

ISSN 2785-5228



EUWEB

EU-WESTERN BALKANS

Cooperation on Justice and Home Affairs



EUWEB Legal Essays
Global & International Perspectives
Issue 2/2023

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SCIENTIFICA

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Rivista semestrale on line EUWEB Legal Essays. Global & International Perspectives

www.euweb.org

Editoriale Scientifica, Via San Biagio dei Librai, 39 – Napoli

Registrazione presso il Tribunale di Nocera Inferiore n° 5 del 23 marzo 2022

ISSN 2785-5228

This issue of the Journal intends to illustrate the activities carried out and share the scientific results achieved within the Jean Monnet Chair *Promoting Public Awareness on Enlargement, EU Values and the Western Balkans' Accession* (EUVALWEB), also collecting some of the essays and speeches delivered by our experts and young speakers.

Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Education and Culture Executive Agency (EACEA). Neither the European Union nor EACEA can be held responsible for them.



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THE INCIDENCE OF HUMAN TRAFFICKING IN THE REPUBLIC OF NORTH MACEDONIA AND ITS READINESS TO MEET THE MINIMUM STANDARDS IN THE FIGHT AGAINST IT ON THE WAY TO EU

*by Nada Doneva**

SUMMARY: 1. Introduction. – 2. EU Policies Regarding the Fight Against Human Trafficking in Western Balkans Countries. – 2.1. The Response of EU Organizations Regarding Human Trafficking in the Western Balkans Countries. – 2.2. Republic of North Macedonia and the Imposed Human Trafficking Situation. – 2.2.1. How Can the Open Balkan Initiative Affect the Situation with Human Trafficking in the Region and in RNM?. – 3. The Republic of North Macedonia and the Efforts to Join the EU Criteria and Commitments of the State. – 3.1. Data on Human Trafficking in Republic of North Macedonia. – 3.2. EU Assessment of the Republic of North Macedonia in Relation to the Achievements of the Anti-Trafficking Plan. – 4. Conclusions.

1. Introduction

Human trafficking, as an embodiment of modern slavery, is gaining ever wider proportions leading to the restriction of freedom by the fact that millions of people are deprived of the possibility to make a decision. Many are exploited by means of force, coercion, fraud and abuse for various purposes - sexual and labor exploitation, forced criminal activities, forced marriages and pregnancies, illegal adoption, removal and transplantation of parts of the human body and other illegal forms of exploitation. Providing a global achievement framework, human trafficking fundamentally challenges the basic values of humanity.

Europe is experiencing a significant increase in activities related to human trafficking. As a form of organized crime, human trafficking is quite profitable, and it has become a frequent practice of organized criminal groups and a basis for financing by expanding their other activities - drug and arms trafficking or money laundering. The European Union (EU), in continuity with the momentum that human trafficking has within European borders, does not stop instructing the states to upgrade national policies and programs. Considering all different forms of human trafficking, the EU recommends them to develop responses managing the differences in the nature of vulnerability of the different groups affected by this phenomenon. The aforementioned things imply the implementation of joint action in the direction of prevention, easier identification of potential and victims of human trafficking. Psycho - social support and protection of trafficked persons, efficient implementation of justice and punishment of the perpetrators of this crime, as well as compensation to trafficking victims, are crucial segments of good national policies to fight this phenomenon.

The EU commitments, in the manner of achieving the documented goals with numerous acts adopted within its bodies and organizations, are obvious and detect the direction of action of the Member States, at the same time of the states contending for entry into the Union (the Western Balkans States). This should result in the creation of

DOUBLE BLIND PEER REVIEWED ARTICLE

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efficient policies to cope with this phenomenon, realized within the scope of national frameworks, but also across borders.

As a review article about the existing legislations and policies regarding the fight against human trafficking in Western Balkans countries, especially in North Macedonia, it is a work that belongs to the Law area. It comes from the commitments of the state to reforms in human trafficking from all aspects, especially in strengthening the legal framework and institutional capacity to meet the European standards of combating the phenomenon and realize the EU criteria in key areas such as the rule of law.

The analysis of the phenomenon in the scope of examining the problem in the context of the determined goal of the Republic of North Macedonia to become a European Union country, results in an understanding of the current trends of this criminological phenomenon and a basis for determining future actions in the direction of achieving the goals of the research. The methodology used in the paper is based on desk research, as this is a review article about the existing EU and national legislations and policies regarding the fight against human trafficking. The comparative analysis enables the perception of positive experiences in the area of regulation of human trafficking in countries whose systems are more developed in terms of applying the practices within our institutions, ready for their application, as a contribution to an effective and more active approach to the problem with a successful outcome in reducing the numbers of this crime at the national level. Through the analysis of already available data on internal human trafficking, as a result of the long - term commitment of the state institutions and the non - governmental sector to show and perceive the serious constant presence of this way of limiting the freedom of the citizen, the path of future action is traced through realistic conclusions and recommendations for the creation of a complex package of measures in terms of upgrading the previous achievements in the area - combating human trafficking in the Republic of North Macedonia. Representing the current state of this form of crime on the territory of the Republic of North Macedonia, the realization of a well - established methodological analysis creates a basis for determining further measures, strategies and methods for the prevention of human trafficking and opens a direction for activities towards the advancement of efforts for suppression of this form of crime from the perspective of meeting European standards in this area and bringing the national legislation closer to the European one, with the aim of realizing the state's commitments to join the EU.

The article is structured as follows. The next section, which refers to EU policies in the field of the fight against human trafficking in Western Balkans countries, shows the response of EU organizations regarding human trafficking in the Western Balkans countries and its inclusion with the aim of exchanging expertise and further development to improve transnational cooperation on countering human trafficking. This section also theorizes the human trafficking situation in North Macedonia and the biggest commitments in international cooperation to prevent and stop human trafficking as a candidate country for joining the EU. Furthermore, follows a brief overview on the Open Balkan initiative and its effect on the human trafficking situation in the region and in RNM. The third section describes the data on human trafficking in the Republic of North Macedonia and the EU assessment on the progress of the country in relation to the achievements of the anti - trafficking plan on its way to EU membership. The closing section concludes and gives recommendations to proactive reforms in the field of combatting organized crime and increasing operational capacity and cooperation of the country to provide an adequate and more systematic approach in the fight against human trafficking and realize the long - standing struggle for EU integration.

2. EU Policies Regarding the Fight Against Human Trafficking in Western Balkans Countries

Migration is higher on the European policy agenda than ever before. EU Member States ranked immigration as the most important challenge that the EU must deal with. The international community and the European Union reacted and started several initiatives, both at the global and regional levels. Thus, many additional efforts and many years of joint work are necessary before reaching the common goal of making migration a matter of choice rather than a necessity. However, in advance of this vision becoming a reality, the EU must not forget about those who are in a vulnerable situation and those who have become trafficking victims. Undertaking activities with this aim must consider the moral and legal obligation to tackle the trafficking networks and to protect the victims following a human right - based, gender - specific and child - sensitive approach. Given the complexity and multidimensional nature of the issue, anti - trafficking in persons laws overlap substantively with other bodies of international law, including migration, human rights, and labor standards¹. The awareness that the boundaries between irregular migration, human smuggling and trafficking are fluent is crucial in the process of accomplishing the set goals. Moreover, the various intersections of trafficking in persons with other regimes and issue areas, generate a number of dyadic sub - cases with variation across both of the dimensions of theoretical interest, namely, spillovers resulting from substantive overlaps and the types of strategies pursued by actors². Labour exploitation, sexual exploitation, forced begging or forced marriages fuel the exploitation and abuse of vulnerable persons, consequently intensifying the irregular migration. Accordingly, the effective fight against human trafficking and protection of its victims are preconditions for better migration governance. The regime complexity that comes from the international cooperation in the fight against trafficking in human beings, as a complex phenomenon that can include other forms of violence against people, affects global governance outcomes. They expand the options for state and non - state actors, which should include all possible overlaps of human trafficking with other forms of human rights violations (migration, labor abuse, etc.) and thus influence the creation of national policies and strategies to suppress the greater evil by primarily preventing the lesser.

The impact of the global financial crisis, which started ten years ago, is still felt and has left considerable segments of the European population exposed to the risk of poverty and exploitation. It is important to note that about 40 percent of all victims are trafficked at the domestic level and not across borders³. Human trafficking is a European

¹ L. GÓMEZ-MERA, *Regime complexity and global governance: The case of trafficking in persons*, in *European Journal of International Relations*, Vol. 22, no. 3, 2016, pp. 13-14.

² ID.

³ International Centre for Migration Policy Development: *The Western Balkans and the European Union: National Systems for Combating Human Trafficking in Southeast Europe in the Context of the Accession Process*, Conference held in Sofia, Bulgaria, 31 May, 2018. The International Centre for Migration Policy Development (ICMPD) is an international organization with 19 Member States and more than 465 staff members. Active in more than 90 countries worldwide, it takes a regional approach in its work to create efficient cooperation and partnerships along migration routes and priority regions include Western Balkans, available

at <https://www.icmpd.org/file/download/51825/file/The%20Western%20Balkans%20and%20the%20European%20Union%20National%20Systems%20for%20Combating%20Human%20Trafficking%20in%20Southeast%20Europe%20in%20the%20Context%20of%20the%20Accession%20Process.pdf>

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phenomenon as well; and the Communication⁴ is very much on point when it calls for even stronger action at national and at EU levels. The European Union comprehensive and consistent legal and policy framework for combating trafficking in human beings, means all EU policy areas relating to trafficking in human beings, including funding and research, are regulated in numerous documents adopted at the level of the established bodies within the Union; their adoption contributes to and has significantly changed the socio - political context globally.

The states from the Western Balkans, as affected by the long - term negative trends of globalization, on the way to their European perspective, make great efforts to meet the minimum standards in the fight against organized crime. It affects the territories of the states but also exceeds their borders, being considered a transnational threat requiring transnational action. Strengthening regional cooperation to combat trafficking in human beings on a high rank is a vital factor as trafficking has no national boundaries. Additionally, a comprehensive, coordinated and multi - stakeholder approach within countries and between them is necessary. The list of related priorities, such as joint monitoring of the trafficking situation; effective identification, protection, and assistance for trafficking victims; effective prosecution; raising public awareness, efficient interagency cooperation and the exchange of good practices means sharing good practices. This kind of activity also provides transferring knowledge on investigation, victim support and prevention and other aspects promoting cooperation and coordinated policies. Strategic frameworks - common priorities and political convergence based on the developments concerning trafficking in human beings, the EU accession process in Western Balkan region and the alignment of strategies, will lead and enhance the fight against trafficking in human beings.

Since EU and its Member States have regularly expressed their commitment to the EU perspective of Western Balkans states, the negotiation process includes roadmaps for the rule of law and on the functioning of democratic institutions and public administration reform (at the same time bears important consequences combating trafficking in human beings), as well as elements of economic reform. This new process aims at offering more credibility and predictability to the accession negotiations, which in recent years had been subject to criticism. They emphasized the importance of a continuous dialogue and cooperation in the fight against organized crime and trafficking in human beings in particular⁵. A concrete and sustained track record in tackling corruption, money

⁴ Communication from the Commission to the European Parliament and the Council, *Reporting on the Follow-up to the EU Strategy towards the Eradication of Trafficking in Human Beings and Identifying Further Concrete Actions*, of 4 December 2017, COM/2017/0728 final.

⁵ According to European Commission, *A Credible Enlargement Perspective for and Enhanced EU Engagement with the Western Balkans*, Belgium, 2018, pp. 3-8, the rule of law must be strengthened significantly, addressing reforms in the area of rule of law, fundamental rights and good governance as the most pressing issue for the Western Balkans which is also the key benchmark against which the prospects of these countries will be judged by the EU; The independence, quality and efficiency of the judicial system must be ensured; The countries must root out corruption without compromise as strong and independent institutions are crucial to prevent and tackle corruption and conduct more effective investigations and prosecutions, leading to final court rulings that are enforced, and include dissuasive sanctions; Specialised prosecutorial structures to fight corruption and organized crime and judicial bodies should be significantly strengthened and this should include the allocation of special police units to prosecution offices; Strengthening the functioning of democratic institutions is essential and this includes ensuring constructive dialogue across the political spectrum, notably within the parliaments; Fundamental rights are largely enshrined in the legislation of the Western Balkans countries but more needs to be done to ensure they are fully implemented in practice; further efforts are needed to increase the competitiveness of the Western Balkans economies, to address high unemployment, especially among the young, to increase prosperity and

laundering and organized crime should be established as a matter of urgency⁶. Since organized crime's foothold on the Western Balkans remains strong, whether in terms of trafficking in human beings, drugs and weapons or risk of criminal infiltration of the political and economic systems, the authorities must dismantle criminal networks and their economic bases more effectively. Making systematic use of financial investigations and applying more targeted tools like the precautionary freezing of criminal proceeds, third - party confiscation is necessary, but mostly they should devote themselves to an enhanced judicial cooperation in the suppression of organized crime that crosses borders unhindered and persists in the Western Balkans.

2.1. The Response of EU Organizations Regarding Human Trafficking in the Western Balkans Countries

In recent years, frequent activities of the International Centre for Migration Policy Development have been visible, involving members from the countries of the Western Balkans. It performs the function of a support mechanism for informal consultations, providing expertise and efficient services in the newly emerging landscape of multilateral cooperation on migration and asylum issues on the territory of the Member States of the Union. Besides this, it is also referring to the situation with migration and human trafficking that takes place within the Western Balkans, whose flows often exceed the borders of the EU. Within these frameworks, the Network of Anti - Trafficking Coordinators of South - East Europe is involved, with the aim of exchanging expertise and further development. Its inclusion is in order to improve transnational cooperation on countering human trafficking in the South - East Europe region, including staff members from Western Balkans, whose activities are valuable and applicable through the outcomes of their work, in the form of key documents of the organization.

The interest of the EU and its Member States in enhancing collaboration with their counterparts in the Western Balkan is not a one - way street. The members of NATC SEE⁷ have in their Strategy⁸ endorsed commitments to further “*expand cooperation with the countries of destination outside of the Network for trafficked persons originating from the region*”, with a particular focus on collaboration with EU Member States. The NATC SEE 2020-2024 Strategy Paper gravitates around the four traditional objectives of Prevention, Protection, Prosecution and Partnerships, and outlines a number of key priority topics that all NATC SEE members have committed to address jointly.

The NATC SEE priorities are strikingly aligned with the priorities that have been set out by the EU in its Strategy on Combatting Trafficking in Human Beings 2021-2025⁹. The strategy builds on the EU's legal and policy framework in place to address trafficking in human beings, rooted in the Anti - trafficking Directive¹⁰. The Strategy focuses on: reducing demand that fosters trafficking; breaking the business model of traffickers

to create business opportunities not least for local players; Applying EU rules and standards; Reconciliation, good neighbourly relations and regional cooperation - prerequisites for accession and completing the process of transitional justice.

⁶ European Commission, *A Credible Enlargement Perspective for and Enhanced EU Engagement with the Western Balkans*, p. 5.

⁷ Network of Anti - Trafficking Coordinators of South - East Europe, October, 2010.

⁸ Strategy Paper of the Network of Anti-Trafficking Coordinators of SEE, adopted on 4 March 2020.

⁹ Strategy COM/2021/171 of the European Commission, *on Combatting Trafficking in Human Beings (2021-2025)*, of 14 April 2021, Brussels.

¹⁰ Directive 2011/36/EU of the European Parliament and of the Council, *on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA*, of 5 April 2011 in OJ L 101/1, of 5 April 2011.

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through effective operational means against the criminal business model, tackling the culture of impunity by building capacity for a robust criminal justice response, as well as the digital business model of traffickers; protecting, supporting and empowering the victims with a specific focus on women and children and promoting international cooperation.

The Anti - Trafficking Coordinators work and make efforts to fulfill the main issues related to trafficking in human beings that every country should consider as a significant point of its policy and operational response to this organized crime and reports comprising of: Victim identification, referral and protection in NATC SEE members, Investigations and criminal proceedings paced down, Legal and policy development on trafficking in human beings: positive dynamics, Effective cooperation with EU Law Enforcement Agencies, Networks and Initiatives particularly in countering irregular migration and fighting serious and/or organized crime (Europol, Eurojust, Frontex), Judicial cooperation in criminal matters: positive trends and improvements, Data collection and Reporting¹¹. A myriad of positive benefits and experiences of collaboration between EU, its Member States and Western Balkans states have been reported, particularly in the areas of criminal justice and law enforcement. The set - up and operation of Joint Investigation Teams - with the participation of NATC SEE State authorities - has proven to be an overwhelmingly positive experience praised by actors on both sides. However, within the EU as well as between EU Member States and Western Balkans states, a number of challenges remain, notably in relation to: Referral and protection of victims across borders, Law enforcement and criminal justice matters: operational and automatic data exchanges, Development of mutual learning initiatives aiming at institutional improvements and reinforcement, Ensuring better targeted EU Member States funding that reaches those who need it the most, particularly vulnerable migrant populations.

The Joint Statement by the Anti - Trafficking Coordinators of South - East Europe recognises that persistent challenges continue to affect the region and Europe as a whole, 20 years after the adoption of the Palermo Protocol. The aforementioned acknowledges the worldwide large discrepancy between the high rate of estimated victims and the consistently small number of identified victims on one hand, and the exceptionally low rate of prosecutions and convictions on the other hand. It declares that the current state of impunity for the crime of trafficking in human beings is unacceptable and encourages the development of a robust criminal justice response to conduct effective investigations, increase prosecution rates, achieve a higher number of convictions, and apply appropriate sentences.

2.2. Republic of North Macedonia and the Imposed Human Trafficking Situation

The Republic of North Macedonia is considered to be one of the first countries in the region that initiated the legislative reforms for the effective suppression of human trafficking and set up an appropriate, operational and coordinating system in accordance

¹¹ International Centre for Migration Policy Development, *Beyond Joint Actions: Towards integrated anti-trafficking responses of European Union Member States and Western Balkans*, 17 February 2022. The document identifies avenues of collaboration between anti-trafficking stakeholders in the Western Balkans and the European Union, including its institutions and agencies as well as its Member States, with a view to enhancing the quality and effectiveness of interventions to combat trafficking in human beings across Europe. The Non-paper is based upon the answers to a questionnaire disseminated in August 2021 and therefore, it provides an up-to-date picture of trafficking in human beings with the latest data and statistics provided by state authorities in the Western Balkans.

with the relevant international conventions and protocols. All the European reports regarding Western Balkans countries, emphasize the independence of the judiciary, the fight against corruption, and the fight against transnational organized crime as the most significant areas where intervention is crucial with continuance of accelerating and deepening reforms in. The status of candidate country¹² stimulated North Macedonia to implement further pro - democratic reforms to be closer to obtaining full EU membership¹³. Among all the other tasks, it must achieve the greatest success in combating corruption and organized crime as the most sensitive areas resistant to reaction. The European Commission and the EU Member States have been monitoring areas such as judicial reform and the fight against organized crime much more rigorously¹⁴. North Macedonia should make swift progress with reforms and alignment with the EU body of legal and regulatory standards (*acquis communautaire*). Rule of law is the fundamental and remains open throughout accession negotiations, as it is considered essential in determining the overall pace of the negotiations. Subsequently, International cooperation, which implies agreements and joint actions with Europol¹⁵, Eurojust¹⁶ and Frontex¹⁷ are of utmost importance in achieving a good rule of law. This is particularly important starting from the fact that weak institutions and weaknesses in the implementation of the rule of law which help the organized crime, are the key constraints for economic transformation of the region's six countries. Organized crime that occurs in the Western Balkans, affects not only the countries of origin, but also the EU Member States from several aspects, causing significant financial and economic harm as well as harm in several social spheres¹⁸.

According to the reports from the European Parliament researches, unlike traditional organized crime groups, Balkan groups do not appear to operate under a typical hierarchy, but rather around ethnic associations and friendship ties; they also appear to be more agile, organic, and project - based. Balkan criminal groups are adept at adopting new

¹² North Macedonia applied for EU membership in March 2004 and was granted EU candidate status in December 2005. The Republic of Macedonia is the first country that signed The Stabilisation and Association Agreement with the European Communities and their Member States (SAA) and the first country in which SAA has entered into force. SAA was signed on 9 April 2001 in Luxemburg and following its ratification by all signatories, it entered into force on 1 April 2004. <https://www.consilium.europa.eu/en/policies/enlargement/republic-north-macedonia/>

¹³ M. KARADZOSKI, A. ADAMCZYK, *Macedonia and Her Difficult Neighbours on the Path to the EU*, in *Yearbook of Polish European Studies*, Vol. 17/2014, p. 213.

¹⁴ D. BECHEV, D. MARUSIC, *North Macedonia on the Threshold of Europe*, Future Europe Initiative, Atlantic Council, 2020, p. 3.

¹⁵ Europol is the European Union's law enforcement agency whose main goal is to achieve a safer Europe for the benefit of all the EU citizens. Headquartered in The Hague, the Netherlands, it supports the 27 EU Member States in their fight against terrorism, cybercrime and other serious and organized forms of crime. It also works with many non - EU partner states and international organizations.

¹⁶ Eurojust - European Union Agency for Criminal Justice Cooperation with a mission to bring together prosecutors and judges from across the EU and beyond, in an effort to effectively tackle all forms of serious cross-border crime. Through its expertise and support, it makes sure that criminals are held responsible for their actions and justice is done.

¹⁷ Frontex, the European Border and Coast Guard Agency, promotes, coordinates and develops European border management in line with the EU fundamental rights charter and the concept of Integrated Border Management. Together with the Member States, we ensure safe and well-functioning external borders providing security.

¹⁸ Europol Law enforcement authorities jointly targeted firearms trafficking, drugs trafficking, migrant smuggling and trafficking in human beings during coordinated EMPACT Joint Action Days between 26 and 29 October this year. The operational activities that mainly took place in the Balkans and Southeast Europe ended up with an overall result of 382 arrests: 159 of them related to migrant smuggling and 2 of them related to trafficking of human beings. The Balkan route is notorious for its use in several crime areas, including migrant smuggling and the trafficking of human beings into the EU.

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technologies, thus increasing their ability to expand their criminal market base through cyber - enabled fraud¹⁹. Nowadays, EU warns us of the danger of cybercrime which has become an important target for domestic reforms and an area for strengthening international cooperation. Aware of the situation with organized crime and its new emerging forms, North Macedonia signed agreements on operational cooperation between Europol and Eurojust. On their basis a network of liaison officers is established that communicates using Europol's secure information exchange network application (SIENA). SIENA enables swift and user – friendly communication and exchanges of operational and strategic crime – related information and intelligence between Europol, Member States, and third parties²⁰. The cooperation is targeted to joint actions against serious crime, starting from detecting high-risk areas, trying to prevent criminal activities, intensifying the coordination and international cooperation between the country of origin and Europol, Frontex or Interpol. An action oriented this way helps to detect criminal activities, such as people smuggling, trafficking in human beings and other forms of transnational organized crime. Cooperation is inevitable in the fight against organized crime in order to build a strong state capacity to ensure the ability and willingness for suppression of human trafficking, as one of the hardest attacks on human rights and integrity. The EU is an essential partner in our struggle for a peaceful and free from criminal country, considering the fact that by respecting its directions and tips in combating organized crime, it helps us to build successful criminal law, strong, coherent, and independent institutions, and most important, efficient criminal justice.

North Macedonia is situated on the Balkan Migrant Route, and as a country at the cross - roads of South Eastern Europe, remains to be a source, transit, and destination country for victims of trafficking in human beings. Citizens of North Macedonia and foreign victims transiting the country are exploited for sex trafficking and forced labour in construction and agricultural sectors in Southern, Central, and Western Europe. Traffickers exploit Romani children through forced begging and sex trafficking within forced marriages. Irregular migrants and refugees traveling or being smuggled through North Macedonia are vulnerable to trafficking, particularly women and unaccompanied minors. Sexual exploitation is the dominating form of human trafficking or a combination of labour and sexual exploitation. The victims are generally exploited in night clubs, bars, and pubs. Other forms of exploitation which are notified in the statistic of the identified cases are begging and forced marriages. Also, there are victims, foreign citizens mainly, from the neighbouring countries Serbia, Albania, Kosovo, Bosnia and Herzegovina. Referring to smuggling versus trafficking, even considering these are completely different criminal activities, the line is becoming narrow in the emigration context. People that are on the route have paid for traveling as a service to emigrate, but they don't have enough money to pay the smuggler and they end up as victims of trafficking, mainly sexual exploitation. It is needed to invest more time and attention from professions and first line service providers on how to distinguish cases of smuggling and trafficking²¹. The migrants, due to their situation are very vulnerable while traveling to their final destination and most often they are children, women, and boys. The biggest commitments in international cooperation in order to prevent and stop human trafficking in migrant

¹⁹ B. STANICEK, *Cooperation in the fight against organized crime in the Western Balkans*, European Parliamentary Research Service, December 2021, pp. 1-2.

²⁰ *Id.*

²¹ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Migration Asylum Refugees Regional Initiative (MARRI), *Analysis Report: Trends of Human Trafficking in the MARRI Participants*, April 2022, p. 22.

flows are: strengthening the resilience of vulnerable groups to the risks of trafficking in regional exchanges; improve capacity to identify victims and potential victims of trafficking in human beings; strengthen the conditions for improved coordination and cooperation; improve availability of concepts for target group - specific psycho - social counselling services and mental health support in protection structures.

2.2.1. How Can the Open Balkan Initiative Affect the Situation with Human Trafficking in the Region and in RNM?

Open Balkan, as a regional initiative created by North Macedonia, Serbia and Albania, committed to securing conditions for practicing the four European freedoms (free movement of people, goods, capital and services) for as many citizens as possible and companies in the Balkans, reinforces regional cooperation and connectivity. At the moment three countries (North Macedonia, Albania and Serbia) lead and develop the initiative, which has an open - door policy, especially for the other Western Balkans countries, such as Montenegro, Bosnia and Herzegovina and Kosovo, but also for the other countries in the region that are members of the EU. From a political point of view, Open Balkan is directed at accelerating the European integration of the Western Balkans countries and towards contributing for each of the countries in the initiative to become a member of the European Union as quickly as possible.

Although security challenges in the Western Balkans due to the EU accession process are not currently severe, challenges remain. Of greater concern is the region's vulnerability to serious and organized crime, which features significant levels of cannabis, heroin and human trafficking alongside trade in counterfeit goods, corruption and tax evasion²². An important issue concerning security is trafficking in post - conflict areas. One of the reasons that the Balkan is a reference case of human trafficking is the progression from a state of conflict, through the post - conflict situation and now to the transition toward democracy in these countries²³. Political, social and economic dislocation, supplemented by numerous international presences helped to create conditions where illegal trafficking flourishes. Organized crime groups are deeply embedded in social and political trends in this region that by using the Balkan route, raised a profitable smuggling business. Doubts over EU integration and accession processes on all sides risk undermining political and technical progress towards regional reconciliation, cooperation and integration. Freedom of movement, as one of the most significant benefits of EU integration, except economic prosperity as the primary priority, can lead to and significantly facilitate migration processes as well as their negative implications. The occurrence of human trafficking along Western Balkan migration routes implies a constructive and action - oriented dialogue on human trafficking in the countries affected by the migration flows. Each state is responsible to ensure a humane and dignified treatment and international protection of the people at risk and to protect them from abuse, exploitation, smuggling and trafficking. The current migration and refugee crisis, enhanced by the COVID - 19 situation, when traffickers adapted their operations to the impact of the Covid pandemic and shifted recruitment and advertisement tactics to online means, particularly social media, highlighted the need of regional response to human trafficking tools. This new condition imposed with the Open Balkan initiative, requires

²² W. KEMP, K. AMERHAUSER, R. SCATURRO, *Spot Prices: Analyzing flows of people, drugs and money in the Western Balkan*, in *Global Initiative on Transnational Organized Crime*, 2021, p. 17.

²³ Z. DIMOVSKI, K. BABANOSKI, I. ILJEVSKI, *Republic of Macedonia as a Transit Country for the Illegal Trafficking in the "Balkan Route"*, in *Varstvoslovje, Journal of Criminal Justice and Security*, Vol. 15, No. 2, p. 210.

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synergies and common approaches in addressing human trafficking along the Western Balkan migration routes. Enhancing the capacity of national authorities and bringing increased awareness among migrant and refugee populations about the risks of being trafficked and exploited would ease the capacity to identify and tackle trafficking within the current migration context. The key point in the actions for stopping the incidence of human trafficking, in general, and especially accomplished through the migration process, is successful victim identification, support and protection and in line with respecting the integrity of the victim, enhancing a comprehensive and effective regional criminal justice response²⁴. The border closures along the Balkan route have resulted in a large number of women with children and unaccompanied children to remain stranded in the states along the route; on the day of the border closures, a total of 1,024 refugees resided in the reception transit centers and in their immediate vicinity on the territory of North Macedonia²⁵. Almost all of these refugees were at a high risk of becoming victims of smuggling of migrants, and for a large number of them there were additional risk factors of becoming victims of trafficking in human beings and thus being involved in at least one of the following types of exploitation - sexual exploitation, begging, forced labor exploitation, pornography, petty crime, trade in tissues, cells and organs, etc. At the same time, there is a danger for the irregular migrants to become victims of physical violence, threats, unlawful deprivation of liberty, fraud, robbery, and extortion. This is the main aspect of the connection between smuggling and trafficking, and erases the border between these two illegal actions, especially when migrants are forced to become involved in the activities for the purposes of smuggling, thus they are also exploited in this manner.

From the joint agreements between the three states, result freedom of movement within their territories and free access to the labor market in the Western Balkans²⁶. The line between freedom and its abuse is very thin. The opening of the borders between the three countries and the freedom of movement facilitates the communication between human traffickers and the ways of carrying out their criminal acts, and their communication with the potential, that is, victims of human trafficking. The geographical and strategic position of North Macedonia is a danger and causes more criminal acts to occur within the country. The reason for this is the fact that North Macedonia is surrounded by countries where nationalism, extremism, radicalism and organized forms of crime, especially illegal trafficking, are highly developed. Those are countries which in a recent past were military hot spots, allowing the organized criminal and terrorist groups to have suitable ground to function in this region. On the territory of the Balkan,

²⁴ On 27 October 2016, OSCE hosted conference in Skopje on addressing human trafficking along Western Balkan migration routes, and a Joint Declaration is endorsed on the second day of the conference by the national anti-trafficking coordinators of the Western Balkan countries, which serves as a basis for strengthening the regional co-operation and response in the fight against human trafficking. See <https://childhub.org/en/child-protection-news/osce-hosts-conference-skopje-addressing-human-trafficking-along-western>

²⁵ Macedonian Young Lawyers Association, *Trafficking in human beings and smuggling of migrants in North Macedonia - Report*, Skopje, May 2019, p. 40.

²⁶ Agreement on Conditions for Free Access to the Labor Market in the Western Balkans, based on which a citizen of one of contracting parties, in addition to the rights provided by the domestic legislation on the work of foreigners, shall have the right of entry and residence for work purposes in the Receiving Party in accordance with the Agreement, provided that: 1. she/he has a valid ID card or biometric travel document; 2. she/he has no ban on entry and stay in the territory of the other Contracting Party and 3. she/he does not pose a threat to the public order, national security, public health or the international relations of the other Contracting Party.

they have found a good logistical support, and the Balkan Route is another facilitating factor for financing and realizing their ideological activities²⁷. The fact that RNM is the country of origin, transit and destination of victims of human trafficking, highlights the convenience of the conditions in the region for maintenance of chains of human traffickers. Once organized trafficking finds a suitable ground within a country or region, it grows rapidly and presents a risk for strategic stability and the future of the country; once it is established, the network traffic associates itself with other existing criminal organizations that hold other spheres of influence in the criminal market, such as human trafficking²⁸. Opening of borders is identified as one of the most common causes of illegal trafficking in Southeast Europe²⁹. Such freedom of movement, the easy transfer of persons - potential victims from one place to another and freedom of labor can be easily abused by traffickers, including those seeking work, slowly, by means of deception and coercion, in their flows of illicit activities and thus, will insert them into their structure, making them victims of human trafficking.

Therefore, the supervision of the fulfillment of such provisions is significant in terms of control over their abuse and a Joint Committee of representatives of each contracting party is established in order to control activities related to their implementation³⁰. These agreements set a comprehensive package of measures, covering the regulation of the labor market and inspections, the identification of victims, their access to effective legal remedies and the punishment of those responsible for human trafficking offences. Particular attention is paid to the role of businesses and their duty to ensure that their operations and supply chains are free from exploitative practices, including human trafficking. This highlights the need to create and activate a comprehensive package of measures, which include the regulation of the labour market and inspections, the identification of victims, their access to effective legal remedies and the punishment of those responsible for human trafficking offenses, functional in the newly created conditions between the initiators of the Open Balkan policies. Particular attention should be paid to the role of businesses and their duty to ensure that their operations and supply chains are free from exploitative practices, including human trafficking.

The European Union and its Member States, as well as the Western Balkans countries are invited to enhance information sharing in the field of criminal intelligence and to facilitate cross - border and international operational and judicial cooperation with non - EU countries in the SEE region, including the Western Balkans countries. Consequently, addressing the issue of impunity in the context of the crime of trafficking in human beings enhances regional cooperation in the fight against the phenomenon. The need for allocation of adequate resources to enable an efficiently functioning criminal justice as a response to trafficking in human beings, is in order to reach the highest professional standards among law enforcement actors and the judiciary³¹. Even more, the Open Balkan initiative raises the issue of availability and should mean facilitating the application of

²⁷ Z. DIMOVSKI, K. BABANOSKI, I. ILJEVSKI, *op. cit.*, p. 212.

²⁸ *Id.*, p. 209.

²⁹ T. MILOSHEVSKA, *Security Aspects of Human Trafficking in Southern Eastern Europe*, in *Contemporary Macedonian Defense*, No. 15, 2007, pp. 3-4.

³⁰ A Joint Committee of at least five representatives of each Contracting Party is established, tasked with organizing, coordinating, and controlling activities related to the implementation of the Agreement.

³¹ See

http://nacionalnakomisija.gov.mk/mk/%d0%b7%d0%b0%d0%b5%d0%b4%bd%d0%b8%d1%87%d0%ba%d0%b0-%d0%b8%d0%b7%d1%98%d0%b0%d0%b2%d0%b0-%d0%bd%d0%b0-%d0%ba%d0%be%d0%be%d1%80%d0%b4%d0%b8%d0%bd%d0%b0%d1%82%d0%be%d1%80%d0%b8%d1%82%d0%b5-%d0%b7/?fbclid=IwAR08sl00zcfAuQ0W4A__VIXPAerjqGPSQcAWoVbPr9XAV_y3-z8vf_Pg2wk

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mechanisms for international cooperation, and within its framework, police control, judicial cooperation, victim protection mechanisms, temporary accommodation and psycho - social and medical assistance and support to persons who, due to the implementation of an act of human trafficking, found themselves in the territory of one of the countries that created these policies. The position of the European Commission is that any fully inclusive regional cooperation initiative is welcomed³²; connectivity is a key issue, and connecting governments, but also civil society organizations, when civil society sector has established a meaningful role in the regional processes, formerly highly fragmented, means pushing for progress within the EU accession processes. Civil society plays an ongoing role in consulting, engaging the wider public in policy debates, and formulating policy proposals and recommendations. This way, connections and exchanges between civil society and think tank representatives and EU and Western Balkans officials and leaders could be further enhanced, through greater access for representatives to the highest levels of discussion.

The Open Balkan initiative's rationale is to allow some Western Balkans countries to progress faster on cooperation by bypassing the bilateral disputes that block the path at regional level. Even the EU still lacks a definitive stance on the Open Balkan initiative³³, for the initiator states, it means facilitating cooperation in the targeted areas, including the suppression of organized crime in the region, strengthening the forces to meet the European criteria for confronting the problem at the national, and even wider, regional level, and thus facilitate the path to entering the Union. They work together to achieve the European tasks in the areas that are critical and for which the region is recognized as a solid ground for the growth of illegal activities that undermine societies and recognized as such, are blocked on the way to the EU. The Open Balkan is widely praised for its role in taking regional cooperation to an unprecedented level. Nonetheless, through an evolving vision for the three Western Balkans countries and firm leadership on a political level, the platform has intensified interactions among these and EU countries. Numerous initiatives under its auspices have increasingly transposed responsibility and ownership to the Western Balkans, while maintaining the incentive of EU and Member States support. In time, the scope and approach of the Open Balkan have intertwined with EU Enlargement policy. The realization of the obligations arising from this initiative should be based on the experiences of the most important bodies, good practices and guidelines for combating human trafficking, as well as on the jurisprudence of the European Court of Human Rights and the European Social Charter. Although the initiative does not directly refer to human trafficking, it may be a side effect of the fulfilment of the obligations arising from this initiative, so the initiating countries, when creating the policies promoted by it, should take into account the experiences of the work of the most important bodies, good practices and guidelines for the fight against organized crime, as well as the jurisprudence of the European Court of Human Rights and the European Community documents for the protection of human rights and freedoms. The Open Balkan initiative should produce an efficient system of cooperation and coordination at the international, and even narrower regional level, which necessarily entails the need for help and support of the international community. This kind of support is needed especially regarding the training, education and exchange of experiences of professional staff at home and abroad, financial aid in terms of creating suitable building conditions and

³² The Balkan Forum, *European engagement with the Western Balkans under the Berlin Process: analysing progress in 2020-2021*, May 2022, p. 16.

³³ *Ibid.*, p. 16.

institutional capacity and databases for easier communication and information exchange for a successful fight against human trafficking.

3. The Republic of North Macedonia and the Efforts to Join the EU Criteria and Commitments of the State

3.1. Data on Human Trafficking in Republic of North Macedonia

The integration processes in Eastern Europe and the membership in NATO and the EU of the countries from the former socialist block, almost overnight cut off the recruitment of victims from these countries and their exploitation in North Macedonia. The redirection of the victims to the Western European countries due to the newly opened borders, caused the need for the exploitation of victims from the neighbourhood, and mostly from our country. From 2007 until today, North Macedonia is faced with practically domestic citizens exclusively - victims of human trafficking. The fact that in over 90% of the cases of domestic victims, the persons involved were minors at the time of their exploitation is particularly noticeable.

According to the latest available data, during 2021 in North Macedonia, 48 victims of human trafficking were identified, out of which 6 were children (5 female and one male child aged 8 to 17)³⁴. Concurrently, in terms of qualification, whether it is in relation to an internal human trafficking or outside of the borders, most of the cases are cross - border human trafficking. Namely, 40 of the victims are adult foreign citizens (35 men and 5 women)³⁵, and 8 are domestic trafficked victims, of which 6 are children. According to the place of exploitation, the works were carried out in the western and central part of the country, and one was carried out in Bosnia and Herzegovina and Belgium.

As per the form of exploitation, in the specified period, the dominant form of human trafficking in North Macedonia was labour exploitation, compared to the other forms of human trafficking, that is, sexual exploitation, forced marriages and begging. Namely, 39 of the identified adult trafficked victims are victims of labour exploitation, 2 are victims of sexual labour, and only 1 person is a victim of sexual exploitation. Regarding the exploitation of children, 4 of the children were forced into marriage, 1 into begging, and 1 was sexually exploited³⁶.

Furthermore, as of the officially identified, 10 potential victims of human trafficking were also registered, 5 of them being children. The gender determination of the trade, according to which 8 are female and 2 are male, determines the form of their exploitation - sexual exploitation as well. At the same time, 2 male children were identified as potential victims among illegal migrants. In terms of origin, 5 people are domestic citizens, while 5 are citizens of Russia, Kosovo, Ukraine and Syria.

One of the most sensitive areas for action is combating discrimination and protecting the rights of vulnerable groups (including minorities, Roma and victims of trafficking in human beings), so the EU reacts in the fields where there are deficiency of measures and

³⁴ Government of the Republic of North Macedonia, National Commission for Combatting Trafficking in Human Beings and Illegal Migration, *Annual Report - 2021*, Skopje, 2022, p. 27.

³⁵ 39 of the foreign citizens - victims of human trafficking are citizens of R. Taiwan and were forced to commit telecommunications fraud on citizens of Taiwan, and one is a citizen of Russia; in terms of nationality, the largest number of victims are Taiwanese, Roma, Albanians, Macedonians and Russians.

³⁶ National Commission for Combatting Trafficking in Human Beings and Illegal Migration. *Annual Report - 2021*, p. 27.

action towards combatting the frequency of this phenomenon³⁷. Street children, i.e. children on the street, are repeatedly exposed to the risk of becoming victims of any of the listed types of abuse or neglect due to the manner and conditions of life, the absence of parental care, protection and control, as well as easy accessibility for potential perpetrators. All Western Balkans countries, including North Macedonia are affected with the overwhelming scale of the crisis exacerbation pre-existing inequalities, putting vulnerable populations at even greater economic and social risk. In the context of mixed migration flows, the number of unaccompanied or separated children in the region has grown, and there are challenges in ensuring their protection from trafficking and exploitation. Data from North Macedonia, Albania, Bosnia and Herzegovina, Serbia and Kosovo show that children represent the majority of the presumed and formally identified victims of trafficking (around 66% in 2020)³⁸. These children are trafficked within their countries of origin, within the region and to European Union or neighbouring countries. Children from disadvantaged communities, children in street situations, as well as unaccompanied and separated children, are prime targets for traffickers and exploiters. The proposes of new areas for action against child trafficking in the Western Balkans, addressing the full range of vulnerabilities faced by children in the region, also seek to underline the importance of placing the rights of the child at the heart of every measure taken, including responses to the COVID-19 pandemic, while emphasizing sustainable solutions that address root causes of exploitation and trafficking³⁹. Local governments and civil society organizations should improve cooperation with social work centers in order to develop and support new services in communities across the country. Such services will support children at risk, Roma children and children with disabilities, victims of discrimination and segregation to ensure that vulnerable children are protected from all forms of exploitation. In this setting, sensitization and education of the employees in the procedures in which children are involved (judges and public prosecutors), that is, where children are victims of violence is necessary.

3.2. EU Assessment of the Republic of North Macedonia in Relation to the Achievements of the Anti - Trafficking Plan

The acceptance of international documents relevant to human trafficking and their incorporation into domestic legislation, as well as directing the institutions to work on strengthening their capacity to combat human trafficking, is the starting point for evaluation of the countries in terms of meeting the criteria and minimum standards for eradicating the phenomenon on national soil.

In the fight against organized crime, as a complex issue, the answer which requires a multidisciplinary setting of the system and cooperation to oppose the various forms of this type of crime that can affect a society, Republic of North Macedonia practices a

³⁷ As a co-operation initiative of the European Union and Council of Europe for the Western Balkans region and Turkey, that supports Beneficiary - tailored reform processes in the areas of rule of law, democracy and human rights with the aim for its Beneficiaries to comply with European standards, The *Horizontal Facility for the Western Balkans and Turkey (Horizontal Facility II) 2019-2022* was implemented to assist Beneficiaries to comply with Council of Europe standards and European Union acquis in the framework of the enlargement process. <https://pjp-eu.coe.int/en/web/horizontal-facility/home>

³⁸ Council of Europe, Regional Conference, *Acting together in the face of crisis: Protecting children from trafficking and exploitation in the Western Balkans*, 22-23 June 2021.

³⁹See <https://www.coe.int/en/web/anti-human-trafficking/acting-together-in-the-face-of-crisis-protecting-children-from-trafficking-and-exploitation-in-the-western-balkans>

coordinated approach of national institutions. It also cooperates with the Member States of the EU, as well as with the EU agencies for justice and internal affairs in all aspects of judicial and police action in terms of prevention, but also criminal prosecution of organized crime that occurs on the territory of the state. It is often carried out regionally and even more widely, i.e., encroaches on EU Member States' territory.

Pursuant to the latest Report of the European Commission on the progress of North Macedonia on the way to EU membership, within the framework of Chapter 24 - Justice, Freedom and Security, which also refers to the efforts and contributions of the state in preventing human trafficking as a form of organized crime, the state is assessed as moderately prepared for the implementation of EU law⁴⁰. Namely, some progress has been noted in this chapter foreseeing previously given recommendations, in terms of adopting strategic documents in the field of migration and human trafficking. The National Commission for Combatting Trafficking in Human Beings remains consistent with the practice of adopting multi - year strategies along with action plans that refer to a certain period. These documents represent a directive in the management process of the national actors in the fight against human trafficking on a multi-year level, with the aim of coming closer to the European standards for suppression of this criminal act. In that sense, the National Strategy for Combatting Trafficking in Human Beings and illegal migration (2021-2025) should be implemented in its entirety. The National Strategy for Combatting Trafficking in Human Beings and Illegal Migration in RNM for 2021 - 2025⁴¹ of the National Commission for Combatting Trafficking in Human Beings and Illegal Migration⁴², lays the foundation for a comprehensive, efficient and effective multi-institutional approach in the fight against human trafficking. It sets a framework for coordination and cooperation between all actors and their respective roles and responsibilities. The strategy is a reflection of the recommendations and good practices regarding the prevention and suppression of trafficking in human beings noted in the strategic documents of the Council of Europe, especially in the EU Strategy for the Prevention of Trafficking in Human Beings. The decentralization of the National Commission, through the establishment of the local commissions at the municipal level, still needs to prove its effectiveness in practice.

The state should establish an appropriate monitoring system related to the irregular movement of people and cease the practice of returning migrants outside the legal framework. This will largely affect the prevention of the exploitation of migrants and turning it into forms of trafficking. The cooperation with the EU law enforcement agencies has been assessed as good, and a liaison prosecutor has been appointed in Eurojust. Namely, the active international police cooperation through the main cooperation channels, that takes place on a contractual basis, has been positively evaluated (Strategic Agreement with Europol from 2007 and Operational Agreement from 2011⁴³). It intensifies operational and strategic activities for greater representation

⁴⁰ European Commission, *Report on North Macedonia for 2022 attached to the Commission's Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Communication on the 2022 EU Enlargement Policy*, Brussels, 2022, p. 43.

⁴¹ Government of the Republic of North Macedonia, National Commission for Combatting Trafficking in Human Beings and Illegal Migration, *National Strategy for Combatting Trafficking in Human Beings and Illegal Migration in RNM - 2021-2025*, Skopje, 2021.

⁴² Government of the Republic of North Macedonia, *Decision on the establishment of a National Commission for Combatting Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia*, Official Gazette, No. 18/2001.

⁴³ A strategic agreement for cooperation between the Republic of North Macedonia and EUROPOL was signed on 16 January 2007 (Official Gazette of the Republic of North Macedonia, No. 17/08), and an

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and participation of Republic of North Macedonia in Europol activities, which deepens operational cooperation in the fight against organized crime, including human trafficking. North Macedonia participates as well in EMPACT (the European Multidisciplinary Platform Against Criminal Threats) and during 2022, was committed to take part in 26 operational actions, acting as a co-leader in one operational action, appointing a National EMPACT Coordinator for its involvement.

Regional cooperation between the countries of the Western Balkans, under the auspices of the guidelines and directives of the respective cooperation organizations, is particularly significant for establishing control over the situation with human trafficking in the region. Namely, the cross - border cooperation and coordination of the states, which involves stakeholders from all spheres of action in the fight against human trafficking at national level (National Coordinator, National Referral Mechanism (NRM), Center for Social Work, representatives from the police and special units combatting human trafficking and illegal migration, border police, Center for Victims of Human Trafficking and non - governmental organizations), results in the exchange of information between states, ways of dealing with perpetrators and victims, methods of realizing the processes of identification and referral of trafficked victims. This encourages the application of the acquired experiences of the other state, strengthening cooperation in specific cases between institutions and non - governmental organizations. It is conducted in the manner of suppression and prevention of human trafficking, within state frameworks and with a transnational element⁴⁴.

Protection of victims is necessary from the moment of victim identification and identification and evaluation of risk, therefore, protection of trafficked victims can be divided into three stages, as in the following: pre - trial stage, the stage of the development of regular criminal procedure and the stage after the regular criminal procedure is over⁴⁵. A new trend is the progressive shift towards the increasing inclusion of human rights concerns in human trafficking governance, confirming former assumptions that one can easily assume that the contrast to trafficking in persons changed perspective throughout the years, from a mere repressive strategy of the Palermo Protocol in order to fight the crime itself to a more human - rights sensitive approach of soft law international instruments⁴⁶. The identification of victims of human trafficking is the most sensitive part of the process of their protection, assistance and support; this part is of vital importance for ensuring their human rights, which in a process of recognizing the existence of a criminal offense of human trafficking is helpful in the detection of criminal offenses, leads to an adequate and efficient criminal procedure, appropriate referral, timely assistance and support of the identified victims and their inclusion in the reintegration

Operational Agreement was signed through an exchange of letters (on 8.9.2011 it was signed by the Director of Europol, and on 20 September 2011 signed by the Minister of Internal Affairs of the Republic of North Macedonia). The agreement was adopted by the Parliament of the Republic of North Macedonia on 6 November 2011 (Official Gazette, No. 172/11 of 14 December 2011), and entered into force on 28 December 2011.

⁴⁴ On 14 and 15 November 2022, in Skopje, in the organization of Open Gate and Terre des hommes - Kosovo, the second border meeting between North Macedonia and Kosovo was held for the transnational cooperation between the countries for the identification and assistance of victims of human trafficking, with a focus on children, through Unified Standard Operating Procedures (USOP).

⁴⁵ B. KELMENDI, *Preventing Human Trafficking in the Western Balkans - A Particular Review in Albania, Kosovo and Serbia*, in *Mediterranean Journal of Social Sciences*, Vol. 6, No. 2, 2015, p.61.

⁴⁶ A. ORSINI, *Assessing global governance in the area of human trafficking through civil society participation in its regime complex*, European University Institute Working Papers, RSCAS 2020/58, p. 20.

programs, which, carried out according to all the rules, presupposes the successful social inclusion of persons who were part of human trafficking processes. Taking into consideration the victim from the moment of identification, before the beginning of criminal procedure, there may be different needs that are related with needs of health care, food, clothing or sheltering, as well as the need to move from one place to another, without putting their lives, health, large volume property at risk or eliminating or reducing such risks. The directorate for protection of witnesses in co - operation with investigators, too, and with the competent prosecutor should undertake necessary measures, firstly for humanitarian reasons, to save victim's life and his/her relatives' lives or health and property, but also because of the importance that the testimony of the victim might have as a witness in a criminal procedure⁴⁷. The state lacks clear inter - institutional protocols, the police and health workers do not have the capacity to fully assess the consequences of violence and respond appropriately. The provision of psychosocial and other preventive services, as well as expanding the capacities for proper care of the trafficked victims, remains uncoordinated and depends on funding from the local self - government, foreign donors and the business community. Due to the overburdened health system during the pandemic, the lack of properly trained staff and the limited number of accommodation facilities, victims of gender and family violence face serious challenges in accessing health services. This clarifies the involvement of the social system and non - governmental sector in providing fostering conditions, for example social work centers, as well as shelters for exploited victims, with the aim of smooth handling and work with victims of human trafficking by the existing assigned person. The aforesaid is in function of realizing the process of their support in one place, which will facilitate the process of help and protection, first of all in the perception of the victim itself, especially if it is a child - victim. In North Macedonia, victims of human trafficking can be taken care of at the Center for persons - victims of human trafficking⁴⁸ and the Reception Center for Foreigners, as well as in a shelter managed by the NGO "Open Gate - La Strada". All the services aim the victims' trauma to be overcome through stabilization activities, and in the advanced phase of the support process, their strengthening and full integration into the environment in which they will live⁴⁹. The referral and care of trafficked persons in the shelter is achieved through several mechanisms, that is, the National Referral Mechanism, the Ministry of Internal Affairs - Unit for Combating Trafficking in Human beings, the centers for social affairs, SOS line, local NGOs, as well as international organizations. Simultaneously, there is a need for reorganization and involvement of more expert teams comprised of nominated persons engaged in social work centers, established near the larger cities, where statistics show a greater number of registered cases of trafficking, trafficked victims and children begging on the street. The

⁴⁷ B. KELMENDI, *op.cit.*, p. 63.

⁴⁸ The Center for Persons - Victims of Trafficking in Human Beings was founded in 2011 (opened on January 28, 2011) by the Ministry of Labour and Social Policy. It accommodates domestic citizens and foreigners who have received a temporary residence permit in the Republic of North Macedonia. The Center's capacity is to accommodate ten people and they can stay for six months. The accommodation is according to the rules and procedures for referrals through National Referral Mechanism (NRM), ie. with a decision made by the Center for Social Work, and in exceptional cases by the Ministry of Internal Affairs. The placement is preceded by signing a Statement for placement and use of services at the Center by the victim, who is familiar with the Center's services in advance.

⁴⁹ The program includes the following services: provision of secure accommodation, provision of humanitarian assistance, medical assistance, specialized psycho - social counselling, legal counselling and representation in court proceedings, education and additional professional qualification, strengthening job search skills, as well as coordination and cooperation with the relevant organizations and institutions. More details in: National Referral Mechanism for Victims of Human Trafficking. *Annual report on prevention and protection against human trafficking in 2022*. Skopje, 2022, 5.

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contribution to the provision of protection and assistance to victims of human trafficking can only be made in facilities that meet the basic criteria for physical appearance and equipment, maximum anticipated capacity for the number of victims that can be accommodated in it, security, and the team structure. Furthermore, the country should make efforts to comply with EU standards in terms of expanding the capacities of the center - the shelter for victims of trafficking to fully protect victims and their reintegration, active identification of potential and victims of human trafficking, domestic and foreign citizens.

The Republic of North Macedonia, as a country fully committed to reforms in the area of human trafficking from all aspects, still insufficiently meets the standards for the protection and respect of human rights, due to the lack of mechanisms for the prevention of human rights violations. Therefore, the fundamental principle of the creation of action policies in relation to human trafficking should be the provision of support for the basic rights of the individual, as the basic driver of society. The most important step towards recognizing the dignity of the trafficked persons and accepting that they are victims of the process and not criminals, is permitted access to accommodation, specialized medical and psychological care, counselling, support, securing a work permit, continuing education etc., that is, access to specialized services, such as crisis intervention, long - term psychological counseling, legal consultations, professional training and support for access to employment opportunities. Such activities represent the basic goal of the system of social protection for victims who need it and whose existence is a significant contribution to the improvement of the assistance services that are available to them and represent the right of victims of trafficking, which require a multidisciplinary and multisectoral approach, and whose infrastructure operates on the basis of a broadly set definition of the phenomenon. On the other hand, lawyers who represent victims of human trafficking should be familiar with the services where victims can get accommodation, food, clothing and other basic needs, especially medical and psychosocial assistance and support services that are available to victims during, but also after the end of the court proceedings⁵⁰. Their communication and cooperation with the persons nominated for work with human trafficking is of particular importance in the direction of realizing all the rights of the victims in the process of their help and support. The victim's advocates should be provided with easy access to the institutions and organizations responsible for prevention, protection, referral and identification and return/repatriation of victims of human trafficking, with the aim of coordinated joint provision of the services they provide guaranteed to trafficked victims in the process of their identification as such.

Among the prior activities in creating an efficient social system is strengthening the institutional capacity of social work centers in the fight against human trafficking, but with a social - preventive sign towards the problem of trafficking, more precisely, social workers in the centers to acquire knowledge and skills, both theoretical and practical experience of the problem⁵¹.

The Ministry of labour and social policy of RNM initiates and implements measures and activities for better prevention and protection of victims of human trafficking and

⁵⁰ J. RISTIK, N. BOSKOVA, *Protection of victims of human trafficking. A brochure for lawyers*, in *Prevention and fight against human trafficking in North Macedonia, Horizontal instrument for the Western Balkans and Turkey*, February 2021, p. 14.

⁵¹ More details in: Ministry of Labor and Social Policy, Department for the Promotion of Gender Equality. Brochure of the National Referral Mechanism for Victims of Human Trafficking - Analysis of the capacities of nominated social workers. Skopje, 2005 - 2006, 31.

also undertakes activities to strengthen the capacity of professionals in the centers for social work and labor inspection. It coordinates the activities through social workers in the centers for social work in 30 cities in the country, which have an important role in the process of identification, resocialization, and reintegration of victims of trafficking. In the past year, two - day joint trainings were conducted on the topic of human trafficking and smuggling of migrants, which covered 889 social workers, members of the National Unit (Task Force) and mobile teams for identification, referral and protection of VHT, representatives of the Ministry of Internal Affairs, judges and prosecutors, of which 48% were women⁵². The purpose of this training is to strengthen cooperation in the field of human trafficking. Establishing a strategic system of social protection in accordance with the aforementioned recommendations will improve and contribute to the effectiveness of the existing process of identification of trafficked victims by connecting all relevant partners, in order to ensure a referral system for victims without shortcomings and gaps in cooperation with the basic partners on the plan of the fight against human trafficking, especially within the national territory.

The right of access to justice and the procedural position of the trafficked victims is closely correlated with the ways of hearing the victim for the purpose of her protection, her active participation in the procedure, the protection of privacy and identity in procedural and non - procedural terms, conducting an effective court procedure that will not suffer unnecessary delay, effective right to legal aid, compensation of the victim, as well as the possibilities for confiscation of property and property benefit⁵³. The victims of trafficking in human beings face a problem in realizing their right to compensation for damages, which they are entitled to as victims of a committed criminal act. The EU Directive on combating human trafficking provides that Member States shall ensure that victims of trafficking in human beings have access without delay to legal counselling, and, in accordance with the role of victims in the relevant justice system, to legal representation, adding for the purpose of claiming compensation⁵⁴. The national legislation provides that the victim of a crime has the right to participate in the criminal proceedings as an injured party towards the criminal prosecution or for the realization of the property - law claim for damage⁵⁵. Regarding the provisions that refer to the establishment of state funds for compensation, the victim of a crime for which a prison sentence is prescribed of at least four years, has the right to compensation for material and non - material damage from a state fund under conditions and in a manner prescribed by a special law, if compensation for damage cannot be provided by the convicted person⁵⁶. These provisions are a sufficient basis for starting the process, and finally the adoption of a special law on compensation for trafficked victims, which will mean respecting the basic rights of the victims, and on a broader level, satisfying the most important criteria for consistent regulation of the matter that regulates violent crime, which also includes human trafficking.

Civil society organizations involved in anti - trafficking and non - governmental organizations, who have extensive knowledge of the reality of the trade in human beings, must be included in all stages of the policy - making process, from agenda - setting to

⁵² Republic of North Macedonia, Ministry of Foreign Affairs, *Review of the implementation status of the Global Compact for Migration (GCM) in the Republic of North Macedonia*, Skopje, 2022, pp. 18 - 20.

⁵³ G. LAZETIK, I. ZDRAVKOVA, *The rights of the victims of human trafficking in the court proceedings, in Preventing and combating trafficking in human beings in North Macedonia, Horizontal instrument for the Western Balkans and Turkey*, second phase, Skopje, 2020, p. 21.

⁵⁴ Directive 2011/36/EU, cit.

⁵⁵ Law on criminal procedure, article 53, paragraph 1, Official Gazette of the Republic of North Macedonia, No. 150, of 18 November 2010.

⁵⁶ Law on criminal procedure 150/10, article 53, paragraph 3, cit.

implementation⁵⁷. The competent institutions, in cooperation with the civil society (Open Gate), worked relentlessly towards the adoption of a Law on the Payment of Monetary Compensation to Crime Victims of Violence⁵⁸. The Law will provide material and moral satisfaction to the victims and their compensation for the violence and trauma suffered⁵⁹. Its adoption finally secured access to justice for trafficked persons and an opportunity to exercise the right to compensation for the victims of human trafficking for the physical, mental, economic and often sexual exploitation suffered, which very often leads to physical suffering and health problems, emotional trauma and loss of means for life. The implementation of the newly adopted law will allow easier access to compensation, which is of immense importance for their recovery, as well as for the appropriate punishment of the perpetrators, deterring human traffickers from committing the act of this crime. It is urgent that adult victims of trafficking in human beings are enabled in realizing their right to compensation for damages, which they are entitled to as victims of a criminal act and without additional delays, a special fund for this purpose should be established. Consequently, the establishment of standards for victims of violent crimes is in the direction of harmonizing and implementing international standards and instruments for a modern criminal - legal system. However, this right remains defined and limited by the state in accordance with international standards and the standards of the European Union which limits the right to compensation by the state solely for crimes committed that cause serious injuries and crimes with violence. The initial point for the drafting of the law is the comparative experiences of several countries, and a special emphasis is placed on the countries of the region due to the similarities in the legal systems. Nevertheless, in this area, the surrounding countries are a step ahead, considering they drafted their laws within the framework of the process for accession to the European Union.

Although the state is constantly implementing reforms in the area of human trafficking, it still does not meet the European standards of combating the phenomenon to sufficient extent. The complete review of human trafficking in the Republic of North Macedonia, especially the efforts of the competent institutions at the national level (state authorities, courts, centers for social work, non-governmental organizations), shows that the achievements in this area and the legal and institutional solutions, despite their upgrading, however, allow certain shortcomings and unfilled gaps. So, they are not powerful enough for effective protection of human rights and in that context, they remain declaratively set and insufficiently implemented, without more successful practical achievements. The assessment that the country has fulfilled the conditions for maintaining a stable and decisive pace in the implementation of reforms in the EU, especially in key areas such as the rule of law, including the fight against corruption and organized crime, has no major innovations in the Commission's approach. In the Chapter 24 - Justice, Freedom and Security, North Macedonia is assessed as moderate ready to take on the obligations of EU membership with partially visible differences in what was achieved in relation to the scores of previous years. The assessment of the situation in the country in

⁵⁷ A. ORSINI, *op.cit.*, p. 5.

⁵⁸ La Strada International, *Statement: A call upon EU leaders and Member States to Ensure that Victims of Human Trafficking can Effectively Claim and Access their Rights Within the European Union*, 18 October 2022.

⁵⁹ The Law on Payment of Monetary Compensation for Crime Victims of violence was passed by the Assembly on 17 November 2022 and was published in the Official Gazette no. 247/2022. It is planned to enter into force on 17 May 2023.

terms of Justice, Freedom and Security by the European Commission⁶⁰, and in terms of research in this article especially, the conclusion that it has a certain level of readiness in the fight against organized crime means delaying the start of negotiations with the state, which has a negative effect on the credibility of the EU. Of course, the reforms should continue with an increased pace and be continuous or “sustainable” because what has been done in the context of prevention and suppression of human trafficking within state frameworks, stated in this paper, is not enough for a positive assessment of the state by the Commission.

From the state's constant review of the sufficiency of its activity in the plan to combat human trafficking, it acquires a view on the need to upgrade and modify legal practices, criminal acts and sanctions related to the problem of human trafficking. Realizing the need to standardize the legal framework by taking measures on a legislative and functional plan to prevent the great danger of human trafficking and its consequences, results in an undoubted advanced enrichment of the legal matter in all areas where a certain aspect can be regulated. The EU also plays an important role because of its special position as a defender of human rights, although its human trafficking policies have been questioned; this has led the EU to consider the issue through policy and criminal matters, rather than through protection and assistance⁶¹. Once we understand the power and the pervasiveness of the transnational crime frame in global discussions, it becomes clearer why certain states have adopted the prosecutorial approach to human trafficking: they come to see themselves in varying degrees as vulnerable to crime diversion and the policy choices of their neighbors⁶². With the aim of a successful response to trafficking in human beings, embodied through a series of provisions that are multifunctional, i.e., punitive - legal, procedural, from the aspect of social protection and protection of child - victims, the reforms of the legal framework are in function of the realization of justice and the preservation of the principle of the rule of law. This is necessary for a society that primarily cares for citizens, respecting their integrity and protecting their freedoms and rights to the extent of preventing possible attacks on them whenever there is a reasonable suspicion that such an attack is imminent. Criminalization itself does not depend on the existence of externalities and interdependence; the crime frame provokes much stronger, swifter, and more global action than frames that emphasize victim protection or human rights⁶³. Through the years, the Criminal Code is enriched with provisions, aligned with EU standards and declares the acts of human trafficking illegal, providing strict sanctioning of the perpetrators of this crime, especially if the victims of trafficking are children. In the manner of strengthening the capacities of the competent institutions for detecting trafficking cases and identifying victims of trafficking, the Strategy on Combatting Trafficking in Human Beings 2021-2025 foresees a set of specific strategic goals and activities. That will improve the process of detecting trafficking cases and

⁶⁰ According to the analysis of the EC report on North Macedonia 2021, made by the Institute for European Politics, Skopje, from 2015 to 2021, North Macedonia was rated 2 in terms of readiness to fight against organized crime, and progress on an annual level from 2019-2020 and 2020-2021 was also rated 2. For more, see

https://epi.org.mk/wp-content/uploads/%D0%9D%D0%BE%D0%B2-%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-%D0%BD%D0%B0-%D0%95%D0%9A_%D0%B1%D0%B5%D0%B7-%D0%B8%D0%B7%D0%BD%D0%B5%D0%BD%D0%B0%D0%B4%D1%83%D0%B2%D0%B0%D1%9A%D0%B0.pdf.

⁶¹ A. ORSINI, *op. cit.*, p. 4.

⁶² B.A. SIMMONS, P. LLOYD, B.M. STEWART, *The Global Diffusion of Law: Transnational Crime and the Case of Human Trafficking*, in *International Organization*, Vol. 72(2), 2018, p. 36.

⁶³ *Id.*

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contribute to the timely identification, protection of each trafficking victim and that all standards are ensured in accordance with the international standards.

The assessment of the Commission for strengthening institutions in Chapter 24 - Justice, Freedom and Security, as well as the improved results in cases against organized crime, is the basis for establishing satisfactory progress in fulfilling the recommendations of previous years regarding the institutional reforms of the security sector, as well as the reform of the intelligence services. Although this part of the chapter is rated as good progress, it is recommended that institutional reforms in the security sector convert into proactive policies and tangible results. The state should further strengthen the records of investigations, charges and convictions for organized crime and demonstrate the ability to effectively break up large criminal networks. This is possible by allocating the necessary financial and human resources to the investigation centers within the basic public prosecutor's offices, enabling them to increase the efficiency of investigations and improve inter - institutional cooperation.

The importance of Chapter 24 is that, together with Chapter 23 - Judiciary and fundamental rights, it opens first and closes last in the process of membership negotiations with the European Union. This approach will continue with the new enlargement methodology, that is, the negotiations will start with the Justice, Freedom and Security and Rule of law cluster and close with it.

Supporting framework			
Level	Institution/Organizat ion	Goal	Challenges
State institutions	Government of the RNM - National Commission for Combating Trafficking in Human Beings and Illegal Migration	The National Strategy and the National Action Plan for Combating Trafficking in Human Beings and Illegal Migration in RNM for 2021 - 2025	Provisions and conditions for realization of the strategic priorities and mechanisms to fight against human trafficking and illegal migration and design of comprehensive policies and mechanisms, both nationally and at the local level
	Ministry of Labour and Social Policy - National Referral Mechanism (NRM) and National Coordinator	Realizing the processes of identification and referral of trafficked victims	Intensify, upgrade and expand measures and activities for the prevention and protection of victims of human trafficking, especially women and children
	Ministry of Internal Affairs - Unit for Combating Trafficking in Human beings	Conducting specialized investigations into human trafficking cases	A dedicated budget and sufficient staff to conduct proactive investigations into potential cases of human trafficking

	Center for Social Work	Social policy regarding human trafficking	Social protection, identification and direct assistance and support to victims of human trafficking and vulnerable groups
NGOs	Open Gate - „La Strada“	Raising the awareness of the public about the problem, as well as developing and forwarding programs for reintegration of VHT	Campaigns, workshops and public debates through which the problem will be brought closer to the public and through which the need to integrate victims who are often stigmatized will be recognized
International cooperation	Interpol, Europol, Eurojust, Frontex	Establishing and strengthening the international cooperation and coordination between the relevant state institutions and civil society organizations in the field of human trafficking	Detect criminal activities in all the forms of transnational organized crime where the cooperation is inevitable to build a strong state capacity to ensure the ability and willingness for suppression of human trafficking

Table 1: Supporting framework in the fight against human trafficking in the Republic of North Macedonia

4. Conclusion

The Europe’s commitments on preventing trafficking in human beings through victim protection and help are visible in the Western Balkan region through many projects, instead of campaigns, reports and manuals on how to manage the trafficking condition in any of these countries. While the region is not sufficiently able to prevent trafficking in human beings or support (potential) victims, Western Balkans are impacted in two ways. Namely, on one hand, many of its residents migrate to the European Union (EU), while on the other hand, people from third countries transit to the region with the aim of entering the EU and refugees are also at risk of exploitation and trafficking. Observing the situation, in addition it is noted that the lack of financial resources often means they go in debt to smugglers, that in turn take advantage of this situation and that a significant percent of victims is not identified as being outside the system of protection and support of trafficked people.

The action of the European countries towards aiding the countries in need and making them more resistant to human trafficking, is always in line with the provisions from the most important international documents referring to human trafficking. Therefore, the basic aims are prevention, protection, prosecution, including cooperation and coordination between the public authorities and civil society, and support service, as the most vital link in the chain of combating human trafficking. This determination of the goals on combating trafficking leads to a conclusion that the reaction of the Union is

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based on the “3Ps” – Prosecution, Protection and Prevention established with the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children⁶⁴. They refer to the determination of the primary placement of the concerned countries, i.e., prevention and combating of trafficking in human beings, with special attention to women and children, protection and assistance to victims of such trafficking with full respect for their fundamental rights and promotion of cooperation between the states parties to achieve these goals. Targeted groups that fall most easily into the flows of trafficking in human beings are refugees in the Western Balkan region and groups from the Western Balkans who are particularly at risk of being trafficked, i.e., members of the Roma minority. Accordingly, the action of the national authorities should be addressed towards establishing a system that fulfills the underlying conditions in improving the situation for victims of human trafficking.

Even though the Republic of North Macedonia is profiled as a signatory and a country that has ratified the most important documents that protect human rights at the international level, especially documents whose purpose of adoption is to protect the rights of the child, however, the situation at the national level is alarming and invites for a joint social action. The implementation of the strategic documents on fighting trafficking in people, shows that in North Macedonia gaps persist in the prevention of trafficking, especially in child trafficking and in the identification and protection of victims of trafficking and their rights. Analyzing the states’ reports on trafficking in human beings, the European Union states that trafficking in human beings and child trafficking in the Western Balkan region, including North Macedonia, has continued to increase, despite a number of legislative and practical measures taken over the years. More thorough approach must be taken concerning the problems such as crossing the routes of human trafficking, internal human trafficking, giving birth to children on the street who are inevitably involved in the chain of human trafficking and finding effective guidelines and measures to overcome this issue together with sheltering the victims and children who almost in some cities in our country welcome us on the busiest streets. Strengthening the capacities for dealing with smuggling of migrants and trafficking in human beings, including the adjustment of capacities and the infrastructure, which was built at the peak of the refugee crisis, must continue and it should be adapted to the newly created conditions. The institutions should provide appropriate facilities for admission and accommodation of potential victims of trafficking in human beings and their accommodation during the decision – making period should acknowledge the special needs they have in the period of reflection and recovery.

In agreement with the Commission, only partial progress has been achieved in relation to the recommendations of the previous reporting years. Republic of North Macedonia should make efforts to harmonize with the EU established standards in relation to proactive implementation of institutional reforms in the structures combatting organized crime to emphasize an increasing operational capacity and cooperation, as well as to systematically record migrants, improve the profiling of potential victims in order to provide them with adequate protection and ensure a more systematic approach in the fight against migrant smuggling. The country must now urgently redouble its efforts, address vital reforms, and complete the political, economic, and social transformation,

⁶⁴ Protocol of the United Nations, General Assembly, *to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, of 15 November 2000, in United Nations, Treaty Series, vol. 2237, p. 319, Doc. A/55/383.

bringing all stakeholders on board from across the political spectrum and from civil society. Simultaneously, operational cooperation with the relevant EU agencies on countering distinct types of organized crime, including human trafficking should increasingly be expanded and enhanced and particular attention should be paid to providing increased support to capacity – building in cyber – security and fight against cyber – crime.

ABSTRACT

Human trafficking is a complex, social, multidimensional, criminal and collective issue that violates the basic human rights and freedoms of the persons, i.e. its victims affected. Due to the fact that it represents a form of organized crime, it severely violates the constitutional and legal principles and standards of the modern democratic society. Moreover, considering the undeniable fact that human trafficking exceeds, that is, extends far beyond national borders, demonstrates the crucial necessity of establishing a pan-European strategy in order to combat this phenomenon and protect its victims. The state's approach to this phenomenon is particularly significant in opening the way for entry into the EU. The start of accession negotiations with the EU would be an incentive to speed up the implementation and execution of the reform processes that will contribute to a stronger and more democratic state in which citizens will have better living conditions and quality of life.

KEYWORDS

Anti - Trafficking Activities, EU Membership, Exploitation, Human Trafficking, Minimal Standards.