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Exploitation and Abuse: The Scale and Scope of Human Trafficking in South Eastern Europe

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The Initiative included five Regional Expert Group Meetings (REGMs) as expert consultations that took place remotely on the topics related to trafficking in persons phenomena in South Eastern Europe (SEE), namely: (i) access to effective remedies for victims of trafficking in persons (March 2021); (ii) trafficking in persons for the purpose of labour exploitation (April 2021); (iii) addressing the demand side of trafficking in persons, particularly for sexual exploitation (May 2021); (iv) addressing trafficking in persons for sexual exploitation through international cooperation (June 2021); and (v) trafficking in persons of children, in particular for the purpose of forced criminality (July 2021). UNODC expresses its appreciation to all the criminal justice practitioners, academics, representatives of international and regional organizations, private sector and civil society representatives who attended the REGMs and who provided their valuable inputs.

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Executive Summary

The current report is the final outcome of the Regional Initiative on Trafficking in Persons in South Eastern Europe (the Initiative) carried out by the United Nations Office on Drugs and Crime in 2021 as a response to the Covid-19 pandemic and the measures adopted to contain it, which had a major impact both on the evolution of trafficking criminal phenomena and on the development of anti-trafficking efforts in the South Eastern Europe (SEE) region. Thus, the report aims to offer solutions to the most pressing challenges encountered by anti-trafficking practitioners in the SEE countries. The key findings and the recommendations elaborated in this report were discussed during five regional expert meetings (REGMs) organized in the framework of the Initiative and were further supported by country reports from Albania, Bosnia and Herzegovina, North Macedonia and Serbia.

The region is still recording high levels of domestic trafficking and remains a source of trafficking victims in Western and Southern Europe. While sexual exploitation is the most prevalent form of trafficking, labour exploitation cases are increasingly recorded, as responsible authorities intensified their detection efforts in this area. Trafficking for the purpose of forced criminality is the third most common form of exploitation in the region, with children still being the most vulnerable to this type of exploitation. Nevertheless, inadequate data collection might not give an accurate picture on the prevalence of trafficking-related exploitation present in the region. In conjunction with insufficient efforts to identify and detect trafficking cases, the real number of cases involving labour exploitation and forced criminality, for instance, might still be underreported. The majority of trafficking cases are still detected by police units and non-governmental organizations' (NGOs) mobile teams.

Additional challenges for the detection, investigation and prosecution of trafficking in persons cases are generated by the increasing use of technology in all stages of trafficking activities, from recruitment of victims to their exploitation and monetization of services resulting from exploitation, especially in the context of the Covid-19 pandemic.

There are persistent challenges with regards to the protection offered to victims of trafficking in persons, deriving mainly from the scarcity of available services and the insufficient coordination among the actors involved in the National Referral Mechanisms.

Demand for services that result from trafficking in persons for sexual exploitation still remains a policy area that all countries in South Eastern Europe need to address.

Some progress has been made when it comes to the prosecution of trafficking cases, which, in the last few years, resulted in several successful cases of victims accessing compensation for the damage suffered as a result of their exploitation. Insufficient access to information and to proper legal assistance are among the main obstacles faced by victims, while in most cases legal aid is offered by non-governmental organizations. Victims of forced criminality and sexual exploitation face additional hurdles, as they are not always recognized as victims of trafficking in persons and are treated as perpetrators of different crimes.

Since trafficking activities increasingly display a cross-border dimension, several international cooperation agreements in the area of trafficking in persons have been concluded lately. Nevertheless, the mechanisms and instruments based on international cooperation are not fully used and additional efforts are required in this area.

Considering all of these shortcomings, the REGMs and the country reports focused on the following topics, listed in the chronological order of the REGMs:

- access to effective remedies for victims of trafficking in persons;

- trafficking in persons for labour exploitation;
- addressing the demand side of trafficking in persons, particularly for sexual exploitation;
- addressing trafficking in persons for sexual exploitation through international cooperation; and
- trafficking in persons of children, in particular for the purpose of forced criminality.

Each of these topics is discussed in detail in the specific sections of this report, while the last section approaches transversal challenges and recommendations for improving results of the anti-trafficking efforts in the region.

Introduction

Trafficking in persons remains one of the most serious crimes and violations of human rights in the South Eastern Europe region and worldwide. Twenty-one years after the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children¹ was opened for signing in Palermo (Italy), State Parties are still struggling to reduce the incidence of this crime and to offer victims the much-needed protection and care for the purpose of their full recovery and social reintegration. The United Nations Office on Drugs and Crime (UNODC) serves as the guardian of the UN Trafficking in Persons Protocol. While considerable progress has been made in this area efforts of all actors involved need to be further strengthened in order to achieve the desired results.

While all countries in South Eastern Europe² (SEE) introduced the offence of trafficking in persons (TIP) into their legislation in line with the UN Protocol, further steps need to be taken in order to advance towards its full implementation. The UNODC Global Report on Trafficking in Persons of 2020 provides a comprehensive picture of the trafficking in persons phenomenon worldwide and highlights specific aspects of trafficking in the SEE region, while drawing attention to the way the COVID-19 pandemic has exacerbated pre-existing inequalities and vulnerabilities among potential victims³.

The region remains largely a source of trafficking victims in Western and Southern Europe. At the same time, South Eastern Europe is recording high levels of domestic trafficking, albeit victims from East Asia and Eastern Europe have also been identified in different countries in the region.

The analysis of the most recent data on detected trafficking victims by form of exploitation in Central and South Eastern Europe (2018 or most recent)⁴ reveals that sexual exploitation remains the main form of exploitation with 64% of the cases detected, while forced labour accounts for 18% of cases and other forms of exploitation for another 18%. The latter include cases of forced criminality, exploitative begging and forced marriages. Forced begging and forced criminal activity are more common in the Western Balkans, although they are present also in other parts of the region.

In this context, in 2021 the UNODC Human Trafficking and Migrant Smuggling Section (HTMSS), with the active contribution of the regional expert on “fight against trafficking in human beings and related crimes” in South Eastern Europe at the Permanent Mission of France to the United Nations and the International Organisations in Vienna, implemented the Regional Initiative on Trafficking in Persons in South Eastern Europe (the Initiative) aimed at supporting the region in this area during the COVID-19 pandemic, in line with the UNODC Regional Programme for South Eastern Europe workplan.

The Initiative included five Regional Expert Group Meetings (REGMs) on topics related to trafficking in persons phenomena and the engagement of local experts in Albania, Bosnia and Herzegovina, North Macedonia and Serbia to ensure regular contact with the national authorities while international travel was restricted. The Initiative unfolded through online meetings and was coordinated by local experts in each country as an alternative delivery

¹ Also referred to as the UN Trafficking in Persons Protocol, the Trafficking in Persons Protocol, the UN Protocol or the Palermo Protocol

²²² This region consists of the following countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Moldova, Montenegro, North Macedonia, Romania, Serbia and Slovenia, as well as Kosovo under United Nations Security Council Resolution 1244 (1999). All references to Kosovo in the present document should be understood in the context of the United Nations Security Council resolution 1244 (1999).

³ Additional challenges facing the anti-trafficking fight, witnessed also in the SEE region, following the restrictions imposed to contain the COVID-19 pandemic, included reduced resources allocated to law enforcement bodies or delayed criminal justice procedures, while a considerable part of trafficking activities moved online.

⁴ UNODC, Global Report on Trafficking in Persons 2020, p. 139

modality during the COVID-19 pandemic that restricted travel and large in-person meetings for a large part of 2020 and 2021. The Regional Initiative on Trafficking in Persons in South Eastern Europe has been funded by the Governments of France and Sweden.

Taking into account the latest TIP trends in the region, five multi-disciplinary regional workshops were held focusing on thematic issues of particular interest for addressing TIP phenomena in South Eastern Europe, namely:

- access to effective remedies for victims of trafficking in persons;
- trafficking in persons for the purpose of labour exploitation;
- addressing the demand side of trafficking in persons, particularly for sexual exploitation;
- addressing trafficking in persons for sexual exploitation through international cooperation; and
- trafficking in persons of children, in particular for the purpose of forced criminality.

The first regional workshop on access to effective remedies for victims of TIP in South Eastern Europe was held online in March 2021 and was organized in collaboration with the National Commission for Combating Trafficking in Human Beings and Illegal Migration of North Macedonia and the Ministry of Europe and Foreign Affairs of France.

The second regional workshop on TIP for the purpose of labour exploitation in South Eastern Europe was held online in April 2021 and was organized in collaboration with the National Coordinator for Combating Trafficking in Human Beings and Illegal Migration of Bosnia and Herzegovina and the Ministry of Europe and Foreign Affairs of France.

The third REGM, focused on addressing the demand side of TIP for sexual exploitation, held online in May 2021, was organized in collaboration with the Office for Human Rights and Rights of National Minorities of the Government of the Republic of Croatia, the Ministry of Foreign Affairs of Sweden and the Ministry of Europe and Foreign Affairs of France.

The fourth REGM, on fighting trafficking in persons for the purpose of sexual exploitation through international cooperation, held online in June 2021, was organized in collaboration with the National Antitrafficking Coordination Office within General Police Directorate of the Ministry of the Interior of Serbia, the Ministry of Foreign Affairs of Sweden and the Ministry of Europe and Foreign Affairs of France.

The fifth REGM, focused on addressing trafficking in children, particularly for the purpose of forced criminality, held online in July 2021, was organized in collaboration with the National Anti-trafficking Coordination Office within the Ministry of the Interior of Albania and the Ministry of Europe and Foreign Affairs of France.

The five regional expert group meetings involved national and international officials, experts, civil society and business private sector professionals. Different cases were discussed by police officers, prosecutors and judges, labour inspectors, as well as representatives from non-governmental organizations, trade unions and commercial private companies from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, North Macedonia, Moldova, Romania, Serbia, Slovenia as well as from Austria, Belgium, Greece, Germany, Finland, France, Netherlands, Spain, Sweden, Switzerland and the United Kingdom, as well as well as Kosovo under United Nations Security Council Resolution 1244 (1999), in order to share good practices.

The current report consolidates the main challenges and recommendations for tackling trafficking in persons identified during the REGMs. It draws on the analysis conducted in the country reports from Albania, Bosnia and

Herzegovina, North Macedonia and Serbia, which compiled information from national and international sources as well as from interviews conducted with practitioners dealing with trafficking in persons cases, such as social workers, law enforcement professionals or prosecutors.

The report discusses the most common forms of trafficking in persons in the SEE region from a practical perspective, addressing the current challenges encountered by professionals who are involved in the different stages of the anti-trafficking response, from detection to prosecution, including prevention and victims' protection. The aim of this report is to provide stakeholders engaged in the fight against trafficking in persons in South Eastern Europe with potential solutions to the challenges they are experiencing.

2. Addressing trafficking in persons for the purpose of labour exploitation

Key findings and challenges

Available data on trafficking in persons and labour exploitation. Access to accurate data on the phenomenon is crucial for designing adequate solutions to address trafficking in persons for the purpose of labour exploitation. The 2020 UNODC Global Report on Trafficking in Persons revealed that trafficking in persons for labour exploitation makes up for 18% of the recorded cases of trafficking in persons in Central and South Eastern Europe⁵.

However, studying and comparing the latest data from the countries in the SEE region is challenging, as the ability of government authorities to collect official data is uneven. In some countries, the number of detected cases of labour exploitation seems to be increasing, but this may be only a reflection of the increasing effort to detect such cases by competent institutions, as mentioned in the country reports. In other cases, there is a lack of accurate official data on the phenomenon of trafficking in persons, according to some practitioners involved in the dedicated REGM and the country reports. In certain countries, the official numbers of labour exploitation cases have remained low in the past five years despite capacity building initiatives, with labour exploitation as one of the least recognized forms of human trafficking. At the same time, countries that started to detect and report more cases of trafficking in persons for forced labour are also prosecuting more cases of trafficking for labour exploitation. Therefore, to analyse the phenomenon in the region, one should also turn to other sources for data, such as cases detected and reported by the CSOs involved in the prevention and fight against trafficking in human beings. Nevertheless, reports of the Council of Europe mention an overall increase in labour exploitation, becoming “the predominant form of trafficking in some European countries”⁶.

Recorded forms of labour exploitation in the region. While sexual exploitation and forced begging involving children are still among the most common forms of exploitation in the region, labour exploitation is increasingly occupying a significant place.

The analysis of the cases considered by the local experts and the participants in the REGM revealed there are shifts in the labour exploitation trends, stemming from economic and social developments taking place in the region such as changes in migration flows, the development of more high-risk economic sectors (such as the construction, manufacturing or tourism industries), the increased use of online or digital tools or the low level of trust in public institutions (which results in a low level of victims turning towards public authorities for reporting labour exploitation situations).

Forced begging is the most recorded form of trafficking in children, whether domestic or across borders, with seasonal intensification in certain areas. Undocumented children and/or children on the move are often found in exploitative situations. When it comes to children being forced into begging, parents may be involved.

While until recently children forced into begging in the region were exclusively of Roma origin, some countries are recording an increasing number of cases of forced begging affecting non-Roma children, which represents a considerable shift

A significant number of boys and men that are victims of international trafficking and forced labour from the SEE region is detected in the European Union (France, Germany, Italy, the Netherlands) and the United Kingdom. They are exploited in agriculture and in the production and distribution of narcotics, sometimes as a consequence of

⁵ Following UNODC elaboration on national data from 2018 or most recent.

⁶ <https://www.coe.int/en/web/anti-human-trafficking/country-monitoring-work>, <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>

debt bondage towards individuals and agencies involved in their recruitment outside of the country of origin. Cases of male victims of labour exploitation or forced labour coming from various countries in the SEE region have also been detected in the construction industry in EU countries (including Austria, Belgium, France, Germany, Italy, Luxembourg), Switzerland, Azerbaijan, the Russian Federation and the United Arab Emirates.

An expansion in seasonal work in agriculture is noticed together with the development of the private sectors where the demand for cheap labour is also increasing (textile, food production, entertainment, hospitality industries). Both women and men may be subject to forced labour in these sectors, but women generally fall victims of labour exploitation in the textile, entertainment and wellness industries.

New cases of TIP for forced labour involving Chinese, Pakistani and Bangladeshi migrants were detected in several countries in the region in sectors such as car washing, construction, agriculture and restaurants/hospitality.

In addition, cross-border trafficking in persons for labour exploitation seems to make up a significant portion of the cases detected. People in search of jobs cross borders to neighbouring countries and some of them end up in labour exploitation situations. Such cases were detected in North Macedonia, with victims from Albania, Bosnia and Herzegovina, Kosovo*, Serbia exploited in the hospitality industry, and in Bosnia and Herzegovina where victims were from Serbia, while Bosnian nationals were trafficked for labour exploitation in Croatia.

Groups at risk of labour exploitation. Identifying vulnerable groups is necessary to improve the response to labour exploitation phenomena. As the recorded forms of labour exploitation show, victims of TIP have diverse profiles, whether they are children or elderly, women or men.

There are, however, certain social groups who are more vulnerable to trafficking for labour exploitation: those facing social and economic hardship, undocumented migrant workers or refugees, unaccompanied minors in cross-border movement. The most vulnerable children groups include minors who migrate from one region to another, both internally and across borders⁷, and children living in the streets. Their vulnerabilities are used by traffickers in order to recruit and further exploit them.

Traffickers use force or take advantage of the victim's vulnerable position or lack of options, as many times victims rely on traffickers/criminal actors to have access to a dwelling or income.

Seasonal workers are also often victims of trafficking for labour exploitation, in both domestic and cross-border cases. The cases discussed during the REGMs revealed that seasonal workers in a foreign country are usually not registered and at the same time they are not aware of existing laws, they work under pressure from their employers and they earn much less than nationals for the same job.

High-risk sectors for labour exploitation. In order to effectively detect and fight labour exploitation, it is crucial to identify those economic sectors where labour exploitation is most likely to occur. The cases outlined in the country reports and the investigations presented during the REGM in April 2021 revealed that certain economic sectors have registered considerable development in the last years and thus are a source of concern. These sectors include: construction industry, agriculture and firewood production, hospitality and tourism industry, catering, textile manufacturing, wellness industry (massage/spa), entertainment locations etc. A lower number of cases of labour exploitation or forced labour were detected in other areas, such as household cleaning. Sectors that are

⁷ For instance, Albanian children are exploited within networks across borders in Kosovo and Montenegro, sometimes seasonally during summer, while for the rest of the year they are exploited inside the country, in certain regions.

unregulated in the countries in the region, such as household work or the use of seasonal work and day labour (usually unskilled labour paid by the day), often escape official monitoring and scrutiny, and as such present increased risks of exploitative practices.

Another finding is that the flexibility of labour markets and the massive recourse to subcontracting in the supply chains, in conjunction with the lack of safe and regular channels for migration, seem to stimulate trafficking in persons for the purposes of labour exploitation. Mixed migration flows and the increase in vulnerabilities among migrants make tackling labour exploitation situations even more challenging. Many times, migrants need income sources in order to be able to pay for border passages to reach their final destination country, which can be costly. Hence, they may become victims to exploitation, and as they fear deportation, they are less likely to report such a situation.

Recruitment methods for labour exploitation. Another shift regarding trafficking in persons for labour exploitation is the increasing use of online social networks and digital platforms for the recruitment of victims by traffickers, especially in the last year which was marked by the Covid-19 pandemic and the restrictions imposed to contain it. The methods used range from using popular social networks (Facebook) for luring victims with lucrative job promises to advertising false job offers on specialized private employment platforms.

Besides online job advertisements, recruitment methods also include individuals posing as recruitment agents that act as intermediaries for employers, thus gaining potential victims' trust. Sometimes, fake work intermediaries - individuals or agencies - also collect transportation costs, a share of workers' earnings or "recruitment fees", all resulting in debt bondage.

Institutional response to the labour exploitation phenomena in the SEE region. The Trafficking in Persons Protocol has been ratified by all countries in the SEE region and trafficking in persons for labour exploitation is recognized as a crime in national legislations. However, successful combating of trafficking in persons for labour exploitation also requires clear legal definitions of the crime that professionals can work with, trained law enforcement personnel and effective inter-institutional cooperation, especially in cross-border and international cases. All these become even more important as the changing social and economic environment leads to transformation in the way criminal activities involving trafficking in persons for the purpose of labour exploitation manifest.

National legal and institutional frameworks. While the UN Trafficking in Persons Protocol defines trafficking in persons and provides a normative framework to combat TIP at international and national levels, the States have domesticated and implemented the complex definition of trafficking in divergent ways. If exploitation is a crucial element for the definition of trafficking in persons in the UN Trafficking in Persons Protocol, the concept of labour exploitation, as the purpose of trafficking in persons, is not defined in international law.

The UN Trafficking Protocol defines exploitation in Article 3(a) as a situation that "... shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

Forced labour is thus one form of exploitation⁸.

⁸ Forced or compulsory labour is defined in the Forced Labour Convention, 1930 (No. 29) Article 2(1): "... forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

Forced labour does not involve always trafficking in persons. The term labour exploitation encompasses forced labour, as it is more broader.

As a result, the legislation covering labour exploitation in the SEE region varies widely and all States in the region have criminalized both trafficking in persons and forced labour. This notwithstanding, there may be elements of trafficking in persons for the purpose of labour exploitation that overlap with violations of labour laws⁹.

There are institutions dedicated to the fight against trafficking in persons for the purpose of labour exploitation in all SEE countries, with labour and police authorities at the frontline of case detection. Most States have set up their National Referral Mechanisms, including for addressing labour exploitation, so that trafficking victims can benefit from all the measures they are entitled to for their protection.

Central, sometimes interdisciplinary, structures have coordinating roles at national levels and they may include labour inspections and public prosecutorial services. According to the institutional set up in most SEE countries, the detection work is generally carried out by the local units of these institutions, sometimes in cooperation with actors having responsibility for victim and child protection.

Despite the common criminalization of TIP for labour exploitation and the existence of institutions established to tackle it, there are, however, some legislative shortcomings which have an impact on the detection and prosecution of labour exploitation cases.

The definition of trafficking in persons for labour exploitation does not clearly delineate between a violation of labour rights and labour exploitation and many professionals noted the overlapping definitions of labour law violations and forced labour or labour exploitation in the region.

Some countries in the region lack provisions on the compensation for victims in the criminal law resulting in the low motivation of victims to file criminal complaints and participate in the criminal procedure for convicting the perpetrators.

Also, irregular migrants face detention and/or deportation when they are discovered by authorities, so they are reluctant to file complaints against traffickers or to testify in court against them.

The legislative frameworks governing platforms advertising job offers and private recruitment agencies, increasingly used by traffickers for recruitment, are unevenly developed in the region. Therefore, labour inspectors may lack competence to supervise online recruiting platforms or recruitment agencies. In some countries, public oversight of intermediating recruitment agencies is lacking completely.

Other shortcomings, in some countries, come from the existence of unregulated sectors of the economy (household cleaning, seasonal work) where labour inspectors lack the formal powers to intervene such as inspection/control of non-registered businesses and private homes.

There is also cross-country divergence in the region when it comes to the documents produced by labour inspectors, which cannot always be used as evidence in criminal proceedings regarding TIP for labour exploitation. Their inspection competence is administrative in nature and many times they have to gather documents or evidence from several sources that are outside their jurisdiction in order to build a case of labour exploitation. When situations have been detected and identified as labour exploitation, labour inspectors' competencies such

⁹ <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>

as the right to enter premises of employers, to conduct onsite inspections or to seize material evidence are lacking or are limited in the absence of the employers' consent. Labour exploitation, as opposed to labour violation, must be decided by a judge, who may conclude that the evidence gathered is insufficient to continue with a criminal procedure.

However, labour inspectors in a few countries in the region have been trained to identify TIP for labour exploitation. Pocket guides and early risk assessment procedures were elaborated so that labour exploitation can be more easily identified on site. These are useful in the labour inspectors' decision to refer the situations they suspect to be labour exploitation to the judiciary or other competent authority which can determine if there is a labour exploitation case to be pursued in criminal proceedings.

It is also worth mentioning that a number of bilateral agreements¹⁰ also covering, among other forms of exploitation, trafficking in persons for labour exploitation have been signed among some of the countries in the region.

Detection of labour exploitation cases. The first step in fighting all forms of trafficking in persons is to detect such cases so that victims are offered all the protection and rehabilitation measures they need, and traffickers can be brought to justice. Most of the cases discussed and analysed in SEE for the purpose of this report were detected by police units, especially Border Police, and CSO/NGO mobile teams and less by labour inspectors, despite the latter's role as the lead authority in charge of identifying cases of labour exploitation. The country reports and the REGM discussions revealed a number of underlying causes for this situation:

- Labour exploitation is difficult to distinguish in practice from mere violations of labour law, and in most countries labour inspectors are not properly trained to identify TIP for labour exploitation,
- Victims' trust in public institutions is low,
- Trafficking often occurs across borders,
- Victims search for public spaces where they feel safe after escaping from the exploitative situation,
- Pro-active on-site labour inspections in high-risk sectors or areas are still scarce,
- Lack of supervisory competence or, when such competence does exist, poor oversight over online recruiting platforms or recruitment agencies, especially those promoting employment abroad,
- No access of labour inspectors to premises without employers' consent,
- Documents produced by labour inspectors are not admissible in criminal proceedings, which may result in low motivation to work on labour exploitation cases.

Most cases were detected following victims' efforts to escape the exploitative situations or through routine checks of the victims' status (ID and travel documents, validity of visas or work permits etc.), which demonstrates the importance of police officers' capacity to identify situations of trafficking and labour exploitation but also the need to increase labour inspectors' involvement in detecting TIP for labour exploitation purposes. Proactive identification of situations of labour exploitation is missing in many countries, despite progress made in recent years.

One of the case studies presented in the country reports and investigations brought into discussion during the REGM showed also that perpetrators of TIP for labour exploitation already have a criminal record or there are

¹⁰ For example, Serbia signed an Agreement with North Macedonia on Cooperation in Combating Trafficking in Human Beings, which was adopted by the National Assembly of the Republic of Serbia, and it is currently negotiating a similar agreement with Bosnia and Herzegovina.

criminal complaints against them for other crimes such as robbery, smuggling goods and drugs or kidnapping (Bosnia and Herzegovina).

The cases presented and discussed unveiled the need for the effective cooperation of a variety of actors, particularly labour inspectors and multi-government agency task forces or other operational frameworks to combat TIP that include police, prosecutors, social services or NGOs. In addition, competent authorities are often not aware of the existence of the National Referral Mechanisms.

Besides the lack of clarity of legal definitions, in some countries labour inspectors often do not have a set of criteria and guidelines that would help them assess a situation as TIP for labour exploitation and they lack specific training on the related aspects of labour exploitation. A significant number of cases unfortunately still remain undetected because labour inspectors have not been trained to approach cases of labour exploitation as trafficking in persons.

Prosecution of labour exploitation cases. If there is a low number of detected labour exploitation cases, there is an even lower number of prosecutions and convictions of traffickers. Among the underlying causes, the country reports and the REGM Conclusions specify:

- The initial pool of detected cases is still low,
- Victims prefer not to lodge complaints or stand as witnesses, as they are often dependent on their traffickers for work and housing, which is especially true for children or people in vulnerable economic situations. Irregular migrants are especially reluctant to report against traffickers even if they are victims of trafficking as they usually face the risk of deportation when discovered by the authorities,
- In court, trafficking in persons for labour exploitation is often reclassified into less serious offences with modest potential penalties or sentences, as is the case with child trafficking which is often reclassified as parental neglect (misdemeanour),
- The official reports and documents produced by labour inspectors who come across cases of potential labour exploitation are not always admissible as evidence in court,
- Insufficient coordination/cooperation between labour inspectors, police authorities and the judiciary for bringing cases of trafficking and labour exploitation to court, which may require very complex investigations,
- Lengthy and resource-intensive criminal procedures.

Key recommendations to address trafficking for labour exploitation

The States in the SEE region can draw on each other's good practices but also on those emerging in other countries in preventing, fighting and prosecuting trafficking in persons for labour exploitation. Several recommendations can be formulated based on the good practices and cases presented.

Key recommendations for improving legislation related to trafficking in persons for labour exploitation

As the analysis of the current legal frameworks and of the actual detection of cases showed, further legislative improvements are necessary in order to increase the number of detected and prosecuted labour exploitation cases. Therefore, the States in the SEE region are invited to consider the following course of action:

Clarify the definition of TIP for labour exploitation in the national legislation in order to make it distinguishable from mere violations of labour law. This may have considerable impact on detecting and prosecuting more cases.

Expand the mandate of labour inspection authorities to explicitly cover potential situations of human trafficking for the purpose of labour exploitation where this is not already the case, including the detection and reporting of such cases in any place where work is performed, such as domestic households or other sectors where informal work is used, regardless of the administrative status of workers or the type of contract between the worker and the employer.

Extend the scope of labour protection regulations across all sectors of the economy, especially those labour sectors identified as potential or high-risk sectors based on the findings in the field, as this is crucial in preventing labour exploitation. New labour protection regulations should include currently unregulated or informal sectors such as domestic work and should cover undocumented and uninsured workers. Labour protection should include the right to unionize: the successful cases in the prevention of labour exploitation from the European Union or countries in the region (Italy, North Macedonia) included labour collective agreements that also cover seasonal workers.

Regulate recruitment platforms, job portals and recruitment agencies where this is not the case, by setting up an obligation for these agencies to offer employees a legal working contract in a language they understand before their departure into a third country. Charging potential employees fees for using job recruitment services should be strictly regulated and enforced, if not prohibited¹¹, as this can result in debt bondage situations. In addition, clarifying monitoring competence over recruitment agencies and platforms where there are overlapping competences resting with different institutions would help in the actual exercise of these competencies.

Amend relevant legislation so that documents produced by labour inspectors are recognized as legal and admissible in criminal proceedings in order to increase effectiveness for reporting and detecting TIP for labour exploitation.

Introduce regular migration channels and ensure access to redress for infringement of migrants' labour rights.

¹¹ https://www.unodc.org/documents/human-trafficking/2015/Recruitment_Fees_Report-Final-22_June_2015_AG_Final.pdf, p. 76

In order to ensure the protection of victims and also raise the number of detected labour exploitation cases, make sure the victim is not returned to the country of origin when assessed to be under risk, especially when the victim is an irregular migrant or an asylum seeker.

Consider adopting legislative measures to regulate supply chains, such as the French Corporate Duty of Vigilance Law or the Due Diligence Law, considered to be a good model for the region by practitioners in the field. The law establishes a model for a responsible business code of conduct, requiring companies to adopt measures aiming to identify and prevent serious violations of human rights and fundamental freedoms resulting from the company's activities, from activities of its subsidiaries, its subcontractors and its suppliers, or entities with which the company has an established commercial relationship.

Consider adopting legislation integrating the prevention of trafficking in persons in public procurement policies.

Consider providing guidance to businesses on how to respect human rights in their operations, including risk management in their supply and subcontracting chains.

Establish assistance measures to address the needs (financial, legal, psychological) of victims both in the countries of destination and the victims' countries of origin, if victims are willing to return, in cases of international trafficking in persons. The existence of such measures will help victims escape and recover from the exploitative situation and increase the number of complaints filed against traffickers.

Key recommendations for improving the detection rate of trafficking in persons for labour exploitation

In order to reduce the occurrence of labour exploitation, the States need to employ well prepared professionals and equip them with the proper instruments to detect such situations. In order to improve their capacity to respond to labour exploitation phenomena, the States in the SEE region are invited to:

Design assessment tools and guidelines for labour inspectors and police officers in order to recognize labour exploitation situations. The domestic cases detected should serve to update criteria used in the assessment process and as the basis for the learning process of labour inspectors or of police officers.

Train law enforcement staff, especially labour inspectors, to recognize TIP for labour exploitation.

Focus labour authorities' monitoring efforts on high-risk sectors and areas where seasonal or migrant work is employed so that early detection of labour exploitation can be achieved.

Intensify regular and also unannounced visits and inspections to specific sites, regions and sectors known to present a risk for labour exploitation. Also, cross-border checkpoints between countries have proved to be good starting points for detecting TIP for labour exploitation.

Investigate financial flows and cooperate with fiscal authorities as another starting point; actually, these actions have been instrumental both in the detection and in the prosecution of labour exploitation cases.

Intensify cross-border cooperation for timely exchange of information in order to improve the detection rates of labour exploitation and assistance to victims.

Conclude partnerships that include exchange of information between business actors and border police in areas of concern for labour exploitation.

Key recommendations for successfully prosecuting cases of trafficking in persons for labour exploitation

Robust criminal justice response is necessary in order to end impunity of traffickers, place a higher cost on engaging in trafficking activities and ensure justice for victims. In order to achieve this, the States are invited to:

Consider adopting provisions on the compensation for victims in the criminal law in order to encourage victims to file criminal complaints against traffickers.

Offer prosecutors the possibility to use any evidence available in order to build a case for labour exploitation: statements of suspects, civil parties, witnesses, administrative or other documents, expert reports, pictures, physical evidence etc. as well as statements of investigators, informants and protected witnesses. This would also remove the burden on the victim to testify against the traffickers in criminal proceedings and would allow prosecutors to build a case independently from the victim's testimony. In some countries, there is no pre-established validity under the law for the evidence to be used in a particular case and this is at the discretion of the judicial bodies.

Encourage responsible law enforcement and judicial authorities to gather evidence through the systematic use of special investigative techniques, including in financial investigations for related crimes (benefit fraud, tax evasion, theft etc.).

Cooperate with civil society organizations and trade unions in order to gather and secure evidence and enhance victims' protection.

Key recommendations in the area of prevention of trafficking in persons for labour exploitation

There is still room for improvement of the States' efforts as regards prevention of labour exploitation as many of the initiatives in this area have been taken by CSOs and other non-state actors. The States are invited to take the following initiatives:

Intensify cooperation with the business sector, trade unions and civil society in order to prevent, but also to increase detection and prosecution of cases of TIP for labour exploitation.

Offer information to groups at risk on labour protection. This can range from setting up online platforms where workers, potential victims and victims can find information in a language they understand about their rights and legal avenues in case they feel they are in an exploitation situation to setting up information centres in areas where seasonal workers are employed. Such information centres have been set up in cooperation with trade unions in EU countries faced with economic migration phenomena.

Develop awareness-raising campaigns at local level reaching communities and families in order to prevent TIP for labour exploitation. Cooperation between public agencies, education institutions, CSOs and local faith-based or religious organizations proved to be important for raising awareness about TIP risks, which also addressed the risks of labour exploitation.

Focus monitoring efforts on local supply chains in high-risk sectors where labour exploitation can be detected. Intervening in less harmful forms of labour exploitation prevents severe exploitation and trafficking.

Key recommendations for improving data on trafficking in persons for labour exploitation

Improving the collection of accurate data is crucial for understanding the phenomenon but also for designing adequate institutional responses in order to address TIP for labour exploitation. The cases detected should be recorded and followed up by all institutions involved in the detection of labour exploitation cases, victim protection and prosecution, from law enforcement bodies to the judiciary, especially as they are often part of the National Referral Mechanisms. Therefore, the States in the SEE region are invited to:

Determine what kind of data they need to collect for designing strategies and policies to address TIP for labour exploitation.

Consult and agree with relevant organizations on the standards and quality of data, so that data is in compliance with the UN Trafficking in Persons Protocol and/or EU Directives.

Develop manuals and guidelines with clear definitions for collecting, recording and processing data and producing continued and consistent relevant indicators. Whenever necessary, involve the institutional ICT experts in guiding all the above processes by developing methodologies and meta-data, to ensure that statistics definitions and processing are in compliance with the national and international statistics specifications and regulations.

3. Trafficking of children for the purpose of forced criminality

Key findings

While sexual or labour exploitation are the most common forms of exploitation affecting victims of trafficking in persons, exploitation for the commission of illegal activities is increasing. Traffickers take advantage of their victims to force or compel them to engage in criminal conduct. While this practice may be encountered all over the region, this kind of exploitation is not included per se in the legislation criminalizing trafficking in persons in all countries of the SEE region. The victims of this form of trafficking in persons are predominantly children, given the fact that, legally, persons under a certain age (13 - 15 years old) cannot be held responsible for the criminal acts they commit.

In general, children constitute more than one quarter of the victims of trafficking in the region, as the analysis of detected victims of trafficking in Central and South Eastern Europe shows, with 22% girls and 4% boys¹², as children are generally vulnerable and often unaware they are victims of different types of exploitation.

The 2020 Global Report on Trafficking in Persons found that 18% of detected cases in the region were registered under other forms of exploitation rather than sexual or labour exploitation. In addition, it reveals that globally, trafficking for forced criminal activity is the most detected form of trafficking after sexual and labour exploitation. About 6% of all victims detected worldwide are exploited for the commission of crime, ranging from pickpocketing to drug trafficking.¹³

Considering the nature of this form of exploitation and the different legal approaches in place in South Eastern Europe countries to criminalize it, trafficking for the purpose of forced criminality may be an under-researched phenomenon. Experts believe it is one of the least recognized forms of exploitation and many victims remain part of the official crime statistics registered as perpetrators. In addition, when it comes to the identification of victims exploited for the purpose of forced criminality solely, the statistics may not show an accurate picture since these victims are usually subject to multiple forms of exploitation.

Nevertheless, punishing victims of trafficking for illegal or criminal acts committed as a consequence of trafficking would lead to a double victimization; one of the objectives of the non-punishment principle is precisely to prevent such situations and to ensure proper victim protection.

The different illegal or criminal activities in which children are forced to engage by their traffickers range from pickpocketing, theft, robbery, metal scrapping to drug dealing and drug transportation. They are compelled to commit these acts either alone or in groups.

Even though trafficking as a phenomenon is very old, detection of cases of TIP for forced criminality can be very difficult. Many times, children's exploitation for forced criminality is perpetrated by the victims' extended families, within networks that are more or less family networks. This makes the fight against this phenomenon much more complicated. It takes place within diaspora networks that migrated to the European Union in the 70s. Families involved in trafficking for forced criminality are scattered across Europe and they specialize in using and abusing their own children; they operate in similar ways, borrowing from one another the same modus operandi. They use community members who are not directly part of the network but are affiliated to the network, such as the parents of the first generation of migrants. There is no hierarchy in the vertical sense, but groups set up and replicate structures horizontally. The same network operates across Europe and the Balkans, moving children constantly from one place to another, making the identification effort more difficult for the police and the relevant authorities.

¹² UNODC, *Global Report on Trafficking in Persons 2020*, p. 139

¹³ UNODC, *Global Report on Trafficking in Persons 2020*, p. 34

The national legal frameworks pertaining to trafficking for forced criminality and the non-punishment principle have evolved unevenly across the region. Exploitation for the purpose of forced criminality is included in the definition of trafficking in persons under other forms of exploitation in some countries, while other countries have included forced criminality in the definition of trafficking of children. For example, in the Republic of Serbia “forced criminality” is recognized as a “purpose” within national anti-trafficking legislation, while North Macedonia amended the definition for the trafficking of children in the Criminal Code in 2015 in order to add a new element - trafficking for exploitation for activities prohibited by law. In Bosnia and Herzegovina, trafficking for the purpose of forced criminality is legally covered by other forms of exploitation of victims within the trafficking definition, especially in the context of forced begging, forced marriage and prostitution, etc.

Despite some positive developments in the region, such as the amendments to the North-Macedonian Criminal Code introduced in December 2018 in order to incorporate the non-punishment principle for the victims of trafficking for their involvement in unlawful activities, the recent report¹⁴ on the implementation of the non-punishment principle by the UN Special Rapporteur (UNSR) on trafficking in persons, especially in women and children, reveals that non-implementation or deficit in implementation measures are still common practice at regional and international levels. One of the conclusions of the report is that “The failure to explicitly recognize forced criminality as a purpose of exploitation in some jurisdictions may hinder the application of the non-punishment principle.”

Some countries that have included in their legislation the non-punishment principle have also adopted measures to ensure there is awareness among judiciary professionals about the principle and that it will be applied in the handling of trafficking in persons cases. Hence, in some countries support measures such as guidelines and manuals have been adopted¹⁵. Other countries have provided specialized training for the judiciary on the implementation of the non-punishment principle¹⁶. Even though these are important steps towards adequate victims’ protection, they need to be preceded by proper identification of victims of trafficking for forced criminality among people that are suspected of or charged with criminal conduct so they do not end up penalized for crimes they were compelled to commit.

Key challenges

Identification of forced criminality cases, especially proper identification as victims of those children who are forced into criminal activities, is one of the main challenges in addressing this form of exploitation and it derives from the lack of clear legal definitions and the lack of awareness of the existence of such a crime.

When it comes both to victims’ protection and prosecution of traffickers, most challenges arise from the non-transposition of the non-punishment principle into national legislations or its lack of enforcement. Traffickers who force or compel their victims to engage in illegal conduct use the situation of forced criminality also in order to maintain control over their victims, by threatening victims with the potential punishment for the criminal conduct in which they are asked to engage. Traffickers know that many of these children are vulnerable and might be wrongfully convicted, while they get away with impunity.

¹⁴ <https://undocs.org/A/HRC/47/34>

¹⁵ In the Republic of Serbia, the guidebook *Legal framework and recommendations for the application of the principle of impunity for victims of trafficking in human beings in the Republic of Serbia* was developed for judges, prosecutors and police officers working on human trafficking cases.

¹⁶ Such as the Republic of North Macedonia.

Also, not being recognized as victims, children forced into criminality by their traffickers are not entitled to the protection measures in place for victims of trafficking.

In fact, the lack of comprehensive or functional child protection systems is a key challenge in the fight against trafficking for the purpose of forced criminality. In the absence of protection systems in place for children, the mere application of the non-punishment principle will further expose children to increased exploitation: traffickers will rely on the absence of criminal punishment for victims forced into criminality and will intensify exploitation.

As victims fear criminal convictions, detention or repatriation, they are not willing to report the exploitation situations in which they find themselves. Children, in particular, and especially those exploited by their own families, are fearful of authorities and are even less likely to report.

In some countries, as there are no non-punishment provisions in the criminal legislation, law enforcement officers and prosecutors use different legal provisions that prevent the punishment and prosecution of child victims existing in other types of legislation. In general, the solution found by criminal justice professionals is to rely on legal provisions related to the best interests of the child, where they exist.

Another challenge is the lack of durable solutions for victims' protection in cases of cross-border or international trafficking, which often results in the return of victims to their countries of origin rather than in the provision of assistance, especially when children are involved. Lack of durable solutions is especially visible in cases of child exploitation. There are situations when a trafficker of a criminal group is arrested and the exploited children are not protected, so another member of the criminal group recaptures the children and continues to exploit them, possibly under a different alias, despite the fact that children's legal identities stay the same.

When prosecuted, traffickers go back to their countries of origin and change their identities, so there is a need to enhance cooperation among law enforcement bodies in this sphere.

In international cases, law enforcement bodies and prosecutors are faced with a lack of interpreters.

The existence of particular social norms and customs, as they constitute risk factors for certain types of exploitation (forced marriage, for example), constitute particular challenges for prosecution, and thus, it is of great importance to have a deep understanding of the broader picture and of the functioning of specific communities in society, which twist the social norms of the groups to which they belong.

The lack of specialized protection services for child victims of trafficking in transit and destination countries is an additional challenge, especially if potential victims were forced into unlawful activities.

Key recommendations

Key recommendations for improving the legal frameworks related to trafficking in persons for forced criminality

Considering the evident legislative and/or administrative shortcomings related to children's forced criminality phenomena across the SEE region, action needs to be taken in this area. As a consequence, the States are invited to:

Make sure trafficking for the purpose of forced criminality is covered by the legislation criminalizing trafficking in persons, whether explicitly or implicitly, and law enforcement authorities are aware of this.

Adopt all appropriate legislative, policy, administrative and other measures to ensure effective implementation of the principle of non-punishment of victims of trafficking. The UN Special Rapporteur also recommends the State Parties to adopt prosecutorial guidelines in order to facilitate the consistent and systematic application of the non-punishment principle.

Adapt existing legal frameworks or adopt new ones in order to tackle the online dimensions of the crime, especially recruitment of children who are not under any form of deprived parental care.

Key recommendations for the protection of child victims of trafficking for the purpose forced criminality

Effective protection of minors as victims of trafficking particularly for the purpose of forced criminality requires a comprehensive approach involving several stakeholders, many times involving their cooperation in countries of origin, transit and destination. Therefore, the States are invited to:

Place the best interest of the child and the protection of children's rights at the heart of all responses. The assessment of the degrees to which the best interests of the child are respected is of crucial importance for child victim's protection. A multidisciplinary approach, implying concerted actions from the police, children protection services, NGOs and the judiciary, should be adopted in order to ensure full protection of child victims of trafficking who are forced into criminal conduct.

Intensify international cooperation in order to ensure victims' protection when the child is trafficked across borders. Communication with the country of origin or family and community is needed, in addition to regular security risk assessments when a decision on the return of the child is considered. Establishing cooperation with municipalities at local levels in the countries of transit and of origin has proved useful to this end.

Set up procedures to make sure that there is transnational case management in the best interest of child victims, as information sharing is key for all cases. The experience in the operation of NRMs showed that having a pre-existing communication channel with the country of origin of the child ensures a proper assessment of the child's best interests.

Take into consideration good practices in the region, such as Memoranda of Understanding signed between the relevant institutions from several countries from the region and beyond to enable a coordinated approach among child protection services and police units.

Consider good practices such as the possibility given, in some countries, to the police units investigating organized crime to receive and send reports directly to the child protection services concerned in order to reduce bureaucracy and the length of applicable procedures.

Extend the provision of specialized care for children who have been traumatized because of child trafficking. Specialized centres and tailored measures in destination countries are also necessary in order to ensure adequate protection for child victims of trafficking in persons.

Provide assistance to identified trafficked children without making participation in criminal proceedings a precondition as this would considerably increase the degree of victims' protection. It is not enough to change the status of an offender to the status of victim and still expect the child to testify and to be part of criminal proceedings.

Key recommendations for the detection of child victims of trafficking for the purpose of forced criminality

In order to increase the number of detected children as victims of trafficking for the purpose of forced criminality, it is necessary to strengthen the concerned stakeholders' positions involved. Therefore, the States are invited to:

Support outreach programs for frontliners such as street workers and local/community police units, as evidence shows that most cases were identified by them.

When possible, identify the children and establish contact with their families, following the example of outreach work carried out by NGOs. The methodology used by NGOs to reach these groups of children is based on peer mediation.

Empower law enforcement bodies to pay special attention to all kinds of indicators of criminal activity. Good practice examples showed that the investigation of a trafficking case sometimes started with a financial investigation - authorities detected families who were receiving large amounts of money from a foreign country on a regular basis.

Clear procedures to report trafficking in children regardless of the type of exploitation should be adopted and refined.

Consider setting up a European database of children potential victims of trafficking as this would help ensure proper data on the phenomenon and also help design adequate responses in order to prevent and combat trafficking and exploitation. Better communication between countries in order to effectively track children as victims of trafficking.

Key recommendations for criminal proceedings and prosecution of forced criminality cases

The examples provided showed that for the successful investigation and prosecution of forced criminality cases, certain instruments and measures contributed to a great extent to their success. As a consequence, the States are invited to:

Increase awareness of the existence of available international cooperation instruments, as police officers from different countries often cooperate exchanging data through liaison officers.

Support law enforcement professionals and prosecutors to decode and use efficiently the victims'/defendants' experiences of exploitation, which include forced criminality. In many countries, because of this rationale, specialized prosecutors and judges are appointed to deal with trafficking cases, particularly when there are child victims involved.

Adopt and adapt criminal procedures in order to prevent secondary victimization and re-traumatization especially of children as victims of trafficking.

Take into consideration good practices of cooperation among different stakeholders such as the signing of Memoranda of Understanding between NGOs and Public Prosecutor's Offices, and joint initiatives between NGOs and the criminal justice sector regarding the issue of trafficking in persons for forced criminality affecting children.

Increase the resources allocated for cultural mediators and sociologists, psychological counselling and interpreters.

Key recommendations on raising awareness about trafficking of children for sexual exploitation

In order to prevent and decrease child trafficking incidence, certain measures and strategies have proved to be extremely useful. Hence, the States in the region are invited to:

Make use of available information and existing resources about existing good practices. For example, UNODC brings together the different private sector, law-enforcement and government initiatives into what is called the Compendium of Promising Practices.

Develop and support public-private partnerships in order to raise awareness of child trafficking as they are, in general, good instruments to prevent and combat child trafficking and can also contribute to detecting more cases. Such partnerships have been implemented in the tourism industry; in some hotel chains, staff members are trained to identify child trafficking or possible child trafficking inside the hotels, while some hotels are starting to adopt guidelines/instructions on how to prevent and identify victims of trafficking. Also, the bus and trucking industries have been collaborating with civil society and law enforcement authorities to mitigate and address trafficking in persons, which also includes detecting child exploitation. The collaboration between financial institutions and law enforcement bodies led to a financial transaction analysis that revealed networks involved in child trafficking activities.

Make sure that responses to child trafficking pay particular attention to the specific risks faced by children from vulnerable communities, including Roma children or unaccompanied and separated migrant children, as

vulnerable children are the main target of traffickers. Children who dropped out of school need special attention through targeted programs.

Develop and support campaigns to help children become aware of their rights, as the education of vulnerable children who are potentially forced into criminality through begging and early marriage is very important.

Develop and support programmes to empower children with certain skills, in order to recognize the potential dangers related to trafficking, to resist temptations and know who to contact and how if they are at risk.

4. Addressing trafficking
in persons for the
purpose of sexual
exploitation by
reducing demand

Key findings

The States' obligations to address demand for trafficking in persons for sexual exploitation have been recognized in a number of regional and international instruments. At the global level, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in its Article 9 para. 5 obliges the State parties to "adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking."

In South Eastern Europe, sexual exploitation is still the dominant form of trafficking, with substantive changes in the profiles of victims (increasing number of foreign victims), the modus operandi of perpetrators (who have recently been using hidden private locations instead of night bars), and in the motivation and recruitment strategies as well as in the access of such services (increasingly through the use of internet and web pages). Victims are frequently exploited away from their country of origin and may be irregular migrants, refugees or asylum seekers in a very precarious situation from several points of view - legal, administrative and financial - which puts them at risk of further abuse by traffickers and users. Prostitution is a sector that is very vulnerable to exploitation and abuse.

Experts that attended the REGMs reported an increase in the number of identified child victims trafficked for the purpose of sexual exploitation. Children are also particularly exposed to sexual exploitation through the use of the Internet, and official statistics show an increase in this form of exploitation (where the States collect data on this phenomenon). Lately the number of men and boys becoming victims of this form of trafficking has been increasing. Some practitioners have observed an increase in the share of boys in the total number of identified child victims in the region. In this context, they also mention a lack of shelters for boys and men who are victims of trafficking.

One of the consequences of the Covid-19 pandemic is the increased use of technology in sexual exploitation activities as well. There is an evolution in the modus operandi of perpetrators of human trafficking as they take advantage of social media online platforms and mobile applications to recruit victims, organize their criminal activity and advertise to potential users. Advertising services through legal websites is also happening and police in different countries could detect trafficking on these websites if a proactive approach is embraced. As reported by anti-trafficking frontliners, there is a lot of evidence of global sexual abuse materials online some of which are related to human trafficking.

The demand for sexual services and the sexual exploitation related phenomenon may increase seasonally and it may be more prevalent in areas where seasonal activity is intensified, such as tourist activity in seaside resorts. Professionals in the frontline of anti-trafficking efforts reported that women and girls from neighbouring countries come to countries situated in a coastal region to get seasonal jobs and sometimes are recruited to provide sexual services as victims of trafficking in persons (in night bars, working as hostesses or members of the ships' crews).

In general, debt bondage is still one of the very frequent forms of recruitment and an instrument for maintaining control over victims.

Despite the fact that the UN Protocol against Human Trafficking requires States to address demand, these efforts have not yielded significant results.

There are several ways to tackle demand, from implementing awareness raising initiatives to adopting preventive actions to reduce the risks of sexual exploitation. Among these actions, criminalizing the purchase or use of services provided by victims of human trafficking, when the user has knowledge of the exploitation situation, is one of the means to reduce demand¹⁷.

Research recently conducted¹⁸ by the Organization for Security and Cooperation in Europe on the issue of discouraging demand showed that the collective response across the OSCE region to the demand that fuels sexual exploitation has been rather weak and ineffective, as several countries made no effort to discourage the demand at all, and very few countries have adopted criminalization or prevention initiatives.

Regardless of the obligation of the States to discourage the demand for sexual services, the majority of preventive activities in SEE are undertaken by civil society actors.

Even when the use of services provided by victims of trafficking is criminalized, there are still very few cases where the users are prosecuted.¹⁹

The States that have taken action on demand may rely excessively on criminal justice response and lack complementary preventive initiatives. Moreover, the very scarce convictions of users for knowingly using sexual services resulting from trafficking by criminal courts, compared to the numbers of identified victims of TIP for sexual exploitation, suggests that the enforcement of criminal laws targeting users is limited.

In addition, what was noticed from the experience of the SEE countries that have taken action to reduce demand is that in several cases prosecutors decided to utilize some of the users to secure convictions for traffickers, resulting in a lack of or lower penalties for users for knowingly using sexual services resulting from trafficking

There is also a problem of non-prosecution of legal entities acting as enablers (i.e. motels, hotels, bars) of trafficking in persons for sexual exploitation since it is extremely difficult to establish a link between them and the perpetrators.

¹⁷ [DIRECTIVE 2011/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA; Resolution 10/3 - Effective implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.](#)

¹⁸ [OSCE Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, Discouraging the demand that fosters trafficking for the purpose of sexual exploitation \(Vienna, 2021\)](#)

¹⁹ [See an example of such case in Serbia under section "key challenges" below.](#)

Key challenges

The online dimensions of sexual exploitation activities challenge the process of detecting criminal acts, collecting evidence in relation to internet facilitated trafficking and ensuring the evidence's validity during the criminal proceedings, due to the lack of sufficient technological knowledge on the part of anti-trafficking professionals. Nevertheless, the police should be able to analyse online activities in order to identify sexual exploitation victims under the cover of prostitution.

When it comes to the prosecution and conviction of the person who uses services provided by victims of sexual exploitation, proving the knowledge of users that sexual services have been provided by trafficked persons is difficult.

A specific problem in the investigation of such cases is the fact that many times victims do not see themselves as victims (for instance, they may perceive prostitution as an opportunity to earn money or the perpetrators share a small amount of the money gained through exploitation with the victims with the specific aim of not making them think they are exploited), and this issue has to be dealt with in a very sensitive way.

An additional specific problem is that the re-qualification of criminal offences is done by the court, so in some cases typical forms of trafficking in persons are prosecuted as some other, less serious and punishable offences, such as solicitation of prostitution, violation of labour law, parental neglect.

Prosecuting clients may lead to the conviction of traffickers, as demonstrated by some examples from countries who criminalized the conduct of users of services who know they are provided by victims of TIP. Such a case has been detected by prosecuting the user of sexual services provided by a minor girl, who had in his possession a phone with explicit photos of the girl. The police could identify the girl in these photos, as well as the vehicle used by the perpetrator for the transportation of the victim. The user confessed that he was sexually exploiting and abusing the minor, and also told the police who "had brought" the girl to him. The perpetrator was identified and following the criminal proceedings, the user of the services was sentenced to one-year imprisonment following a plea bargain deal, while the trafficker was sentenced to six years in prison.

Key recommendations for reducing the demand behind sexual exploitation

Key recommendations for improving institutional response to reduce demand

The States have a legal obligation to discourage demand, as signatories of international treaties, and should adopt or strengthen measures to this end. This obligation can be met in a number of ways: through a whole set of preventive actions including social, educational or cultural measures and through various forms of criminalization.

A wide range of legislative, administrative, social, cultural and educational measures, which are both voluntary and mandatory, can be adopted by the States with the aim of reducing demand. In order to target the demand successfully, it needs to be a key component of broader anti-trafficking strategies of the States and it is necessary to incorporate the demand into international action plans with a strong focus on preventive initiatives, also by making use of technology.

Nevertheless, the States are invited to:

Consider the transposition into their legislation and ensure actual implementation of the non-punishment of victims of TIP for sexual exploitation for acts that traffickers compelled them to commit and decriminalization of

the person in prostitution in order to protect victims and to encourage detection and prosecution of trafficking cases.

The State Parties to the Council of Europe Convention should transpose its provisions into their national legislation to address the demand, and should consider introducing legal provisions criminalizing the use of services which are the object of exploitation as referred to in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in persons.

Consider activities for building capacities of criminal justice professionals, when the use of services provided by a person where the user knows they are a victim of trafficking in person is criminalized, in order to strengthen their knowledge and skills for collecting evidence when it comes to the users of services from the victims of trafficking in persons.

Take into consideration the development of national Guidelines for the punishment of users of services from victims of trafficking, as well as Guidelines for the non-punishment of victims designed for professionals dealing with this type of crime in countries where the use of services when the users know they are provided by victims of TIP is criminalized.

Focus regulatory and law enforcement efforts on the demand for online sexual exploitation, which has increased since the pandemic.

Support evidence-based policy and more research on reducing demand policies. In the countries where the purchase of sexual services is criminalized, there has been periodic assessment of the measures adopted and it is important to continue with this practice and share the findings with the global community.

Key recommendations for the protection of victims of trafficking in persons for sexual exploitation

In order to ensure the victim's protection and also raise the number of detected sexual exploitation cases, the States should take all appropriate measures. With this aim, the States in the South Eastern Europe are invited to:

Make sure the victim is not returned to the country of origin when assessed to be under risk, especially when the victim is an irregular migrant, a refugee or an asylum seeker.

Offer and show victims viable exit strategies from sexual exploitation situations together with all the support measures needed for their rehabilitation (especially housing, professional training and employment opportunities), whether they are services offered directly by public agencies or in cooperation with specialized CSOs.

Adopt measures to prevent secondary victimization during criminal proceedings, to ensure proper protection of victims and encourage reporting of sexual exploitation cases.

Provide boys and men with special shelters, different from those hosting female victims, as they are increasingly becoming victims of sexual exploitation.

Key recommendations for the detection and investigation of cases of trafficking in persons for sexual exploitation

More efforts need to be made in order to discourage and detect sexual exploitation, as it remains the main form of exploitation in South Eastern Europe. Therefore, the States in the SEE region are invited to:

Take all necessary actions in order to bridge the gap between criminal and financial investigations for the purpose of successfully detecting and prosecuting cases of TIP for sexual exploitation. This may require further inter-institutional cooperation (task forces) and specialized professional training (including specific guidelines on parallel investigations).

Focus investigative efforts in areas where sexual exploitation is more likely to occur, such as summer seaside resorts. Online websites used for advertising sexual services are a good starting point in detecting cases of sexual exploitation and targeting demand.

Address the demand for online sexual exploitation, which has increased since the pandemic, through data-driven solutions.

Consider and support public-private partnerships from a demand perspective. Partnerships with the private sector have been extremely useful in reducing demand and detecting trafficking for sexual exploitation. Private financial service companies can offer information on money flows, which is very important for prosecutors and law enforcement bodies in the course of investigation of trafficking in persons. These private companies can also perform risk identification, through a red-flag mechanism, which can also lead to victims' identification, and analyse big data they store to detect patterns related to criminal activities.

The method of declining transactions is also used based on profiling and red-flags protocols in relation to the demand-supply sides of sexual exploitation.

Consider setting up multidisciplinary local coordination teams to deal with issues of demand reduction in local contexts and environments. In certain cases, it is also important to have multi-ethnic task forces in order to address local or specific risk practices such as forced marriages (sexual exploitation can be concealed behind forced marriage).

Key recommendations for the prevention of trafficking in persons for sexual exploitation

Prevention remains one area where the States still have to invest. Based on good practices from the region and beyond, the States are invited to:

Consider partnerships with the private sector for the development of awareness raising campaigns. Such campaigns have been developed in cooperation with the tourism industry in some countries in the SEE. In other countries, the governments have developed Codes of conduct for economic actors in the tourism industry. Also, a checklist for risk assessment can be provided to operators in the industry in order to better assess the risk of sexual exploitation happening on their premises.

5. Addressing trafficking
in persons for the
purpose of sexual
exploitation through
international cooperation

Key findings

As sexual exploitation remains the most frequently encountered form of trafficking in South Eastern Europe, the countries in the region face multiple challenges in preventing and combating it. A significant part of the trafficking activity takes place across borders, hence international cooperation is required in order to detect, investigate and prosecute successfully more cases of trafficking for sexual exploitation.

In 2018, 17% of trafficking victims detected in Western and Southern Europe came from Central and South Eastern Europe, while 10% were detected in other countries of the SEE region²⁰. The region is also a destination for trafficking flows originating in East Asia and the Pacific (24% of detected victims in destination countries of the SEE) and Eastern Europe and Central Asia (10% of detected victims in destination countries in the SEE).

As a consequence, international cooperation is required at several stages of the fight against TIP for sexual exploitation. Fighting trafficking in persons required internationally coordinated efforts by the States and other organizations in order to counter effectively transnational organized crime groups, having in mind the multiple phases of such a process, but also the connections with many other types of transnational organized crime, such as smuggling of migrants, drug trafficking, arms trafficking, corruption, money laundering, etc.

Anti-trafficking efforts in 2020 were negatively impacted by the overall restrictions imposed to contain the Covid-19 pandemic, as they also implied limitations on the provision of public services and activities, including law enforcement. In 2020, in some countries, the majority of sexual exploitation cases were detected online.

International cooperation, in general, is required at all stages of anti-trafficking activities, from initial identification of victims to investigation, victims' protection and repatriation to the country of origin and prosecution.

Key challenges

Identifying victims and persuading them to testify against their perpetrators remains one of the challenges. Many victims still remain undetected and very few countries still offer adequate support, protection and rehabilitation programs for victims of TIP, including TIP for sexual exploitation, in particular if victims are not nationals of the country where they are exploited. Proper victims' protection systems are necessary in order to increase the incidence of reporting sexual exploitation, as victims are reluctant to report to law enforcement bodies in the absence of their full protection.

The challenges for enhanced international cooperation are related to the diversity of the law enforcement structures, the diversity in approaches to TIP and in legal systems, the lack of trust in exchanging information, language barriers, among many others.

Among challenges, there is a lack of procedures and harmonization between the prosecution of the perpetrators, on the one hand, and provision of protection and support to victims throughout criminal procedures, on the other. Moreover, the different professionals who are part of National Referral Mechanisms do not have the same approach

²⁰ UNODC, *Global Report on Trafficking in Persons 2020*, p. 141

to TIP for sexual exploitation cases. In most cases, this derives from different approaches and perceptions present in different countries with regards to prostitution, a phenomenon many times closely related to trafficking.

Although there are enough tools and legal mechanisms to combat trafficking in persons, these instruments need to be fully implemented. In order to better align the expertise and resources within the system, UNODC is entrusted by the UN General Assembly with the coordination of more than 20 agencies under the Inter-Agency Coordination Group against Trafficking in Persons (ICAT) and the establishment of different cooperation networks.

Countries in the SEE region have at their disposal a number of instruments in order to enhance cooperation in fighting trafficking in persons for the purpose of sexual exploitation and when used, they proved instrumental in detecting, investigating and prosecuting such cases. The following agencies and organizations work to enhance and promote international cooperation in fighting trafficking in persons in a number of ways: the International Criminal Police Organization - INTERPOL, the European Union Agency for Law Enforcement Cooperation - EUROPOL, the European Border and Coast Guard Agency FRONTEX, the European Union Agency for Criminal Justice Cooperation - EUROJUST, the Joint Operational Office Vienna against Human Smuggling and Human Trafficking of the Austrian Criminal Intelligence Service within the framework of the European Multidisciplinary Platform against Criminal Threats (EMPACT-Illegal Immigration), the Police Cooperation Convention for Southeast Europe (PCC SEE), the Southeast European Law Enforcement Center (SELEC), Migration, Asylum, Refugees Regional Initiative (MARRI), the International Centre for Migration Policy Development (ICMPD) or the Permanent Conference of Organized Crime Prosecutors (PCOCP).

What is needed is the commitment to use the set of available tools as well as to raise awareness about the importance of international cooperation, not only between countries, but also between national agencies.

Key recommendations for enhancing international cooperation to fight sexual exploitation

An adequate degree of awareness about the existence of available international cooperation instruments among professionals involved in the fight against sexual exploitation is a prerequisite for their actual use. Also, exchanging best practices is a necessary step in order to identify efficient cooperation models to fight trafficking in persons. Therefore, the States are invited to:

Ensure continuous training and education of professionals with responsibilities in the area of preventing and combating TIP about the international cooperation instruments available. The operations which proved successful were the result of very effective joint cooperation efforts in which different organizations and institutions from several countries acted together, each in its own area of intervention.

Employ different international legal instruments, such as the United Nations Convention against Transnational Organized Crime and the possibility for further law enforcement cooperation through Article 27 of the Convention and different tools developed by UNODC.

Take advantage of the possibility to participate in Joint Investigative Teams if a European Union member state is concerned about a trafficking case, with the help of Eurojust and Europol.

Support and train liaison officers from law enforcement agencies and liaison magistrates on the means of international cooperation in criminal matters available to them when investigating and prosecuting cases of trafficking in persons with an international dimension.

Increase the frequency of regional meetings involving all relevant actors, from government institutions, NGOs and international partners and reinforce their ability to protect victims of TIP and engage police and judicial cooperation.

Create networks of relevant agencies from countries in the region in order to increase the detection of potential victims.

Consider the conclusion of bilateral or multilateral agreements between the States in the region. Three Protocols on cooperation in combating trafficking in persons between Albania, North Macedonia and Kosovo^{*21} were mentioned. Common Standard Operating Procedures (SoPs) and templates were adopted through bilateral agreements between countries in the region, as signatory parties, but also different quick procedures respecting human rights, especially important in the repatriation phase, were set up.

Consider cooperation with other States in relation to sexual exploitation. For instance, Sweden currently works closely with France in joint efforts to implement a strategy to address trafficking in persons for sexual exploitation. Sweden has placed a strong focus on addressing demand for sexual exploitation and acknowledged the link between sexual exploitation and prostitution. This has reduced demand and the number of traffickers, giving a positive impetus to preventing people from buying sexual services, leading to the prevention of trafficking.

Consider cooperation with private actors. This may serve a multitude of purposes such as:

- Gathering evidence. Many times, perpetrators do not operate in their country of origin and evidence has to be gathered following joint efforts between governmental agencies and other actors with an international presence, such as private money transfer platforms.
- Detecting victims. Partnerships between NGOs and inter-governmental organizations were highlighted in the areas of victims' detection and protection (INTERPOL has such partnerships for detecting child sexual abuse material).
- Combating online sexual exploitation. The cooperation between different private actors proved useful in combating sexual exploitation online. NGOs may set up partnerships with major digital platforms, multinational companies, with the aim to making the digital environment a safer space and to managing online risks for children, using instruments such as a quick notice channel and takedown actions, having also the option of direct takedown on the platform as a trusted partner.
- Gathering data. More diverse and accurate data is key in order to develop efficient responses for tackling sexual exploitation. Governments and international or inter-governmental organizations may turn to different sources for data. For instance, CSOs involved in NRMs also gather data and provide it further to interested parties. Some governments use a combination of data provided by government agencies as well as civil society and international organizations. The data collected play an important role in the study of TIP phenomena in time, revealing emerging trends and also changing source and destination countries. Data collected through NRMs may also reveal the possible transnational character of a crime.

²¹ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999

Key recommendations for the protection of victims of sexual exploitation through international cooperation

For the successful prosecution of cross-border sexual exploitation cases, it is not enough to investigate and gather evidence in order to convict traffickers, victims must be protected as well. As a result, the States are invited to:

Offer quality overall assistance for victims of sexual exploitation both in their countries of destination and origin. The best practices in such cases are those where victims and their children were assisted with comprehensive protection such as medical care and psychological support, financial support, accommodation, professional training and schooling for children. The quality of the support offered empowered victims to provide testimony in court and to reintegrate their families in the communities in their country of origin.

Take into consideration the victims' intention to go back to their homes and cooperate to that effect with countries of origin authorities. Experience confirms the value of international cooperation between National Referral Mechanisms in order to prevent the discontinuation of victims' protection. Most specifically, this process is crucial for the sustainable provision of services after victims return to their country of origin.

Enhance cooperation among all professionals involved in National Referral Mechanisms, regardless of their institution or background, in order to ensure a coordinated approach to victims' protection in the different countries concerned.

Provide the same array of services to both nationals and foreign victims. This has been identified as a viable solution to ensure that victims of sexual exploitation receive the protection they need from identification to the conclusion of criminal justice processes, especially when they participate in lengthy criminal procedures.

Consider setting up Permanent Registers of Victims to ensure a comprehensive follow up on victims' protection.

Key recommendations for international cooperation for the investigation and prosecution of sexual exploitation cases

More efforts need to be put into increasing international cooperation with the aim of investigating and prosecuting cross-border sexual exploitation. The States are invited to:

Raise awareness about the possibility to set up Joint Investigation Teams within regional and international cooperation organizations and platforms. Joint Investigation Teams established by the EU and third countries have allowed the States to pursue investigation of traffickers and locate/seize their assets in their countries of origin, as well as to arrest traffickers living in their countries of origin.

Enhance cooperation among the police and the judiciary from the region and destination countries. Joint efforts between the judiciary and police forces from different countries were crucial to the prosecution of TIP cases, as these helped find enough evidence to convict the perpetrators. The successful Bruges investigation of an organized crime group suspected of committing trafficking in persons for sexual exploitation in the territory of EU countries required intensive cooperation between non-EU and EU counterparts, which was conducted

through Police Liaison Officers and prosecution services. Operational meetings were organized, both in person and online.

Enhance cooperation among the public prosecution services of the countries concerned, as this is crucial for the successful prosecution of cross-border TIP.

Consider using technical support such as telecommunication systems in order to receive the victim's testimony in order to mitigate the challenges posed by a situation when the victim is not able to testify in person, due to his/her residence in a foreign country, as courts in some EU member states do.

6. Access to effective remedies for victims of trafficking in persons

Key findings

Appropriate response to repair the harm done to victims of trafficking should go beyond criminal justice and include access to remedies, thus recognizing a human rights violation, as a consequence of the principle that holds where there is a right, there must be a remedy. A consistent body of international law and standards has been developed over time in order to elaborate and govern such remedies. Even though the discussion on remedies often focuses on compensation in the form of a financial payment, reparation for victims of human rights violations actually entails a broad spectrum of measures such as restitution, compensation, rehabilitation, satisfaction and guarantees for non-repetition²². Remedies are instruments that may serve several purposes: to help restore the victim's rights, to help with the victim's recovery and/or to prevent re-victimization.

Rehabilitation and recovery measures may consist of medical and psychological care, social services such as accommodation and professional training, financial and legal assistance and linguistic support. These services have an important role in addressing the vulnerabilities and difficult social and economic situations the victims of trafficking are experiencing following their exploitation. In any event, the provision of these services should not be dependent on the victims' cooperation with law enforcement bodies²³.

Compensation serves a restorative justice function in an attempt to rectify the damage trafficked persons suffered as a consequence of the abuse they were subjected to, which may be physical and psychological. Also, compensation is believed to help most with preventing re-victimization, as it addresses some of the potential vulnerabilities that predisposed the victim to trafficking, i.e. financial or economic difficulties, considering its potential to secure economic independence.

However, very often, victims encounter different barriers on their quest to access these remedies, either material, procedural or financial in nature, especially when they try to access compensation.

The UN Trafficking in Persons Protocol requires each State Party in its Article 6(6) to "ensure its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered".

In addition, in 2002 the Office of the United Nations High Commissioner on Human Rights developed the Recommended Principles and Guidelines on Human Rights and Human Trafficking and clarified that "trafficked persons, as victims of human rights violations, have an international legal right to adequate and appropriate remedies. This right is often not effectively available to trafficked persons as they frequently lack information on the possibilities and processes for obtaining remedies, including compensation, for trafficking and related exploitation. In order to overcome this problem, legal and other material assistance should be provided to trafficked persons to enable them to realize their right to adequate and appropriate remedies".

Therefore, in order to ensure access to effective remedies, States should, in addition to asserting the victims' substantive right to remedies, also provide for the procedural or ancillary rights necessary to secure these remedies

²² UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*: resolution adopted by the General Assembly, 21 March 2006, A/RES/60/147, available at: <https://www.refworld.org/docid/4721cb942.html>

²³ Draft Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons, Principle 7 (i) and OHCHR Guidelines, Principles 8 and 14

(for example, the right to information and the right to remain in the country where access to the remedy can be exercised).²⁴ This includes removing legal and procedural obstacles and offering victims of trafficking in persons all the information and assistance necessary in order to exercise their right to remedies.

The Report of the Intergovernmental Working Group on Trafficking in Persons (established by the Conference of the Parties) adopted during its fourth meeting in Vienna in October 2011²⁵ further stipulates that “States should facilitate the provision of legal assistance and information regarding legal assistance to victims of trafficking in order to represent their interests in criminal investigations, including in order to obtain compensation”.

In South Eastern Europe, the institutional approach to the victims’ right to remedies, including compensation, is very diverse. Even though trafficking in persons offences have been criminalized across the region, the legal frameworks in place for victims’ access to remedies present substantial differences from one country to another.

The right to compensation for victims of trafficking is covered by most legislations in place in the SEE region. In general, such a right is provided for in the legislation concerning all victims of crime. For instance, in Bosnia and Herzegovina, under criminal law, all victims have the right to claim damages, while in North Macedonia, under criminal law, all victims of a crime punishable by at least four years’ imprisonment have the right to claim compensation for material and non-material damage.

However, obtaining compensation may be achieved through criminal procedures in some countries (Bosnia and Herzegovina), through a civil procedure in other countries (Albania) or through both types of procedure (Serbia). Nonetheless, even when compensation claims may be realized through criminal proceedings, this may be subject to a judge’s decision on whether “this would not significantly delay the procedure” (Bosnia and Herzegovina). As a result, in practice, most compensation claims are referred to civil courts even when there is the possibility to claim compensation during criminal proceedings.

The existence of procedural or ancillary rights such as access to information and legal assistance is regulated in various legislative acts related to criminal procedure. Such rights have been the object of more recent developments, which are relevant for the victims of trafficking in persons as well.

In Albania, pursuant to the 2017 amendments to the Code of Criminal Procedure, the primary rights of victims of criminal offences include the right to information with a view to ensuring access to the criminal justice process. Also, the Law on Granting State-guaranteed Legal Aid (2017) included victims of trafficking in persons among the beneficiaries of legal aid regardless of their legal status or type of exploitation.

In Serbia, legal assistance is provided to individuals who are granted the status of especially vulnerable witnesses, which entitles victims of crime to be represented by specially trained lawyers. At the same time, the Free Legal Aid Law, which came into force in 2019, is expected to provide vulnerable groups in Serbia, including victims of TIP, with free legal assistance by lawyers who would be paid from the state budget. Also, the new version (2019, previously dating from 2009) of the Law on the Free Legal Aid in North Macedonia guarantees the victims of trafficking the right to free legal aid and representation in the procedures for the protection of their rights, as well

²⁴ Draft Basic Principles on the right to an effective remedy, Principle 5; OHCHR Guidelines, Guideline 9

²⁵ https://www.unodc.org/documents/treaties/organized_crime/2011_CTOC_COP_WG4/2011_CTOC_COP_WG4_8/CTOC_COP_WG4_2011_8_E.pdf, p. 7, para 51 (b)-(j)

as in the procedure for compensation of damages to victims of criminal offences, in addition to the Law on Criminal Procedure which regulates the access to legal representation during investigation and criminal procedures.

There are also differences in the way the compensation decisions are enforced: either through a court decision obliging the perpetrator to pay the compensation directly to the victims (Serbia), through seizing the perpetrator's assets or profits following a court decision on the trafficking case, or, more recently, through a special fund or scheme set up by the state endowed by the capitalization of criminals' assets and proceeds of crime in general. The adoption of the Law on Administration of Seized and Confiscated Assets in Albania (2019) aims to improve the administration of seized and confiscated assets and the compensation of victims of crime through the creation of a special compensation fund. Some countries are considering setting up a compensation fund for victims of trafficking in persons, which will enable victims to request compensation by the state when this cannot be secured from the trafficker or legislation that will enable the request for victims' compensation to be directed towards suspects and persons charged with trafficking in persons (North Macedonia). Either way, at the moment, issuance of a compensation decision is most of the time dependent on the law enforcement authorities' success in tracing and seizing profits of trafficking-related crimes.

Legal protection and remedies, such as compensation, for victims who are undocumented migrants in the region still do not exist in the majority of SEE countries²⁶. However, some countries adopted new regulations regarding the rights of foreign victims of trafficking, such as the new Law on Foreigners in North Macedonia (2018), which integrates provisions from the Standard Operating Procedures for the treatment of victims of trafficking in persons and provides additional protection, which is not conditional upon the victims' cooperation with national authorities. Presumed foreign victims of trafficking have the right to a temporary residence based on humanitarian reasons and to remedial measures such as safe accommodation, medical and psycho-social assistance and legal aid in a language they can understand. Also, Bosnia and Herzegovina adopted a Rulebook on the protection of foreign victims of trafficking at federal level (as domestic victims exercise their rights in accordance with legislation existing at lower levels of government).

Successful cases resulting in victims' access to compensation are still extremely rare²⁷ in Europe and in the region. In most cases, civil society has been instrumental in assisting victims in exercising their right to compensation²⁸, by providing the necessary legal assistance (paying or providing for a lawyer, as in the cases presented in the country reports from Albania, Bosnia and Herzegovina, North Macedonia, Serbia), by helping with evidence gathering (Serbia) or simply supporting the victim with social services throughout the criminal or civil procedures for claiming compensation. Furthermore, even when there is a court decision granting compensation for the victim of trafficking, the decision is rarely executed. In practice, the parallel/proactive financial investigation of the perpetrators proved instrumental in enforcing compensation decisions in favour of victims (Serbia, North Macedonia) in the rare cases where such a decision exists.

However, recent changes to criminal legislation and the adoption of new national strategies on trafficking in persons or criminal policy are expected to yield more results in the following years. For instance, following the adoption of the new National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia

²⁶ REGM, country reports

²⁷ La Strada International, Justice at Last Policy Paper, 2019. The Justice at Last consortium studied 60 cases of compensation claims concerning victims of trafficking or other related crimes across Europe. In 40 of these cases, there was a court decision to award compensation. Out of these, only 11 of these cases resulted in compensation being paid to the trafficked and/or exploited persons.

²⁸ La Strada International and Anti-Slavery International, COMP.ACT Findings and Results of the European Action for Compensation for Trafficked Persons, within the publication COMP.ACT - European Action on Compensation for Trafficked Persons Toolkit on Compensation for Trafficked Persons, 2012; Cases presented in the country reports from Albania and Serbia;

for the period 2020–2025 and associated Action Plan, the National Network for Assistance and Support to Victims of Crime will be established within all higher courts in the country, and substantive and procedural criminal legislation amendments with the aim of increasing victims' access to remedies, including compensation, are to be expected.

Serbia has also recently published Guidelines²⁹ for the Improvement of Judicial Practice in Proceedings for Compensation of Victims of Serious Crimes in Criminal and Civil Procedure, reminding practitioners in the judiciary of the obligation of competent authorities to resolve the issue of compensation in criminal proceedings, underlining that civil proceedings should be the exception. The Guidelines also provide guidance to criminal justice practitioners on the types of damage to consider and amount of compensation, and stress the victims' right to information, and the corresponding obligation of the public prosecutor and the court to inform victims about their rights at various stages of criminal proceedings, as well as assist them in making a relevant claim supported by the available evidence. Based on these guidelines, a number of judges and prosecutors were trained in order to determine and issue a decision on compensation in criminal proceedings, without delaying and exposing victims to additional stress and trauma.

Modernization of courtrooms for the purpose of avoiding secondary victimization by meeting the defendant before, during, or after the main hearing started in some countries (Serbia), while other countries are already accepting video-recorded testimonies from victims (North Macedonia).

With regard to measures that can help with victims' recovery and rehabilitation, there are several models in the region, since the States are not limited in the range of remedial measures nor in the means of providing them. For instance, the State may offer certain services directly, through public authorities and agencies, or may cooperate with CSOs to provide them. Nevertheless, most CSOs involved in fighting TIP are financed from international sources and only partly from the state budget, which in some cases, such as Bosnia and Herzegovina, results in funding being insufficient and mainly limited to the accommodation of victims in shelters and primary care.

Different institutional solutions in order to access services have been developed across the region: the victim is assessed as high-risk and as such, is provided with specialized assistance, the victim is included in a special public register of victims in order to have access to specialized services and special measures for their protection, the victim is subject to a special law that defines in detail all rights of victims, victims of TIP are recognized as a vulnerable group and thus can benefit of special social services, victims are beneficiaries of existing social protection laws, under national legislation victims are recognized as users of different services (i.e. social and child care support), regardless of status. This also includes financial support, especially in particular situations like pregnancy of victims.

²⁹ The development and publication of the Guidelines was foreseen in the Annual Plan of the Supreme Court of Cassation for 2018, and was supported by the OSCE Mission to Serbia within the Support to Victims and Witnesses of Crimes in Serbia project, implemented by the OSCE Mission and funded by the European Union.

Key challenges

Main challenges regarding victims' access to compensation

The identification of victims remains the main obstacle to access effective remedies, including compensation. Not only because if they are not identified as victims, they cannot exercise their right to an effective remedy, but also because non-identified victims are at risk of being further harmed by their traffickers. Investigation of trafficking cases is a necessary prerequisite for the actual exercise of the right to effective remedies.

There is a widespread lack of information on the rights of victims of trafficking in persons. The legislation requires informing victims of their rights, but in practice victims rarely receive all the information they need in order to be able to make and pursue compensation claims, either in criminal or civil proceedings, and thus make informed decisions. Frontline responders do not always inform victims about the rights they have or do not do it in a consistent manner. Information is rarely provided across all stages of the criminal proceedings. Lack of information on their rights significantly affects victims' ability to be effectively compensated.

In a significant number of cases, victims of trafficking do not actually benefit from legal assistance or legal aid, including assistance to file claims for compensation. In many countries there are not enough public resources allocated for such services and CSOs/NGOs also lack resources for this type of assistance. Even though the law requires the availability of such services for victims of trafficking, in practice the State fails to provide them or does not provide them in a timely manner. In most cases, including the successful ones, legal aid is provided by CSOs/NGOs.

In some countries, national legal frameworks do not provide sufficient basis to ensure recognition of the victim status, including through the implementation of the non-punishment principle. The recognition of such status is crucial for the victims' capacity to submit a civil claim. Also, the victim status may be acquired only after criminal proceedings end with the conviction of the trafficker, implying the existence of the trafficking in persons crime. This is a prerequisite in most countries in order to be able to file a compensation claim through a civil procedure.

Victims themselves are very often reluctant to file claims for compensation, for different reasons. They either do not trust authorities, fear lengthy procedures during which they must find resources for supporting themselves and their families or fear meeting their exploiters during court hearings.

There are certain practices in the judiciary, encountered in several countries in the SEE region, which prevent victims of trafficking from successfully obtaining compensation:

- While this is not required by law, judges in criminal courts instruct victims to pursue a compensation claim through civil proceedings (BiH, North Macedonia).
- In some cases, criminal courts do not even instruct victims they are entitled to compensation in civil proceedings while criminal proceedings are ongoing (BiH).
- Judges/courts do not inform victims' legal representatives of the different stages of the procedure and thus do not give them the opportunity to claim compensation during criminal procedures. While courts accept video-recorded testimonies from victims in order to prevent re-victimization, this also implies that victims' legal representatives miss procedural windows of opportunity for submitting compensation claims during criminal proceedings, as their legal representatives are not present in order to submit the claim (several such situations were described in North Macedonia).

In many countries, compensation has to be obtained through a separate civil court procedure, only after the criminal conviction of traffickers has been secured in court (Albania, North Macedonia, as well as in Serbia, even if compensation can be pursued in criminal proceedings). Civil procedures are often lengthy and very expensive. They also require the victim to gather and administer evidence, witnesses, specialized expertise and eventually provide new testimony, which leads to re-victimization. Civil procedures can be lengthier than criminal proceedings (in one compensation claim case in North Macedonia, the criminal court procedure lasted 7 months, while the civil compensation claim procedure lasted 1 year and 4 months before the first-instance court issued a decision).

Lengthy proceedings in general, be they criminal or civil, are discouraging for victims. The causes are multiple (lack of judges was mentioned in Albania, for example). As a consequence:

- Specific support for victims (linked to proceedings) needs to be provided for a long period of time, which is not always possible, as NGOs providing assistance cannot always secure funds for sustainable support and public funds allocated for such services are also limited.
- Children in particular are exposed to institutionalization as juvenile victims of trafficking in persons, especially those who are placed in shelters of NGOs or public homes for neglected children, for several years, which affects their psycho-social development, education and integration.

In some cases, victims can access compensation only if they claim it against the offender. As a consequence, the enforcement of such a decision is dependent on the success of tracing and seizing traffickers' assets and profits, which rarely happens. Even when financial investigations into traffickers' assets take place, these may not be traced or discovered, as they may have been hidden (under a different or a false name), spent or moved out of the jurisdiction in question. Also, when there is no parallel financial investigation at the start of the criminal investigation, it is very difficult at the end of the trial to trace and freeze bank accounts and assets. Recent successful cases (in Serbia and North Macedonia) showed the importance of such an initial investigative operation. Favourable court decisions granting victims compensation from the trafficker could be enforced only because the trafficker's bank accounts were discovered and frozen in the initial phases of the criminal investigation, which allowed their use to pay the victim's compensation.

In general, there are very few successful cases of compensation claims and even fewer cases when the decision to compensate the victim has been actually executed (in Albania, a decision dating back to 2010 has not been enforced yet). This is discouraging and leads to the low trust of victims in the justice system, which results in a low number of compensation claims. This situation is also a criminal incentive for traffickers who feel that they can get away with their crimes.

Main challenges regarding victims' access to services

As part of public policies adopted in order to repair harm caused to victims, many countries have included into their national strategies and legislation the victim's right to access a wide range of remedial services, ranging from access to legal assistance to forms of financial support while seeking employment. However, in practice, victims often do not have access to such services.

The main cause for such a situation is insufficient funding for the provision of such services. Besides the necessity to invest in infrastructure, funds are needed to recruit specialized social workers.

In the absence of public funding or public services available, NGOs have limited resources and cannot assist victims in a sustainable manner, as available funding is often time-bound and associated with specific projects. Lengthy

criminal or civil procedures have a considerable impact on the provision of necessary services as more resources are required to support victims for long periods of time.

Apart from insufficient and unsustainable funding for the provision of remedial measures, there is a lack of information on victims' rights and services they can benefit from, preventing victims from having access to protection and assistance.

In cases where victims are migrants or foreign nationals, a lack of cooperation or insufficient communication with the country of origin may pose additional challenges to ensure victims' access to the necessary protection.

Key recommendations for increasing victims' access to effective remedies

Key recommendations in order to increase victims' access to compensation

Some effective measures and practices were identified for increasing victims' access to remedies, including compensation, an important component of any justice response to the harm they suffered. In order to ensure victims' access to effective remedies, the States in the SEE region are invited to:

Increase victims' identification, which means increasing detection rates and investigation of potential trafficking cases. To address the problem of insufficient identification of victims, mobile teams and a special web application for alerting authorities about the location of victims were mentioned.

Include undocumented migrants and workers among beneficiaries of legal and social protection systems. Such inclusion would be a step forward in combatting the effects of TIP and restoring justice, as this would allow them to access justice and file claims for compensation.

Facilitate the recognition of the victim's status as well as the adoption and application of non-punishment of victims for acts that traffickers forced or compelled them to commit. In some countries, this allows prosecutors to decide whether the victim should be prosecuted or not for the crimes committed while being a victim of TIP, depending on the circumstances. As victims, they can be supported to get out of the exploitation situation, especially if they are minors.

Ensure victims' access to information with regard to the legal instruments at their disposal in order to access compensation and social services, starting with the moment of their identification. In many countries, police authorities are required to provide information to victims about the legal options they have to access remedies. This should be done not only at the moment of their identification, but also during proceedings in court and afterwards.

Ensure relocation of victims in transnational or international cases, especially when they are minors and undocumented migrants. International police cooperation supported by international and regional organizations gave results in cases of international TIP.

Provide victims with legal aid, including assistance to file claims for compensation. For victims of cross-border or transnational TIP, provide a lawyer, translation and legal services in a language they understand.

Facilitate access to compensation through the criminal proceedings against the traffickers, as civil procedures require victims to file new complaints, are lengthy and imply financial costs for victims.

Promote prosecutors' cooperation with victims and their legal representatives during criminal proceedings against traffickers, to enable victims to file a compensation claim during criminal proceedings, provide evidence and specialized expertise to facilitate a favourable decision on the victims' claim for compensation.

Allow the judiciary to prioritize proceedings where there are claims for victims' compensation against the perpetrators.

Adopt and apply the principle of the expediency of prosecutions in compensation claims cases made during criminal proceedings.

Instruct/educate law enforcement and the judiciary (prosecutors and judges) on victims' rights and the legal procedure to be followed for such rights to be exercised, especially if claiming compensation can be realized through criminal proceedings. Guidelines issued for the judiciary are such an instrument, alongside training on the topic.

Increase awareness and disseminate among practitioners those legal approaches that led to the successful resolution of victims' compensation claims when the law provides that this can be achieved through criminal procedures. In successful cases, the prosecutors brought certain arguments before the judge when requesting for the victims' claim for compensation to be adjudicated during the criminal procedure against the traffickers: courts should not have to discuss the same facts twice, evidence has already been presented in order to decide on the guilt of the accused, the same evidence can be used by the judge in order to decide on the compensation claim of the victim and should not have to be presented before another judge within a civil procedure, a civil lawsuit would expose the injured party to secondary victimization.

Set up a special state fund for the compensation of victims and, additionally, increase the rate of success in tracing and seizing traffickers' assets if the fund for victims' compensation is linked to the traffickers' assets seizure.

Consider pre-financing compensation payment to victims, when judges have awarded compensation in criminal court procedures. According to this system, a compensation is paid upfront by a government agency to the victim, before a court decision is made, which can later be reclaimed or recovered by the government agency from the offender, after the court decision is final (in case the compensation is not awarded by the court, the victim will reimburse the money received as compensation).

Instruct law enforcement bodies to conduct thorough initial financial investigation as soon as the investigation into trafficking crimes starts and collaborate with prosecutors in order to freeze alleged perpetrators' assets so that compensation claims against the traffickers can be enforced when there is such a court decision.

Key recommendations for preventing re-victimization, especially during criminal procedures

Additional measures can be adopted in order to prevent secondary victimization. To this end, the States are invited to:

Strengthen legal provisions for the protection of victims during criminal proceedings, such as allowing victims to remain anonymous during the criminal procedure, not requiring them to appear in court or holding hearings in camera.

Accept video-recorded testimonies as evidence, which may resolve the issue of victims' unwillingness to testify in court.

Use a special room for the interrogation of victims.

Promote the use of special investigative techniques and financial investigation to lighten the burden of proof on victims. Many times, the prosecution relies primarily on victims' testimony in trafficking cases, which can be a cause of secondary victimization and one of the reasons why victims are reluctant to get involved in criminal proceedings.

Provide victims with secure and safe accommodation throughout legal proceedings, so as to avoid them being located by traffickers wishing to force them to withdraw their complaint or modify their statements.

Key recommendations in order to increase victims' access to remedial measures

Victims of trafficking in persons need special assistance from the moment of their identification throughout criminal procedures and even afterwards, in order to ensure their full rehabilitation. However, there are some preconditions to be met so that victims have proper access to these services, which require the following actions by responsible public authorities:

- Provide information. Police officers have the obligation to inform victims about their rights, including remedial measures, at the moment of their identification. Victims must be informed clearly about their rights throughout the procedure, not only at the moment of their identification, but also during criminal proceedings and afterwards.
- Make sure all victims of transnational TIP have the right to translation services, legal support and specific protection mechanisms.

When it comes to the actual provision of such services, different models of access to a series of remedies have been developed in the SEE region, but to be fully functional, all of them require:

- Strengthening cooperation among all institutions involved in the process of victims' recovery with regard to their special situation so that they can assist victims efficiently. Such cooperation can take the form of a special department within the Police which cooperates closely with the public prosecutor and the victim.

- Training all professionals interacting with victims on the legal and social measures in place they can benefit from, including online, in order to prevent revictimization and ensure victims' rehabilitation.
- Adequate, sustainable and uninterrupted funding of remedial measures, covering all needed components for victims' integrated services.

More precisely, the States are invited to:

Provide social services in parallel with the criminal procedure, including psychological services, health care and accommodation (including mother and infant shelters), professional orientation courses, by NGOs or public authorities.

Develop tailor-made and individual programs for assistance, including comprehensive analysis of needs and potential risks.

Provide victims involved in prostitution, minors and women with special assistance.

Assist victims to find employment: in some countries the State pays employers 6-month wage subsidies (50% of the salary) in order to support victims, but also to encourage employers to offer victims a job.

Set up a single institution to coordinate the application of different remedies if different institutions are in charge of applying measures to protect victims, in order to ensure full protection and assistance for victims of trafficking. Regional trafficking committees headed from a local government authority are an efficient structure to resolve issues at an early stage. Besides, local committees on victims' support can be dedicated to human trafficking matters especially in areas where this type of criminality is particularly present. The goal of these committees, chaired both by the prosecutor and the Governor (or "Préfet", a central government representative at local level in decentralised administrations), is to coordinate the activities of various actors at the local level in order to adapt and facilitate the offer of services to TIP victims: support packages, rehabilitation programs, accommodation and provision of all possible services. Local institutions must be involved and provide services.

Cooperate with NGOs and help with funding the services they provide. Some centres providing services for victims are run by NGOs and there are instances when the government works with the NGO sector based on formal agreements. Accommodation or professional orientation services are provided by NGOs throughout the duration of the trial.

Provide support for voluntary return if victims wish to return. NGOs can have a very important role in the repatriation of victims to their countries of origin.

Develop cross-border cooperation in order to ensure victims' rehabilitation and reintegration in the community.

7. Common
recommendations for
fighting trafficking in
persons in the SEE region

Even though the current report dealt with the most pressing matters the anti-trafficking structures and professionals are confronted with, as they resulted from the five topics discussed within the REGMs in the framework of the Regional Initiative on Trafficking in Persons in South Eastern Europe, there is a set of underlying issues that need immediate attention and resolution by the States in the region. Many of them are interrelated and have impact on a variety of other dimensions of anti-trafficking efforts. They have been already dealt with or mentioned in one or several sections of this report; however, given their importance for the overall anti-trafficking efforts, they are also tackled in this section. The States in the SEE region are invited to solve shortcomings in the following areas in order to improve the results of their anti-trafficking endeavours:

- Deficient collection of data on the trafficking in persons phenomena;
- Irregular migration and its effects on vulnerability;
- Identification, functioning of NRMs and inter-institutional cooperation;
- Insufficient resources for long-term protection and assistance;
- Inadequate access to information about victims' rights and access to justice;
- Requalification of cases under lesser offences, lengthy criminal proceedings, compensation and non-punishment;
- Trafficking in persons facilitated by online technologies;
- Financial investigations, special investigative techniques, asset recovery;
- Regional cooperation, bilateral agreements, police and magistrate liaisons.

For the proper solution of these situations, UNODC is advancing several recommendations, as they are detailed below.

- **Deficient collection of data on the trafficking in persons phenomena**

Without proper data on the phenomenon of trafficking in persons, it is difficult to design adequate responses to address it. Despite the declarative understanding of the importance of proper data collection, challenges still persist when it comes to having accurate data on the phenomenon across the SEE region.

The data collected may show emerging trends and also changing source and destination countries. Data collected through NRMs may also reveal the possible transnational character of a crime. In the absence of data, public policy experts do not know what solutions to propose and as a result, the States are not able to invest resources and efforts where they are most needed or invest these resources in areas where they are not necessary. Evidence-based policy making needs reliable data.

The primary source of data on trafficking in persons is considered to be the National Referral Mechanisms, hence the NRMs should indisputably be operational. The cases detected should be recorded and followed up by all institutions involved in the detection of victims, victims' protection and prosecution, from law enforcement bodies to the judiciary, especially as they are often part of the National Referral Mechanisms. Coordination among authorities and institutions involved in the fight against TIP would result in better data collection.

Other trustworthy sources are NGOs databases and accounts of TIP victims. Sources of quantitative data are extremely useful when it is necessary to understand the bigger picture or to identify emerging trends.

Qualitative research is also useful when wishing to understand and design solutions for particular dimensions of the TIP phenomenon or when it is necessary to understand certain mechanisms - such an example is TIP for forced criminality, where more research is needed in order to explain how such networks are created and how they operate on the basis of certain social or cultural norms.

Some of the causes of the failure to collect accurate data which were frequently mentioned in national reports and during several REGM discussions are:

Civil servants or public professionals involved are not aware of the existence of the NRMs and therefore, they do not use them.

Not all professionals involved in the NRMs know how to use them and as a consequence, professionals do not consistently use the NRMs to generate reliable data.

Other causes include the fact that the States did not set collection of data as an objective of public policy for fighting TIP and as a consequence, the States do not know what data to collect and what indicators to observe in time.

Also, very useful for comparative analysis but also for addressing cross-border or transnational dimensions of the TIP phenomenon would be to develop and follow up on regional comparable indicators regarding trafficking in persons and exploitation.

Therefore, the States in the SEE region are invited to:

Include data collection as a policy objective for fighting trafficking in persons and exploitation.

Determine what kind of data needs to be collected for designing strategies and policies to address TIP and labour exploitation and set indicators to be followed.

Develop manuals and guidelines with clear definitions for collecting, recording and processing data and producing continuous and consistent relevant indicators. Whenever necessary, involve institutional ICT experts in guiding all the above processes by developing methodologies and meta-data, to ensure that statistics definitions and processing are in compliance with the National Authority of Statistics and international specifications.

Constantly train and provide information on the use of the NRMs to all professionals involved, from border police officers to labour inspectors, social workers and prosecutors.

Enhance internal coordination for data collection from all authorities engaged in the fight against trafficking in persons in order to create a repository of all data collected.

Collaborate with civil society organizations in order to collect and complement quantitative data with qualitative research and information. In addition, collaboration and partnerships with the academia (universities as such, professors and researchers) might prove useful in order to understand the multiple facets of TIP-related phenomena.

Collaborate with private companies on gathering data, such as financial transactions companies or social media platforms, as they act as managers of big data flows and can detect patterns and trends of criminal activities.

Enhance regional and international cooperation in order to develop comparable regional criteria and indicators on trafficking in persons.

Set up a Regional Observatory on Trafficking in Persons that will monitor, analyse and interpret the data collected from multiple sources, in order to discern regional trends and thus inform policy solutions involving all the states in the SEE region.

- **Irregular migration and its effects on vulnerability**

Migration is intrinsically a cross-border, transnational phenomenon. People are looking for a better life outside their country of origin because of poverty, lack of jobs or opportunities or because of difficult personal situations. Countries in the SEE region are still confronted with important migration flows, both from countries within the region or, to a lesser extent, from other regions of the world (Middle East, Asia etc.). Some migration movements, which also present a risk for TIP, can be seasonal, such as people moving to countries with developed seaside industries in the summertime looking for job opportunities from neighbouring countries (Bosnia and Herzegovina reported cases of sexual exploitation in major tourist centres in the south of the country organised by international networks) or forced begging at borders (Albania/Kosovo*) during religious holidays. Transit countries situated on the routes towards the Schengen Area or the European Union are also confronted with important migration flows, which pose a risk for trafficking in persons. Unaccompanied minors are especially at risk for trafficking and exploitation. Bosnia and Herzegovina (country report on labour exploitation) and North Macedonia (country report on labour exploitation) have reported increased migratory flows, and potential victims of trafficking in persons were detected, some of which were confirmed.

Migrants are especially vulnerable to trafficking and exploitation because of their status. Even if they become victims of trafficking in persons, irregular migrants' status prevents them from seeking support from public agencies of the countries they are transiting as they fear they might have to interrupt their travel, be separated from their group or end up in detention. In the region, there were also instances of improper identification and deportation of migrants who were potential victims of trafficking in persons. In other cases, migrant reception centres did not have the capacity to accommodate all potential victims of trafficking in persons.

Therefore, special attention should be given to irregular migration in order to detect and protect victims of TIP.

The States in the SEE region are invited to adopt the following measures in order to recognize and protect victims of TIP among irregular migrants:

Train frontline professionals dealing with migration (border and customs officers) to recognize signs of TIP and exploitation among migrants.

Train first responders, social workers, medical and other staff working in accommodation facilities (including detention centres) for migrants and asylum seekers to identify signs of TIP among residents and to have

knowledge on the procedures to be followed when such a case is identified. Supervise accommodation centres to make sure there are not any human traffickers residing there or using the centres to recruit victims.

Enhance cooperation among border, customs and anti-trafficking authorities at national and regional level.

Inform migrants and asylum seekers about their rights and the services available to them in a language they understand.

Incorporate procedures that include migrants among victims of TIP within the National Referral Mechanisms.

Provide adequate protection and services to migrant victims of TIP which is not conditional upon their cooperation with national authorities and offer them a recovery and reflection period. During this period of time, victims of trafficking in persons should have the right to adequate and safe accommodation, material, medical and psycho-social assistance, translation and interpretation services, as well as legal information that would allow them to make informed decisions. If criminal or other proceedings in which victims of trafficking decide to exercise their rights are pursued, victims should benefit from translation and legal services in a language they understand.

Provide foreign victims of trafficking in persons with temporary residence permits.

Equip reception centres and shelters properly, so that they have sufficient capacity to accommodate all victims, children, men and women.

Offer the possibility to reunite victims with their families, especially children, as victims may have left children behind in their country of origin.

Offer migrant victims of trafficking with the possibility of voluntary return to the country of origin.

Make use of the resources offered by the International Organization for Migration (the UN Migration Agency) which, through local offices, provides technical support to the Member States with regard to migrants' protection.

- **Identification, functioning of the NRMs and inter-institutional cooperation**

The main cause of the failure to protect victims of TIP and of prosecute TIP cases is the failure to identify them. Once they are identified, the National Referral Mechanisms should be used in order to provide victims with the protection they need and to bring cases against traffickers to court.

Inadequate identification of trafficking cases has several other consequences. The picture of trafficking-related phenomena may be inaccurate, with some forms of exploitation insufficiently detected while others are predominantly visible. This may be the case, for instance, with labour exploitation, as it may not be recognized as such by professionals such as labour inspectors. Or, once detection rates increase, one may think this is an increase in the exploitation phenomena, while it may simply be the result of the work bringing to the surface existing cases.

Also, with insufficient victim identification, victims of a certain profile become the only victims visible. This means that the States may end up developing services only for that type of victims.

Similarly, if most victims are detected in large cities, one may conclude trafficking takes place only in large cities, while other victims may remain undetected in small towns and villages.

In addition, having more cases detected may result in more cases being prosecuted and potentially improving conviction rates.

When proper identification is done, the National Referral Mechanisms should actively ensure victims protection and eventually, traffickers' prosecution. In many instances, improper functioning of the NRMs has been mentioned as a cause for failing to adequately protect victims.

In essence, the NRM is a framework for inter-disciplinary cooperation among different public authorities and civil society structures with anti-trafficking mandates³⁰. Together with the Standard Operating Procedures for the Protection of Victims of Trafficking, they form the backbone of implementation of anti-trafficking policies in a majority of the State Parties. They regulate the way in which victims are provided with the protection and remedial services to which they are entitled.

OSCE/ODIHR, National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook

"Establishing NRMs in countries of destination, transit, and origin can help ensure a comprehensive and inclusive system of support targeted at, and accessible to, all trafficked persons.

An NRM should incorporate:

- Guidance on how to identify and appropriately treat trafficked persons while respecting their rights and giving them power over decisions that affect their lives;
- A system to refer trafficked persons to specialized agencies offering shelter and protection from physical and psychological harm, as well as support services. Such shelter entails medical, social, and psychological support; legal services; and assistance in acquiring identification documents, as well as the facilitation of voluntary repatriation or resettlement;
- The establishment of appropriate, officially binding mechanisms designed to harmonize victim assistance with investigative and crime-prosecution efforts;
- An institutional anti-trafficking framework of multidisciplinary and cross-sector participation that enables an appropriate response to the complex nature of human trafficking and allows its monitoring and evaluation."³¹

³⁰ A National Referral Mechanism has been defined by the Organisation for Security and Co-operation in Europe (OSCE) as "a co-operative national framework through which governments fulfil their obligations to protect and promote the human rights of victims of trafficking, co-ordinating their efforts in a strategic partnership with civil society organizations, private sector and other actors working in this field. https://www.osce.org/files/f/documents/f/5/510551_0.pdf

The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help to improve national policy and procedures on a broad range of victim-related issues such as residence and return regulations, victim compensation, and witness protection. [...] T. Kröger, J. Malkoc, B.H. Uhl, National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook, OSCE/ODIHR, Warsaw, 2004, p. 15. Available at www.osce.org/odihr/13967.

³¹ Idem, p. 16.

In order for the NRM to function properly in practice, all professionals involved need to be aware of its existence and of their respective responsibilities and also have the capacity to carry out their obligations. Organizations and structures particularly providing social and medical assistance should be able to comply with required standards.

Therefore, in order to increase identification and detection rates and provide victims with the protection and remedies they are entitled to, it is necessary to take additional steps to make the National Referral Mechanisms fully functional. In that respect, the States are invited to:

Continuously conduct capacity building and training of NRM implementing agencies and staff for the proper use of NRMs and related procedures (SOPs). Local or regional structures should be given priority in order to increase detection and victims' protection at local and regional levels.

Encourage and support proactive detection and identification by on-site inspections in areas and sectors presenting a high risk for trafficking phenomena. Similarly, increase law enforcement professionals' presence on websites and platforms that might harbour or hide online victims' exploitation.

Support the creation and the use of multidisciplinary mobile teams for the detection of TIP cases, especially at local levels.

Train all professionals involved in the NRM to recognize the signs of TIP and of the different exploitation forms - sexual and labour exploitation, exploitation for forced criminality.

Support outreach work, usually done by NGOs, as this may lead to more detection and identification.

Foster effective cooperation among all authorities and actors involved in the NRMs, including NGOs, through regular exchange of information and good practices.

Make sure NGOs are involved in the NRMs as they normally do outreach work, detect victims, collect data and provide assistance and protection. Ensure these NGOs are also funded properly and in a sustainable, continuous manner.

Enhance cooperation between law enforcement bodies, such as police officers, labour inspectors and prosecutors, and victim protection services, especially when child victims are involved.

Foster and enhance cooperation with the private sector, whether companies or trade unions, in order to recognize TIP on their premises or in economic sectors that present a high risk for TIP, following training of their staff.

Support international cooperation of all actors involved in the NRMs so that victims benefit from continuous and tailored protection in countries of destination, transit and origin.

- **Insufficient resources for long-term protection and assistance of victims of trafficking in persons**

The States are under the obligation to develop and implement protection policies for victims of trafficking in persons as a result of the ratification of a number of international treaties and conventions in this area, such as the UN Trafficking in Persons Protocol and the Council of Europe Convention on Action against Trafficking in Human Beings. Beyond such obligations lies a moral responsibility to provide victims of TIP and of related exploitation with all the protection they need. Among the most frequently mentioned challenges encountered by the anti-trafficking professionals in this endeavour is the provision of adequate protection services to victims of TIP.

While many countries have developed strategies and national action plans in order to ensure victims of TIP have access to protection, rehabilitation and reintegration services, the main challenge remains their funding and the actual implementation of policies deriving from national strategies. Therefore, the States are invited to:

Allocate sufficient and continuous funding for victim protection services. In order to achieve this more sustainably, the States might consider increasing the freezing and seizing of traffickers' assets to fund victim protection policies.

Make protection systems available to all victims of trafficking in persons, whether domestic or foreign, and adhere to the same minimum standards, irrespective of the protection service provider, private or public, or of the victim's residence.

Provide protection regardless of victims' cooperation with law enforcement authorities or the existence of criminal procedures.

Take into consideration and address all types of vulnerabilities of victims of trafficking in persons such as gender, minority status, irregular migrant status, precarious economic situation, disability etc. when designing and providing protection services for victims.

Remove victims from the exploitative situation and take them away from the trafficker, following an individual assessment of their needs. If necessary, use international cooperation mechanisms to move the victim outside of the traffickers' reach.

Provide victims with psychological counselling, medical care and social assistance to ensure they have a real chance of actual rehabilitation and reintegration, using an integrated multidisciplinary approach.

Provide accommodation facilities that are adapted to victims' needs, especially for families and children.

Cooperate with NGOs and provide sufficient funding for their operational expenses and the services they offer to victims, as they are many times the first to come into contact with victims of TIP.

- **Inadequate access to information about victims' rights and access to justice**

One of the main obstacles encountered by victims of trafficking in persons in exercising their rights to justice and compensation is their insufficient access to information about their rights and the assistance to which they are entitled in accessing compensation. Even though the States in the region have adopted legislation that regulates the provision of information and legal assistance to victims of TIP, in reality, in most countries, NGOs remain the main provider of such services.

In order to increase access to justice for victims of TIP and ensure they are able to exercise fully their right to compensations, the States are invited to:

Train all frontline responders, especially law enforcement professionals, to inform victims about the consequences of being recognised as a victim of trafficking, their rights and the options available to them for claiming compensation.

Provide information about the possibility to claim compensation in a language victims understand.

Provide the necessary legal assistance to all victims of trafficking, regardless of residence, all through court proceedings. Do not delay the appointment of a lawyer and the provision of the legal aid to which victims of trafficking are entitled.

Issue guidelines for the collaboration between the prosecution and the victims' legal representatives so that compensation claims can be handled in time during criminal proceedings against the traffickers.

- **Requalification of cases under lesser offences, lengthy criminal proceedings, compensation and non-punishment**

When it comes to the prosecution of TIP cases, on many occasions, practitioners mention that trafficking cases are re-qualified as lesser offences: forced begging has many times been reclassified as a misdemeanour instead of trafficking for the purpose of forced criminality, trafficking for labour exploitation cases were mistaken for violations of labour law, trafficking for sexual exploitation was tried as solicitation of prostitution or simply considered to be a case of prostitution. Labour exploitation of child victims of TIP by their parents was brought to trial as parental neglect. In addition, in the absence of transposition of the non-punishment principle into law, victims of trafficking for the purpose of forced criminality are especially vulnerable, as they end up being brought to court for the crimes they were compelled to commit.

This situation has a direct impact on victims' entitlement to their rights, including access to remedies, protection and compensation, and subsequent procedural rights. Reclassification of TIP cases by the court under other crimes or even misdemeanours is a serious limitation of victims' right to access compensation.

Foreign victims of TIP can suffer most from such a practice. National experts reported that authorities, including police officers who detect such cases, charge victims of trafficking-related exploitation in a foreign country with

violations of the law on foreigners or the breach of different administrative measures. Sometimes, victims are charged with penalties for illegal stay and/or illegal work, which may lead to the expulsion of victims from the country, without any protection or legal aid.

Among the causes of this judicial practice of reclassifying trafficking cases as other crimes or misdemeanours, the following have been mentioned:

- Law enforcement professionals are not trained to recognize trafficking in persons and related exploitation, and there is a lack of specialization among these professionals, especially prosecutors and judges,
- There is a false belief that trafficking crimes require a transnational element (Albania),
- Judicial bodies staff are not willing to get involved in lengthy criminal procedures such as TIP cases.

The lengthy criminal or civil procedures are also a deterrent for victims to access their right to compensation. In order for justice to be effective, it must be done within a reasonable period of time, therefore the length of court proceedings should be reasonable.

More needs to be done in order to ensure proper victims' protection and the full exercise of their rights, including access to compensation. To this end, the States are invited to:

As recommended by the UN Special Rapporteur, adopt all appropriate legislative, policy, administrative and other measures to ensure effective implementation of the principle of non-punishment of victims of trafficking, as this should enable them to exercise their rights.

Train for better identification and investigation of TIP cases, whether for labour or sexual exploitation or for forced criminality. Issue guidebooks on the different aspects and forms that trafficking in persons and related exploitation can take.

Support specialization among police, prosecutors and judges so that there are specialised human resources and knowledge about how to investigate and prosecute cases of trafficking in persons.

Adapt procedures for cases of TIP in order to reduce duration and to include compensation claims during the criminal procedures.

Prioritize prosecution of TIP cases, as many times lengthy procedures have a direct impact on victims' involvement in criminal procedures. Also, lengthy procedures have an impact on the victim's safety and protection, as they must be provided for a longer period of time and hence require more resources.

● **Trafficking in persons facilitated by online technologies**

The use of online technologies in trafficking in persons is increasingly mentioned as a challenge in all aspects of the fight against trafficking in persons. Online technologies used in trafficking activities can include any online website, application or platform used to exchange money, images and/or text.

Online technologies are used by traffickers in order to advertise, recruit and exploit victims.

Recruiting activities can take place on social media platforms, especially as traffickers draw on the personal information provided by platform users for profiling, so they know how to target those users who are most vulnerable or most susceptible to answer proposals for friendship, relationships or employment. Children and teenagers are particularly vulnerable as they increasingly become users of such platforms and disclose information about their social situation, such as family and education status.

Deceptive job offers or promises for “well-paid jobs” are used for recruiting as well, hiding trafficking for the purpose of sexual exploitation, labour exploitation or forced criminality. These fake job adverts are posted on specialized employment websites or on standalone pages that traffickers create themselves, besides being promoted individually towards potential victims on social media platforms.

Traffickers also use regular websites or the dark web to advertise for services offered by trafficked and exploited persons to potential customers.

Victims, including children, are increasingly exploited sexually with the aid of webcams and live streaming. Trafficking may be hiding behind online child pornography on demand. More recently, victims of TIP are exploited for forced criminality activity online, such as scamming³², identity theft and data fraud.

Traffickers also use online platforms in order to send or receive money, including for the services offered as a result of victims’ exploitation, or to transfer it among members of the trafficking network.

The online elements of trafficking and exploitation activities give rise to additional challenges for their detection, investigation and prosecution. Besides the lack of specialised training, law enforcement and criminal systems lag behind as certain activities committed online are not recognized as crimes or what could be digital evidence is not considered to be legally valid.

It is thus becoming increasingly important to be able to detect, monitor, investigate and prosecute trafficking activities taking place online. In order to do all of this efficiently, the States are invited to:

Adapt and adopt legislation to regulate areas that currently fall outside of current regulations as traffickers take advantage of these legal gaps in order to recruit and exploit victims, such as online job advertising. Criminalize online activities such as grooming and sexual extortion or include adequate definitions of online abuse in criminal legislation where they do not exist (for instance, in Albania “child sexual abuse material” is not defined in the law and as a consequence, cases of online sexual abuse may not be prosecuted adequately).

Adapt current criminal legislation and procedures in order to admit digital or electronic material as evidence in court, which may range from photographs or videos of online sexual exploitation to digital footprints of trafficking activity, such as payments made by traffickers for online advertising for the services provided through trafficking and exploitation.

³² In a case of trafficking in persons discovered in the Republic of North Macedonia, almost 40 Taiwanese citizens were exploited in the country for a call centre scam scheme. With their passports and mobile phones confiscated, locked, guarded and beaten if they did not obey, they were forced to work long hours without any pay. Using high speed internet, they made international calls, impersonating insurance, bank or postal officers and later on even police officers, falsely asking evidence for the payment of a fine, so that people end up “paying” a certain sum of money in order to have the amount of the fine reduced. In reality, people who were called by the call centre operators were simply transferring money into traffickers’ accounts.

Train investigators, police officers and prosecutors to use digital technology and forensics in order to gather electronic or digital evidence of trafficking activities.

Train investigators, police officers and prosecutors to conduct proactive online investigations, to detect and examine evidence generated by traffickers' activity on online digital platforms and services, especially online sexual exploitation of minors.

Collaborate with the private sector for the detection of signs of potential criminal online activity - adopt an early warning system such as red flags regarding money flows together with money transfer companies, or red flags in order to monitor online pornography together with online platforms hosting such material.

Encourage the use of technology by anti-trafficking agencies and train agencies' staff on the use of technology in order to detect trafficking and exploitation signs, such as, for instance, setting up a website where the general population can alert about the existence of problematic online material, so that law enforcement bodies and technology or internet providers can take down such material and start investigations.

- **Financial investigations, special investigative techniques, asset recovery**

Successful cases that led to the traffickers' convictions and victims' access to compensation share some common traits. These are, in fact, good practices that must become the rule when investigating and prosecuting TIP cases.

In one of the landmark cases of trafficking in persons, police officers and prosecutors made use of special investigative techniques and broad financial investigations in order to identify financial transactions and remittances sent from an EU country to a non-EU country using nationals from a different EU member state. The same special investigative techniques led to the proper identification of victims exploited by a network of traffickers. In another successful case, the investigators and prosecutors managed to track, locate and freeze traffickers' assets and bank accounts which were later used to pay the victims compensation as soon as the court decision about the claim remained final.

It is therefore of paramount importance to increase the use of special investigative techniques and to learn from successful cases. Hence, the States in the SEE region are invited to:

Train police officers and prosecutors to use special investigative techniques, including online or technology-powered tools. Include practical exercise in the training sessions so that investigators learn first-hand how to use these tools.

Instruct investigators to initiate financial investigations with the aim to track and locate traffickers' assets and money as soon as criminal investigations are launched. It can lead to gathering solid evidence and, more importantly, it will enable law enforcement bodies and the judiciary to enforce compensation decisions made by the courts. Proceed as soon as possible to the freezing of assets with the help of prosecutors.

- **Regional cooperation, bilateral agreements, liaison police officers & magistrates**

Investigating cross-border cases of trafficking in persons is demanding, as this requires resources and effective coordination among relevant authorities from different countries. This is more effectively achieved when there are cooperation agreements and dedicated mechanisms in place, so that stakeholders, both public and private, in countries of origin, transit or destination, can communicate and work together.

Countries in South Eastern Europe have a long history of cooperation in investigating and prosecuting criminal cases. Nevertheless, tackling trafficking in persons requires enhanced cooperation at different levels and among a diverse array of actors, from the police to social services and prosecution.

Determining the identity of the potential foreign victim who does not possess identification documents may be more difficult in the absence of a bilateral cooperation agreement between origin and destination countries. Matters may become even more complicated when trafficking-related exploitation victims require protection, investigation into trafficking networks needs to be initiated and criminal proceedings have to be launched.

Several countries in the region have already concluded bilateral agreements with neighbouring countries concerning trafficking-related activities such as “enhanced identification, notification, referral and voluntary assisted return of victims and potential victims of trafficking, especially children”.

Cooperation initiatives between South Eastern Europe and destination countries outside the region have also increased.

Most countries in the region have operational agreements with Interpol, Europol and Eurojust and there are examples of successful international cooperation involving the mechanisms offered by these structures, such as Joint Investigation Teams.

Cooperation in criminal matters is the cornerstone for investigating and prosecuting international trafficking cases. Police and prosecutors from countries of destination, transit and origin need to be able to work swiftly and use the right channels to communicate and coordinate with each other.

In this context, special emphasis should be placed on enhancing cooperation for mutual legal assistance, which is the basis for collecting and exchanging information, obtaining testimonies or written evidence, or for extradition.

Nevertheless, a series of challenges still hinder the proper functioning of international cooperation channels. Insufficient professional training for handling trafficking cases with an international or cross-border dimension, including international cooperation in criminal matters, or simply lack of administrative capacity of anti-trafficking actors are among the main challenges. This situation forced NGOs to pay for specific services by themselves in order to make sure victims receive the services they require in some cases³³. However, NGOs involved in anti-trafficking efforts struggle with insufficient funding and lack of resources.

³³ For example, in a trafficking-related exploitation case taking place in North Macedonia involving citizens from Taiwan, local NGOs paid for the translation and interpretation services for the victims and they also provided contacts of a Taiwanese NGO which supplied the Taiwanese citizens with information material on the services they can benefit from as victims of trafficking upon return to their country.

In one case of trafficking where the victim was sexually exploited in a neighbouring country, the responsible police unit in the destination country did not have updated contact details of their counterparts in the victim's country of origin, taking up to a month to establish effective contact. This significantly delayed the process of the victim's return, which was ultimately supported by NGOs from the two countries, which facilitated the communication process.

This case also shows that cooperation among civil society organizations is extremely useful in many cases of trafficking with a transnational element. NGOs are usually involved in regional networks and platforms and establish contacts abroad more efficiently, which makes them an important stakeholder in the anti-trafficking fight at regional and international levels.

In order to overcome the practical challenges arising from tackling transnational and international trafficking activities, the States are invited to:

Conclude comprehensive bilateral agreements with neighbouring and destination countries, for mutual legal assistance purposes, including extradition.

New agreements or treaties on mutual legal assistance in criminal matters should include modern cooperation tools, such as video testimony or exchange of bank information.

Maintain and constantly update databases with contact points of counterpart institutions from countries of origin, transit and destination.

Provide the right framework for networking and cooperation among liaison police officers and magistrates from all countries facing the issue of trafficking in persons in the SEE region.

Ensure continuity of the membership in regional networks for investigation, prosecution and judicial agencies involved in anti-trafficking cases.

Enhance capacity building of investigation and judiciary bodies on how to use available mechanisms for international cooperation in cases of trafficking in persons. Deliver specific practical training - such as simulations for mutual legal assistance requests - involving all stakeholders concerned (police officers, prosecutors, judges).

Encourage and support the application of judicial and police cooperation instruments, by setting up common investigation teams between police and prosecution services and by using the networks of liaison police officers and magistrates. Fund operational meetings of international law enforcement and prosecution teams.

Support and fund cooperation among NGOs from different countries in order to facilitate the implementation of all measures needed for the identification, referral, protection and assistance processes.

Coordinate the launch of criminal investigations with the victim protection services in origin, transit and destination countries as soon as possible, especially for minor victims of trafficking. Encourage and support communication and coordination of victim protection services in all countries concerned in order to ensure continuous victims' protection.

Increase and strengthen cooperation between local and central institutions from bordering countries in order to detect, refer and protect victims more efficiently. Increase cooperation between local authorities and international organizations such as the UNHCR (the UN Refugee Agency) or the IOM (the UN Migration Agency) in order to provide refugees or migrant victims of trafficking with the proper protection and assistance measures.

Encourage and fund regional initiative projects that encourage cooperation in the region at all levels of the anti-trafficking fight, including participation in mixed cooperation networks that include both public and private actors such as NGOs or trade unions.

Improve data collection and sharing, with full respect for human rights, in order to avoid re-trafficking.

For more information about UNODC's work against human trafficking and migrant smuggling contact:

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