

**PRUŽANJE PRAVNE POMOĆI I
ZASTUPANJE ŽRTAVA TRGOVINE
LJUDIMA U POSTUPCIMA PRED
NADLEŽNIM ORGANIMA PRAVOSUĐA**

PRUŽANJE PRAVNE POMOĆI

PROVISION OF LEGAL AID

**PROVISION OF LEGAL AID AND
REPRESENTATION FOR VICTIMS OF
TRAFFICKING IN PERSONS
IN JUDICIAL PROCEEDINGS**

PROVISION OF LEGAL AID AND REPRESENTATION FOR VICTIMS OF TRAFFICKING IN PERSONS IN JUDICIAL PROCEEDINGS; Report

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CONTENTS

1. Introduction	7
2. Methodology	8
3. The position of trafficking victims in court proceedings and in the application of policies and treatment of trafficking victims through the national referral mechanism	13
4. Legal framework and case law in the area of protection of, and provision of assistance and support to tip victims	25
5. Activities related to the provision of legal aid and representation of tip victims	34
6. Perceptions of judicial office holders	45
7. Perceptions of professionals dealing with tip cases	46
8. Concluding observations and recommendations	49
8.1. Concluding observations.....	49
8.2. Recommendations – victims’ right to compensation	52

**PROVISION OF LEGAL AID AND
REPRESENTATION FOR VICTIMS
OF TRAFFICKING IN PERSONS
IN JUDICIAL PROCEEDINGS**

within the Project

**“Victim-Centered Approach to Preventing Trafficking
in Persons in Bosnia and Herzegovina: Improving the
Identification, Protection and Access to Justice”**

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1. INTRODUCTION

Trafficking in persons (TIP) is one of the most complex phenomena that affect contemporary societies. Its complexity and severity are manifested in the consequences suffered by the victims of this serious criminal offence. The issue of trafficking in persons should be considered from the perspective of both criminal justice and human rights of those who are deprived of their basic human rights afforded to them by international standards and regulations. Victims are entitled to legal support and assistance tailored to TIP cases. The numerous international legal and political documents may serve to provide an additional argument in favor of the necessity to respect and develop the right to legal assistance for TIP victims in criminal and other proceedings conducted before courts and other institutions in which TIP victims can participate and exercise their rights which are guaranteed to them by domestic laws and other regulations. As suggested by different analyses of the case law, carried out by domestic and international institutions and experts on trafficking in persons, particular attention should be given to improving the position of victims in the criminal justice process. Monitoring and evaluation of the case law on trafficking in persons is necessary for getting an objective insight into, and improving, the standing of TIP victims in judicial proceedings in terms of the basic protection standards, exercise of their rights and provision of assistance to TIP victims, as defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Council of Europe Convention on Action against Trafficking in Human Beings.

Activities related to the provision of assistance to, and representation of, TIP victims in judicial proceedings have been developed within the project “Access to Victim-Focused Prevention of Trafficking in Persons in Bosnia and Herzegovina: Improving the Identification, Protection and Access to Justice”, funded by the United States Agency for International Development (USAID) and implemented by the International Forum of Solidarity EMMAUS (IFS-EMMAUS) in cooperation with, and with support from, the State Coordinator for Combating Trafficking in Human Beings. The goal of the Project is to build and improve capacities of the judicial institutions in Bosnia and Herzegovina for the application of the European Union standards in the prosecution of the crime of trafficking in human beings and related criminal offences, and to improve protection and access to justice for TIP victims, and to enhance capacities of civil society organizations which provide assistance to TIP victims and other vulnerable groups, strengthen the role and build capacities of the relevant professionals involved in the identification of, and provision of assistance to, victims (including their reintegration), with the focus on children, marginalized Roma population and unaccompanied minors – potential victims of TIP – in the current migration flows.

This report, which describes the provision of legal aid and representation services to TIP victims in judicial proceedings, should be considered in that context. It is based on the case law and specific TIP cases prosecuted and heard in courts in 2019/2020, analyzed in relation to the exercise of victims’ rights under domestic and international standards of protection.

2. METHODOLOGY

Regarding the planned activities related to coordination of strategic litigation activities and development of a report on the implementation of the project “Victim-Centered Approach to Preventing Trafficking in Persons in Bosnia and Herzegovina: Improving the Identification, Protection and Access to Justice-VICAPT”, the activities related to the implementation of strategic litigation in which TIP victims were represented in criminal proceedings were prepared, implemented and coordinated. Coordination meetings took place with the lawyers hired for strategic litigation to plan activities related to the selection of cases in which indictments for the crime of trafficking in persons had been issued and confirmed by court, and were in the trial phase; to find ways to establish contact with TIP victims or Social Welfare Centers which had appointed interim guardians to child victims of TIP; to plan activities and development of individual reports by legal representatives of victims of TIP, with a particular emphasis on providing recommendations for further representation of victims in criminal proceedings.

Four cases were selected, in which four potential TIP victims were identified: three children and one adult person to whom legal aid and representation services in judicial proceedings were provided by the lawyers previously selected to provide, within the above-mentioned project activities, legal aid to TIP victims, represent them in court and help them exercise their right to compensation in criminal proceedings. Legal aid and support to TIP victims is provided through the free legal aid mechanism consisting of preparations and, among other things, interviews with TIP victims, and if the victim is a child, interviews with his/her guardian appointed by a Social Welfare Center, for the purpose of obtaining a consent for the provision of legal aid and representation in court. Two specially trained and skilled lawyers, both with years’ long experience in the CSO Center for Women’s Rights in Zenica, were selected for this purpose. The Center was recognized as a very successful CSO in providing legal aid and representing TIP victims in court, thanks to which the claim put forth by a child victim of TIP for the purpose of sexual exploitation was granted and compensation awarded in full.

The focus of research of the case law in Bosnia and Herzegovina in 2019/2020 and activities related to the provision of legal aid and representation for TIP victims in courts in Bosnia and Herzegovina is on a comprehensive analysis of the status of TIP victims in terms of the basic standards of protection, exercise of their rights and provision of assistance to TIP victims, anti-trafficking policies and protection of TIP victims implemented by institutions, professionals, civil society and other organizations, and the manner in which the policies are monitored, while relying on the previous IFS-EMMAUS situation reports on trafficking in human beings in Bosnia and Herzegovina, the 2019 Situation Report on Trafficking in Human Beings by the State Coordinator for Combating Trafficking in Human Beings, reports on monitoring court proceedings in TIP cases, the list of observations related to the crime of trafficking in human beings applied by the judicial and other authorities, civil society organizations and individuals.

The structure of the report on the provision of legal aid to TIP victims in judicial proceedings follows the guidance provided in the most important international instruments for assistance and protection for victims for the purpose of improving their position, such as the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the

Palermo Protocol)¹, and the Council of Europe Convention on Action against Trafficking in Human Beings², both imposing some obligations on the member states, including Bosnia and Herzegovina, regarding protection of, support to, and status of TIP victims. All these international instruments on human trafficking contain the provisions which explicitly define the rights of TIP victims, including their rights within the criminal justice system of the member states. Regarding international standards, equally important are observations and recommendations for Bosnia and Herzegovina, contained in the Analysis of the Report of the monitoring mechanism on human trafficking, produced by the Council of Europe group of experts GRETA, created for the purpose of monitoring the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. Similar observations and recommendations are contained in the Department of State's Trafficking in Persons Report (TIP report) for 2019³, and the International Organization for Migration's Analytical Report "Improving Counter-Trafficking in the Western Balkans". According to the latest U.S. Department of State Trafficking in Persons Report for BiH⁴, Bosnia and Herzegovina does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. Regarding victim protection, the TIP Report states that the government decreased victim protection efforts and that first responders did not know or consistently use the guidelines, lacked proactive identification efforts to identify and protect victims, particularly adult victims. In view of the importance of these documents which were developed within monitoring and evaluation of the human trafficking situation and the status of TIP victims in Bosnia and Herzegovina, and the recommendations for the government of Bosnia and Herzegovina concerning, among other things, the improvement of the status of TIP victims in legal proceedings, we believe that it is necessary to mention them also in this Report as they clearly stipulate for the obligations of our country to ensure consistent implementation of the legal framework, protection of safety and privacy of victims in judicial proceedings, effective judicial proceedings, trial within a reasonable time, timely provision of information to TIP victims on their rights, including the right to compensation, adequate criminal punishments and a comprehensive system of protection and cooperation among all relevant actors involved in the fight against trafficking in persons. It will not be possible to improve the position of victims in judicial proceedings without aligning the legal framework with international anti-trafficking standards, consistent application of the present law and engagement of all parties to proceedings, including training and specialization of judges and prosecutors, raising awareness and knowledge of police, social services, labor inspection and all other professionals dealing with TIP cases, within the scope of their responsibilities, and other staff of government institutions and civil society organizations involved in the provision of protection, assistance and support to TIP victims, especially children. Successful detection of the crime of trafficking in persons and protection of TIP victims requires improved cooperation and coordination of activities among all relevant institutions involved in the fight against trafficking in persons in order to meet the needs of TIP victims in an early phase of the criminal justice process and to mitigate the risk of trafficking in persons for potential victims among migrant and other vulnerable groups of the population, regardless of their status or demands.

1 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Official Gazette of BiH, 3/2 – International Agreements.

2 The Council of Europe Convention on Action against Trafficking in Human Beings, Official Gazette of BiH, 4/07- International Agreements.

3 USA Department of State, Trafficking in Persons Report. Available at: <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

4 <https://ba.usembassy.gov/wp-content/uploads/sites/270/Bosnia-and-herzegovina-2020-Tip-Report.pdf>

**THE POSITION OF TRAFFICKING VICTIMS
IN COURT PROCEEDINGS AND IN THE
APPLICATION OF POLICIES
AND
TREATMENT OF TRAFFICKING VICTIMS
THROUGH THE BIH NATIONAL REFERRAL
MECHANISM**

3. THE POSITION OF TRAFFICKING VICTIMS IN COURT PROCEEDINGS AND IN THE APPLICATION OF POLICIES AND TREATMENT OF TRAFFICKING VICTIMS THROUGH THE NATIONAL REFERRAL MECHANISM

This part of the report looks at the international legal framework, enumerating and describing international documents on trafficking in human beings that Bosnia and Herzegovina is obliged to implement (the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (hereinafter: the UN Palermo Protocol),⁵ the Council of Europe Convention on Action against Trafficking in Human Beings,⁶ where it is particularly important that the CoE Convention foresees mechanisms for monitoring the implementation of its provisions by member states - Group of experts on action against trafficking in human beings (GRETA),⁷ Directive 2011/36/EU of the European Parliament,⁸ the UN Convention on the Rights of the Child⁹). The domestic legal framework for countering human trafficking in Bosnia and Herzegovina reflects the organisational structure of the country. Relevant laws have been enacted at the level of the state, its two entities and the Brčko District, and there are relevant provisions in all four criminal codes. The criminal offence of trafficking in human beings has been introduced in entity-level criminal codes in Republika Srpska and the Federation of Bosnia and Herzegovina, and in that of the Brčko District, which enables consistent criminalisation of human trafficking across the country. The introduction of provisions on not punishing trafficking victims for offences committed as a result of their victimisation has been assessed as positive, as were provisions establishing the right of victims to a period of recovery and reflection, to residence permits, the right of victims to temporary stay based on humanitarian grounds, the right of access to the labour market and to education in line with the new Law on Foreigners, as well as changes and amendments to the Rulebook on protection of foreign victims of trafficking in human beings from 2016. GRETA welcomed as positive actions of authorities in Bosnia and Herzegovina expanding the composition of the four Regional Monitoring Teams that coordinate anti-trafficking activities, as well as the adoption of the National Action Plan against Trafficking in Human Beings for the period 2016-2019, which focuses on improving the system of support to countering human trafficking and related crimes, preventing human trafficking, reducing risks and providing effective protection and assistance to trafficking victims, and strengthening partnership and cooperation among actors involved in countering trafficking in human beings.

Although Bosnia and Herzegovina has made certain progress, there are still a number of issues of concern for GRETA representatives. One of the biggest problems observed in Bosnia and Herzegovina is that the majority of identified trafficking victims are children. GRETA has also pointed to many other situations regarding the protection of trafficking victims that remain unresolved in Bosnia and Herzegovina. The 2018 State Department Report (TIP

5 Bosnia and Herzegovina is a signatory of the Convention and the Protocol against trafficking in human beings (Official Gazette of BiH, International Treaties, 3/02)

6 Official Gazette of BiH, International Treaties, 14/07

7 Council of Europe Convention on Action against Trafficking in Human Beings, Monitoring Mechanism, available at: <https://rm.coe.int/16805d58a7>;

8 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combatting trafficking in human beings, available at: <http://eur-lex.europa.eu/legal-content/HR/TXT/?uri=CELEX%3A32011L0036>

9 Official Gazette of R BiH, 25/93

Report)¹⁰ of 20 June 2019 points out that the government of Bosnia and Herzegovina does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included the State Coordinator for Combatting Trafficking in Human Beings and Illegal Immigration organising meetings to solicit feedback on regional monitoring teams, changing the structure, and revising guidelines for the teams to increase effectiveness. The government funded non-governmental organisations to conduct awareness campaigns and made indictments in the first joint international investigation with French authorities. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. Law enforcement lacked capacity and knowledge and continued to regularly investigate trafficking under lesser offences, while judges issued sentences that fell short of the trafficking statutes' minimum penalties and cited unreasonable "mitigating circumstances" to decrease the sentences. Law enforcement lacked victim-centred investigations and prosecutions, and the anti-trafficking strike force—the only mechanism to coordinate law enforcement efforts across entities—remained ineffective. The government operated seven drop-in centres for children that conducted outreach work and a mobile team for street children in Sarajevo, which identified 510 street children in the city. International organisations reported law enforcement and social workers at centres for social welfare justified cases of potential forced child begging and forced labour involving Roma as traditional cultural practices and customs and sometimes returned children to their families even when parents were involved in the exploitation. In addition, a report from an international organisation indicated first responders, including Border Police, local police, Service for Foreigners' Affairs, and centres for social welfare, lacked standard guidelines and trafficking indicators for migration flows, interview questions and interpreters, and general capacity to screen the large influx of migrants and refugees. First responders referred potential trafficking victims to law enforcement, which conducted an interview and had authority to officially recognize victims. However, GRETA and an NGO reported, in practice, the interview and identification procedures lacked transparency and only prosecutors' designation of whether a person was a trafficking victim was recognised; some prosecutors required victims to cooperate with law enforcement to receive assistance and support. The government partly funded four NGO-run shelters, but government-funded assistance programs required victims to obtain official recognition to access care, and potential victims received assistance only when an NGO had funds from other sources. The government failed to reach an agreement to combine domestic and foreign assistance funds and returned unused funds allocated to assist foreign victims to the state budget instead of reallocating those funds for domestic victim assistance. As a result, some domestic victims did not have access to assistance. The government, in cooperation with NGOs, provided accommodation, psycho-social support, medical assistance, legal assistance, and guardianship for children. The report recommends vigorously investigating, prosecuting, and convicting traffickers, including any complicit officials, and imposing sentences that reflect the serious nature of the crime. First responders should be trained on victim identification and referral and proactive identification efforts should be increased. The state should allocate sufficient funding for NGO-run shelters and develop financial policies that effectively allocate funding for victim assistance. Cooperation and coordination among state and sub-state actors should be improved, including allocating adequate resources and assigning personnel to the anti-trafficking strike force. Law enforcement capacity and training to investigate complex cases should be improved. Judges should be trained to understand the severity of trafficking when issuing sentences and prosecutors and judges should be sensitised to the issue of secondary

10 USA Department of State, Trafficking in persons report, June 2019, available at: <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

trauma and victim-centred approaches. Victim assistance throughout the country should be standardised, including the ability to access assistance and support outside of shelters and should encompass specialized assistance for male victim too. That state should ensure that Romani groups are integrated into decision-making processes regarding victim protection.

An analysis of domestic judicial practice points out that 2018 case law was analysed to gain comprehensive insight into the position of human trafficking within court proceedings in terms of the protection standards, access to rights and assistance to trafficking victims set out under the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime and the Council of Europe Convention on Action against Trafficking in Human Beings. The main aim of the analysis of judicial practice in 2018 is to objectively view the position of trafficking victims in court proceedings in order to assess the compliance of the domestic legal, strategic and institutional framework with international standards in this area, which is also important in terms of having consistent case law on access to rights for trafficking victims and to assess the needs for continuous training of judges and prosecutors in the interest of improving the position of trafficking victims in court proceedings.

A comprehensive review of the position of trafficking victims in court proceedings and the degree to which they were able to exercise their rights, as well as a review of the annual criminal law policy for the offence of trafficking in human beings and related offences benefited from the direct experiences of judges and prosecutors acting in individual cases, as well as the observations of NGO staff assisting and supporting trafficking victims (IFS Emmaus, NGO "Zemlja djece" Tuzla, Centre for Women's Rights Zenica). Additionally, when data in a particular case was missing, we also relied on information from the 2018 Situation Report on Trafficking in Human Beings¹¹ of the State Coordinator for Combatting Trafficking in Human Beings, which was compiled based on data submitted by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. The data refers to prosecutors' offices and it was found that only five cantonal prosecutors' offices (out of ten in total) had trafficking cases in their dockets. They were: the Sarajevo Cantonal Prosecutor's Office which submitted written information stating that from 1 January to 31 December 2018 it formed a total of five cases related to the criminal offence of pandering as set out under Article 210 of CC FBiH. Of these, indictments were raised in three cases, one case is at the stage where allegations from the crime report are being verified, and one case has been archived (which leads us to conclude that it has been closed). Within the same time period, this prosecutor's office did not form any cases related to criminal offences of trafficking in human beings defined in Article 210a of CC FBiH and organised trafficking in human beings defined in Article 120b of CC FBiH. As to the remainder of the request, the Public Relations Department of the Prosecutor's Office conducted a check and found that in cases No. T09 0 KTO 0084920 15, T09 0 KTPO 0112955 18, and T09 0 KT 0051960 13, prosecutorial decisions were passed and indictments were accordingly raised, which were later confirmed by competent courts in Sarajevo. Enclosed with this information was the indictment in case No: T09 0 KTO 0084920 15 of 15 March 2016, which was verbally amended by the prosecutor's offices at the main trial hearing, held on 30 January 2018. Compared to the initial indictment, two of the accused, Š.M. and N.O., were left off the amended indictment because plea agreements had been reached with them in the meantime. The indictment gives the initials of 25 victims, two of which are minors. Also enclosed was indictment No: T09 0 KTPO 0112955 18 of 28 June 2018 against B.S. and others (5 persons) for the criminal offence of pandering as defined under Article 210(1) of CC

11 Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2018

FBiH et al. (this indictment gives the initials of 15 victims). The third indictment submitted by the Sarajevo Cantonal Prosecutor's Office, No. T09 0 KT 0051960 13, is from earlier years and was thus not taken into consideration. The Zenica-Doboj Cantonal Prosecutor's Office in Zenica submitted information stating that they had received one criminal report regarding the criminal offence of pandering as defined under Article 210 of CC FBiH. This prosecutor's office formed a case based on the report and conducted an investigation based on which it raised an indictment against one person for the criminal offence of pandering as defined under Article 210(1) CC FBiH. The Tuzla Cantonal Prosecutor's Office submitted information stating that during 2018, they had a total of four cases regarding the inquired about criminal offences. Of those, two cases are at the indictment phase, one for the criminal offence of pandering as defined under Article 210(4) of CC FBiH and one for the criminal offence of trafficking in human beings as defined under Article 210a of CC FBiH, while there were no cases related to the criminal offence of organised trafficking in human beings as defined under Article 210b of CC BiH. They also had two cases where convictions were handed down for the criminal offence of pandering as defined under Article 210(1) of CC FBiH. Enclosed with the information were both the indictments and court judgements to assist the analysis and implementation of the research. The Una-Sana Cantonal Prosecutor's Office in Bihać submitted information stating the following: When it comes to the criminal offence of pandering as defined under Article 210 of the Criminal Code of FBiH, in the reporting period, this Prosecutor's Office formed two cases. The first case was at the stage of investigation against 3 persons, and was closed in 2019 with an order not to investigate one person (this person had been under investigation for the criminal offence of forgery of a document as defined under Article 373(2) of CC FBiH) and an order to close the investigation against the remaining two people due to lack of evidence that the suspects had committed the criminal offence of which they were charged. In this concrete case, the victims were three females, of which one was a minor at the time of commission of the criminal offence. The second case in the reporting period was concluded with an order to close the investigation against two persons. This case had listed two female victims. When it comes to the criminal offence of Trafficking in Human Beings as defined under Article 210a of CC FBiH, this prosecutor's office had formed four cases. The first case was concluded with an order to close the investigation that had been conducted against two persons because "there was not enough evidence that the suspects had committed the criminal offence of which they were charged". This case listed two female victims and concerned forced marriage or common-law union as a form of exploitation. The second case is in the investigation phase against ten suspects. The female victim in this case was a minor at the time of commission of the criminal offence, and is currently of age (young adult). The case concerned sexual exploitation (in the period from the beginning of 2016 until April 2016, the first suspect had used force and threats to force his juvenile daughter to have sexual relations with him, and later when she had turned eighteen, issuing direct threats against her life and person, and beating her so she had visible injuries on her body, he forced her into having sexual relations with other men. The accused Š.M. was charged with the criminal offence of "Rape" as defined under Article 203(5) of CC FBiH and the criminal offence of "Trafficking in Human Beings" as defined under Article 210a (2) in conjunction with paragraph 1 of CC FBiH. The remaining nine suspects were charged with the criminal offence of "Trafficking in Human Beings" as defined under Article 210a (6) of CC FBiH (use of sexual services). In the third case against two persons, with two female victims who were minors, the report was referred to the Zenica-Doboj Cantonal Prosecutor's Office. The case concerned labour exploitation, specifically forced begging as a form of exploitation. The fourth case concerning trafficking in human beings is still at the criminal report stage against four persons. This case concerns the sexual exploitation of a female victim who was

a minor at the time of commission of the criminal offence. The cantonal prosecutors' offices in Mostar, Široki Brijeg, Goražde, Orašje, and Livno replied that in 2018, they did not have any cases concerning criminal offences of pandering as defined under Article 2010, trafficking in human beings as defined under Article 210a, or organised trafficking in human beings as defined under Article 210b of CC FBiH.

In terms of data from courts in BiH, the Court of Bosnia and Herzegovina submitted two judgements from 2018. The first concerns organised international trafficking (labour exploitation in the case of Serbaz - Azerbaijan) where under the indictment of the Prosecutor's Office of BiH, No. T20 0 KTO 0001099 of 27 June 2014, confirmed by the Court of BiH on 7 July 2014, twelve persons were indicted for the criminal offence of organised crime as defined under Article 250(2) in conjunction with the offence of trafficking in human beings as defined under Article 186(1) of CC BiH. The Supreme Court of the Federation of Bosnia and Herzegovina (Supreme Court of FBiH) ruled in appeal proceedings, issuing decision No. 03 OK016017 18 KŽ 5 rejecting the appeal of the convicted M.E. against the decision of the Cantonal Court in Tuzla No. 03 K 016017 18 of 17 August 2018 and upheld the decision of the Cantonal Court in Tuzla rejecting the request of the convicted M.E. for conditional release from serving his five-year prison sentence imposed by the Cantonal Court in Tuzla for the criminal offence of trafficking in human beings as defined under Article 210a(1) of CC FBiH. In analysing this decision, we noticed that the personal data of children were not protected (the facts of the case given in the indictment and the proposed witness testimony to be entered into evidence includes the full names of all six children, along with their addresses, even though only their initials should have been included so as to protect their personal data and privacy in compliance with both international standards and national law.) However, the protection of the child victims was dealt with appropriately (the accused was held in custody and immediately after the judgement became final, he was transferred to prison for the serving of his sentence, while the courts that ruled on the appeal correctly weighed the facts and circumstances and concluded that conditions had not been met to allow conditional release from the prison sentence imposed on the convicted M.E. The report provides details of court cases before courts in the Federation, Republika Srpska, and the Brčko District, as well as the course of proceedings.

Based on an analysis of cases from prosecutors' offices and courts, the report pointed out the following: Criminal legislation in BiH does not clearly define the terms "victim", "presumed victim", "potential victim" or "person suspected of being a trafficking victim". The term "victim of trafficking in human beings" is defined in bylaws, the Rulebook on the protection of foreign victims of trafficking in persons¹² and the Rules on the protection of victims of trafficking in human beings who are nationals of BiH¹³. A definition of "potential victim" is given in the Guidelines for Work of Regional Monitoring Teams for Combatting Trafficking in Human Beings, the Handbook on Direct Assistance for Victims of Trafficking in Bosnia and Herzegovina, the Guidelines for Social Work Centres for Working with Trafficking Victims, the Guidelines for Mental Health Centres for Working with Trafficking Victims, and the Handbook on the Protection of Trafficking Victims in Bosnia and Herzegovina, as well as the Identifiers of Potential Victims and Victims of Human Trafficking. Up to now, the system of formal identification of victims relied mostly on criminal prosecution. There is a list of indicators for early recognition of trafficking victims. Following preliminary identification, a person suspected of having been victimised by the commission of the criminal offence of

12 Official Gazette, 79/16

13 Official Gazette, 66/07

human trafficking would be given the status of “potential victim” and could be placed in a safe house and given access to all the forms of support and assistance available to trafficking victims, irrespective of whether there was any criminal report filed or any indictment raised. Statistically, only persons in whose cases a final conviction for the criminal offence of human trafficking had been handed down were counted as trafficking victims. Under the criminal procedure codes (of BiH, FBiH, RS, and BD BiH), persons whose personal or property rights had been threatened or violated by a criminal offence are termed “injured parties”.¹⁴ In criminal proceedings, the prosecutor, the accused and his defender have a procedural role. The injured party may file a property claim with the court, and may appeal a verdict only on the grounds of a property claim and of costs of criminal proceedings. Injured parties have the right to representation in the proceedings, but their role is passive and not fully defined. The representative may provide the injured party with legal advice and information about his/her rights and obligations in criminal proceedings, so that victims of trafficking are informed in a timely manner about the course and outcome of proceedings, and especially because this type of support encourages victims and mitigates the re-traumatising effects when trafficking victims encounter the perpetrator of the criminal offence again.

The research also cites statistical data for 2018, stating that 24 indictments were raised against 38 accused persons (25 male and 13 female) for criminal offences of human trafficking and related offences (pandering and neglect/abuse of a child or minor/forced begging) identifying 63 victims, of which 40 were female (32 adults and 8 juveniles), there was one adult male and 22 children (13 female and 9 male). The adult and juvenile female victims were mostly used for sexual exploitation, the one male victim for labour exploitation, the minors for sexual exploitation, while children were most often subjected to forced begging. In terms of the type of criminal offence, in 7 cases 9 persons were accused of human trafficking (8 male and 1 female), in 12 cases 21 persons (14 male and 7 female) were accused of pandering, and in 5 cases 8 persons (3 male and 5 female) were accused of the criminal offence of neglect or abuse of a child or minor. Of the 24 analysed cases where indictments were raised against 38 persons, 6 cases against 12 persons are still in trial, and they concern the criminal offence of human trafficking in 2 cases against 3 persons (2 male and 1 female), the criminal offence of pandering in 3 cases against 7 persons (3 male and 4 female), and the criminal offence of neglect or abuse of a child or minor in 2 cases against 2 persons (1 male and 1 female). However, we also took these cases into consideration because they are relevant to the position of trafficking victims in court proceedings (length of court proceedings, reasonable time, informing injured parties of their rights, data protection and other rights guaranteed under national and international standards). As for the remaining 18 cases, judgements were handed down (75%) against 22 persons (58%) as follows: human trafficking in 4 judgements against 5 persons, pandering in 9 judgements against 12 persons, neglect or abuse of a child or minor (and forced begging) in 5 judgements against 6 persons.

The length of court proceedings was analysed based on the time from the raising of the indictment, through the trial, and through all the phases of court proceedings (first-instance and second-instance). According to this criterion and according to available data on 24 cases, in 8 cases (33.3%) the trial lasted up to 1 year, in 12 cases (50%) it lasted from 1 to 3 years, and in 4 cases (16.7%) it lasted more than 3 years. Of the total of 18 judgements against 22 persons, only 2 against 3 persons (11.1%) were acquittals; one judgement concerning one accused for the criminal offence of pandering and related crimes (rape and unlawful deprivation of liberty), one judgement concerning 2 persons (1 male and 1 female) for the criminal offence of pandering.

14 Article 20(1)(h) of CPC BiH, Article 21(1)(h) of CPC FBiH, Article 20(1)(z) of CPC RS, Article 20(1)(h) of CPC BD.

Both judgements were appealed by the prosecutors and had not been resolved at the second instance at the time of writing of this report (judgements not final).

Convictions were handed down in 16 cases against 19 individuals (88.9%).

In terms of the total number of convictions, 5 convictions against 6 persons (31.2%) were for the criminal offence of human trafficking, 6 convictions against 7 persons (31.3%) were for the criminal offence of pandering, and 5 convictions against 6 persons were for the criminal offence of neglect or abuse of a child or minor/forced begging (31.3%). There were 12 final judgements against 12 persons, while 4 judgements against 7 persons are not final. The analysis also includes data on the accused disaggregated by sex, age, marital status, family situation, education and employment status, prior convictions, as well as data on the injured parties.

The report also discusses the position and protection of victims and points out that the Palermo Protocol is not being consistently applied because criminal legislation in BiH does not clearly define the terms “victim”, “presumed victim”, “potential victim” and “person suspected of being a victim of trafficking in human beings”. The term “victim of trafficking in human beings” is defined in bylaws and guidelines. In terms of protecting the privacy of victims, it is pointed out that in criminal proceedings concerning human trafficking and related offences, judicial authorities are responsible for protecting the private life and identity of the victim, and that the victim’s personal data needs to be registered and used in line with the Convention for the Protection of Personal Data. It is the responsibility of all participants in criminal proceedings to undertake necessary measures to ensure that the identity, or elements enabling the identification of a juvenile (person below 18) victim of trafficking do not become public, either through the media or by some other means, except in special circumstances in order to find a member of the juvenile’s family or to ensure the welfare and protection of the juvenile. A sound basis for the protection of trafficking victims’ identity and privacy, especially in the case of child victims, is provided within the existing legal framework in Bosnia and Herzegovina, which consists of: the Criminal Code of BiH, the Criminal Procedure Code of BiH, the Law on Protection of Witnesses under Threat and Vulnerable Witnesses, the Law on the Witness Protection Programme in BiH. Criminal procedure codes applied in BiH (BiH, FBiH, RS, and BDBiH) clearly regulate the examination of protected witnesses during court proceedings, as well as the obligations of all participants in the proceedings, in order to protect the identity and ensure the security of the witness. The Criminal Code stipulates that revealing the identity of protected witnesses, either by participants in the proceedings or by third persons, is punishable by law. A problem that crops up in practice is the inadequate material and technical equipment for good quality execution of tasks related to witness protection, especially in cases prosecuted at the local level, where courts lack the technical equipment to organise witness testimony under protection measures. Another shortcoming is the lack of legal regulations in laws and especially in subsidiary regulations that would clearly define the competences and actions of all actors and institutions involved in implementing the relevant positive legal regulations in BiH. When it comes to victim protection and security, it was pointed out that the legislative framework in Bosnia and Herzegovina provides for effective protection of the security of injured parties/victims of crime through provisions that regulate hearings of witnesses, protection of the identity of victims of crime, and generally the security of injured parties during and after criminal proceedings. The Law on the Witness Protection Programme of Bosnia and Herzegovina, in Article 10(1), stipulates measures to ensure the protection of

witnesses and related persons as: a) measures of physical and technical protection of persons and property; b) dislocation measures; c) measures to conceal identity and data on ownership; d) measures to change identity. Article 11 (1) of the same law stipulates that physical and technical protection of persons and property consists of preventing threats to life, health, physical integrity, freedom and property of the witness, or related person, through the use of physical and technical measures. The Law on the Witness Protection Programme of BiH is applied at the state level (SIPA implements the programme for the Prosecutor's Office and Court of BiH), so its application is not adapted to the entity and Brčko District levels. Protection of witnesses and victims in Bosnia and Herzegovina is regulated by the Rules on the protection of victims and witnesses of human trafficking who are nationals of Bosnia and Herzegovina, and the Rulebook on the protection of foreign victims of trafficking in persons. The principle of the "best interest of the child" is of primary importance in all actions (and decisions) involving children. It has been recognised in national laws and officially integrated into state procedures and guidelines for providing protection and assistance to victims. This means that Bosnia and Herzegovina has a comprehensive legal framework ensuring the protection and security of trafficking victims. A review of court judgements handed down in 2018 shows that this aspect is still not given enough attention, despite existing legal solutions that could contribute to improving the right to a fair trial and protection for victims in court proceedings.

When it comes to compensation for victims in criminal proceedings, practice has shown that compensation is an important part of combatting human trafficking, but that it is often neglected and that only a small number of trafficking victims seek compensation for damages, and even fewer ever receive monetary compensation. According to relevant research in this area, the lack of effective mechanisms for claiming damages is caused by the fact that in court proceedings, the victim is only seen as a witness and needed for the criminal proceedings, there is a lack of awareness and knowledge about the rights of trafficking victims, a lack of legal aid for trafficking victims, the proceedings take a long time, there is fear of retribution from the trafficker and uncertainty over migration status, inefficient use of possibilities to seize and confiscate property to pay damages, and no national fund to provide for damages for victims of trafficking. An analysis of judgements handed down in criminal proceedings during 2018 shows that the situation has not changed compared to previous years and that trafficking victims remain deprived of this aspect of protection. Only 7 injured parties filed compensation claims and of that number, the courts instructed 6 injured parties to file their claims in civil proceedings, claiming that otherwise "this would considerably prolong criminal proceedings", which was not essentially justified given that the court already had the facts and evidence for deciding on the claim. There was only one judgement where the court awarded damages to the injured party. The case concerned a juvenile victim of the criminal offence of trafficking who received damages in full. This can be ascribed to successful assistance and support of an NGO that was with the victim throughout the criminal proceedings, providing legal assistance and information on the respective rights and how to exercise them. In the remaining eight convictions, there is no mention of whether the injured parties were even informed of their right to claim damages or whether they in fact did so, although the judgements contained grounds for claiming damages in criminal proceedings. It is particularly important that in criminal proceedings, the burden of proof falls on the prosecutor, making it much easier for injured parties to be awarded damages than in litigation proceedings where the burden of proof falls on the injured party. Moreover, litigation is expensive, takes a lot of time and re-exposes injured parties to trauma when they have to face the accused again and present facts that intensify their secondary

victimisation. Besides, the outcome of these proceedings is uncertain, which is another reason why injured parties avoid claiming damages in litigation proceedings. Appointing a power of attorney representative for the injured party to claim damages on their behalf would certainly help with the implementation of existing legal provisions, both in criminal and in litigation proceedings.

According to data available for 2018 on damages in litigation proceedings, there were no judgements on awarding damages to trafficking victims in litigation proceedings, although this right to compensation is guaranteed for victims by the Constitution, legislation and ratified international conventions, which clearly indicates that an effective system for compensating victims is lacking.

Criminal sanctions policy in 2018 shows that of the total number of convictions, 5 judgements (31.2%) were for the criminal offence of trafficking in human beings (including 1 judgement for complicity in international trafficking), convicting a total of 6 persons (5 male and 1 female). There were 6 judgements (31.3%) for pandering, convicting 7 persons (5 male and 2 female). There were 4 convictions against 3 male and 3 female perpetrators (31.3 %) for the criminal offence of neglect or abuse of a child or minor. In terms of the sentences pronounced, 5.3% of prison sentences were over 5 years, 15.8% of the prison sentences were of 3-5 years, while 78.9% were prison sentences of less than 3 years. The sentences ranged from the maximum individual sentence of seven years and six months in prison to the minimum sentence of six months in prison. In addition, 4 persons received conditional convictions, and of those, 3 persons for the criminal offence of neglect or abuse of a child or minor: 2 persons were given a suspended sentence of 3 months in prison that will not be served if they do not commit another criminal offence within 2 years, 1 person was given a suspended sentence of 1 year in prison that will not be served if they do not commit another criminal offence within 4 years. For the criminal offence of pandering, 1 person received a suspended sentence of 1 year in prison that will not be served if the convicted persons does not commit another criminal offence within 2 years.

The report also looks at the liability of legal persons and analyses the judgements handed down in 2018 to find that the criminal offence of trafficking in human beings for the purpose of sexual exploitation and pandering took place at hotels and rented private accommodation, but none of the cases brought up the issue of responsibility of legal persons, or of the owners who were aware that the property in their ownership was being used in agreement with persons they knew for the purposes of providing sexual services to third persons. The staff employed at these establishments, at the reception desk and the bar, was aware and even participated in the commission of acts by reserving and handing out keys to rooms to persons who would bring in "clients" for sexual services and young girls. There was even a case where they were eye-witnesses when a girl, who was a minor at the time of the attempted rape by a person who deceived her into coming to the hotel with him, where a room was already booked, managed to escape and reach the reception desk where she asked for help. They responded by mildly warning and pacifying the person who attempted to rape her, even though he was showing signs of serious aggression, they did not try to stop him, but allowed him to leave the scene. The girl called the police herself and reported the attempted rape. Criminal responsibility of legal persons is clearly set out in the criminal codes, but when it comes to trafficking in human beings, there have been no cases where legal persons were prosecuted.

The concluding remarks and recommendations point out problems in practice related to victims' access to compensation. These issues were also pointed out in relevant reports and conclusions of international bodies that monitor the implementation of obligations under international conventions, such as the conclusions and recommendations of the Second GRETA Report for Bosnia and Herzegovina, while the issue of protecting juvenile victims was addressed in the Concluding Remarks of the Combined Second and Third Periodic Report of the UN Committee on the Rights of the Child for Bosnia and Herzegovina. The length of court proceedings does not meet the reasonable time requirement; protection of privacy for victims is minimal and insufficient, procedural protection of victims (giving testimony in the presence of the accused) is often inadequate and does not make sufficient use of legal possibilities for protecting victims, giving testimony before courts is often connected with their re-victimisation; expert reports on victims' trauma are not used; victims are not sufficiently informed about their rights to compensation and possibility of gathering evidence for that purpose in cooperation with the prosecutor; legal representation (legal aid) should be provided to trafficking victims during criminal proceedings in order to guarantee their rights throughout the proceedings; child victims and witnesses of trafficking should be provided with special protection in the best interests of the child during criminal proceedings, irrespective of their age and form of exploitation they were subjected to; cooperation should be improved among national authorities and specialised associations for protecting trafficking victims in order to improve specialised assistance and support provided to trafficking victims; consistent application of the legislative framework for compensation of damages in criminal proceedings, improvement and aligning of the existing legislative framework with ratified international documents on protecting trafficking victims and the recommendations of bodies responsible for monitoring their implementation, especially in respect of exercising the right to compensation for victims by adopting the Law on Compensation for Trafficking Victims; the existing legislative and institutional framework should be aligned with ratified international documents on the protection of trafficking victims and the recommendations of bodies responsible for monitoring their implementation by establishing a National Fund for compensation of victims; sentencing policy should favour higher sentences; prevention of child trafficking should include training of professionals working with children; the role and capacities of centres for social work should be enhanced for preventing child trafficking and taking on a proactive role in notifying other competent authorities about potential cases of human trafficking and exploitation; normal working conditions should be ensured for drop-in centres and shelters for children, the procedures and methods of work at these institutions should be standardised; child-friendly procedures as set out in entity Laws on the Protection and Treatment of Children and Juveniles in Criminal Proceedings should be consistently applied; school enrolment should be increased for children belonging to vulnerable groups, risk assessments should be conducted before returning children trafficked by their families and the possibility of foster care should be improved; criminal prosecution should include offences related to trafficking in human beings, legal persons should be prosecuted in relation to human trafficking; continuous training on trafficking in human beings should be provided to judicial office holders.

**LEGAL FRAMEWORK AND CASE LAW IN
THE AREA OF PROTECTION ASSISTANCE
AND SUPPORT TO VICTIMS OF
TRAFFICKING**

4. LEGAL FRAMEWORK AND CASE LAW IN THE AREA OF PROTECTION OF, AND PROVISION OF ASSISTANCE AND SUPPORT TO TIP VICTIMS

Research of case law will be presented through relevant laws and judgments, from the perspective of the TIP victim status in judicial proceedings, in order to analyze objectively and comprehensively the TIP victim status in judicial proceedings for the purpose of improving and consistently applying the legal framework, improving effectiveness of an institutional framework for the fight against trafficking in persons (referral mechanism) and ensuring quality assistance to TIP victims, protection of their human rights, adequate access to justice and timely response and provision of protection and support to TIP victims through regular international cooperation. The aim is to make a significant contribution to reducing trafficking in persons in Bosnia and Herzegovina, increasing the identification of TIP victims and providing quality assistance to TIP victims by increasing capacities and counter-trafficking expertise of the government authorities and experts involved in suppression of trafficking in persons, judicial authorities and civil society organizations.

It is necessary to emphasize in the beginning that the criminal legislation of Bosnia and Herzegovina does not contain a clear definition of the term “victim”, “assumed victim” “potential victim” or the person suspected of being a victim of trafficking in persons. The term “victim” is used in some provisions of the Criminal Procedure Codes, although there is no definition of the term “victim”. It can be concluded from the content of the provisions using the term “victim” that the “victim” is the person who was subjected to a criminal act or the person who is directly affected by the criminal act. The Criminal Procedure Codes define the term “injured party” as the person whose individual or property right has been violated or jeopardized by a criminal offense.¹⁵ Accordingly, every victim of a criminal offence has to be considered an “injured” party, who is one of the parties to the criminal proceeding, while an injured party does not necessarily have to be the victim in this regard.

Although the Council of Europe Convention on Action against Trafficking in Human Beings defines that TIP victims are entitled to counselling and information, in a language that they can understand, on legally provided rights and services,¹⁶ the Criminal Procedure Codes in Bosnia and Herzegovina do not prescribe explicitly that victims of crimes have a right to be informed about their rights in criminal proceedings and beyond, about protection, support and assistance measures, or even about the protection measures that can be provided to victims if their safety and the safety of their close relatives is at risk.

The Criminal Procedure Codes do not contain a provision explicitly providing the right to the victim or an injured party to legal representation in a criminal proceeding, although it could be indirectly concluded that the victim or an injured party is entitled to it under the provisions stipulating for the obligations of the parties in a court case to comply with the measures for maintaining order in a courtroom and procedural discipline¹⁷ or the provisions regarding costs of criminal proceedings under which they include not only the necessary expenses of the injured party and his/her legal representative but also remuneration and necessary expenses of a defense attorney.¹⁸

15 Article 20 (h) of the CPC BiH, Article 21 (h) of CPC FBiH, Article 20 (z) of CPC RS, Article 20 (h) of CPC BD BiH.

16 Article 12, paragraph 1, subparagraph d) of the Council of Europe Convention on Action against Trafficking in Human Beings

17 Article 257, paragraphs 3 and 4 of CPC FBiH and the relevant articles of CPCs BiH, RS and BD BiH.

18 Article 199, paragraph 1, sub-paragraph i) of CPC FBiH and the relevant articles of CPCs BiH, RS and BD BiH.

The Criminal Procedure Codes do not prescribe the right of the victim to a defense attorney, although the court may decide to appoint an attorney as a counsel to a witness/injured party at the hearing if the witness/injured party is manifestly unable to exercise his/her rights during a hearing and if his/her interests cannot be otherwise protected. The Codes do not explicitly prescribe that TIP victims have a right to be informed on their rights in criminal proceedings and beyond, on protection, support and assistance measures or even on the measures of protection that may be provided to them if their safety and the safety of their close relatives is at risk. In the absence of an explicit provision in the Criminal Procedure Codes which would make it incumbent upon the criminal justice authorities to provide the basic information to victims of crimes on their rights and role in a criminal proceeding, their obligation may be derived from the principled provision on legal remedies, under which “the court, prosecutor and other bodies participating in the proceedings shall instruct a suspect or the accused or any other participant in the criminal proceedings, who could, out of ignorance, fail to carry out a certain action in the proceeding or fail to exercise his rights, on his rights under the Criminal Procedure Code and the consequences of such failure to act”.¹⁹ Thus, the criminal procedure authorities, in order to prevent the victim or the injured party from failing, out of ignorance, to exercise their rights out of ignorance, would be obliged to inform the injured party, under the principled provision on legal remedies, also on all the rights guaranteed under international documents and regulations laying down the rights of TIP victims, both domestic and foreign, including the Guidelines on Assessing and Determining the Best Interests of the Child.

The rights and protection should be ensured to the injured party/victim in a criminal proceeding by the prosecutor. The Criminal Procedure Codes contain the provisions authorizing the prosecutor to undertake during an investigation, among other things, special measures that ensure the safety of the witness, and thereby of witness who is the victim of trafficking in persons.²⁰ The injured party may file a compensation claim which is decided by court and may also file an appeal to challenge a judgment only on grounds of a compensation claim and costs of criminal proceedings. Injured parties may hire a representative for the purpose of providing legal aid services and representation but his/her role is passive and incompletely defined. A legal representative of the injured party may provide his or her client with legal advice and inform him/her about his/her rights and outcome of the proceeding, which is very useful for the victim, because by doing so, the legal representative encourages the victim to persevere and prevents TIP victims from being re-traumatized when facing their perpetrator in a courtroom.

The term “victim of trafficking in persons” and provision of legal aid to TIP victims are defined by the Rulebook on the Protection of Foreign Victims of Human Trafficking²¹ and the Rules for the Protection of Victims and Witnesses of Human Trafficking who are Citizens of Bosnia and Herzegovina²². These pieces of secondary legislation are valid throughout Bosnia and Herzegovina. Under these Rules, the “victim” is every person with regard to whom the relevant authorities have reason to believe that the crime suspected to be trafficking in persons may have been perpetrated against him/her, which is punishable under the criminal legislation at the state level (Criminal Code of BiH), entity level (Criminal Codes of FBiH and RS) and

19 Article 12 of CPC BiH, Article 13 of CPC FBiH, Article 12 of CPC RS and Article 12 of CPC BD BiH.

20 Article 217, paragraph 1 of CPC BiH, Article 232, paragraph 1 of CPC FBiH, Article 225, paragraph 1 of CPC RS and Article 217, paragraph 1 of CPC BD BiH.

21 Official Gazette of BiH, 79/16.

22 Official Gazette of BiH, 66/07.

the level of the Brčko District of Bosnia and Herzegovina. The term “victim/witness” refers to persons whose safety and the safety of their families is jeopardized by threats, harassment or similar acts on grounds of their participation in criminal proceedings and their testimonies, as it is defined by the Rules for the Protection of Victims and Witnesses of Human Trafficking who are Citizens of Bosnia and Herzegovina. The definition of “potential victim” is provided in the Guidelines for Regional Monitoring Teams for Action against Trafficking in Human Beings in Bosnia and Herzegovina, Guidelines for Social Welfare Centers for Treatment of Victims of Trafficking in Human Beings, and Guidelines for Mental Health Centers for Treatment of Victims of Trafficking in Human Beings.

Under the Rules for the Protection of Victims and Witnesses of Human Trafficking who are Citizens of Bosnia and Herzegovina, the prosecutors’ offices and police authorities²³ have a special duty to inform and notify victims and witnesses of trafficking in persons of their rights in order to ensure that they receive legal aid and that their views and interests are presented and considered in appropriate phases of proceedings against perpetrators of the crime²⁴. The obligations defined by the Rules are incumbent on other authorities involved in the criminal proceedings, in addition to the prosecutors’ office and the court, which have a duty to apply the provisions of these Rules to the extent that they are not in contravention of the relevant laws, primarily the Criminal Procedure Codes. TIP victims are entitled to safe accommodation, medical assistance, and access to information on their rights and legal aid during criminal proceedings. During their first contact with police or prosecutor, victims should always be informed about available assistance, the relevant judicial and administrative proceedings and their rights, including the right to legal aid. In practice, the first contact between the victim and the legal counsel takes place after the victim is accommodated in a shelter.

If TIP victim is a foreigner, the Rulebook on the Protection of Foreign Victims of Human Trafficking applies. Under its provisions, police officers, prosecutors and judges are obliged to inform foreign victims of TIP about their status and rights in a language that the victim understands. Consultations with an independent legal counsel are possible for those purposes. At the same time, a foreign victim of TIP is entitled to an interpreter through whom the victim will learn about their rights in criminal and other proceedings before courts in Bosnia and Herzegovina.

Victim protection measures that apply to criminal proceedings are defined also in other pieces of legislation. The Laws on the Protection of Witnesses under Threat and Vulnerable Witnesses prescribe protection measures only for victims-witnesses who have been deemed by court, prosecutor or another authority to fall under the category of witnesses under threat and vulnerable witnesses.²⁵ Other regulations guide certain issues of criminal proceedings related to an obligation to inform the victim about protection measures that can be provided if the victim’s safety or the safety of the victim’s close relatives is at risk.

23 Article 17, paragraph 3, sub-paragraph b) of the Rules.

24 Article 11, paragraph 1 of the Rules.

25 Article 5, paragraph 1 of the BiH Law on Protection of Witnesses Under Threat and Vulnerable Witnesses, Article 6, paragraph 1 of the Law on Protection of Witnesses Under Threat and Vulnerable Witnesses of the Federation, Article 5, paragraph 1 of the Law on Protection of Witnesses Under Threat and Vulnerable Witnesses of the RS and Article 5, paragraph 1 of the BD BiH.

Under the Law on Foreigners, all TIP victims are entitled to temporary residence on humanitarian grounds, under special conditions. A temporary residence permit is issued on humanitarian grounds by the Service for Foreigners' Affairs, in response to the request by the relevant authority involved in the criminal proceedings. The permit may be issued for a 6-month period and is renewable, depending on the need for the victim's testimony in a criminal proceeding. Under the same Law, also foreigners who are potential victims of TIP may remain in the country, even if they have not been issued a residence permit, and they may not leave the country during the reflection period. The prosecutor and police have a duty to inform foreign nationals, in a language that they understand, about their right to counselling and information, legally provided rights, the right to information on legal status, access to diplomatic and consular representations, their possibility of repatriation and return and the repatriation and return procedures. Under the same Law, foreigners who do not meet the requirements for temporary residence may be granted temporary residence on humanitarian grounds if they are the victim of trafficking in persons, for the purpose of providing protection and assistance to their recovery and return to their country of origin, country of habitual residence or the country which has accepted them or for the purpose of providing protection and assistance to them if their stay in the country is required for cooperation with the authorities during an investigation aimed at detecting and prosecuting the crime of trafficking in persons.

The aim of the laws on free legal aid is to ensure effective and equal access to justice for every person involved in the proceedings taking place before institutions of Bosnia and Herzegovina where individual rights, obligations and interests are protected or exercised. It is implemented by establishing an effective and sustainable free legal aid system in Bosnia and Herzegovina. This form of legal aid is particularly important for TIP victims who are able to exercise their right to fair trial and to have equal access to justice before courts, administrative and other bodies of Bosnia and Herzegovina the costs of which are covered in full or in part from the budgets of the institutions of Bosnia and Herzegovina or from international sources. Provision of free legal aid is regulated by the laws of the state, entities and the Brčko District and of some cantons in the BiH Federation. Regarding lower levels of government, the main problem is that some cantons do not yet have a law in place or if there is a law, they do not implement it consistently. Moreover, the laws are not harmonized and, as a consequence, they define different criteria for access to free legal aid services or for different groups of beneficiaries. Another problem is that in practice, the free legal aid system is not accessible to all TIP victims or in all parts of Bosnia and Herzegovina in the same way. In some parts of Bosnia and Herzegovina, where the law is in place, the Legal Aid Centers offer and provide free legal aid services regardless of the type of proceedings or the legal status of the beneficiary. However, those Centers are overburdened with a huge number of cases in different fields of law. Moreover, they do not have a sufficient number of lawyers, specialized in the provision of free legal aid services to TIP victims. Most of legal aid services provided to TIP victims are ensured through the activities of the civil society organizations, which are funded from international sources and partly from the budgets of domestic institutions. At present, only the CSO Vaša prava is authorized by the state to provide legal aid. It has its offices in many places across Bosnia and Herzegovina, including Sarajevo, which provide free legal aid services not only to TIP victims but also to other groups of beneficiaries, such as refugees, returnees, etc. In the beginning, CSO Vaša prava provided legal aid services to asylum seekers on the basis of an agreement it had signed with the BiH Ministry of Security. Later, CSO Vaša prava signed a number of MoUs with the Ministry for the provision of services to foreign victims of TIP. They also signed an MoU with the BiH Ministry for Human Rights and

Refugees for the provision of legal aid services to the victims of TIP who are citizens of Bosnia and Herzegovina. CSO Vaša prava provides free legal aid services to TIP victims which consist of legal advice and consultations, escorting the victim into the courtroom if the victim is a witness in a criminal proceeding, but has no active procedural role, that is, CSO Vaša prava may not file motions seeking protection of the rights of the victim directly in courts. Rather, it may do it via a prosecutor because the victim/injured party is not a party to a proceeding; only the accused and a defense attorney, on the one hand, and on the other, the prosecutor who represents the rights of the victim as an injured party, have that role. In a criminal proceeding, a legal representative is present when the victim is giving a statement to the police or prosecutor, but during a trial, a representative of a CSO that provides free legal aid services may not represent the victim of TIP and has no active procedural role; rather, that role is assigned by the Criminal Procedure Codes to the prosecutor as a party in a criminal case. Nevertheless, it is extremely important that the injured party/victim receives legal aid and support from a legal representative during a trial. By informing the victim of their rights in a timely fashion, the legal representative makes it possible for the victim to exercise their rights in a criminal proceeding before a court of law, which particularly refers to filing a claim seeking compensatory material and/or non-material damages in a criminal proceeding. Moreover, the mere presence and support that the TIP victim receives during a trial from a legal representative encourages the victim to remain insistent that their rights be respected and reduces the risk of secondary victimization which is inevitable when the victim meets face-to-face with the perpetrator of the crime or when the victim testifies repeatedly, in which case the TIP victim/injured party is re-experiencing the processed trauma, which is quite disturbing for them.

An example of good practice is the above-mentioned case, in which CSO Center for Women's Rights Zenica, at the invitation of OSCE, provided free legal aid and represented interests of an injured party/child victim of TIP in a proceeding before the District Court in Banja Luka. The CSO's legal aid services included direct representation of the injured party/TIP victim in court and an extensive preparatory work, including drafting of a proposal for a compensation claim. In February 2019, the District Court in Banja Luka reached a judgment sentencing the defendant to a prison term of 5 years and ordering that he should pay the injured party BAM 7,500.00 in non-material damages.²⁶ This was the first such case in BiH, since only victims of sexual violence in war had been awarded non-material damages. Thanks to the engagement of the CSO Center for Women's Rights, synergy, joint commitment and professional work of judicial institutions, extraordinary experts who conducted forensic psychological and neuropsychological assessments, it was a great success. In addition to representation in court, the Center for Women's Rights provided assistance to the victim in obtaining personal documents, exercising her right to one-off cash benefit, healthcare, considering going back to school and opening a bank account. In communication with various institutions, and during attempts to overcome obstacles and prejudices of employees, it was clear that the victim would hardly be able to exercise her rights, if at all. The High Judicial and Prosecutorial Council and OSCE were informed about the positive practice of deciding the claim/awarding compensation. This proves that the present legal framework is satisfactory and that the system does function when the norms are applied consistently, which directly leads to the fulfilment of the purpose of punishment. This kind of cooperation between the judiciary and non-governmental sector is an example of good practice, which shows that

26 Judgment of the District Court in Banja Luka – Special Department for Suppression of Corruption, Organized Crime and the Most Serious Economic Crime, No. 11 o K 020196 18 K of 20 February 2019, confirmed by the Supreme Court in Banja Luka, judgment No. 11 OK 020196 19 KŽ of 10 September 2021.

the grounds on which compensation claims were dismissed and the victim was instructed to bring a civil lawsuit - such as presentation of evidence in support of the claim, protracted proceedings, lack of financial resources, incomplete claims filed by injured parties who are most often legally illiterate, completely lacking money and frightened - do not represent the arguments in favor of inconsistent implementation of the provisions of the Criminal Procedure Codes pertaining to compensation of TIP victims. This case is also used in training of judges and prosecutors through the Centers for Training of Judges and Prosecutors of the RS and Federation. The following conclusions were reached during the June 2019 roundtable discussion organized by the Center, which was entitled "Awarding Non-Material Damages to Victims of Human Trafficking in Criminal Proceedings – Moving Forward to Good Practices", which was attended by judges and prosecutors, representatives of the BiH High Judicial and Prosecutorial Council, the EU Delegation in BiH, international and domestic organizations operating in BiH, involved in advocating the improvement of judicial and institutional practices: it is necessary to proactively work toward improving a response to trafficking in persons; the system of support to victims of TIP should be improved through the reform of the existing referral mechanism in such a way that legal aid and support services are provided to victims by the organizations which have free legal aid services in place and have built counter-trafficking capacities; it is necessary to enhance partnership and cooperation between institutions and civil society organizations for the purpose of creating a functional and effective human trafficking victim protection model, and it is necessary that institutions in the chain of protection work professionally toward improving the status of TIP victims, each within its scope of responsibility and power.²⁷

The provision of legal aid to victims in civil proceedings is even more fragmented since the civil procedure laws do not contain provisions which would ensure the right of a victim to a court-appointed counsel. As a consequence, this issue is partly addressed under the Law on Free Legal Aid in the Republika Srpska and similar laws in some cantons in the Federation. In most cases, legal aid and counselling is provided to TIP victims by civil society organizations operating in Bosnia and Herzegovina.

Regarding a child victim of TIP, the "best interest of the child" principle is of primary importance in all actions and decisions relevant for children and as such, it is integrated in the state procedures and guidelines for the protection and provision of assistance to child victims of TIP.²⁸ Determination of the best interest of the child is a very sensitive issue, which is the reason why it is necessary to promote that all relevant institutions, organizations and all those that make decisions about children and for children must always think of their best interest and how their decisions will affect the child's life and development and accordingly make decisions. Knowing the complexity of the "best interest of the child" principle, a multi-disciplinary approach to decision making is necessary and decisions must be adapted to the needs of the child and must be in the interest of the child. For that purpose, at the initiative of the Network of the Civil Society Organizations and with the support of UNICEF, the BiH Council of Ministers issued a decision in June 2015 to assign the drafting of the "Guidelines on Assessing and Determining the Best Interests of the Child", including measures for determining the best interest of the child in each field, to the "Stronger Voice for Children" Network. The Guidelines are based on the basic principles enshrined in the Convention on the Rights of the Child and the documents related to children and case law of the European

27 Situation Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2019.

28 Guidelines on Assessing and Determining the Best Interests of the Child.

Court of Human Rights.²⁹ The aim was that professionals who work with children and for children and civil society representatives ensure, in an equal and non-discriminatory way, that the “best interest of the child” principle is mainstreamed and consistently applied in every field, in all legislative, administrative and judicial procedures and in all policies, programs and projects which are relevant for and affect children, especially the children who do not have a family or live in an inadequate family environment. The Guidelines should encourage the practice of giving priority to the “best interest of the child” principle, particularly in terms of ensuring the full respect for the principle when deciding on alternative forms of accommodation of children, including institutional accommodation.

Thus, “best interest of the child” principle in all decisions and actions relevant for children is accepted by domestic legislation and officially integrated in the state procedures and guidelines for the protection of, and provision of assistance to, child victims of TIP. The legal framework prescribes that every child who is a potential victim of TIP has a right to free legal aid provided by an attorney or legal counsel, and that every unaccompanied child who may be the victim of TIP is represented by a legal guardian, organization or institution, in accordance with the Law on Free Legal Aid, Law on Foreigners, and the Rulebook on the Protection of Foreign Victims of Human Trafficking. The legal framework clearly stipulates that if there are reasonable grounds for suspicion that a child is a victim of TIP, that child will be considered as the victim of TIP pending the final confirmation and will enjoy all the rights and protection afforded to the child victim by law. The same laws and other regulations stipulate that if there are grounds for suspicion that the victim or potential victim is under the age of 18, that person is entitled to special protection measures that children are entitled to before it is confirmed that they are above 18. The problem is the fact that the definition of a child in the criminal legislation in Bosnia and Herzegovina has not yet been aligned with the UN Convention on the Rights of the Child. Under the Criminal Codes of BiH, Federation and the Brčko District of BiH, the child is the person who is under the age of 14. The definition of a child has been changed only in the Republika Srpska Criminal Code, under which a child is the person who is under the age of 18. The same definition exists in the Laws on the Protection and Treatment of Children and Minors in the Criminal Proceedings of the Federation³⁰, RS³¹, and the Brčko District of BiH³². The lack of a uniform definition of a child calls into question equality of legal protection provided to children in criminal proceedings. It should be added that there is no specialized safe house in Bosnia and Herzegovina where only child victims of TIP would be accommodated. The child victims of TIP are accommodated in the safe houses intended for adult victims of TIP, where the protection measures are adjusted to the needs of the child.

When parents are involved in child trafficking, the child should be separated from the family and have a guardian appointed to be their caregiver. In this case, the children, as victims of TIP, must be treated like children without parental care, regardless of their family situation, and such children are under the care and custody of the state. The protection of the best interest of the child is a binding standard for all relevant institutions in Bosnia and Herzegovina and authorized organizations the aim of which is to ensure, in case of violations of the rights of the child, that the child is automatically placed under protection, that the child receives

29 https://www.interestjeteta.org/index.ptp.domači-propisi_, <https://www.ombudsmen.gov.ba/dokuments/obbudsmen.doc2019020112314016eng.pdf>

30 Official Gazette of the BiH Federation, 7/14 and 74/20.

31 Official Gazette of the RS, 13/10, 16/13 and 68/20.

32 Official Gazette of the BD BiH, 2/10 and 44/11.

appropriate assistance pending the child's final recovery and that the child or witness/victim is provided with permanent accommodation. The relevant institutions make decisions on the child's participation in a criminal proceeding, protection measures and repatriation.

The decisions related to victims and child victims of TIP are based on a multi-disciplinary team assessment within one institution. Such decisions are implemented while the child is in a shelter and in cooperation with the child's guardian and the institution which has made the decision.

The monitoring of case law and analysis of court decisions reached in 2019/20 reveal the problems regarding the proper treatment and protection of victims of TIP in judicial proceedings. The main problem does not concern the lack of good legal arrangements for the protection of victims of TIP, but their inconsistent implementation, and this particularly refers to the provisions which protect the victim's identity and safety. Criminal Procedure Codes and other laws providing protection to TIP victims contain better arrangements. Still, victims continue to be heard in the presence of the accused, they repeatedly testify, trials are rarely closed to public, while victims are hardly ever awarded compensation in criminal proceedings. This is why, stigmatized victims get re-victimized in criminal proceedings. There is a lack of support to TIP victims, and their access to legal aid services during proceedings largely depends on civil society organizations and international donations or projects implemented by various international organizations focusing on protection and access to justice.

In this regard, also the project "Victim-Centered Approach to Preventing Trafficking in Persons in Bosnia and Herzegovina: Improving the Identification, Protection and Access to Justice-VICAPT" aims at preventing trafficking in persons in Bosnia and Herzegovina and a wider region by strengthening capacities of the government and relevant professionals as well as of civil society organizations and increasing their expertise in victim-centered approach to preventing trafficking in persons and provision of legal aid services to TIP victims, by developing standards for providing quality assistance to victims and improving capacities of individual actors for identification of, and support to, victims within the BiH referral mechanism.

In an attempt to improve protection and access to justice for TIP victims, the project activities include also legal aid services and representation of TIP victims in court. These activities have been implemented by two selected lawyers, in cooperation with the coordinator of legal representation activities and the IFS-EMMAUS prevention of trafficking in human beings program assistant, which are described in this report.

**THE PROVISION OF LEGAL AID
AND REPRESENTATION
OF TRAFFICKING VICTIMS**

5. ACTIVITIES RELATED TO THE PROVISION OF LEGAL AID AND REPRESENTATION OF TIP VICTIMS

An online meeting was held via Zoom within the planned activities related to the provision of legal aid and representation of TIP victims. It involved two layers, coordinator of legal representation activities and the prevention of trafficking in human beings program assistant IFS-EMMAUS that implements the program. The meeting resulted in their agreement to take steps towards the judicial institutions, and the prosecutor's office in particular, for the purpose of obtaining the information on TIP cases prosecuted in 2019/20. The information would be used for establishing contact with TIP victims for the purpose of informing them about their rights and providing free legal aid to them so that they could exercise their right to compensation in criminal proceedings and to be represented. If the victims accepted the offered legal aid services, further activities related to provision of legal aid services and representation would be defined.

The COVID-19 pandemic affected the implementation of this part of the project, and as a consequence, it was not possible to visit the prosecutors' offices and conduct interviews with the prosecutors dealing with TIP cases in order to obtain the necessary information on TIP cases and explore the possibility for establishing contact and interviewing TIP victims for the purpose of informing them about their right to file a compensation claim in a criminal proceeding, provided that they agreed. In cases in which the injured parties were children, the lawyers established contact with the Social Welfare Centers that had appointed legal guardians to TIP victims for the purpose of obtaining their consent to the provision of legal aid and representation. As it was not possible to establish direct contact, interviews were conducted by phone or online, via Zoom. Contact was established with the Social Welfare Centers and relevant authorities, institutions and individuals in the same way for the purpose of obtaining the information which was necessary for the victims to exercise their right to compensation in criminal proceedings. The lawyers, coordinator of activities and the program assistant at the IFS-EMMAUS communicated online for the purpose of exchanging the information and providing assistance to the lawyers to solve the problems in their communication with the relevant institutions and individuals. The lawyers, together with the coordinator, managed to establish direct contact with the prosecutor and TIP victim in only one case. Thanks to their good cooperation and understanding, the lawyers were able to do the task assigned to them faster and more effectively and to encourage the victim to persist in exercising her rights, and also to write a compensation claim to be decided in a criminal proceeding.

Interviews with the prosecutors, interim guardians appointed to the child victims of TIP by the Social Welfare Centers and TIP victims were conducted by phone or the information was exchanged via e-mail. This was how the full information was obtained. This method affected the length of time spent on individual cases because, in some instances, contact with the prosecutors and social welfare workers required repeated attempts since they were often unavailable or did not have to time to respond as they were busy doing their regular business.

Two lawyers who were selected to provide legal aid and support to TIP victims would represent the interests of the injured parties/potential victims of TIP through the free legal aid mechanism, involving preparatory work, an interview with the victim, and writing a proposal for compensation claim as part of the criminal proceedings.

The selection of cases in which the lawyers would be engaged was done on the basis of the data on the human trafficking situation in Bosnia and Herzegovina, from the Report of the State Coordinator for Combating Trafficking in Human Beings in 2019 and 2020, showing the cases in which indictments for human trafficking had been issued, confirmed indictments and the stage of the judicial process. Four cases, which had moved on to the trial stage, were selected:

1. The Sarajevo Canton Prosecutor's Office issued an indictment No. T09 KTO 0128909 of 30 September 2019 against J.R. and others (four indicted persons) for organized trafficking in persons, punishable under Article 210b, paragraph 1 of the Criminal Code of the Federation, procuring for prostitution, punishable under Article 210, paragraph 2 in conjunction with paragraph 1 of the Criminal Code of the Federation, and for other criminal offences. In this case, there are four injured parties/victims of TIP. One of them was a minor. Knowing that the victims were poor, defendants J.R. and J.N., with the intent to make illicit money, promised them a good income and recruited them to provide sexual services to men. They used different methods of intimidation and physical force and J.R. carried a handgun. The injured parties, out of fear and inability to resist the defendants, agreed to provide sexual services to men. J.N. created a website on which she would advertise sexual services, adding phone numbers that interested clients could call and arrange a sexual service of their own choosing. Following an agreement, J.R. took the girls in his own car to different hotels in the region of S. where they provided sexual services. The clients paid the girls the amounts which they had arranged beforehand with R.J. and the girls gave R.J. most of the money. He allowed them to keep only a small portion. Whenever the girls resisted R.J.'s orders and refused to continue to provide sexual services that R.J. demanded from them, R.J. physically maltreated them, beat them and threatened with a gun. He also lent the girls the amounts of money which they were unable to repay. Instead, they were forced to provide sexual services to clients arranged by J.R. together with J.N. This was how they both obtained illegal gains in the amount stated in the indictment.

As part of the project activities agreed on during the meeting held online via Zoom, the coordinator of legal representation activities held a meeting with the prosecutor on the case at which she informed her about the content, purpose and relevance of the activities implemented within the project "Access to Victim-Focused Prevention of Trafficking in Persons in Bosnia and Herzegovina: Improving the Identification, Protection and Access to Justice", which is implemented by the IFS EMMAUS, with the support of USAID and in cooperation with the State Coordinator for Combating Trafficking in Human Beings. The meeting took place at the Sarajevo Canton Prosecutor's Office, which was an opportunity to get more information on TIP victims in this case (three adult and one child victim). It was agreed that two lawyers selected to provide legal aid and representation services to the victim of TIP would join them in the next meeting, after the prosecutor talked to one victim of TIP who was believed to be in need of legal aid during the criminal proceeding. The next meeting took place also in the Prosecutor's Office. Before the meeting, a letter of support was sent to the chief prosecutor and the prosecutor on the case, explaining the goal, purpose and expected results of legal aid to be provided to the victims of TIP in criminal proceedings, with a particular emphasis on filing a compensation claim having it decided within the criminal proceedings, with the support of selected lawyers who would provide legal aid services through the free legal aid system. During the implementation of the agreed activities related to the letter of support, the prosecutor on the case informed the lawyers that injured party N.Č. accepted to receive legal aid from the legal representative and that she was interested

in filing a claim and that, in the meantime, the Federation Prosecutors' Office had sent a letter in response to the letter of support, expressing their opinion that "only the information on the case number, its phase and the information on gender of the victims of trafficking in persons could be released, while personal information or the information that could reveal the victim's identity could not be revealed". This was obviously the result of misunderstanding of the substance and importance of legal aid provided to the victim of TIP for the purpose of exercising their rights arising from the law and other regulations, which are included in the Strategy to Counter Trafficking in Human Beings, 2020-2022 and the Action Plan to Implement the Strategy and the international conventions which Bosnia and Herzegovina signed and ratified, thereby committing itself to incorporating them into domestic legislation and applying them consistently. However, this problem was overcome when the victim of TIP, who is adult, said she was willing to cooperate with the legal representative, gave her contact number to the prosecutor on the case on which the legal representative could reach her to arrange time and place of their meeting. Having received the phone number of the victim of TIP, the legal representative called the victim. The victim was willing to meet with her, but only in the prosecutor's office, where she felt the safest. Having concluded from what the victim had told her that the victim needed legal aid and support as she was afraid that the defendants could cause her harm and that her safety was at risk, the prosecutor agreed that the injured party and the legal representative should meet in her office. The aim of their meeting was to inform the injured party about her rights and how she could exercise those rights. The meeting lasted two hours, the legal representative provided the injured party N.Č. legal aid and gained her confidence. As a result, the injured party told her what she had gone through, described her suffering, fears and physical abuse by the defendant and her inability to get out of the sexual abuse chain out of fear for her safety since the defendant had threatened her and other girls whom he had also abused, forcing them to provide sexual services to other men with whom he had arranged a type of sexual service and the place where the injured parties would meet with their clients. He kept the largest amount of money, giving the girls only a very small amount of cash. The injured party said that she was interested in filing a claim and in being represented in judicial proceedings before the institutions in Bosnia and Herzegovina. Since the court had never asked for a forensic psychiatric evaluation of the injured party's psychological condition, type and severity of her trauma and consequences of the crime, which would be necessary before filing a claim, the lawyers drafted a motion for psychiatric evaluation and agreed with injured party N.Č. that she would deliver the motion to the prosecutor. Thereafter, further steps in the provision of legal aid for the purpose of drafting a compensation claim and representing the injured party in the court proceeding would be defined.

2. The Special Prosecutor's Office for organized crime and the most serious forms of economic crime in Banja Luka issued an indictment No. T 12 0 KT 0001182/20 of 25 December 2020 against three persons for trafficking in persons, punishable under Article 146, paragraph 1 of the RS Criminal Code, etc. Having connected with L.S., who is a minor, via Facebook, the accused S.J., although he knew that she was below 15, entered into a common-law relationship with her. While living together, he forced her, against her will, into beggary. This was why she escaped and returned to her parents' house. Then, her mother S.B., in agreement with the accused S.J. and his father S.L.J., convinced minor S.L. to return to the accused S.J. and continue to live with him in a common-law marriage. The accused S.L.J. paid the accused S.B., the mother of minor S.L., the amount of BAM 1900.00 via Western Union. Minor S.L.'s mother reported her daughter missing, trying to hide her sale. As the accused J.S. continued to force minor S.L. to beg and to abuse her physically, even after she got pregnant

and delivered a baby, when she was only 15 years and 4 months old, the accused S.J. forced her to beg with their baby in her arms. Having realized the severity of the situation, her mother, S.B., tried to bring her back home. She was prevented by the accused, S.J. and S.L.J. The police found minor S.L. with a baby in her arms begging on the streets, they took her to a police station where minor S.L. provided a detailed account of how the accused had forced her to beg, explained that she had tried to escape, but each time the accused S.J. and S.L.J. would find her, physically punish her and force her to beg. The police informed the relevant Social Welfare Center which immediately took over minor S.L. and her baby into its custody, appointed a guardian and decided to accommodate her and her baby in a safe house, where they still reside. According to the information we obtained, the accused S.J. entered into a new common-law relationship with another minor in the area of S. whom he forced to beg. She too got pregnant and delivered a child. The accused continued to force her to beg with their baby in her arms and bring all the money to him. The police found her beginning on the street, removed her from the street and she described in detail how the accused had forced her into a common-law marriage and to beg on the streets. A crime report was filed against S.L.J. and the case is under investigation at the Sarajevo Canton Prosecutor's Office.

The coordinator of project activities first talked to the prosecutor on the case at the Special Prosecutor's Office for Organized Crime and the Most Serious Forms of Economic Crime for the purpose of obtaining the information on the current stage of the criminal justice process in this case and informing the prosecutor about the goal and purpose of legal aid and representation of the TIP victim in court by a selected lawyer who has a longstanding experience in providing legal aid and protection services to the victims of TIP. The prosecutor agreed to cooperate with the lawyer selected to provide legal aid to the child victim of TIP and proposed that the contact number be shared with the lawyer so that the two of them could agree on further steps. The coordinator of project activities, lawyer and the IFS EMMAUS prevention of trafficking in human beings program assistant communicated via email and mobile phones (a Viber group was created for that purpose).

The lawyer talked to the prosecutor over the phone and learned that the child victim of TIP S.L. and her child were in a safe house and that a legal guardian had been appointed to her by the relevant Social Welfare Center. The lawyer who would provide legal aid to the trafficking victim and represent her had to contact the guardian. They also agreed that the prosecutor would send the lawyer the findings and opinion of a neuropsychiatrist and clinical psychologist by email, which the lawyer would use to draft a compensation claim. Upon receipt of the findings, the lawyer selected to provide legal aid services drafted on behalf of the child victim a claim for compensation to be decided within a criminal proceeding, and sent it to S.L.'s guardian (including a password for access to the letter) asking her to send it to the prosecutor on the case. The claim sought non-material damages – diminished general life activities – in the amount of BAM 5,000.00 and a certain amount for possible mental anguish caused by fear, in accordance with the Guiding Criteria of the Supreme Court of the Federation. Since such attachments must be protected, the lawyer who provides legal aid to the victim first sent the claim for compensation of L.S. to the IFS EMMAUS prevention of trafficking in human beings program assistant who set a password for the claim and sent it, together with an instruction on how to open the attachment, to the Social Welfare Center and minor S.L.'s guardian. The coordinator of project activities contacted the prosecutor on the case by phone in order to obtain further information on the case and to check out whether she had received the compensation claim and to find out a date of the main hearing. The prosecutor told the coordinator that she had not received the claim and that

the main hearing was scheduled to take place on 19 May 2021 when child victim S.L. would testify in a separate room, without the presence of the accused or his defense lawyer, and the neuropsychiatrist and clinical psychologist would present the findings of their forensic evaluation of the mental state of the victim, type and severity of trauma as a consequence of the crime. Having in mind the importance of the evidence for deciding the claim, it would be necessary for the lawyer who is providing legal aid and represent the child victim of TIP to be present in the main hearing. The prosecutor on the case agreed.

3. The Prosecutors' Office of the Brčko District of BiH issued an indictment No. T18 O KT 0014749 20 of 10 February 2021 against Š.Š. for the crime of trafficking in persons, punishable under Article 207 a), paragraph 2 of the Criminal Code of the Brčko District of BiH. The injured party/victim of TIP is minor F.R. The accused, Š.Š. entered into a common-law relationship with minor F.R. and for the purpose of obtaining illegal gains, compelled her into begging on the streets with a 1-year old child by using force, beating and starving her, and punishing her brutally. She had to bring him all the money she had made begging and unless she brought him the amount he requested, he punished her physically, threatened to beat her, to close her in a "shed", deprive her of food and water and hand her over to A.N. whom he owed money and to sell children, thereby putting minor F.R. in a situation of complete helplessness and fear, establishing full control over her. Minor F.R., out of fear for her life and the lives of her children, begged on the streets with her child who was around 1 year old, and Š.Š. was overseeing her, forbidding her to approach him. She would bring all the money to him and when she did not bring as much money as he demanded, he beat and punished her, forcing her to sleep in a shed without any food or water and to have sex with other men whom he had found. He would force F.R. to meet with the men with whom he had arranged sexual services beforehand. Minor F.R., in the fear of being beaten up and threatened, would go to arranged places and provided sexual services to other men. On one occasion, she was with a man to whom she was supposed to provide sexual services by order of the accused Š.Š. at the cemetery in B. Both were caught by police officer B.D. who took them to the police station where the police took a statement from minor F.R., informed the Social Welfare Center which then decided to appoint an interim guardian to minor F.R. and to accommodate her in a safe house. She is still there.

The lawyer who provides legal aid to the child victim of TIP in this case had consultations with the coordinator of the project activities related to the provision of legal aid and representation of TIP victims over the phone, and committed herself to talking to the prosecutor on the case by phone in order to learn about the case and define further steps necessary for providing legal aid to the child victim of TIP in a criminal proceeding. In her conversation with the lawyer, the prosecutor was willing to share the information about the victim so that the lawyer could establish contact with the interim guardian appointed by the Social Welfare Center to the child victim of TIP. Further, next steps and the manner in which the injured party F.R. would be contacted and informed in greater detail about free legal aid services were agreed on with the prosecutor. The next step was communication with the social worker at the Social Welfare Center in M. After the lawyer informed the guardian about the purpose of legal aid to be provided to minor F.R., she spoke to minor R.F. by phone as the COVID-19 epidemiological situation prevented them from meeting in person and talking about the event and assistance that the lawyer would provide to her within the criminal proceeding. The purpose of the conversation was to provide legal aid and inform the injured party about her rights and how she could exercise those rights. During their conversation, they agreed on next steps and the injured party was clearly interested in being represented

in the proceedings before the judicial institutions Bosnia and Herzegovina. The guardian of the child victim was also contacted and informed about next steps. Communication successfully continued with both the prosecutor on the case and the guardian. It was agreed that the lawyer should draft letters proposing that the prosecutor order that an additional evaluation be conducted by a forensic psychiatrist to assess the circumstances which were relevant for the compensation claim and which would be used by the prosecutor as evidence during the main hearing, knowing that pursuant to the provisions of the Criminal Procedure Code, the injured party files a compensation claim, while the evidence in favor of the claim is collected by the prosecutor. The legal counsel/representative of the injured party drafted a claim on behalf of the TIP victim and sent it to the guardian by post, including an instruction on how the claim should be sent to the court and prosecutor's office. The guardian of the child victim of TIP informed the legal counsel that she had received the claim and sent it to the prosecutor's office. It was found out during a phone conversation between the project coordinator and the prosecutor on the case that the prosecutor's office had received the claim and that they would file it with the court for further procedure and decision-making. It is expected that the main hearing will be scheduled soon and the legal counsel will be duly informed.

It is necessary to emphasize that thanks to a well-trained and experienced lawyer who provided legal aid to the TIP victim in persons and educated and sensitized the prosecutor on the case and the guardian appointed by the Social Welfare Center to the child victim of TIP, cooperation and exchange of information in this case were successful, which contributed to the successful implementation of the project activities related to the provision of legal aid and the drafting of a compensation claim on behalf of the TIP victim. However, due to the limited duration of the project, unless financial resources are provided, the project will not be able to ensure the presence of the legal counsels who provided legal aid services to the child victim of TIP at the trial for the purpose of providing support to the victim when the court will be deciding her claim. Their presence and support would be crucial for the prosecutor in terms of collecting the evidence in favor of the claim and particularly for the victim in terms of providing her support and encouraging her to persist in exercising her rights.

4. The Prosecutors' Office of the Brčko District of BiH issued an indictment No. T18 0 KT 0014402 20 of 22 February 2021 against M.N. for the crime of trafficking in persons, punishable under Article 207 a), paragraph 2 of the Criminal Code of the Brčko District of BiH and the crime of domestic violence, punishable under Article 218, paragraph 4, in conjunction with paragraphs 1, 2 and 3 of the Criminal Code of the Brčko District of BiH. The injured party in the TIP case is M.E., who is a minor.

The accused M.N. sold his minor daughter at the age of 13 in April 2020 to B.Š. for BAM 400.00 for a common-law marriage and sexual relationship with B.Š. Although M.E. begged him, cried and resisted his intention, the accused M.N. drove his minor daughter in his car and handed her over to B.Š. to live with him and his family. 15 days later, minor M.E. managed to escape. She went to her mother that she was close with and her 6 sisters, but the accused M.N. used force and against her will brought her back to B.Š.'s house where she stayed for another month. When she was no longer able to cope with the situation, she took sedative drugs and escaped to the city as she did not dare go back home, fearing that her father would beat and punish her, precisely what he had done before. A police officer noticed her strange behavior and called for backup. They took her to a police station where she gave a statement.

The police informed the relevant Social Welfare Center which appointed a guardian to minor M.E. and accommodated her in a dedicated institution where she would receive the necessary assistance and protection.

In this case, the coordinator of legal representation activities established contact with the prosecutor on the case by phone and explained her the goal and purpose of the project "Access to Victim-Focused Prevention of Trafficking in Persons in Bosnia and Herzegovina: Improving the Identification, Protection and Access to Justice", within which the activities related to the provision of legal aid and representation of victims of trafficking in persons before judicial institutions are implemented. Within these project activities, a lawyer was selected for minor M.E. who would provide her legal aid and represent her in court, which particularly refers to the filing of a claim for non-material damages pursuant to the provisions of the Criminal Procedure Code of the Brčko District of BiH. The prosecutor on the case agreed to contact the lawyer selected by IFS-EMMAUS that implements the project for the purpose of agreeing on the steps in the provision of legal aid services to minor M.E.

Under count 2, the accused M.N. is charged with the crime of domestic violence, punishable under Article 218, paragraph 4, in conjunction with paragraphs 1, 2 and 3 of the Criminal Code of the Brčko District of BiH, which he committed by physically abusing his wife and daughter M.E. who is a child, whom he beat, insulted, threatened in the presence of her 6 sisters, all of which disturbed them, particularly minor M.E. whom he compelled, by the use of force and threats, to enter into a common-law marriage with B.Š., which had a severe psychological impact on minor M.E., her sisters and their mother.

The lawyer responsible for providing legal aid and representation services to minor M.E. phoned the prosecutor on the case at the Prosecutors' Office of the Brčko District of BiH and was informed that minor M.E. was at the safe house, that the Social Welfare Center had appointed a guardian to her and was advised to contact the guardian and arrange further activities related to the legal representation of minor M.E. They also agreed that the prosecutor would send the findings and opinion of the forensic neuropsychiatrist and clinical psychologist for the purpose of drafting a compensation claim for minor M.E. The findings were sent by e-mail but they did not contain anything about minor M.E.'s psychological condition or whether her mental state was the consequence of the trauma, nor was there anything about the intensity of her fear and duration of her mental anguish or diminished capacity. This was why, an additional evaluation by a forensic neuropsychiatrist was necessary. The legal counsel sent a letter to minor M.E.'s guardian which she would send further to the prosecutor, including a motion for an additional forensic evaluation. The legal counsel asked the guardian for permission to meet with minor M.E. and talk to her in her presence in order to inform the minor about her rights and the intention to provide legal aid to her during a trial, including the filing of a compensation claim in a criminal proceeding. However, obviously due to the lack of understanding of the intent of legal aid to be provided to minor M.E. and that it is the best interest of the child, the guardian responded that any further activity would require that she consult her superiors at the Social Welfare Center in the Brčko District of BiH. We talked to the manager of the Center but as we did not receive permission, we contacted a member of the Coordination Body for the Implementation of the Strategy to Counter Trafficking in Human Beings and the Action Plan to Implement the Strategy who then met with the manager of the Department of Health and Other Services, explained the purpose of providing legal aid to victims of TIP by a selected legal counsel within the project activities, who would draft a compensation claim, which required consent

from minor M.E.'s guardian. Under the agreement, the IFS EMMAUS prevention of trafficking in human beings program assistant sent a letter to the manager of the Department of Health and Other Services along with an encrypted letter (as it contained personal data) to the manager of the Social Welfare Center and the guardian appointed to child victim of TIP M.E. A password for unlocking the encrypted letter was sent by an SMS. The prosecutor on the case was informed and she was willing to provide support to all further activities related to the provision of legal aid and representation of M.E. as she had recognized that it was in the best interest of the child.

This indicates that there are no systemic arrangements for the exchange of data and cooperation between the relevant authorities involved in the proceedings related to TIP and protection of victims of this crime. In fact, there is a lack of institutional arrangements under which victims of TIP would automatically receive legal aid in criminal proceedings which would help them exercise their right to compensation and other rights afforded to injured parties/victims of TIP which are guaranteed by laws and other regulations pertaining to the provision of assistance to and protection of victims of TIP in all proceedings conducted before judicial and other institutions involved in combating trafficking in persons.

PERCEPTIONS ON ISSUE OF TRAFFICKING IN HUMAN BEINGS

6. PERCEPTIONS OF JUDICIAL OFFICE HOLDERS

The implementation of this part of the project was affected by the COVID-19 pandemic and the protection measures introduced during the implementation of the project activities. As a consequence, the legal representatives were unable to establish direct contact with the relevant authorities (prosecutors' offices, social welfare centers, etc.) dealing with the cases selected for the provision of legal aid to victims of TIP and professionals working on those cases. For these reasons, communication with TIP victims was also difficult, particularly with child victims of TIP accommodated in safe houses.

Moreover, perceptions of judicial office holders about the human trafficking issue affected decision making which, in some instances, was not in the interest of the victim of TIP, which in turn affected a more efficient and effective protection of victims of TIP in criminal proceedings through the free legal aid system. This particularly refers to collection of information required for filing a compensation claim and representation of victims in court. In one of those cases the problem concerned an instruction issued by the relevant prosecutors' office in one case, forbidding the release of information on victims of TIP, although the letter of support which IFS-EMMAUS, which implements the project, sent to the prosecutors' office clearly explained that the prosecutors' office was expected to provide support to the provision of legal aid to the victim regarding the filing of a compensation claim and representation of the victim in court and that the information on TIP cases and victims would be used solely for that purpose, while fully respecting the personal data protection. Besides, a big problem concerns non-harmonized data collection systems in Bosnia and Herzegovina on victims of crimes and generally on injured parties in criminal proceedings. There is no single data base on injured parties (segregated by gender, age, the crime committed against them, time of the filing of a crime report, process, decisions, and other information on their status and protection services provided). The High Judicial and Prosecutorial Council runs a proper system of data on perpetrators of crimes in all phases of the criminal justice process (from filing a crime report, investigation, issuing an indictment to a final court judgment), while there is no single data base on injured parties, which made it even more difficult for the legal representatives to collect the information on victims of TIP. This indicates that there are no systemic arrangements in place for exchange of data and cooperation among the authorities involved in the procedures related to TIP and protection of victims of TIP which would make it incumbent upon the relevant authorities to ensure that legal aid is automatically provided to TIP victims in criminal proceedings. In fact, there are no institutional arrangements for automatic provision of legal aid to TIP victims in criminal proceedings which would help them exercise their right to compensation and other rights afforded to injured parties/victims of TIP, which are defined by laws and other regulations pertaining to the provision of assistance to and protection of victims of TIP in all proceedings conducted before judicial and other institutions and authorities involved in combating TIP.

There have been no strategic litigation cases aimed at protecting victims before the Constitutional Courts in Bosnia and Herzegovina and international courts. Judicial and other institutions and civil society organizations should be trained in this particular type of protection in order to encourage TIP victims to remain insistent that their rights be respected and to use strategic litigation more often for the purpose of full, adequate and effective protection of the basic rights of TIP victims.

7. PERCEPTIONS OF PROFESSIONALS DEALING WITH TIP CASES

An analysis of case law and activities related to the provision of legal aid and representation of TIP victims by selected lawyers in this project reveal that in some cases perceptions of professionals dealing with the trafficking in persons issue are not satisfactory. This particularly refers to social welfare centers which are involved in the criminal justice process against human traffickers in cases involving child victims of TIP. Their task is to provide assistance and support to child victims, to appoint an interim guardian to take care of the special needs of the child, who have a duty to make decisions in the best interest of the child, in accordance with the Strategy to Counter Trafficking in Human Beings and the Action Plan to Implement the Strategy and the Guidelines on Assessing and Determining the Best Interests of the Child. However, the problem occurs when a guardian appointed by the Social Welfare Center is not a lawyer by training or is not fully cognizant of all relevant laws and regulations relevant for the protection of TIP victims and moreover, when they are not trained enough. As a result, in some cases, the decisions they make are not in the best interest of the child, which is the reason why adequate and effective assistance and protection adjusted to the needs of the child is not provided. This is best proven by the case analyzed in this report, in which the relevant Social Welfare Center and the guardian of the child victim of TIP did not respond adequately to the request that they agree with the provision of legal aid to the child victim and representation to help the child exercise her right to compensation in a criminal proceeding. This shows that there are no systemic arrangements for the exchange of data and cooperation between the relevant authorities involved in the proceedings related to trafficking in persons and the protection of victims of this crime. Determination of the best interest of the child is a very sensitive and complex issue which is the reason why it is necessary that the relevant authorities, institutions, and individuals who make decisions about children and for children think carefully about what is “in the best interest of the child” and how their decision will affect the child’s life and development and accordingly make a decision.

CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

8. CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

8.1. Concluding observations

Although the legislation relating to the protection of TIP victims within the criminal justice system is largely harmonized with international standards, the problems in practice indicate the lack of consistency in the implementation of laws and regulations pertaining to the protection of the rights and provision of legal aid services to victims of TIP. In this regard, there is room for improvement of the legislation in order to allow victims of TIP to exercise their rights and avail themselves of the protection guaranteed to them in the judicial proceedings in an efficient and comprehensive manner. Regarding the status of victims of TIP in judicial proceedings, the analysis of the case law and the system of provision of legal aid to and representation of TIP victims by the lawyers selected to provide aid and protection to victims in the selected TIP cases within this project reveal that the rights of victims are violated most often at the hearings. This is indicated also by the reports and conclusions of international bodies in charge of monitoring the implementation of international conventions (GRETA's report on second evaluation round for Bosnia and Herzegovina, concluding observations regarding child and minor victims in Combined Second and Third Periodic Report of the UN Committee on the Rights of the Child for Bosnia and Herzegovina).

Inability of TIP victims to exercise their right to compensation within a criminal proceeding at least through partial determination of a compensation claim filed by the injured party is a serious problem and indicates a strong need for assistance to victims provided by professionals who would represent the interests of TIP victims in criminal proceedings, which would consist of the drafting and filing of a claim by injured party/victim of the crime and presence in a courtroom for the purpose of giving the necessary information to them about their rights in criminal proceedings, encouraging them and thereby reducing the risk of secondary victimization.

Regarding child victims of TIP, all decisions made by the relevant institutions (social Welfare Centers, police, prosecutors, and other authorities dealing with children) must be in the best interest of the child. The complexity of the principle of the "best interest of the child" and a multi-disciplinary nature of the rights of the child require a multi-disciplinary approach of the authorities and individuals to decision making in the interest of child victims of TIP. Determination of the best interest of the child is a very sensitive and complex issue, which is the reason why it is necessary to ensure that the relevant institutions, organizations and all adults who make decisions about children and for children think carefully about what is in "the best interest of the child" and how their decision will affect the child's life and development and accordingly make decisions. This particularly refers to the Social Welfare Centers which represent the interest of the child victim of TIP, appoint an interim guardian who should have the necessary knowledge of law so that the decisions they make are in compliance with laws and regulations prescribing the right of the child to protection and legal aid during and after judicial proceedings. Practice shows that such decisions are not made by an individual; rather, they are made through a multi-disciplinary approach of all authorities, institutions and individuals dealing with children.

For that purpose, the following is necessary:

- To organize information and education seminars for all professionals who are involved, in any capacity, in the system of assistance and support to victims of TIP;
- To establish a continuous program for sensitization of all involved in the chain of protection of TIP victims and train all employees of the institutions in the system who have contact with TIP victims, including judges, prosecutors, police, Social Welfare Centers, healthcare institutions, other authorities, institutions and individuals involved in the work with TIP victims, particularly child victims, in order to ensure a gender-specific approach and prevent potential prejudices and stereotypes about TIP victims, particularly women victims of trafficking in persons for the purpose of sexual exploitation, and child victims of trafficking in persons for the purpose of labor exploitation, begging and child marriage, which has been noticed in some cases, especially regarding children from marginalized groups of population;
- To create methodology and institutional prerequisites for development of a single database of injured parties by sex, age, type of crime committed against them, protection measures and decisions, as well as any other data related to status and position of injured parties in judicial proceedings;
- To instruct judges and prosecutors in training courses to pay more attention to granting compensation claims in criminal proceedings more often, applying the Criminal Procedure Codes consistently, which provide that opportunity, while avoiding the practice of referring injured parties/victims to civil litigation which has proven to be ineffective, burdened with additional costs, while exposing injured parties, especially TIP victims, to secondary victimization;
- To inform injured parties in criminal proceedings in TIP cases about their right to free legal aid services and court accompaniment by service provider throughout the proceedings in order to be informed about their rights; this particularly refers to their compensation claims with regard to which victim support services range from drafting a claim to support provided during a trial until a final decision is reached, and
- To harmonize and coordinate multi-agency cooperation among all government institutions, police, prosecutors' offices, courts, civil society organizations, social welfare centers and all other actors involved in activities related to the protection of TIP victims;
- To harmonize criminal legislation in Bosnia and Herzegovina regarding a definition of the crime of trafficking in persons and to define in all Criminal Codes, in a uniform manner, that the child is the person who has not yet reached the age of 18, and to define the term "victim" in accordance with international standards.

It is extremely important to ensure a victim-centered approach in all activities related to the fight against trafficking in persons in the following way:

*Ensure that all persons who show signs of being trafficked are informed during the first contact with officers and other persons about their rights, institutions and organizations that may provide support;

*Ensure that all potential and officially identified victims of TIP, regardless of their nationality or status in criminal proceedings or whether they are accommodated in a shelter/safe house or in other forms of accommodation, receive assistance in accordance with their individual needs;

* Ensure that available measures are fully used to provide protection to victims/witnesses and that intimidation of victims/witnesses is prevented before, during and after a trial;

* Ensure that a legal representative (legal aid service provider) is hired to provide victim support during criminal proceedings so that the victim's rights remain guaranteed throughout the criminal justice process;

*Ensure particular protection of rights during criminal proceedings to children, victims and witnesses of trafficking in persons, regardless of their age and form of their exploitation, in accordance with the best interest of the child;

* Improve cooperation between government institutions and specialized organizations for the protection of victims of TIP for the purpose of improving specialized assistance and support to TIP victims;

*Improve cooperation between government institutions and specialized organizations for the protection of TIP victims for the purpose of establishing a more effective victim support network in order to ensure timely identification, legal aid and representation and psychological and medical assistance;

*Improve the provision of specialized support and assistance to victims by civil society organizations by financing the services provided by specialized civil society organizations from the budgets;

*Improve and harmonize the legal framework with ratified international instruments for the protection of TIP victims and recommendations from international reports by changing the provisions of criminal procedure legislation (four Criminal Procedure Codes) pertaining to plea bargaining in order to enable injured parties to participate and exercise their rights;

*Consistently apply the present laws for the purpose of protecting the rights of TIP victims to privacy, safety, providing assistance and information in criminal proceedings, especially the provisions regarding particularly sensitive witnesses, Criminal Procedure Codes and the relevant provisions of the Laws on the Protection and Treatment of Children and Minors in Criminal Proceedings;

*Train the staff of social welfare centers on how they should treat child victims of TIP, particularly child victims of begging;

*Enhance protection of children against trafficking in persons through training of professionals dealing with children; ensure that victims of trafficking in persons have effective access to assistance and protection, regardless of whether they cooperate with police and prosecution service;

*Use available victim/witness protection measures more often, harmonize legal proceedings with the relevant laws for the purpose of empowering victims and ensuring their safety;

*Provide technical capabilities to courts with subject-matter jurisdiction to facilitate particularly sensitive witnesses and child injured parties to testify in hearings by using audio and video technology (separate rooms where witnesses testify via video-conference link, separate victim-witness waiting rooms, etc.);

8.2. Recommendations – victims' right to compensation

*Consistently apply the legal framework pertaining to the granting of claims and awarding compensation in criminal proceedings:

*Ensure that victims of trafficking in persons are compensated by the perpetrator of the crime of trafficking in persons and create a national scheme of payments accessible to victims of trafficking in persons;

*Improve and align the present legal framework with ratified international instruments for the protection of victims of trafficking in persons and recommendations of the bodies responsible for monitoring their implementation, particularly with regard to the exercise of the right to compensation of victims by adopting the law on compensation of victims of trafficking in persons;

*Harmonize the present legal and institutional frameworks with ratified international documents in the area of the protection of victims of trafficking in persons and recommendations of the bodies responsible for monitoring their implementation by establishing a national fund for victim compensation.