



POLICY PAPER

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**THE EU REQUIREMENTS FOR
KOSOVO: THE FIGHT AGAINST
TRAFFICKING IN PERSONS**

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Executive Summary

The combating of Trafficking in Persons continues to be among the European Union (EU) requirements for Kosovo. Several remarks in this regard have been enlisted under the Progress reports for Kosovo, as well as the progress reports on fulfilling the requirements of the Visa Liberalisation Roadmap. Besides the EU, the Trafficking of Persons Report of the US State Department has also noted that, Kosovo continues to be a source and transit country of trafficking in persons.¹ In addition, the report states that the Government of Kosovo (GoK) does not fully comply with the minimum standards for the elimination of trafficking although it is making significant efforts to do so.

As of 2008 when Kosovo declared its independence, there were similar criticisms pointing to the ineffective prosecutions and inadequate sentencing of the crime of trafficking. Substantial legal and institutional mechanisms have been set out in Kosovo starting from specialised units to investigate trafficking within the Kosovo Police, the creation of the victim advocates institution to address representation of victims of trafficking within courts and the creation of specialised service providers of NGO's to assist victims of trafficking. However the approach remained focused more on the protection and prevention side of trafficking rather than delivering of serious crime investigations to tackle organised trafficking groups and condemning appropriately the perpetrators of crime of trafficking.

The fight against trafficking in human beings is determined by Kosovo's Constitution, the Criminal Code and also the Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking. Furthermore, Kosovo is considered to have a sufficient legal framework in place for combating trafficking in persons.² The country is seen with compliant legal and policy framework on the fight against trafficking, with the regional state of Albania striving to build a similar model based on Kosovo's response.³

After significant delays in fulfilling the EU requirements, due to the institutional deadlock of six months after the June 2014 national elections and the creation of the new Government of Kosovo, the GoK only recently approved the new Strategy and Action Plan on Trafficking in Human Beings. The new Strategy and Action Plan was drafted and adopted even though the former strategy and action plan (2011-2014) was not officially evaluated on its level of implementation. Kosovo also has been denying the victims of trafficking from compensation for the crime of trafficking and was required by the EU to adopt a law on Compensation of Crime Victims, specifically focusing on compensation of victims of trafficking. The law has been recently drafted and adopted by the Kosovo Assembly in May 2015.⁴

Challenges remain on the investigation, prosecution and court response on cases of trafficking in persons including child begging. Argumentation with sufficient and qualitative evidence of cases of trafficking in persons is crucial in order to sentence persons involved in trafficking related criminal

¹ Office To Monitor and Combat Trafficking in Persons, [2014 Trafficking in Persons Report](http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226755.htm), Tier 2, available at <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226755.htm>

² Syri i Vizionit (SiV) interview with Basic Court Judge of Gjakova, 23 April 2015.

³ KIPRED interviews March-April 2015, Prishtina.

⁴ Kosovo Assembly Website at <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-036%20a.pdf>.

activities.⁵ The use of proactive intelligence measures to crack down larger criminal groups still remains a challenge for Kosovo including investigations on crimes of money-laundering, drug and arms trafficking. Furthermore, “government corruption creates an environment enabling some trafficking crimes.”⁶ Sentences by courts are considered to be soft and minimal despite the requirements of the law against trafficking in persons offenders.

Majority of the victims in Kosovo continue to be women and girls, predominantly trafficked for purposes of sexual exploitation.⁷ Men have also been increasingly reported to be trafficked and trafficking premises have moved from motel based premises to private flats, massage parlors and night clubs.⁸ The reintegration of the victims of trafficking continues also to be among main challenges. Shelters that offer services to victims of trafficking confirm that the reintegration remains a challenge for years now in Kosovo with victims often returning to trafficking networks as a result of poor reintegration capacities developed in Kosovo.

Cooperation and coordination among the competent authorities for combating trafficking in persons must further improve particularly in the aspects of prevention, prosecution and adequate sentencing of offenders of trafficking in persons. Furthermore, the government must ensure proper assistance to protect and reintegrate the trafficking victims including the establishment and effective delivery of compensation to trafficking victims. Lack of compensation to victims of trafficking, remains a serious concern denying victims of trafficking with the opportunity to empower their choices and offer them a chance for sustainable reintegration. Accordingly, the crime of trafficking will remain a priority and challenge for Kosovo to fulfil, in order for Kosovo to be able to move forward in its EU integration processes.

General EU Requirements on Combating Trafficking in Persons

The effective combat against trafficking in persons continues to be among the European Union (EU) requirements for Kosovo. Several remarks and recommendations in this regard have been enlisted in the Progress reports for Kosovo, as well as in the EU requirements for Kosovo institutions on the fulfilment of the Visa Liberalisation Roadmap criteria's. In the 2014 progress report for Kosovo the European Commission has noted that Kosovo continues to be a place of origin, transit and destination of trafficking for the purpose of sexual exploitation and labour,⁹ requiring that Kosovo institutions react effectively on the issue.

The report has recommended that Kosovo increases its efforts to improve prevention measures on trafficking and to evaluate the implementation of the current strategy and action plan against trafficking in persons (2011-14) before adopting the new strategy.¹⁰ The report further states that

⁵ Ibid.

⁶ There were few police officers, ministerial officials of the Ministry of Labour and Social Welfare and other government officials charged or convicted for trafficking crimes, see pg. 210 of the US State Department Report Trafficking in Persons, 2015 chapter on Kosovo.

⁷ KIPRED interview May 2015, shelter representative.

⁸ See US State Department Report “Trafficking in Persons” 2015, chapter on Kosovo, available on <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243470.htm>.

⁹ European Commission, 2014 Progress report for Kosovo, pg.51. Available at, http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-kosovo-progress-report_en.pdf

¹⁰ Ibid.

Kosovo should implement the Law on Preventing and Combating Trafficking in Human Beings, especially with regard to compensation for victims and sustainable funding for shelters. Moreover, it needs to develop comprehensive, multi-disciplinary and victim-oriented approach to trafficking, whilst the identification of victims needs to be further improved.

As a positive remark the progress report notes the dismantling of some trafficking groups by Kosovo Police in 2013. However, concerns remain on the low number of indictments and judgments in cases of trafficking in persons.¹¹ In addition, the EC emphasises the need to improve the training courses for judges and prosecutors dealing with cases of trafficking. Also, trainings on existing standard operating procedures should be provided for other stakeholders, such as the border police or labour inspectors.¹² In a positive aspect the report mentions the launching of a series of public awareness events under the motto “Open your eyes” and other information events organised and delivered under the lead of the anti-trafficking coordinator.

Within the issue of trafficking in persons, progress report notes also the high rate of child trafficking and child exploitation for the purpose of begging. According to this report, the lack of intervention by Kosovo Police in cases of child begging remains a concern.¹³

EC has urged Kosovo authorities to improve the access to justice for victims of trafficking.¹⁴ In this regard the report mentions as deficiency the closure of eight legal aid offices funded by the United Nations Development Programme (UNDP), out of a total of thirteen offices run by the Kosovo Commission on Legal Aid.

Similar findings with the EC 2014 Progress Report are reflected in the Visa Liberalisation Roadmap second monitoring report on the progress by Kosovo in fulfilling the EU requirements.¹⁵ In addition, the report states that the numbers of detected and investigated cases of trafficking in human beings or drug trafficking remains low.¹⁶ The report enlists several recommendations for Kosovo authorities to prevent trafficking in human beings in a cross-border manner, establish a track record of final court rulings in cases concerning trafficking in human beings including the execution of the criminal penalties and criminal assets recovered and ensure support and assistance to victims of trafficking in human beings.¹⁷

The EU requirements for Kosovo have been a useful tactic to speed up the response of Kosovo institutions in undertaking the necessary measures to address the requirements on combating trafficking in persons effectively. However, Kosovo still needs to implement the legislation against trafficking in persons whilst improve the investigation, prosecution and judgment of trafficking in persons offenders, which continue to undermine the effective fight against trafficking.

¹¹ Ibid, pg. 16.

¹² Ibid, pg. 51.

¹³ Ibid.

¹⁴ Ibid, pg. 14.

¹⁵ European Commission, EC Second report on progress by Kosovo in fulfilling the requirements of the Visa Liberalisation Roadmap, available at, http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/second_commission_assessment_en.pdf

¹⁶ Ibid, pg. 3 quoting FRONTEX Western Balkans Annual Risk Analysis 2014.

¹⁷ Ibid, pg. 4 and pg.7.

Defining the Trafficking in Persons Crime

Kosovo has created a number of laws and policies to react to the crime of trafficking in human beings. In its constitution Kosovo decisively forbids the trafficking in persons, forced labour and slavery.¹⁸ According to the constitution, human dignity is inviolable and is the basis of all human rights and fundamental freedoms.¹⁹

In line with Criminal Code of Kosovo, trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons, by threat or the use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or the abuse of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.²⁰ Predominantly trafficking criminal groups in Kosovo targeted and victimised women and girls for the purpose of sexual exploitation. In recent years trafficking for the purpose of labour including child exploitation for the purpose of begging remains high.²¹ In the case of trafficking in persons, the consent of the victim to the intended exploitation shall be irrelevant²² if the above means of coercion, abduction or abuse of power, threat or deception are used. In relation to child victims (defined under the age of 18) the consent of the victims is irrelevant even when above mentioned means have been used these cases are considered a trafficking crime.²³

Also Kosovo law provides for different sentences depending on the form in which the trafficking in persons crime was committed. Sentences range from 5 years of imprisonment to 12 years, when engaging in this offence, whilst if the offence occurs within 350 meter radius of a school or other locality which is used by children or when the offense is committed against a person under the age of eighteen (18) years, trafficking is considered a severe crime, foreseeing sentences from 3 to 15 years of imprisonment.²⁴ However, paragraph 2 of Article 171 of the Criminal Code is non-compliant with the first paragraph, as paragraph 1 defines a minimal sentence of 5 years and not of 3 years, set out wrongly in paragraph 1. This non-compliance may cause confusion to judges when implementing the law as obliged to implement the law *ad litteram*, and consequently to give sentences under the allowed minimum of punishment.

Further, the Criminal Code foresees severe sentences if trafficking occurs by an organized group of criminals²⁵ or by an official person abusing his/her position.²⁶ Moreover, if the offence resulted in death of one or more persons, the perpetrator shall be punished by imprisonment of not less than ten (10) years or lifelong imprisonment.²⁷ The Criminal Code has also criminalized the withholding

¹⁸ See Article 28 of Constitution of Kosovo, at

<http://www.kushtetutakosoves.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf>

¹⁹ Ibid, Article 23.

²⁰ Article 171, Paragraph 6.1 of Kosovo Criminal Code, at <http://www.assembly-kosova.org/common/docs/ligjet/Criminal%20Code.pdf>

²¹ European Commission, 2014 Progress report for Kosovo, pg.52.

²² Ibid, Article 171, Paragraph 6.3.

²³ Article 5.3 of the Law on Preventing and Combating Trafficking in Human Beings and protecting victims of trafficking.

²⁴ Ibid, Article 171, Paragraphs 1 and 2.

²⁵ Ibid, Article 171, Paragraph 3.

²⁶ Ibid, Article 171, Paragraphs 4.1 and 4.2.

²⁷ Ibid, Article 171, Paragraph 5.

of identity papers of victims of slavery or trafficking in persons, punishable from one (1) to five (5) years with imprisonment.²⁸ A more severe penalty will be issued, if the perpetrator is an official person abusing his position.²⁹

Additionally to the Criminal Code, Kosovo institutions in September 2013 adopted, the Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking. The law was drafted and adopted as a response of Kosovo institutions to the EU requirements to establish a comprehensive law on anti-trafficking based extensively on the EU Directive 2011/36 on Preventing and Combating Trafficking in Human Beings and Protecting its Victims.³⁰ The law offers a comprehensive set of legal provisions to prevent and combat trafficking in persons in all its forms through national and international cooperation and protecting victims of trafficking by offering of legal aid, medical assistance, psycho-social support, and compensation. This law determines the principles,³¹ in which the war against trafficking in human beings should be based, the elements³² of the offense of trafficking in persons, and defining the authorities to prevent and combat trafficking in persons and protecting victims of trafficking. The law also sets out clearly the responsible institutions, specifically the roles of Ministry of Internal Affairs, Kosovo Police, Kosovo Judicial Council, Kosovo Prosecutorial Council, Ministry of Justice, Ministry of Education, Science and Technology, etc.³³

This law has also established the institution of National Authority against trafficking in persons, which is composed of aforementioned authorities and other relevant state institutions from different scopes, and is chaired by the National Anti-Trafficking Coordinator (hereafter: the Anti-Trafficking Coordinator) appointed by the government.³⁴ Since the creation of the new government in December 2014, the government failed to appoint the National Anti-Trafficking Coordinator by a government decision, in the past appointed by default in the position of the deputy-minister of Internal Affairs (MIA). Also, in 2013, the government adopted the Administrative Instruction (AI)

²⁸ Ibid, Article 172, Paragraph 1.

²⁹ Ibid, Article 172, Paragraph 2: When the offense provided for in paragraph 1. of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of three (3) to seven (7) years.

³⁰ Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>.

³¹ Article 4 of Law no. 04/L-218 on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking, at

<http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20preventing%20and%20combating%20trafficking%20in%20human%20beings.pdf>. Some of the basic principles on combating trafficking in humans are respect for human rights and freedoms, in particular for vulnerable victims; acknowledgment of trafficking in human beings as a crime affecting the fundamental human rights, dignity, liberty and integrity of human beings; (...) application of the provisions of this Law, are (...) granted without discrimination on any grounds, such as: gender, race, language, religion, political or other opinion, social or national origin, citizenship, association, belonging to an ethnic minority, etc.

³² See Article 5 of Law no. 04/L-218, defining the elements of trafficking in persons as: 1. recruitment; 2. transportation; 3. transfer; 4. harboring or reception of persons, by means of the threat and use of force or other forms of coercion; 5. abduction; 6. fraud; 7. deception; 8. abuse of power or of a position of vulnerability, and 9. giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation purposes.

³³ Ibid, Article 6, paragraph 1.7.-1.18 defining other responsible bodies such as: Ministry of Local Governance Administration; Ministry of Culture, Youth and Sports; Ministry of Labour and Social Welfare; Ministry of Health; Ministry of Foreign Affairs; Ministry of Finance; Agency for Gender Equality; Kosovo State Prosecutor; Courts; Office for Protection and Assistance of Victim; Municipalities, and any state institution, and service provider within these institutions, which, under this Law or any other relevant Law, is authorized to deal with preventing and combating trafficking in human beings and providing assistance and protection of victims of trafficking.

³⁴ Article 8.1, Appointment and Competencies of the National Anti-Trafficking Coordinator.

aiming to detail the procedures for the formal composition, competencies, responsibilities, and the functioning of the national authority against trafficking.³⁵ Until the reporting period, the Ministry of Internal Affairs claims that the Minister by default is considered to exercise the role of National Anti-Trafficking Coordinator.³⁶

Differently, the Law also regulates the procedures of investigation and prosecution³⁷ in relation to the offence of trafficking in persons. Official identification of victims is done by the respective Police units, Prosecution, Victim Advocates and the Centers for Social Work, when they have grounded doubts to believe that a certain person is a victim of trafficking, underlined also in the Standard Operating Procedures (SOPs).³⁸ The so-called SOP's for protection from domestic violence³⁹ were adopted in order to protect and offer assistance to victims of violence, including victims of trafficking. The government also adopted the AI for early identification of victims of trafficking in persons by consular services, border police and the labor inspectorate.⁴⁰

The law also specifies the forms for assistance, rights and protection of victims of trafficking including the right of the victim to be treated as a party in procedure.⁴¹ This has strengthened the position of the victim in criminal procedure and is a novelty in the new Criminal Procedure Code of Kosovo reflected also by the new Anti-Trafficking Law. The law has also foreseen vocational trainings⁴² free of charge in order to facilitate the reintegration of victims in the society.

Another issue that law covers is specifically child trafficking, granting also rights guaranteed under the United Nations Convention on the Rights of the Child.⁴³ Moreover, it envisages repatriation of a child victims of trafficking, grants assistance and protection to children and offers long-term care and protection until their full recovery.⁴⁴ However, the EU Progress report notes as a concern the high rate of child trafficking and child exploitation for the purpose of begging in Kosovo.⁴⁵

In reference to the compensation of victims of trafficking, Kosovo for years denied any kind of compensation to victims for the crimes endured. The legislation was existing however implementation lagged for years. Furthermore, in 2013, the Criminal Code of Kosovo enlisted the Victim's Compensation Fund to be created by forfeited bail and deposited authorised assets to

³⁵ Administrative Instruction Nr. 17/2013 for formal Composition, Competencies, Responsibilities, and the Manner of Functioning of the National Authority against Trafficking in Human Beings, available at <http://gzk.rks-gov.net/ActDetail.aspx?ActID=10313>

³⁶ KIPRED interview with MiA officials, May 2015. Confirmed in KIPRED and SiV thematic roundtable on “The EU requirements for Kosovo: The Fight against Trafficking in Human Beings,” 29th of May 2015, Pristina.

³⁷ Law on Preventing and Combating Trafficking in Human Beings, Chapter III.

³⁸ Ibid, Article 12, Official identification of victims of trafficking.

³⁹ Standard Operating Procedures for protection from domestic violence in Kosovo, Republic of Kosovo, Office of Prime Minister, Agency of Gender Equality, Prishtina 2013, at http://www.psh-ks.net/repository/docs/Procedurat_Standarde_te_Veprimit_per_Mbrojtje_nga_Dhuna_ne_Familje.pdf

⁴⁰ Administrative Instruction No. 01/2014 for Early Identification of Victims of Trafficking with Human Beings from Consular Services, Border Police and the Labor Inspectorate, at <http://gzk.rks-gov.net/ActDetail.aspx?ActID=10279>

⁴¹ Law on Preventing and Combating Trafficking in Human Beings, Article 20, Paragraph 2.2.

⁴² Ibid, Article 24, Vocational training of victims of trafficking.

⁴³ Ibid, see Article 35, Special principles for combating trafficking in children.

⁴⁴ Ibid, Article 38, Granting assistance and protection to child victims of trafficking in human beings, Paragraph 12.

⁴⁵ Pg. 51 of 2014 Progress Report for Kosovo, European Commission, available at, http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-kosovo-progress-report_en.pdf

compensate victims of crime from the above stated Fund.⁴⁶ As none of it was functionalised the Anti-Trafficking Law also foresaw the descriptions of these forms of compensation: compensation by the perpetrator which is ordered by the court; damages which are ordered to be paid through civil proceedings; including the legal act to compensate the victims. Whilst, court ordered restitution is regulated by Criminal Procedure Code, and the right to initiate a civil action by Law on Contested Procedure, state compensation remained ineffective for years in implementation. The Ministry of Justice saw a solution in drafting yet another law namely the Law on Crime Victim Compensations, recently adopted by the Kosovo Assembly.⁴⁷ To what extent this additional law will be implemented, remains to be evaluated.

The draft law on Crime Victim Compensations regulates the right to compensation for all victims of crime i.e. victims of violent intentional crime and their dependants, the respective claiming proceedings and the decision making authorities.⁴⁸ According to this law, a crime victim means a person who's personal or property rights are violated or endangered by a criminal offence as defined by the Criminal Procedure Code.⁴⁹ The law in Article 7 also envisages the formal and material conditions for eligibility to this kind of compensation, which should be duly fulfilled by the applicant. It establishes the Crime Victim Compensation Committee, which will be the decision making body in this regard. Two representatives from civil society are also foreseen to be part of this committee.⁵⁰

In order to finance the Crime Victim Compensation Program, the law refers to the budget of the Republic of Kosovo i.e. the Ministry of Justice and their annual budget,⁵¹ but it can be financed also through voluntary contributions and private donations, in compliance with the Rules of Financial Control and Management.⁵² The allocated budget will be funded mainly from the regular budget cycle, having in consideration the revenues from the confiscated assets, revenues from confiscated bail and the overall projected budget revenues and requests for financing from the Kosovo's budget.⁵³ Notwithstanding the provisions set in the law, the implementation of this law will be a challenge.⁵⁴ The collected assets stated as resources might be insufficient, bearing in mind the fact that in 2014 the amount of confiscated assets has been estimated from 500,000-1,000,000 Euros, and for the first quarter of 2015 only 64,487 Euros were confiscated.⁵⁵ Consequently, the Ministry of Justice will need to be innovative in its approaches and explore the modalities for additional funding to compensate crime victims.

Although, Kosovo has a solid legal framework in place to combat trafficking in line with international requirements i.e. the EU Directive 2011/36, the overall implementation of the respective Anti-Trafficking law continuous to be a challenge. In particular, the lack of cooperation by the Ministry of Internal Affairs to appoint with a government decision the National Anti-

⁴⁶ Article 19, paragraph 1.26 of the Kosovo Criminal Procedure Code.

⁴⁷ See Kosovo Assembly Website at <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-036%20a.pdf>.

⁴⁸ Draft Law on Crime Victim Compensations, Article 2, at [http://www.md-ks.net/repository/docs/Projektligji_per_kompensimin_e_viktimave_19_03_2015_\(2\).pdf](http://www.md-ks.net/repository/docs/Projektligji_per_kompensimin_e_viktimave_19_03_2015_(2).pdf)

⁴⁹ Ibid, Article 3.1. For more see Article 19, Paragraph 1.7 of Criminal Procedure Code.

⁵⁰ Ibid, Article 23, Paragraph 5. s

⁵¹ Ibid, Article 40, Financing of Crime Victim Compensation, Paragraph 1.

⁵² Ibid, Article 40, Paragraph 2.

⁵³ Ibid, Article 140, Paragraph 5.

⁵⁴ KIPRED interview with High Official of Ministry of Justice.

⁵⁵ KIPRED E-mail communication with National Coordinator for Combating Economic Crimes, 23 April 2015.

Trafficking Coordinator remains also one of the areas of the law that need immediate attention by the Government of Kosovo to fulfil the EU requirements for Visa Liberalisation. In ending, also the implementation of the Law on Crime Victim Compensation, by focusing on the funding of the Crime Victim Compensation Programme should be seen as immediate priority for the government.

II. The Law Enforcement Response

Among the EU positive remarks, as noted above, has been the dismantling of some trafficking groups by Kosovo Police (KP). The Progress Report 2014 referred to the results of the KP in the year 2013 when seven criminal groups involved in trafficking of persons were dismantled. However, evaluated as weak were in particular the police initiatives in strengthening its intelligence-led policing capacities.⁵⁶ In order to investigate organised crime groups of trafficking often capacities should be built through a strategic overview of the situation of organised crime in Kosovo combined with functioning and effective intelligence model. There has been an improvement in gathering, analysing and disseminating information within the Kosovo Police Information Service.⁵⁷ However the number of criminal groups that were dismantled by the Kosovo Police still remains low based on the operations conducted in the year 2013. The US TIP Report also criticised the Kosovo Police that identification of victims of trafficking has been lower in recent years.⁵⁸ Also evidenced by the EU progress reports the identification of trafficking victims needs further improvement.⁵⁹ Additionally, concerns remain with the low number of indictments and judgments in cases of trafficking.⁶⁰ Joint trainings to enhance the capacity of the law enforcement response in particular the Kosovo Police remains an on-going concern due to the identified need to improve training courses for judges and prosecutors working on trafficking cases including border police or labour inspector's.⁶¹ The analysis below offers an overview of KIPRED findings during its monitoring of the Kosovo law enforcement response from March 2015 until July 2015.

a) Investigation of Cases of Trafficking in Persons

Even though Kosovo Police is praised for its efforts to investigate trafficking cases, the structural management changes that have occurred in the Kosovo Police, prior and after the creation of the new PDK elect government in 2010, remains worrisome in relation to cracking down potential criminal groups of trafficking through an objective, factual and non-selective approach. Rule of law is a cornerstone for regulating economic activity and combating of corruption however should be followed through by independent investigations, independent judiciary and prosecution free from government interferences.⁶² Also worrisome in the past, was the appointment of the former Vice-Minister of Internal Affairs of Kosovo as the government Anti-Trafficking National Coordinator in

⁵⁶ Pg. 51 of 2014 Progress report for Kosovo, European Commission.

⁵⁷ Interview of KIPRED with EULEX advisor to KP.

⁵⁸ Office To Monitor and Combat Trafficking in Persons, [2014 Trafficking in Persons Report](http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226755.htm), Tier 2, available at <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226755.htm>. See also [2015 Trafficking in Persons Report](#).

⁵⁹ Pg. 16 of 2014 Progress report for Kosovo, European Commission.

⁶⁰ Pg. 16 of 2014 Progress report for Kosovo, European Commission.

⁶¹ Ibid, pg. 51.

⁶² See for example Philips, David L. "The Balkans' Underbelly" in World Policy Journal, Volume 27, Number 3, 2010, pp. 93-98

2008, also known as former member of Shërbimi Informativ i Kosovës (Kosovo Information Service) intelligence network loyal to the PDK party, often quoted for smuggling and organised crime activities.⁶³ Only recently corruption enabling environment for trafficking has been reported also worrisome for Kosovo.⁶⁴ With few recent convictions of trafficking crimes of several police officers, Ministry of Labour and Social welfare officials or of other government officials,⁶⁵ cracking down criminal organised groups should be a priority for current Kosovo government elected after the June 2014 elections.

Nevertheless, Kosovo Police classifies that many of the offenses of trafficking in persons are conducted by individuals even though organized crime groups are active and known to be operating in Kosovo.⁶⁶ Furthermore, the mandate of the Directorate on Investigation of Trafficking in Human Beings within the Kosovo Police, is to investigate the offence of organized crime (Article 283), slavery, slavery-like conditions and forced labor (Article 169), facilitating or compelling prostitution (Article 241) and forced marriage (Article 246), offences which are related to trafficking in persons.⁶⁷ In the year 2014, the KP managed to dismantle seven (7) criminal groups of trafficking in persons, operating on internal level i.e. Kosovo level.⁶⁸ According to Kosovo Police, in 2014 trafficking in persons occurred mainly inside of Kosovo and so was the exploitation of victims of trafficking. Differently, the US State Department shows that "...traffickers subject Kosovo citizens to forced prostitution and forced labor throughout Europe." The cracking of these criminal organised crime groups including outside of Kosovo should be a priority for Kosovo Police actions in the near future. There were no joint investigations conducted outside of Kosovo with only exchange of information by KP in 23 cases.⁶⁹ With the Kosovo Police remaining outside of INTERPOL membership does not support the weak response in cracking organised crime groups related to trafficking.⁷⁰

KP investigative unit on trafficking in persons has currently 56 investigators for cases of trafficking in persons, with the gender breakdown of only 11 female investigators out of 56 in total. According to the Kosovo Police the department now has sufficient resources besides state financing receiving also donation funding from international programmes as the US Department of Justice ICITAP project (International Criminal Investigative Training Program).⁷¹ Furthermore, the trafficking in

⁶³ On ShiK related smuggling activities see for example Philips, David L. "The Balkans' Underbelly" in World Policy Journal, Volume 27, Number 3, 2010, pp. 93-98

⁶⁴ Office To Monitor and Combat Trafficking in Persons, [2014 Trafficking in Persons Report](http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226755.htm), Tier 2, available at <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226755.htm>. See also pg. 210 of the [2015 Trafficking in Persons Report](http://www.state.gov/documents/organization/243560.pdf) available at <http://www.state.gov/documents/organization/243560.pdf>.

⁶⁵ Office To Monitor and Combat Trafficking in Persons, [2014 Trafficking in Persons Report](http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226755.htm), Tier 2, available at <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226755.htm>. See also pg. 210 of the [2015 Trafficking in Persons Report](http://www.state.gov/documents/organization/243560.pdf) available at <http://www.state.gov/documents/organization/243560.pdf>.

⁶⁶ KIPRED interview with high official of Kosovo Police, 21 April 2015, Prishtina.

⁶⁷ Leaflet of Directorate on Investigation of Trafficking in Human Beings "STOP Human Trafficking", sponsored by US State Department (US.DOS INL) and ICITAP mission in Kosovo. Available with KIPRED.

⁶⁸ KIPRED E-mail communication with Kosovo Police office for information and media, April 2015.

⁶⁹ Supra note at 65, pg.211.

⁷⁰ KIPRED interview with EULEX police advisor to KP, April 2015, Prishtina

⁷¹ KIPRED interview with high official of Kosovo police official, 21 April, 2015, Prishtina.

persons department of KP has undertaken several trainings and has conducted also study visits to exchange experiences with other countries in this area.⁷² However TIP Report notes that there has been a decrease of trainings by the Police academy from 44 trainings in 2013 to 24 trainings conducted in 2014 for special police anti-trafficking team and border police.⁷³ Furthermore, the EU also notes that there is further need for trainings on existing standard operating procedures document that should be provided for stakeholders, such as the border police in order for KP to be able to tackle successful cross border crime including of trafficking crimes.

According to KP, the investigators are well prepared to tackle trafficking cases however, the process limps also with the prosecutorial and judicial levels engagements, mainly due to the lack of profiling of prosecutors and judges to deal with trafficking cases. Furthermore, cases handled by the Special Prosecution Office (SPRKO), with more profiled prosecutors usually the process runs smoother. However, SPRKO deals mainly with organized crime cases and trafficking in persons cases in Kosovo lately dealt with by the Kosovo Police have been more individually focused rather than in an organised crime manner and cracking down of organised crime groups.⁷⁴ Also the SPRKO prosecutors often have difficulties to prove cases of trafficking in persons in court when related to organised criminal groups.⁷⁵ For example from establishment of the SPRKO in 2010, they dealt with only 15 trafficking cases and were able to indict only 6 cases involving 34 persons.⁷⁶ This overall, shows the tendency of prosecution of trafficking in persons cases, on individual basis rather than in an organised criminal network approach requiring proactive intelligence investigation of criminal groups inside and outside of Kosovo.

During the year 2014, Kosovo Police had under investigation in total 45 cases of trafficking in persons and arrested 66 persons suspected to be involved in this offense.⁷⁷ There was no cooperation of KP with EULEX, and all cases of trafficking in persons were initiated, investigated and proceeded by Kosovo Police. The KP conducted proactive investigations in more than 90% of cases, by also using technical covert measures of investigation foreseen by criminal procedure.⁷⁸ In addition, KP submitted to Prosecution offices 31 criminal charges against 86 persons.⁷⁹ However, the investigations by the Kosovo Police in trafficking cases improved slightly in the beginning of 2015. Only in the first quarter of 2015, Kosovo Police conducted 37 investigations, with only 8 (eight) cases fewer than during the entire year of 2014 (See table 1.1).⁸⁰ If the Kosovo Police would keep this momentum by also increasing investigations into organised criminal networks inside and outside of Kosovo, it may be able to improve the track record and identification of victims of trafficking in 2015.

Official identification of trafficking victims is conducted by the anti-trafficking special unit of the Kosovo Police known as the Trafficking in Human Beings Unit. Additionally official identification

⁷² Syri i Vizionit interview with official of Peja regional police, 27 April, 2015, Peja/Pec.

⁷³ Supra note at 65, pg.211.

⁷⁴ KIPRED interview with high official of Kosovo police official, 21 April 2015, Prishtina.

⁷⁵ KIPRED interview with special prosecutor, 29 April 2015, Prishtina.

⁷⁶ KIPRED interview with special prosecutor, 29 April, 2015 Prishtina.

⁷⁷ KIPRED E-mail communication with Kosovo Police Office for Information and Media, April 2015.

⁷⁸ Ibid.

⁷⁹ Kosovo Prosecutorial Council, 2014 Annual Inter-Institutional Report on the Harmonization of Statistics, pg.70. Available at, http://www.psh-ks.net/repository/docs/RAPORTI_2014_MEKANIZMI_PERCJELLES.PDF

⁸⁰ KIPRED E-mail communication with Kosovo Police office for information and media, April 2015.

under the Kosovo Law on Preventing and Combating Trafficking in Human Beings and victims identification is done also by prosecution, victim advocates and social work centres.⁸¹ When these authorities have reasonable suspicion to believe that a certain person is a victim of trafficking, they act in accordance with SOPs in place. Cases are then referred to the Temporary Secure Shelter for Victims of Trafficking (SPS-VT) where the beneficiary victim is provided with all the requirements according to internal regulations of the centre.⁸² Therefore, victims are provided housing, accommodation, health treatment and medical examination, food, clothing and psychosocial counselling.

As noted above, among the EU remarks has been the need to further improve the identification of trafficking victims. Within the cases of trafficking in persons investigated in 2014, KP identified 42 trafficking victims.⁸³ As a result of migration laws, there was a dropout of foreign victims and during 2014, 2015, with the majority of trafficking victims being Kosovar origin, with 36 victims, out of a total 42 identified. Other nationalities, with lower numbers, included Albania, Serbia and Rumania (See table 1.2). The victims age is also worrisome with young girls of mostly between 14 and 17 years old (18 victims in total) whilst between the age of 18 and 22 years there have been 11 victims. (See table 1.3). The identification of the victims remains a challenge for police and prosecution. Both KP and prosecution face difficulties when it comes to identification of victims since they lack advanced proactive approach when it comes to the usage of covert measures.⁸⁴ When it comes to KP, this is a structural problem since they lack a unit that would deal exclusively with proactive investigations.⁸⁵ In addition, the combination of multi investigation teams, from different units such as drug, narcotics investigators, and also anti-trafficking special police unit investigators could be very effective.

Compared to previous years, KP work has improved significantly, however, there is generally a lack of proactive investigations. These problems may derive from KP's structural framework. One proposal has been that the KP could progress by establishing a unit that deals exclusively with proactive investigations.⁸⁶ Also, multi investigation's teams composed of investigators from different units, such as drug and narcotics investigators and trafficking crimes investigators could further improve the quality of KP investigations in trafficking in persons and organised crime cases. In order for KP to further improve its efficiency in combating trafficking in persons Kosovo Police should prioritize the cracking of trafficking related organised crime groups that would specifically cover also trafficking groups outside of Kosovo. Besides the exchanging of information with other countries KP should conduct also joint investigations. The increase of trainings by the Police academy for special police anti-trafficking team and border police could further enhance the overall performance of the police in combating the crime of trafficking in persons and parallel to that increase their usage of proactive investigations.

⁸¹ See Law on Preventing and Combating Trafficking in Human Beings, Chapter III. Article 12, Official identification of victims of trafficking. Available at, <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20preventing%20and%20combating%20trafficking%20in%20human%20beings.pdf>

⁸² KIPRED interview and E-mail communication with official from Ministry of Labour and Social Welfare, May 2015, Prishtina.

⁸³ KIPRED E-mail communication with Kosovo Police office for information and media, April 2015.

⁸⁴ KIPRED interview with official of EULEX investigative department, 23 April, Prishtina.

⁸⁵ Ibid.

⁸⁶ Ibid.

b) Prosecution and Sentencing of Cases of Trafficking in Persons

The judicial authorities continued to offer weak prosecution and sentences related to the crimes of trafficking in persons during 2014. Poor records have been a result of the backlog of cases in Kosovo courts, further lack of specialised prosecutors and judges to deal with the offense of trafficking in persons and the hesitation of trafficking victims to cooperate with the rule of law authorities. EU has also evidenced these deficiencies in its progress reports for Kosovo. Furthermore, it has emphasized the need for improvement of training courses for judges and prosecutors dealing with cases of trafficking.

The criminal charges on trafficking in persons submitted by the KP along with criminal charges submitted by other institutions were handled by the prosecutorial services. During the year 2014 in all Kosovo basic prosecution offices there were in procedure 66 cases of trafficking in persons against 181 persons.⁸⁷ However, the prosecutorial services managed to resolve only 22 cases against 56 persons, or 33%. By the end of the year, 44 cases of trafficking in persons against 125 persons remained unresolved or in total 67%. The majority of criminal charges were submitted by KP. Again the trend of self-initiated prosecutions by the prosecutorial services continued even in the cases of trafficking with persons with no cases initiated by them.⁸⁸

Out of 22 cases of trafficking in persons against 56 persons resolved, the prosecutors filed indictments against 38 persons. Further, criminal reports against 18 persons were dismissed and investigations against them were terminated. Prosecutors ordered in total the use of 86 covert measures in following up cases of trafficking in persons.⁸⁹ The use of such measures by the KP ordered by prosecutor's shows a significant improvement compared to the previous years as a result of trainings of KP investigators.⁹⁰

Courts again continued to struggle with holding of trafficking offenders accountable.⁹¹ Often, prosecutors dropped trafficking charges or reduced trafficking charges to non-trafficking related charges, the sentencing of traffickers continued to be lower than the statutory limits foreseen by the applicable law. Courts convicted fewer traffickers and continued to impose lenient sentences on the traffickers.⁹² Out of 38 indictments filed by the prosecutors, courts issued decisions only for 25 persons, with 24 persons found guilty of charges.⁹³ (See table 1.4)

In the first quarter of 2015, prosecution offices had in total 46 cases against 128 persons in procedure.⁹⁴ Majority of cases were inherited from the previous years, whilst in the first three months of 2015 there were only five (5) new cases submitted. During this period prosecutors managed to resolve only one case, whereas 95% of the cases remain unresolved. Prosecutors

⁸⁷ Kosovo Prosecutorial Council, 2014 Annual Inter-Institutional Report on the Harmonization of Statistics, pg.69. Available at, http://www.psh-ks.net/repository/docs/RAPORTI_2014_MEKANIZMI_PERCJELLES.PDF

⁸⁸ Ibid, pg.70.

⁸⁹ Ibid, pg.71.

⁹⁰ KIPRED interview with high official from Kosovo Police, 21 April, 2015, Prishtina.

⁹¹ Ibid.

⁹² Office To Monitor and Combat Trafficking in Persons, [2014 Trafficking in Persons Report. See also TIP Report 2015.](#)

⁹³ Kosovo Prosecutorial Council, 2014 Annual Inter-Institutional Report on the Harmonization of Statistics, pg.72.

⁹⁴ KIPRED E-mail communication with Kosovo Prosecutorial Council official I.P, April 2015.

ordered 76 covert measures and filed indictments for six (6) persons.⁹⁵ There is a slight increase in the orders of prosecutors to use covert measures, with the rate of using covert measures in the first three months of 2015 of ten orders less compared to the entire year of 2014. Following the indictments by prosecutors, courts issued decisions only for one of the persons indicted that was found guilty. (See table 1.5)

Another deficiency in the prosecution of trafficking in persons cases is the overall reliance of prosecutors on the victim testimony. In cases when victims might withdraw from their statements cases end up significantly undermined.⁹⁶ Additionally, victims rarely admit to be victims of trafficking often afraid for their families and the retaliation by traffickers.⁹⁷ The lack of trust in the effectiveness of the judicial system overall affects their judgement to cooperate with the rule of law authorities.⁹⁸ Victims also usually withdraw their testimony when faced with the defendant in the court of law.⁹⁹ Main reasons assumed are the fear from retaliation, intimidation or false promises for the future by the traffickers.¹⁰⁰

According to prosecutors, the phase to collect evidences and the identification of the victims is also costly and complex.¹⁰¹ Therefore, there are few cases when lack of appropriate funds to pursue these cases might influence the willingness to continue the investigations. In addition, the sanctions imposed by courts are considered to be lenient, showing soft attitudes of judges towards combating trafficking in persons.¹⁰² Furthermore, sentences issued at first instance courts are further reduced following the appeal of cases at higher instances.¹⁰³

In ending, the poor statistical records on cases of trafficking in persons indicate that efforts should be further improved in dealing with this offence. Challenges further remain with the insufficient capacities of prosecutors and judges and also the qualitative investigations led by KP. These challenges may be improved with the increase of specialized and joint trainings for police, prosecutors and judges in dealing with trafficking cases. Even though, Kosovo institutions such as the Kosovo Judicial Institute (KJC) provided constant trainings for judges aiming to advance their capacities to deal with the trafficking offences, specialised trainings to handle trafficking in person's cases have been rare.¹⁰⁴ Furthermore, the specialization of judges including on adjudicating of trafficking in person's cases would support and facilitate the work of the courts and the current responses. Therefore, the need to identify these specific areas for capacity building of judges should be seen as a priority for Kosovo institutions.

⁹⁵ Ibid.

⁹⁶ KIPRED interview with high official from Kosovo Police, 21 April, 2015, Prishtina.

⁹⁷ Syri i Vizionit interview with prosecutor of Basic Prosecution in Gjakova, 23 April, 2015, Gjakova.

⁹⁸ Syri i Vizionit interview with judge of Peja Basic Court, 28 April, 2015, Peja/Pec.

⁹⁹ Syri i Vizionit interview with judge of Basic Court in Gjakova, 23 April, 2015, Gjakova.

¹⁰⁰ KIPRED interview with special prosecutor, 29 April, 2015, Prishtina.

¹⁰¹ Syri i Vizionit interview with prosecutor of Basic Prosecution in Gjakova, 23 April, 2015, Gjakova.

¹⁰² Syri i Vizionit interview with official of Peja regional police, 27 April, 2015, Peja/Pec.

¹⁰³ Syri i Vizionit interview with judge of Peja Basic Court, 28 April, 2015, Peja/Pec.

¹⁰⁴ Syri i Vizionit interview with judge of Basic Court in Gjakova, 23 April, 2015, Gjakova.

III. Other Anti-Trafficking Efforts

a) The role of the National Coordinator in combatting Trafficking

Kosovo developed a number of policy approaches to combating trafficking including the appointment of the National Anti-Trafficking Coordinator as of 2008.¹⁰⁵ The Coordinator was also foreseen to act as the National Rapporteur against Trafficking in Human Beings.¹⁰⁶ Until now Kosovo government appointed Vice-Ministers of Internal Affairs as National Coordinators.¹⁰⁷ This requirement was initially foreseen under the first Kosovo Strategy and Action Plan against Trafficking in Human Beings 2008-2011.¹⁰⁸ The Law on Anti-Trafficking further states that the appointment of the Coordinator needs to come by the government, with the National Strategies Monitoring and Evaluation Secretariat operating under the Ministry of Internal Affairs.¹⁰⁹

Other scope of its responsibilities includes chairing of the National Authority Against Trafficking in Human Beings,¹¹⁰ and cooperation including with other law enforcement agencies, in order to prevent and combat human trafficking and protect victims of trafficking.¹¹¹ Also, the Coordinator should develop, coordinate and monitor the implementation of National Referral Mechanisms in order, to ensure proper identification, referral, assistance and protection of victims of trafficking, including of child victims.¹¹²

Following the last parliamentary elections in June 2014 and the creation of the new government, Kosovo still awaits the appointment of vice-minister of Internal Affairs. Respectively the National Anti-Trafficking Coordinator has yet to be appointed, with the government claiming that his/her role is exercised by the Minister of Internal Affairs himself, as the Vice-Minister on Internal Affairs has still to be appointed by the Prime-minister.¹¹³ Furthermore, for few institutions involved in anti-trafficking efforts there is lack of knowledge on who is currently playing the role of the National Coordinator.¹¹⁴ At least the appointed former National Coordinator demonstrated a significant role in organising and calling for regular meetings of the National Authority and improving the coordination efforts of the government as such.¹¹⁵ The current delay in the appointment by the government of the National Coordinator should therefore be urgently dealt with, in order for Kosovo not to undergo major setbacks, in its anti-trafficking efforts.

¹⁰⁵ According to Government's Decision No.029 of the date 10/04/2008.

¹⁰⁶ Pg.11 of the National Strategy and Action Plan Against Trafficking In Human Beings, 2011-2014. Available at <https://www.mpb-ks.org/repository/docs/tqnjanglisht.pdf>.

¹⁰⁷ See for example Government's Decision No.029 of the date 10/04/2008.

¹⁰⁸ Pg. 8 of the Strategy available at https://mpb-ks.org/repository/docs/strategjia_nacionale_dhe_plani_i_veprimit.pdf.

¹⁰⁹ Article 8, paragraph 3 of the law no. 04/1-218 on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking.

¹¹⁰ National Authority Against Trafficking in Human Beings (hereinafter referred to as the National Authority), is composed of [...] any state institution, and service provider within these institutions, which, under the Law, is authorized to deal with preventing and combating trafficking in human beings and providing assistance and protection of victims of trafficking. Article 6, Paragraph 1.1 - 1.18.

¹¹¹ The Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking, Article 8, Paragraph 2.

¹¹² Ibid, Article 8, Paragraph 3.

¹¹³ KIPRED interview with MiA staff, Kosovo State Prosecutors Office representative and EU official, May 2015.

¹¹⁴ Statement of State Prosecutors Office representative, KIPRED and SiV roundtable held in Prishtina, 29 May, 2015.

¹¹⁵ KIPRED interview with EULEX official of investigative department, 22 April 2015 in Prishtina.

b) Assistance and Reintegration of Victims of Trafficking

A number of initiatives were undertaken in Kosovo in recent years in order to address the needs and protect the rights of victims of trafficking. Specifically, Kosovo institutions improved efforts by opening of facilities to assist and shelter victims of trafficking, increasing funding by also licensing and outsourcing services to NGOs in providing assistance and protection, set-up the mechanism of victim advocates in order to represent victims before and after the court proceedings including establishing of residency permits for trafficking victims.¹¹⁶ Nevertheless, Kosovo institutions for years now have denied victims of trafficking compensation suffered from crimes of trafficking. This has been followed by minimal reintegration funding impeding the rights of victims to longer-term rehabilitation.¹¹⁷ The main challenge continues to be the risk of re-victimization for victims of the trafficking crime.¹¹⁸ As victims often wish for going back to normal living conditions and aim longer-term recovery during and after completion of the judicial processes, often victims have been denied support by their families and their respective communities.¹¹⁹ This has led victims in few cases to be rejected and stigmatised without much choices for a normal life often targeted by the trafficking networks.¹²⁰

Besides the institutional set up, trafficking victims are provided assistance and shelter by the non-governmental sector, recently licensed by the Ministry of Labour and Social Services to offer such services. However, NGOs complained of lacking means and funding to address the longer-term needs of trafficking victims.¹²¹ Furthermore, longer term assistance and employment opportunities for trafficked victims still lack strategic support by the government.¹²² Overall, reintegration and longer-term rehabilitation by including continuous education and employment opportunities for victims of trafficking have not dominated the priorities of the anti-trafficking efforts in Kosovo.

It is a necessity that GoK will ensure proper financing for shelter-providers including financial assistance and better facilities and inventory.¹²³ Furthermore, longer-term rehabilitation and reintegration should be provided by addressing needs of victims of trafficking. As victims are drawn into the trafficking networks due to discrimination and economic limited opportunities for employment, the implementation of the newly adopted Law on Compensation of Crime Victims, is a necessary tool to offer victims the chance to make their own life choices including monetary support for start-up employment opportunities. However, as recently adopted the implementation

¹¹⁶ Office To Monitor and Combat Trafficking in Persons, 2014 Trafficking in Persons Report, Tier 2. Additionally, Kosovo set out a Victim's Advocacy and Assistance Office part of the Kosovo State Prosecutor, with 7 regional offices including 37 officers. In 2014 the VAAO assisted in total 35 victims of trafficking in court of law. KIPRED interview with representative of VAAO, May 2015. See also, Victims Advocacy and Assistance Office (VAAO), Bulletin no. I – Year 2014, 12 Years Serving Victims of Crime, available at http://www.psh-ks.net/repository/docs/BULETINI_ANGLISHT.pdf, pg.14.

¹¹⁷ Judge from Basic Court in Gjakova, at KIPRED and SiV roundtable, Prishtina, 29 May 2015.

¹¹⁸ KIPRED interview and E-mail communication with official from Ministry of Labour and Social Welfare, May 2015, Prishtina.

¹¹⁹ Ibid.

¹²⁰ KIPRED interview with KP official, and Kosovo special prosecutor, April 2015, Prishtina.

¹²¹ KIPRED interview with shelter representative, April 2015, Prishtina.

¹²² KIPRED interview and E-mail communication with official from Ministry of Labour and Social Welfare, May 2015 Prishtina.

¹²³ KIPRED interview with shelter representative, April 2015, Prishtina.

of the law should remain a priority for Kosovo anti-trafficking institutions and the non-governmental sector offering assistance and reintegration services to victims of trafficking.

c) Anti-Trafficking efforts in combating Forced Child Begging

The phenomenon of child begging in Kosovo is of serious concern. Children from Kosovo and neighbouring countries, including Albania, are subject to forced begging within the country.¹²⁴ Sanctioned by the Kosovo law,¹²⁵ also the EU Progress Report in 2014 has noted that child trafficking and child exploitation for the purpose of begging remains high.¹²⁶ It has also been valued as a disturbance cause for citizens, particularly in cases when beggars act aggressively when asking for money.¹²⁷ Majority of child beggars in Kosovo come from neighbouring country Albania and most of them belong to Roma, Ashkali and Egyptians (RAE) communities.¹²⁸ Furthermore, research has noted that the daily earnings may vary from 30 Euros up to 250 Euros during the summer season for children, often shared by their traffickers.¹²⁹ Kosovo Police has cooperated with Albania's institutions and conducted several operations aiming collection and return of children and their accompanying adults from Albania. However, alternative routes are identified and in majority of cases the children and accompanying adults have managed to return to Kosovo.¹³⁰ Often children recognise police officers in the streets, even in cases when dressed as civilians and run away from the law enforcement authorities as fearing return to Albania.¹³¹ The actions to identify child beggars or their potential traffickers become more difficult when children are changed location and are moved from one city to another.¹³²

Children with adult family members and traffickers travel together to Kosovo from Albania. Border Police at the checkpoints of Qafa e Morinë, Bajram Curri, Qafë Prushi allowed their entry to Kosovo even in cases when their identification documents did not satisfy the proper legal requirements or when they hid documents.¹³³ Kosovo has signed a protocol of cooperation with Albania, and is undergoing negotiation to add forced child beginning in the protocol. However the process has remained uncompleted as Kosovo needs yet to appoint the National Coordinator against Trafficking in Human Beings.¹³⁴ Recently, the phenomenon of recruiting child beggars by children themselves has also been spread in Kosovo.¹³⁵ Although child begging is often seen as a form of exploitation and part of trafficking crime, often KP is reluctant to consider such cases as trafficking in persons. The cases are mostly categorised as child maltreatment and abandonment as defined by the Criminal Code.¹³⁶ In 2014, KP submitted to prosecution offices 11 cases of child

¹²⁴ Office To Monitor and Combat Trafficking in Persons, 2014 Trafficking in Persons Report, Tier 2.

¹²⁵ Kosovo law No. 04/L-218 on preventing and combating trafficking in human beings and protecting victims of trafficking, article 3, paragraph 1.8.

¹²⁶ European Commission 2014 Progress report for Kosovo, page 58.

¹²⁷ Office To Monitor and Combat Trafficking in Persons, 2014 Trafficking in Persons Report, Tier 2.

¹²⁸ See MARIO Project, Observation report: Exploiting Albanian children in street situation in Kosovo, December 2010, pg.2. Available at, http://www.childtrafficking.com/Docs/tdh_10_kosova_original_0311.pdf

¹²⁹ Ibid.

¹³⁰ KIPRED interview with high official from Kosovo Police, 21 April, 2015, Prishtina.

¹³¹ Statement of high official from Kosovo Police at KIPRED and SiV held in Prishtina, 29 May 2015.

¹³² Statement of official from Centers for Social Work, at KIPRED and SiV held in Prishtina, 29 May 2015.

¹³³ MARIO Project, Observation report: Exploiting Albanian children in street situation in Kosovo, pg.7.

¹³⁴ Statement of official from State Prosecutor Office at KIPRED and SiV roundtable, held in Prishtina, 29 May 2015.

¹³⁵ Statement of judge from Basic Court in Gjakova at KIPRED and SiV roundtable, held in Prishtina, 29 May 2015.

¹³⁶ Kosovo Criminal Code, Article 250, Mistreating or abandoning a child, Paragraph 4.

maltreatment and child abandonment.¹³⁷ In addition, KP has set out two operating plans in order to identify potential cases of child beginning as child trafficking. A more of a reconciliatory and re-socialisation approach has been adopted by the police and centres for social work rather than approving plans for custody waivers in cases when parents are investigated for child abuse or maltreatment. Under Kosovo law the Centres for Social Work can also act as a guardianship authority for children needing assistance and protection by the state.¹³⁸ Further criminal proceedings in these cases have not been reported.¹³⁹ Even though prosecutors have provided support to KP in raising their capacities to tackle child begging cases and investigate further their potential link to trafficking of children nevertheless, the results in these cases have not been satisfactory.¹⁴⁰ KP continues to face challenges in identifying and investigating such cases further.

As trafficking in persons is also a cross-border crime the cooperation with other states particularly neighbouring states is essential to combat successfully this phenomenon. Kosovo signed a number of agreements with neighbouring countries in order to also enhance its bilateral and regional responses.¹⁴¹ For example in 2014 Kosovo signed a protocol on cooperation in the fight against trafficking in persons, and with Montenegro and Albania. With Macedonia such cooperation protocol does not exist, as according to Kosovo law enforcement no victims of trafficking so far have been identified from this country.¹⁴² Another challenge on cooperation with neighbouring states remains harmonising legislation necessary to increase the effectiveness of joint actions.¹⁴³

Kosovo continues to face significant obstacles in international level due to partial recognition of its statehood by the United Nations member states and Kosovo's lack of membership. In majority of cases Kosovo exchanges information with other states and international organizations through the liaison office of International Law Enforcement Coordination Unit in Kosovo (ILECU).¹⁴⁴ Nevertheless, the challenge remains on how well-synchronized Kosovo has been with other international partners in combating trafficking in persons. Furthermore, cooperation and information exchange is encouraged on international level for mainly two purposes that: a) countries may reduce the level of trafficking in persons and b) data which are collected by domestic authorities may serve to other partner countries to facilitate combating this issue.¹⁴⁵

¹³⁷ KIPRED interview with high official from Kosovo Police, 21 April 2015, Prishtina.

¹³⁸ See Article 1, paragraph j of the Kosovo Law on Family and Social Services, available at http://www.kuvendikosoves.org/common/docs/ligjet/2005_02-L17_en.pdf.

¹³⁹ Ibid.

¹⁴⁰ Statement of high official from Kosovo Police at KIPRED and SiV held in Prishtina, 29 May 2015.

¹⁴¹ Syri i Vizionit interview with official of Peja regional police, 27 April 2015, Peja/Pec.

¹⁴² KIPRED interview with high official from Kosovo Police, 21 April 2015 in Prishtina.

¹⁴³ Syri i Vizionit interview with official of Peja regional police, 27 April 2015, Peja/Pec.

¹⁴⁴ This office was established in April 2011, by a Memorandum of Understanding between Ministry of Internal Affairs, Ministry of Justice, Ministry of Finances and State Prosecutor, with the purpose of coordination of actions and increasing the effectiveness of this office with other institutions mandated for law enforcement in Kosovo. See, Kosovo Prosecutorial Council, Memorandum of Understanding for Coordination and Support Provided for International Law Enforcement Coordination Unit (ILECU), available at, <http://www.psh-ks.net/repository/docs/ILECU.pdf>

¹⁴⁵ Council of Europe report of 2014 (Albania) considers that the Albanian authorities should step up their efforts to reinforce cooperation with neighbouring countries and trafficking destination countries in the areas of prevention, protection of victims and prosecution of perpetrators of trafficking, on the basis of existing mechanisms and by introducing further procedures wherever this proves necessary.

The cooperation and the exchange of information with Serbia, on cases of trafficking in persons and other cross border criminal offenses, is mainly done through EULEX mission in Kosovo. Also, Kosovo maintains contacts with International Centre for Migration Policy Development (ICMPD)¹⁴⁶ regarding Transnational Referral Mechanisms.¹⁴⁷ For example in 2014, the total number of cases of trafficking in persons in which Kosovo has exchanged information with other states has been 23, whilst only in the first quarter of 2015, Kosovo exchanged information on 10 cases of trafficking in persons. The highest rate of cooperation was with Albania, with 9 cases informed in 2014.¹⁴⁸ However, with other states, the rate continues to be low (See table 1.6). Generally, Kosovo Police has been valued to be more effective in information exchange with neighbouring investigators, whilst these practices are at a much lower scale amongst prosecutors and judges.¹⁴⁹

In ending, Kosovo authorities must improve their approach towards the fight against trafficking in persons especially identification of forced child beggars. The cooperation between institutions must result in finding new instruments to tackle this issue. Specifically, cooperation between police and centres for social work, in order to identify child beggars early from onset is more than necessary including their trafficking networks.¹⁵⁰ Another important institution in this case are Kosovo customs. Indeed, customs should be considered as first “shield”, to prevent illegal borders crossing and should accordingly be further trained on early identification measures.

IV. Conclusion and the Way Forward

Challenges remain on the investigation, prosecution and court response on cases of trafficking in persons including child begging. Argumentation with sufficient and qualitative evidence of cases of trafficking in persons are crucial in order to sentence persons involved in trafficking related criminal activities. The use of proactive intelligence measures to crack down larger criminal groups still remains a challenge for Kosovo including investigations on crimes of money-laundering, drug and arms trafficking. Sentences by courts are considered to be soft and minimal despite the requirements of the law against trafficking in persons offenders.

Majority of the victims in Kosovo continue to be women and girls, predominantly trafficked for purposes of sexual exploitation. Men have also been increasingly reported to be trafficked and trafficking premises have moved from motel based premises to private flats, massage parlors and night clubs.¹⁵¹ The reintegration of the victims of trafficking continues also to be among main challenges. Shelters that offer services to victims of trafficking confirm that the reintegration

¹⁴⁶ ICMPD is an international organisation composed of 15 member states, and representatives throughout Europe, Northern Africa, the Middle East and Latin America. ICMPD holds UN observer status. The purpose of ICMPD is to promote innovative, comprehensive and sustainable migration policies and to function as a service exchange mechanism for governments and organisations. See more at, <http://www.icmpd.org/about-us/>

¹⁴⁷ KIPRED interview with official of State Prosecutor Office, 22 April 2015, Prishtina.

¹⁴⁸ KIPRED E-mail communication with Kosovo Police office for information and media, April 2015.

¹⁴⁹ KIPRED interview with EULEX Prosecutor, 23 April, 2015, Prishtina.

¹⁵⁰ Statement of judge from Basic Court in Gjakova (Vaton Durguti) at KIPRED and SiV roundtable, held in Prishtina, 29 May, 2015.

¹⁵¹ See US State Department Report “Trafficking in Persons” 2015, chapter on Kosovo, available on <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243470.htm>.

remains a challenge for past decade in Kosovo with victims often returning to trafficking networks as a result of poor reintegration capacities developed.

Cooperation and coordination among the competent authorities for combating trafficking in persons must further improve particularly in the aspects of prevention, prosecution and adequate sentencing of offenders of trafficking in persons. Furthermore, the government must ensure proper assistance to protect and reintegrate the trafficking victims including the establishment and effective delivery of compensation to trafficking victims. Lack of compensation to victims of trafficking, remains a serious concern denying victims of trafficking with the opportunity to empower their choices and offer them a chance for sustainable reintegration. Accordingly, the crime of trafficking will remain a priority and challenge for Kosovo to fulfil, in order for Kosovo to be able to move forward in its EU integration processes.

Recommendations:

In order for Kosovo to step up its delivery and enhance the effectiveness of the laws, policies and mechanisms developed in particular after the declaration of independence, the Kosovo institutions should undertake the following steps:

- Conduct further campaigns on the prevention of trafficking in persons particularly with groups of higher risk of trafficking such as youth and young girls of rural areas;
- Responsible institutions mandated to fight trafficking in persons must ensure full implementation of legislation on trafficking in persons and the newly adopted Law on Compensation of Crime Victims including compensation to trafficking victims denied for the last decade and more for Kosovo victims;
- Improve the track record on investigation, prosecution and judgment of trafficking in persons offenses. Also, the sentences issued should be in accordance to the provisions foreseen by the Kosovo legislation and not be left to the discretion of judges to interpret as per their own will. Traffickers of young girls and women should be issued appropriate sentences and punishment should be issued in accordance to the definitions of the trafficking in person's offence;
- Kosovo institutions should organise and deliver specialized and joint trainings regarding trafficking in persons for all responsible institutions including but not limited to Kosovo police, Kosovo customs, prosecutors, judges and victim advocates and centres for social work on regular rather on ad hoc basis;
- The law enforcement authorities, in particular the Kosovo Police need to explore further modalities to address forced child begging and potential trafficking networks;
- Sufficient funding and resources must be ensured for all shelters of trafficking victims. Specialized trainings for the responsible staff engaged on victim's protection, rehabilitation and reintegration

should be conducted on need basis. Based on implementation of the victim compensation law, victims should be also provided with sufficient monetary support for their longer-term reintegration.

Annex

Table 1.1. Investigations conducted by Kosovo Police during year 2014 and January-March 2015

Cases/Investigations	2014	January-March 2015
Open cases	155	63
Cases filed in prosecution with Criminal Report	89	13
Cases filed in prosecution with Special Report	72	13
Cases under investigations	45	37

Source: E-mail communication with Kosovo Police

Table 1.2. Victims identified by origin

Identified victims - origin	2014	2015
Kosovars	36	5
Albanians	4	1
Serbs	1	1
Romanian	1	0
Total	42	7

Source: E-mail communication with Kosovo Police

Table 1.3. Victims identified by age group

Age group	14–17	18–22	23–25	26–30	31–35	36–40	41–50	Total
Year 2014	18	11	3	6	2	1	1	42
January-March 2015	6	1	0	0	0	0	0	7

Source: E-mail communication with Kosovo Police

Table 1.4. The issued decisions by courts on cases of trafficking in persons

Year 2014	Indictment was filed following the investigations	Persons for whom the Court has taken a decision regarding indictments	The accused was found GUILTY	or %	For the accused the indictment was rejected	or %
Total	38	25	24	96%	1	4%

Source: KPC Annual Inter-Institutional Report 2014

Table 1.6. International police cooperation / Exchange of information (2014- 2015)

Year	Albania	Macedonia	Montenegro	Serbia	Switzerland	Germany	Netherlands	Ukraine	Sweden	Belgium	USA	Italy	Austria	England	Turkey	France	Romania	Moldavia	Total
2014	9	0	1	2	2	1	1	1	0	2	1	1	1	0	1	1	1	2	23
2015	3	0	1	2	1	1	0	0	0	0	0	0	0	2	0	0	0	0	10

Source: E-mail communication with Kosovo Police