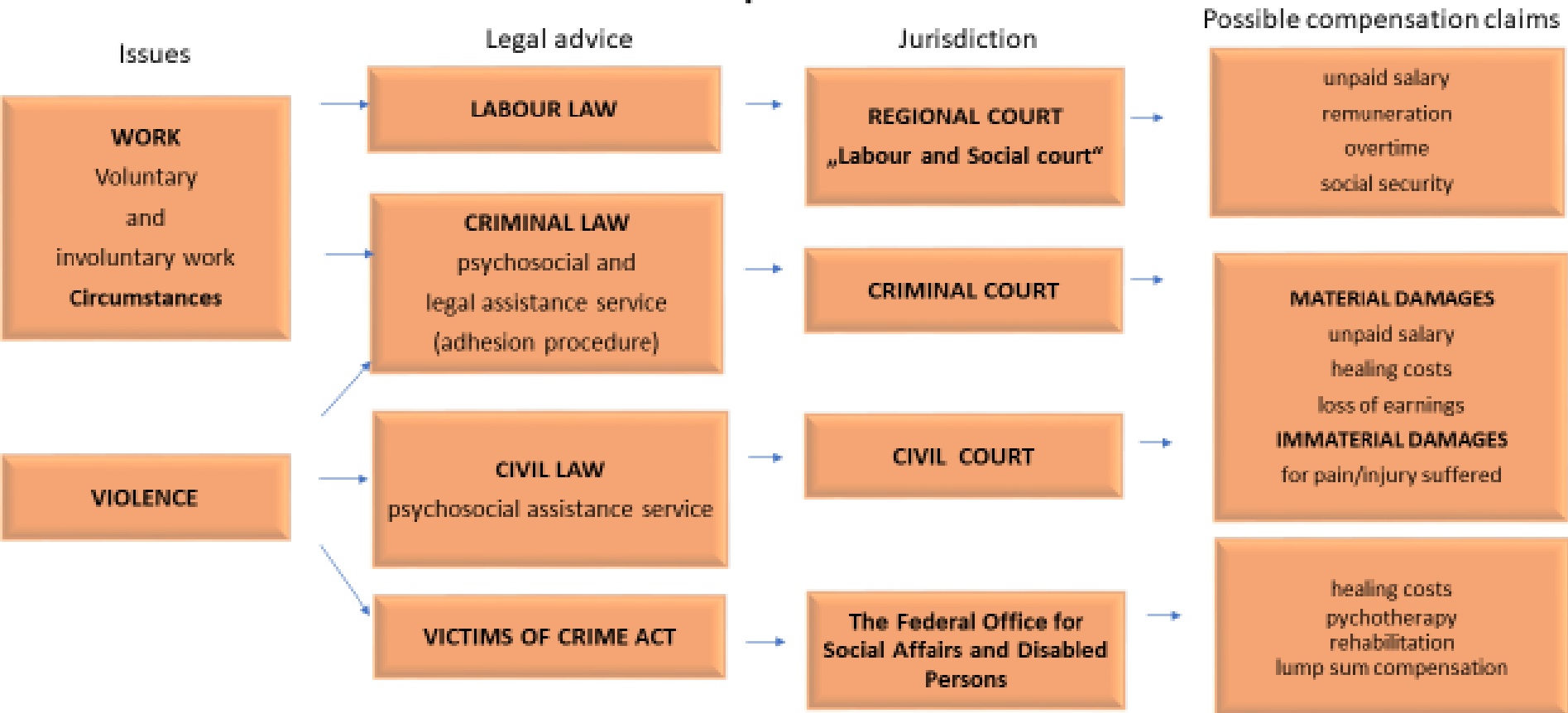
→ psycho-social assistance and possibility of legal representation

→ compensation for

- material damages
- immaterial damages

risk of litigation costs

Compensation possibilities for victims of human trafficking, violence and labour exploitation in Austria





Thank you for your attention!

Questions?

From Negotiation to Implementation:

The application of the Victims' Rights Package in Germany and National Reform within the Context of Protecting Victims of Sexual Exploitation of THB and the Possibility of Measuring Related Costs



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

3. Reformed Victim Protection Act (3. Opferrechtsreformgesetz)

- **DIRECTIVE 2012/29/EU was implemented into German Law by
„Gesetz zur Stärkung der Opferrechte im
Strafverfahren (3. Opferrechtsreformgesetz)“
(BGBl. I 2015, 2525)**

Rights for all Victims

- **Section 48 (3) The German Code of Criminal Procedure StPO**
 - Ä **During examinations, hearings and all other investigative acts attention should be paid to the particular vulnerability of the victim**
 - Ä **The need for the following measures should be considered:**
 - Ø **Separate Examination § 168e StPO**
 - Ø **Witness Examination in another Place § 247a StPO**
 - Ø **Exclusion of the public § 171b GVG**
 - Ø **Questions Concerning Degrading Facts and Previous Convictions are to be asked only if they cannot be dispensed with § 68a I StPO**

Application for Criminal Prosecution

All victims must be allowed to report an offence in a language they understand.

At the request of the victim the receipt of the reporting has to be confirmed in writing containing information on time, place and offence (§ 158 I StPO).

**The written receipt has to be translated into a language the victim understands.
(§ 158 IV StPO).**

Information Rights for All Victims

- **New structure**
 - **Ä§ 406i StPO Aggrieved persons shall be informed of their rights in criminal procedures**
 - **Ä§ 406j StPO Aggrieved persons shall be informed of their rights outside the criminal procedure**
 - **Ä§ 406k StPO Further information**
 - **Ä§ 406l StPO Rights of relatives and heirs of aggrieved persons**

Information about Rights in Criminal proceedings § 406i StPO (1)

For all victims instruction asap, in a language they understand where possible and on a regular basis in a written form for e. g. the following rights:

- **Notification of the aggrieved person upon application of the termination of the proceedings and of the outcome of the court proceedings and others, § 406d StPO**
 - **Inspection of files § 406e StPO**
 - **Assistance of an attorney or be represented by such attorney § 406f StPO**
 - **Psychosocial support in criminal trials § 406g StPO**
 - **Assistance for an aggrieved person entitled to private accessory prosecution § 406h StPO**
-

Information about Rights in Criminal Proceedings § 406i StPO (2)

- **Adhesion procedure**
- **Witness compensation**
- **Victim-offender mediation**

Special information obligations

- **when there are indicators of particular vulnerability**
- **for the benefits of minors and their representatives**

Information about Rights in Criminal Proceedings § 406i StPO (3)

- **Under certain conditions**
 - **Ä Right to join as a private accessory prosecutor §§ 395 ff. StPO**
 - **Ä Appointment of an attorney as counsel upon application or legal aid for calling in an attorney subject § 397a StPO**
 - **Ä interpreter or a translator for an aggrieved person entitled to private accessory prosecution**

Rights outside the Criminal Procedure § 406j StPO

Notification as soon as possible, in a language the victim understands where possible and in written form about:

- **Possibility to claim damages or claim compensation for non-material damage before civil courts**
- **Violence Protection Act (Gewaltschutzgesetz)**
- **Crime Victims Compensation Act (OEG)**
- **Right to compensation against Federal Government/Federal States (e. g. Hardship Fund for the Compensation of Victims of Extremist Attacks)**
- **Assistance provided by victim support services**

Further Information § 406k StPO

- Instructions in accordance with § 406i StPO and § 406j StPO should contain information about
 - Ä where the injured person can turn for support
 - Ä who provides the services

Rights of Relatives and Heirs of Victims

- **Relatives and heirs of victims also have rights of information § 406I StPO, insofar as applicable**

Psychosocial Support in Criminal Trials (1)

- **§ 406g StPO (as of 1 January 2017)**
 - **Ä The injured person may be assisted by a psychosocial supporter.**
 - **Ä The psychosocial supporter has a right to be present during the questionings of the victim and in the trial (together with the victim)**
 - **Ä In some cases the state has to bear the costs.**
- **Regulated in the law about psychosocial support in criminal proceedings**

Psychosocial Support in Criminal Trials (2)

- **§ 2 Principles**

- **Ä Special form of a non-legal assistance in criminal proceedings**

- **Ä For particular vulnerable injured persons**

- **Ä Before, during and after the trial**

- **Ä Provide information**

- **Ä Qualified support and assistance during throughout the length of criminal proceedings**

- **Ä Neutrality with regard to the criminal proceedings**

- **Ä Separation between consultancy and accompanying**

Psychosocial Support in Criminal Trials (3)

- **Goals**
 - Ä Reduce the individual strain of the victim
 - Ä Avoid secondary victimisation
- **Information about**
 - Ä The principles of psychosocial support in criminal trials
 - Ä The missing right of the psychosocial supporter to refuse testimony

Psychosocial Support in Criminal Trials (4)

- § 3 requirements in terms of qualifications i. a.
 - Ä University degree social education, social work, pedagogy, psychology
 - Ä Or a completed vocational training in one of these areas
 - Ä Completion of an education or training, which is recognized by one of the German Federal States

Costs

- **In Germany, competence for costs of criminal proceedings lies with the 16 different federal states**
 - **Ä Costs for translation and interpretation are not quantified in whole in the draft of the law**
 - **Ä As well as costs for psychosocial support**
 - **Ä Federal State Rheinland-Pfalz**
 - **Ø Translation in total (65.000 € estimated for 2018)**
 - **Ø Psychosocial support (220.000 € estimated for 2018)**



The EU's Victims' Rights Package

From minimum standards on support and protection of victims (Directive 2012/29/EU) and its application in Portugal within the framework of THB and the protection of victims of sexual exploitation

Lisboa, 5 december 2017



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union


I | The Victims' Directive and THB



- Specific mention of THB victims:

Victims of human trafficking (...) tend to experience a high rate of secondary and repeat victimisation, of intimidation and of retaliation (...) there should be a strong presumption that those victims will benefit from special protection measures.

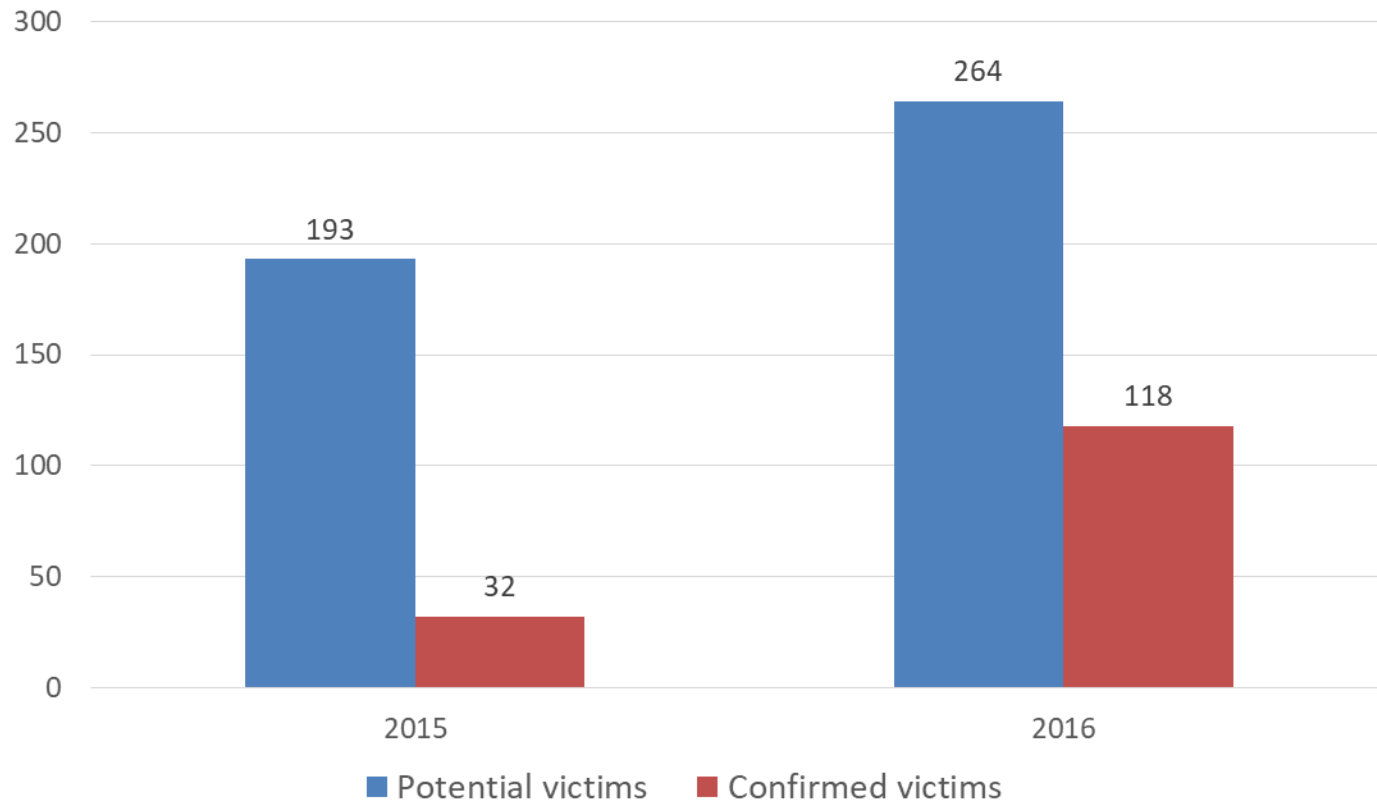
(para. 57)

- 
- Individual assessment of victims to identify specific protection needs - Article 22(3)
 - Not transposed into Portuguese Law

II | THB in Portugal



Numbers of THB victims



- Support to specific victims: child victims and refugees
 - No specialised services

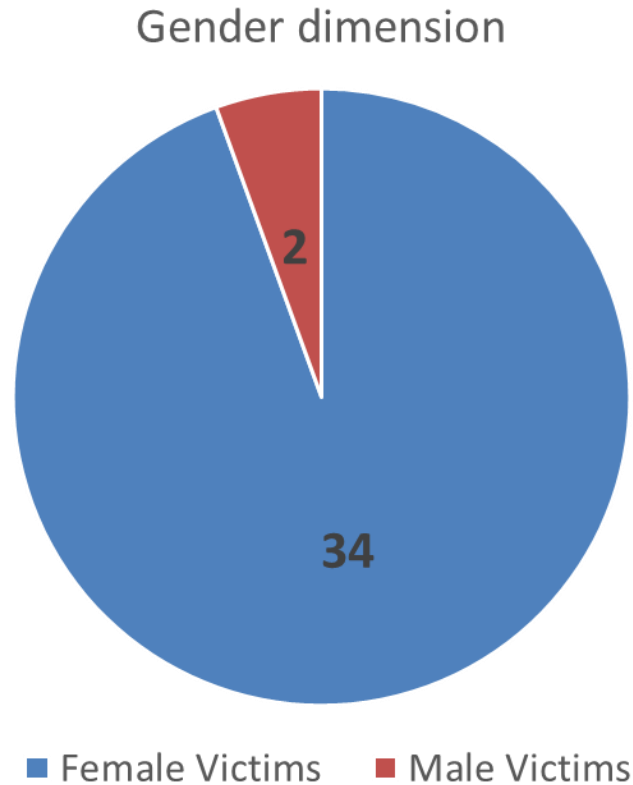


- Recommendations:
 - Improvement of victims' identification system
 - Specialised support network



- Tendency to LABOUR exploitation:
 - ▶ Agriculture
 - ▶ Construction
 - ▶ Domestic services
 - ▶ Restaurants

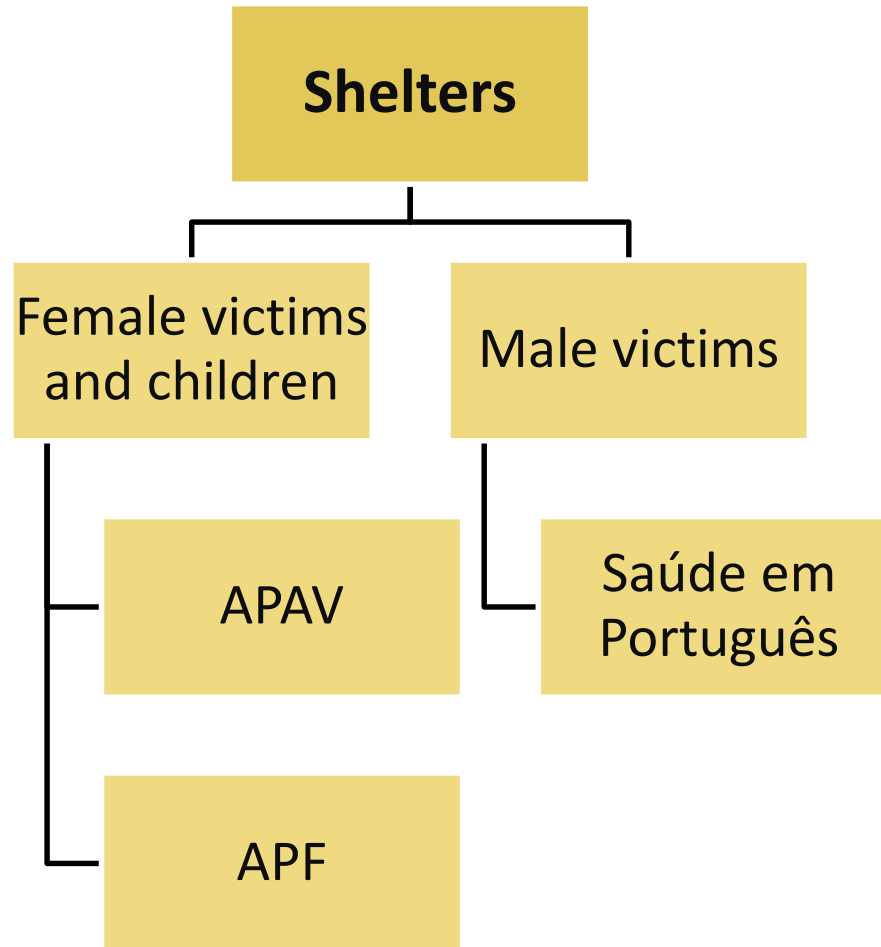
- SEXUAL exploitation

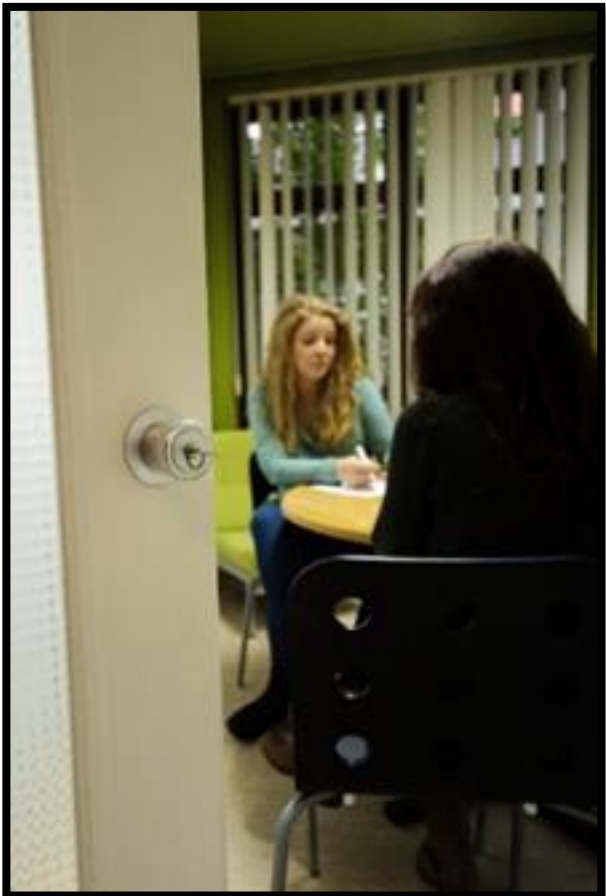


- ▶ Connection with gender-based violence
- ▶ More vulnerable
- ▶ Need for special support



III | Support to THB victims





IV | Final Thoughts



- Significant improvement in preventing and combating THB
- Need to raise awareness among society and professionals
- Need for serious debate among Member States and true change of paradigm



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www.apav.pt

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João Lázaro

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Protection and assistance to victims

December 2017



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union



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The Crime of Human Trafficking

Legal definition of the crime of Human Trafficking



Human trafficking is the internal or cross-border transportation of people for abuse and exploitation.

It is a crime defined in international law as:

“The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud of deception, of abuse of authority or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.”

Risk Factors and Vulnerability



- Separation and isolation from family (e.g. children separated due to war or a natural disaster);
- Domestic violence;
- Undocumented migrants;
- Homelessness;
- Sex workers (prostitutes, escorts, workers in strip clubs & pornography);

Risk Factors and Vulnerability



- People or groups subject to racial or ethnic discrimination;
- Gender discrimination (e.g. women struggling to get work in origin countries);
- Social exclusion;
- Unaccompanied children in transit between different countries;
- Child labor;
- Children whose birth has not been officially registered;

Risk Factors and Vulnerability



- Alcohol or drug dependency that is pre-existing or induced by the traffickers;
- Mental Health problems;
- Offenders or people involved in crime;
- Unemployment;
- Lack of inspection in workplaces;
- Lack of awareness & information on labour rights and human trafficking.





The Perspective of the Human Trafficking victim

Consequences



- Injuries;
- Physical trauma and fractures;
- Vaginal bleeding;
- Sexually transmitted diseases;
- Lack of adequate nutrition;
- Adding drugs or medicines;
- Depression or deep sadness;
- Sleep disorders;
- Self-blame;
- Aggressiveness.

Reactions as a result of victimization



- Fear;
- Panic;
- Feeling insecure;
- Anxiety;
- Shame;
- Humiliation;
- Emotional ambivalence;
- Sudden mood swings;
- Feeling of loneliness.

Victim's rights



1. Identification;
2. Residence Authorization;
3. Information;
4. Period of recovery and reflection;
5. Juridical support;
6. Protection of privacy and identity;
7. Protection during criminal investigation and prosecution;
8. Compensation for damage suffered;
9. Repatriation and return / Integration support

Support and assistance to victims of human trafficking



a) Emergency intervention:

- Ensure the safety of the victim;
- Ensure the basic needs of the victim (food, clothing, lodging);
- Provide psychological support and medical support to the victim;
- Reestablishment of the victim's social connections;
- Legal support for information on the victim's rights and how to exercise them immediately and throughout the rehabilitation process.

Support and assistance to victims of human trafficking



a) Emergency intervention:

Possibility of attribution to the victim who is undocumented in national territory of a residence permit. This support mechanism is enshrined in the law and allows the victim to escape the influence of the offenders.

For this purpose is given a reflection period of 30 to 60 days and it is necessary that the victim:

- a) shows a willingness to cooperate with the authorities;
- b) cuts off relationships with suspected offenders;
- c) her presence is important for the continuation of the investigation.

Support and assistance to victims of human trafficking



b) Intervention for the realization of the victim's right to reparation

Support the victim in the proceedings of the crime process;

Assist the victim in claiming compensation for victims of violent crimes with the Commission for the Protection of Victims of Violent Crimes of the Ministry of Justice, as long as it is not compensated through legal proceedings.

Support and assistance to victims of human trafficking



c) Intervention for the empowerment of the victim

The support in the process of autonomy of the victim can go through two distinct paths, according to his will:

1. reintegration of the victim in their country of origin through programmed assisted return;
2. promotion of the social inclusion of the victim, if she decides to stay in Portugal, through the reconstruction of the victim's social relations, return to the labor market and access to social support.

Shelter and protection



In Portugal there are 3 shelter structures for victims of TSH:

CAP SUL - APAV - Women with or without minor children

CAP Norte - APF - Women with or without minor children

CAP Central – Saúde em Português - Men

Shelter and protection



CAP SUL – Center for Shelter and Protection

CAP SUL | Recipients

CAP SUL shall shelter women, accompanied or not by their underage children, that have been identified as victims of human trafficking.

PARA AJUDAR
PARTILHE
WWW.NAOAOTRAFICO.PT
INFORME-SE SOBRE A EXPLORAÇÃO LABORAL

Qualquer pessoa pode ser vítima de exploração laboral. Aceite apenas contratos de trabalho que indiquem os deveres do empregador relativamente ao pagamento do ordenado, horas e local de trabalho e regras para revogação do contrato.
INFORME-SE. QUESTIONE-SE.

APAV
Associação Portuguesa de Apoio à Vítima

briseida

116 006
SEM CUSTO E SEM OBRIGATORIEDADE

Shelter and protection



CAP SUL – Center for Shelter and Protection

CAP SUL | Objectives

- Provide to the women, accompanied or not by their underage children, the satisfaction of all their basic needs, in life conditions as close as possible to those of a family structure;
- Provide the necessary means that promote their personal and social value, their security, health and training, as well as their whole development;
- Promote their reintegration in society.

Shelter and protection



CAP SUL – Center for Shelter and Protection

CAP SUL | Conditions

- Women recognized as victims of human trafficking even if they have not been formally identified by the OPC.
- Any kind of exploitation (sexual exploitation , labor exploitation , extraction of organs , begging, slavery and illegal adoption).
- Victims may not have reported the crime.

Shelter and protection

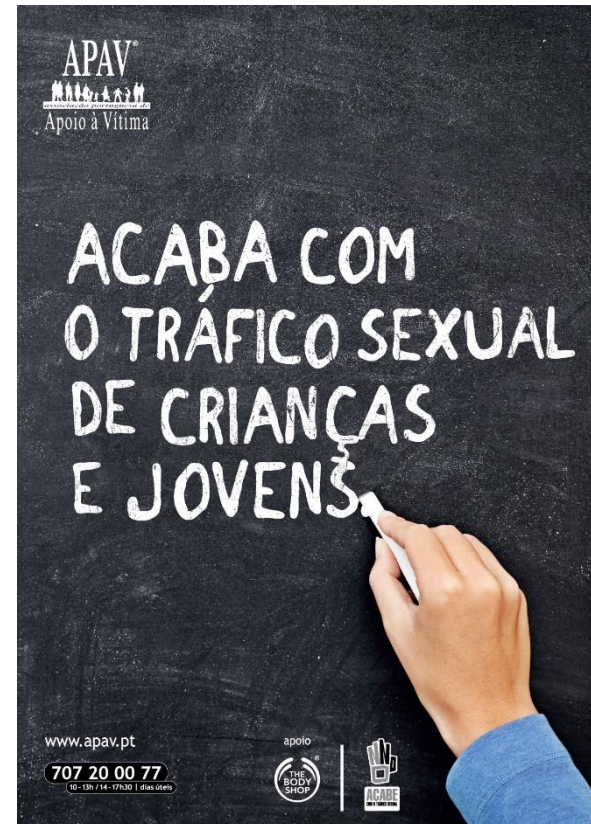


CAP SUL – Center for Shelter and Protection

CAP SUL | Models of host

Emergency Shelter

Extended Shelter





Shelter and protection

CAP SUL – Center for Shelter and Protection

CAP SUL | Emergency shelter

Victims of TSH identified under police operations or other operations, requiring emergency reception, for safety reasons.

There is not a limit number in case of emergency, it depends on the capacity of the center and the team.

Shelter and protection



CAP SUL – Centre for Shelter and Protection

CAP SUL | Extended Shelter

For the victims admitted in emergency situations that require support for longer, as well as victims referred by other institutions.

Shelter and protection



CAP SUL – Center for Shelter and Protection

CAP SUL | Shelter

The center for shelter shall guarantee the provision of the following services:

- a) Accommodation;
- b) Food;
- c) Protection and security;
- d) Psychological and social support;
- e) Legal support and information;
- f) Training and qualification

Shelter and protection



CAP SUL – Center for Shelter and Protection

CAP SUL | Human Resources

Technical Team (Technical Director / Psychologist and 1 Jurist);

Assist Team (5 monitors);

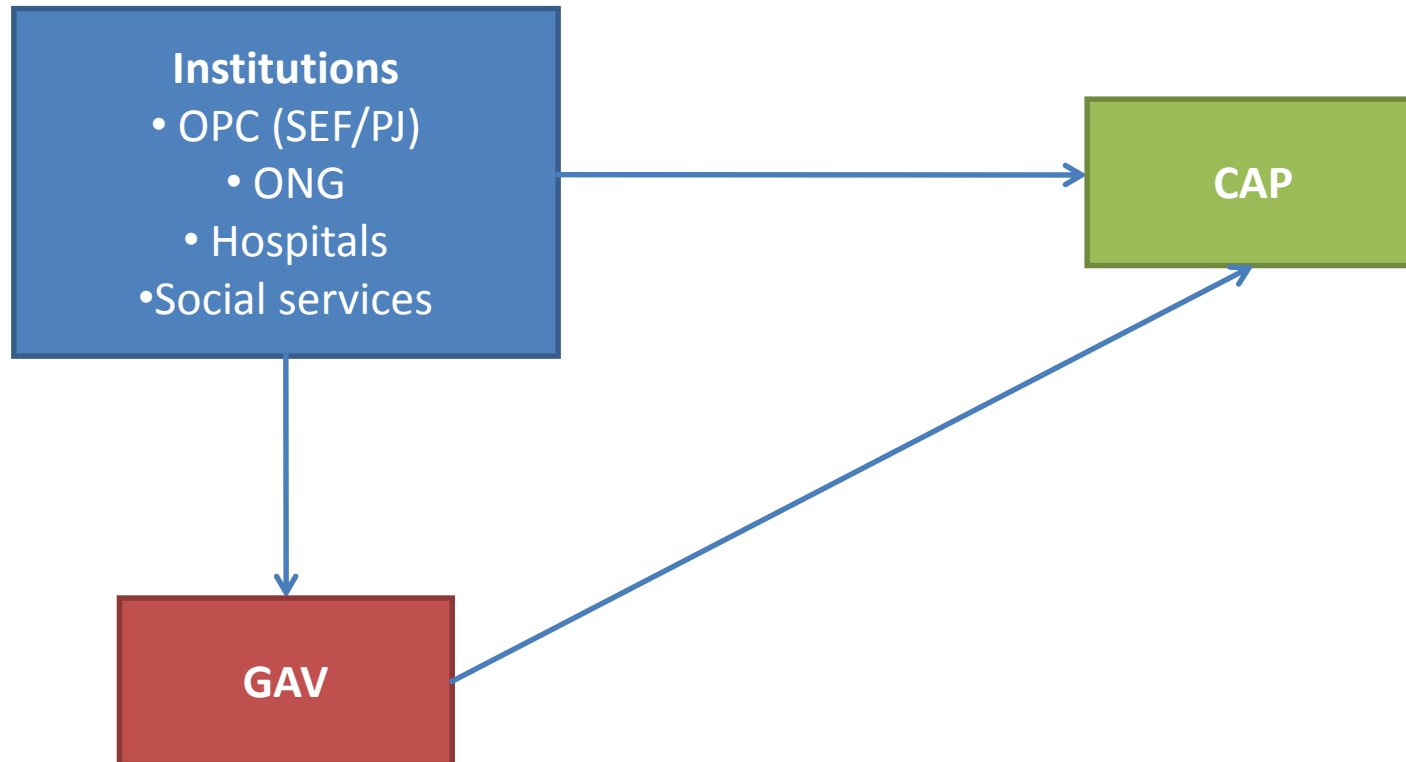
Volunteers from different professional areas.

Shelter and protection



CAP SUL – Center for Shelter and Protection

CAP SUL | Referencing situations TSH





prevenir e formar

Thank you

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21 358 79 26/28

Mr. Warner ten Kate
 National Co-ordinating Public Prosecutor
 for the Fight of Human Being and People Trafficking &
 Exploitation - modern people trafficking
 Tuesday, 5 December 2017

national office of the Public Prosecution Service

Statements of victims and non-punishment and cross-platform cooperation

Can be found by the Internal Security Panel (ISIP) 2017-2020 of the European Union




Oceans 13

254 youngsters are apprehended in 2014 due to mobile identity.
 Children are involved in pickpocketing, shoplifting, burglaries.
 Victims or victims of THBT?

- Multiple times detained, controlled, and arrested
- Without permanent residence or domicile
- Apprehended and released back on the street
- Probation-furlough

Importance of statements and non-punishment principle

Subjects

Non-punishment

- Citizens 13
- Amsterdam Court of Appeal ECLI:NL:GHAMS:2017:2889

Statements

Do you have a responsibility to react?

Legal Framework

Convention on the rights of the Child 1989
 Protocol to Prevent, Suppress and Punish
 Trafficking in Persons, Especially Women and
 Children, 2000
 Directive 2011/36/EU, artt. 13, 14, 15, 16, 18
 EU Children are more vulnerable than adults and therefore at greater risk of
 becoming victims or trafficked human beings in the exploitation of this
 Directive, in addition, child victims must be given special attention. It
 is essential that the Children of Trafficking by the Dutch Government in line
 with the UNHCR United Nations Convention on the Rights of the Child
 (2011) therefore attention should be given to unaccompanied child victims,
 or trafficking in human beings, as they need family, education and support
 due to their situation of particular vulnerability 1.2.

**Example non-punishment: Amsterdam Court of
 Appeal ECLI:NL:GHAMS:2017:2889**

Several defenses:
 - The admissibility of the Prosecutor's Office
 - Proof of evidence
 - Psychological force
 - Art. 10 Dutch Criminal Code (CC)

**Example non-punishment: Amsterdam Court of
 Appeal ECLI:NL:GHAMS:2017:2889**

In this case, a victim was accused of assisting the main
 suspect (A) with exploitation of others for the period of
 one year.

- She was victim of THBT for 6 years.
- She was forced into prostitution, and had to hand over
 her earnings.
- She had to live with the main suspect (A & J).
- She believed she was able to find a way out.
- Her relationship with the mother of the main
 suspect (J) is...
- She had no victim (J) to her protection.
- She had no victim (J) to assist in various
 conditions, for example they had to transfer a
 considerable amount of money they earned.
- It proved heavy work for only one day.
- She played an important (active) role in the
 establishment. The victim believed they were most
 afraid of her.

**Example non-punishment: Amsterdam Court of
 Appeal ECLI:NL:GHAMS:2017:2889**

Outcome:
 - The Amsterdam Court of Appeal sentenced the
 suspect to 20 months in prison.

- The Amsterdam Court of Appeal found that it is
 unclear to what extent the non-punishment
 principle applies. Criminal offences directly
 concerned due to THBT fall under the non-
 punishment principle. This court immediately
 be said about the participation of a victim's
 perpetrator in the THBT of others.

Statements:

Statement 1.
 When can a victim of THB be qualified for the non-punishment principle and in
 which cases should a victim be punished?

Statement 2.
 Perpetrators use minors, because minors can not be penalized.
 In which way can this be discouraged?

Statement 3 (case).
 Three women from China were approached by a man. The man could smuggle them to the
 USA and promised the women that they would earn a lot of money. During a stopover at
 Schiphol, there was another woman with false passports. The woman provided the false
 passports to the women so they were able to continue the trip. Shortly after that, the women
 were arrested on suspicion of complicity of an attempt to possess a false passport.

Results of the interrogations
 The three women had to pay a lot of money for the trip
 They didn't know their final destination
 They didn't know what kind of work they had to do in the USA
 The man who organized the trip told them that they had to work 4 years for their return journey.

Attorney: the women were afraid for the criminal organization that arranged the trip. For that
 reason the three women didn't want to make a statement at the police.

At the hearing the attorney referred to the non-punishment principle.

**Question: What do you think? Can these three women be regarded as a victim or as a
 suspect?**

Statement 3 (outcome).
 The three women were convicted: 4 weeks of prison (two weeks were conditional)

Why?
 The women didn't report to the police
 No cooperation with the public prosecutor

Result: They were not qualified as victims of trafficking in human beings, so the appeal on the
 non - punishment principle wasn't successful.

Statement 4 (discussion).
 In what way are the principles of non-prosecution and non-punishment currently
 implemented in your country?

Mr. Warner ten Kate

National Coordinating Public Prosecutor
for Trafficking of Human Beings and People Smuggling &
Flexible liaison magistrate people smuggling
Tuesday, 5 December 2017

National Office of the Public Prosecution Service

Statements of victims and non-punishment and cross-platform cooperation

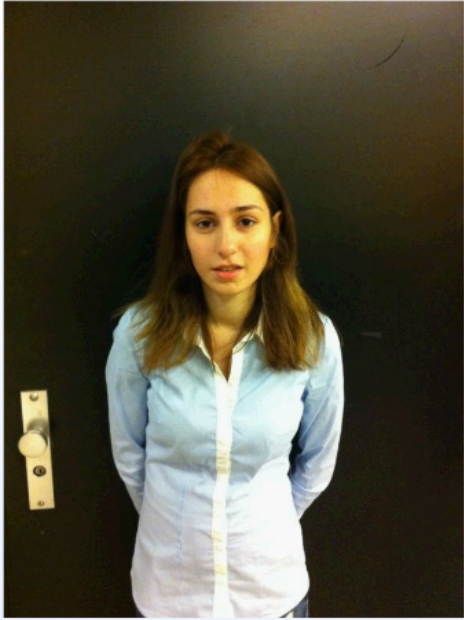
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Balancing Security and Mobility



European Union





Aug 2014



Jan 2015

Aug 2014



Jan 2015



Subjects

Non-punishment

- Oceans 13
- Amsterdam Court of Appeal
ECLI:NL:GHAMS:2017:2889

Statements

Do you have a responsibility to react?

Oceans 13

168 youngsters are apprehended in 2014 due to mobile banditry.

Children are involved in pickpocketing, shoplifting, burglaries.

Criminals or victims of THB?

- Multiple times detected, controlled, and arrested
- Without permanent residence or domicile
- Apprehended and released: back on the street
- Problem-families

Importance of awareness and non-punishment principle.

Legal Framework

Convention on the rights of the Child 1989
Protocol to Prevent, Suppress and Punish
Trafficking in Persons, Especially Women and
Children, 2000

Directive 2011/36/EU; artt. 13, 14, 15, 16, 18

(8) **Children are more vulnerable than adults** and therefore at greater risk of becoming victims of trafficking in human beings. In the application of this Directive, the **child's best interests must be a primary consideration**, in accordance with the Charter of Fundamental Rights of the European Union and the 1989 United Nations Convention on the Rights of the Child.

(23) **Particular attention** should be paid to **unaccompanied child victims** of trafficking in human beings, as they need specific assistance and support due to their situation of particular vulnerability (...).

Example non-punishment: Amsterdam Court of Appeal ECLI:NL:GHAMS:2017:2889

In this case, a woman was accused of assisting the main suspect (G.K.) with exploitation of others for the period of one year.

- She was victim of THB for 9 years.
- She was forced into prostitution, and had to hand over her earnings.
- She was in love with the main suspect (G.K.).
- She declared she was unable to find 'a way out'.
- Her daughter lived with the mother of the main suspect (G.K.).
- She forced victims (3) into prostitution.
- She forced victims (3) to accept unfavorable conditions, for example they had to hand over a considerable amount of money they earned.
- It seemed money was her only motive
- She played an important (active) role in the enforcement. The victims declared they were most afraid of her.

**Example non-punishment: Amsterdam Court of
Appeal ECLI:NL:GHAMS:2017:2889**

Several defenses:

- The admissibility of the Prosecutor's Office
- Proof of evidence
- Psychological force
- Art. 9a Dutch Criminal Code (CC)

Statements:

Statement 1.

When can a victim of THB be qualified for the non-punishment principle and in which cases should a victim be punished?

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Three women from China were approached by a man. The man could smuggle them to the USA and promised the women that they would earn a lot of money. During a stopover at Schiphol, there was another woman with false passports. The woman provided the false passports to the women so they were able to continue the trip. Shortly after that, the women were arrested on suspicion of complicity of an attempt to possess a false passport.

Statement 3 (case).

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Results of the interrogations

The three women had to pay a lot of money for the trip

They didn't know their final destination

They didn't know what kind of work they had to do in the USA

The man who organized the trip told them that they had to work 4 years for their return journey.

Attorney: the women were afraid for the criminal organization that arranged the trip. For that reason the three women didn't want to make a statement at the police.

At the hearing the attorney referred to the non-punishment principle.

Question: What do you think? Can these three women be regarded as a victim or as a suspect?

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Statement 3 (outcome).

The three women were convicted: 4 weeks of prison (two weeks were conditional)

Why?

The women didn't report to the police

No cooperation with the public prosecutor

Result: They were not qualified as victims of trafficking in human beings, so the appeal on the non - punishment principle wasn't successful.

Statement 4 (discussion).

In what way are the principles of non-prosecution and non-punishment currently implemented in your country?

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Statement 4 (discussion).

In what way are the principles of non-prosecution and non-punishment currently implemented in your country?

Example non-punishment: Amsterdam Court of Appeal ECLI:NL:GHAMS:2017:2889

Outcome:

- The Amsterdam Court of Appeal sentenced the suspect to 20 months in prison.
- The Amsterdam Court of Appeal found that it is unclear to what **extend** the non-punishment principle applies. Criminal offenses **directly** committed due to THB fall under the non-punishment principle. This cannot immediately be said about the **participation** of a victim/perpetrator in the THB of others.