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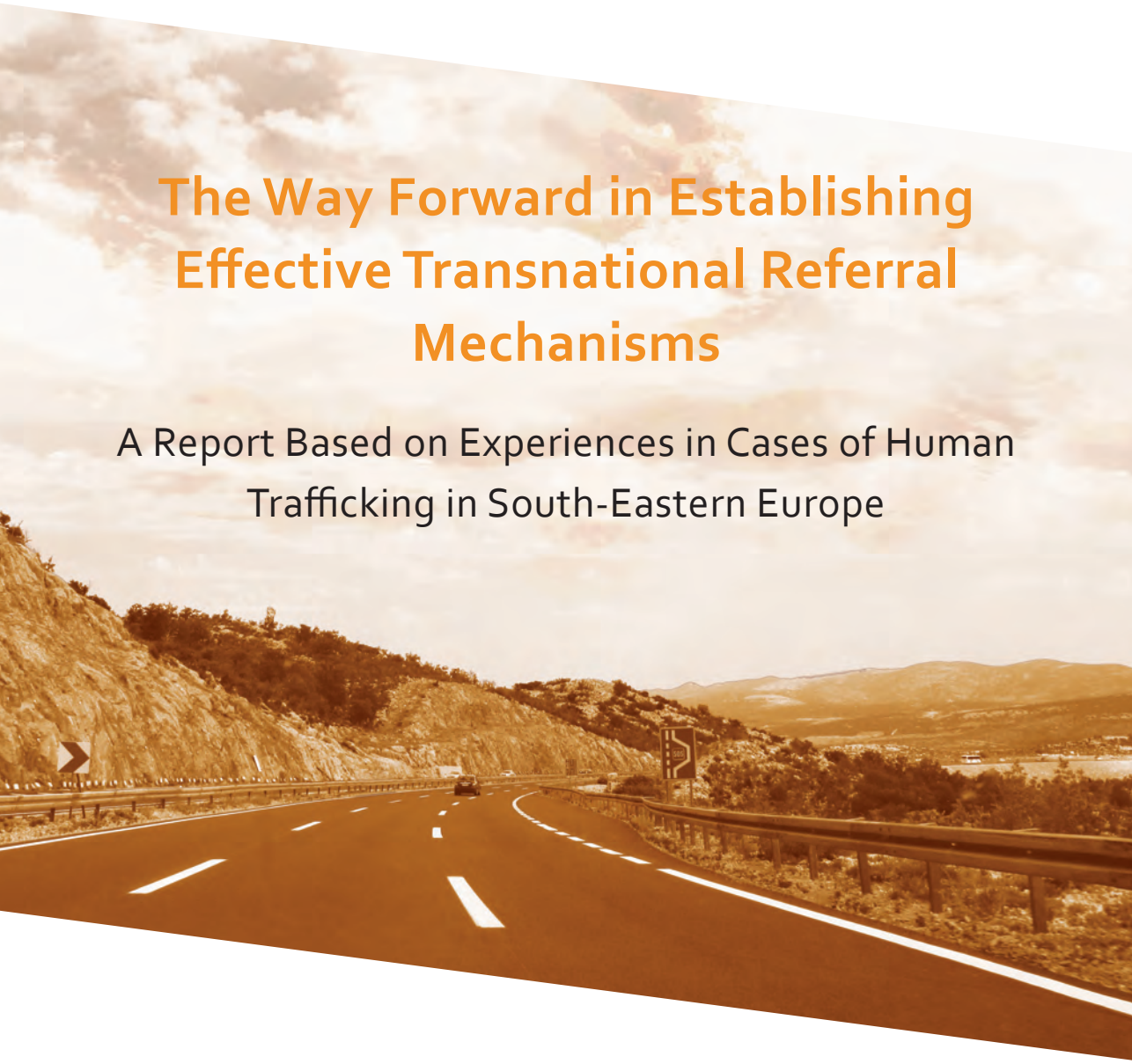
# The Way Forward in Establishing Effective Transnational Referral Mechanisms

## A Report Based on Experiences in Cases of Human Trafficking in South-Eastern Europe



International Centre for Migration Policy Development
2012

# The Way Forward in Establishing Effective Transnational Referral Mechanisms

A Report Based on Experiences in Cases of Human Trafficking in South-Eastern Europe

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# Foreword

For almost six years the International Centre for Migration Policy Development, with the financial support of the United States Agency for International Development (USAID) and the European Commission (EC), has worked with governments from the European Union (EU) and South-Eastern Europe (SEE) on the implementation of a Transnational Referral Mechanism (TRM) for Trafficked Persons. Throughout this period our organisation worked closely with governmental officials, civil society and international organisations, striving to develop expertise, methods and mechanisms for more structured and solution-based transnational cooperation.

During this time, all countries involved in the process have developed wide-ranging and comprehensive anti-trafficking legislative and operational tools; they have ratified relevant international and regional anti-trafficking instruments, enacted National Action Plans (NAPs) and National Referral Mechanisms (NRMs), and participated in the development and implementation of the Transnational Referral Mechanism.

This report reflects on the one hand the current situation in the countries engaged in developing a TRM, mainly from the SEE region, and on the other hand provides practical recommendations and useful tools for those countries that have yet to start the process of setting up a TRM and continuing to improve their anti-trafficking response at both national and transnational level.

Apart from the analysis of available instruments for cross-border cooperation, the report presents a summary of interviews carried out with key anti-trafficking informants on the implementation of the TRM Standard Operating Procedures concerning transnational cases of trafficking. We are proud to share the findings of this report, as the viewpoints gathered from governmental officials, police officers, prosecutors, social workers, NGOs and international organisations on how to enhance cooperation and referral amongst counterparts across borders provide valuable recommendations on improving existing mechanisms already in place.

The main conclusion of the report is that theory needs to be translated into practice; in order to achieve efficient cross-border cooperation in fully protecting trafficked persons, the mechanisms successfully established according to the regional and international instruments must now be used in the daily work of practitioners. We are pleased to note that this finding is fully in line with the requirements of the newly adopted *European Union Strategy towards the Eradication of Trafficking in Human Beings 2012-2016*, where the establishment of Transnational Referral Mechanisms is highlighted as one of the top priorities.

We trust that this report might be inspirational for moving from theoretical frameworks towards implementation of concrete actions in a wider European context and thus to further improve anti-trafficking referral as well as protection and social inclusion of trafficked persons.

Martijn Pluim
Director, ICMPD

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Finally, ICMPD would like to sincerely thank the key informants of the governmental and non-governmental agencies, and of the international organisations working in the SEE region who accepted to be interviewed and share their experiences with the common view to improve the transnational cooperation tools so to better prevent and fight human trafficking and, most of all, to comprehensively protect the rights of trafficked persons at any stage of their referral within and across countries.

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Referral
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# Acronyms

| | |
|---|---|
| **ACTA** | Anti-Trafficking, Anti-Corruption Network |
| **AWF** | Analysis Work File |
| **AOP** | Action-Oriented Paper on strengthening the EU external dimension on action against trafficking in human beings; Towards Global EU Action against Trafficking in Human Beings |
| **ASEAN** | Association of South-East Asian Nations |
| **CAT** | Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment |
| **Cc** | Criminal code |
| **CEDAW** | Convention on the Elimination of All Forms of Discrimination Against Women |
| **CEE/CIS** | Central Eastern Europe/Commonwealth of Independent States |
| **CERD** | Convention on the Elimination of All Forms of Racial Discrimination |
| **CMW** | International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families |
| **CoE** | Council of Europe |
| **CRC** | Convention on the Rights of the Child |
| **CRPD** | Convention on the Rights of Persons with Disabilities and its Optional Protocol |
| **CSR** | Convention relating to the Status of Refugees |
| **EC** | European Commission |
| **EJN** | European Judicial Network |
| **EU** | European Union |
| **GO** | Governmental Organisation |
| **ICAED** | International Convention for the Protection of All Persons from Enforced Disappearance |
| **ICCPR** | Optional Protocol to the International Covenant on Civil and Political Rights |
| **ICESCR** | International Covenant on Economic, Social and Cultural Rights |
| **ICMPD** | International Centre for Migration Policy Development |
| **ILO** | International Labour Organization |
| **IO** | International Organisation |
| **IOM** | International Organization for Migration |
| **LLO** | Local Liaison Officer |
| **JIT** | Joint Investigation Team |

| | |
|---|---|
| **MARRI** | Migration, Asylum, Refugees Regional Initiative |
| **MLA** | Mutual Legal Assistance |
| **MoU** | Memorandum of Understanding |
| **NAP** | National Action Plan |
| **NGO** | Non-governmental Organisation |
| **NRM** | National Referral Mechanism |
| **OCTA** | Organised Crime Threat Assessment |
| **ODIHR** | Office for Democratic Institutions and Human Rights |
| **OPSC** | Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution |
| **OSCE** | Organisation for Security and Co-operation in Europe |
| **SECI** | Southeast European Cooperative Initiative Regional Initiative Regional center for Combating Trans-border Crime (now SELEC) |
| **SEE** | South-Eastern Europe |
| **SEEPAG** | Southeast European Prosecutors Advisory Group |
| **SELEC** | Southeast European Law Enforcement Center (formerly SECI) |
| **SOPs** | Standard Operating Procedures |
| **TRM** | Transnational Referral Mechanism |
| **UN** | United Nations |
| **UNHCHR** | United Nations High Commissioner for Human Rights |
| **UNICEF** | United Nations International Children's Emergency Fund |
| **UNODC** | United Nations Office on Drugs and Crime |
| **UNESCAP** | United Nations Economic and Social Commission for Asia and the Pacific |
| **USAID** | United States Agency for International Development |

# Executive Summary

Human trafficking is a crime that requires a transnational response in order to be tackled effectively. It is evident that transnational cooperation is a fundamental component for any successful strategy to prevent and fight human trafficking as well as to protect trafficked persons.

The aim of the present report is to provide an overview of the forms and tools of transnational cooperation used in cases of human trafficking in the South-Eastern Europe (SEE) countries with the view to further enhance their implementation or development within and beyond the region. Furthermore, the report includes useful reflections and recommendations based on interviews with 83 representatives of governmental institutions, law enforcement agencies, judiciary, labour inspectorates, non-governmental organisations (NGOs) and international organisations (IOs) engaged in the anti-trafficking field in South-Eastern Europe (SEE). Geographically, the report specifically targeted SEE, namely Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo[1], Macedonia, Moldova, Montenegro, Romania, and Serbia. Notwithstanding its primary geographical scope, the report serves as a useful tool to all countries that have embarked on the process of developing a transnational referral mechanism, or considering doing so in the future. Practical advise on how to design and implement a functioning TRM can be found in the many recommendations that this report brings forward. The report is strictly based on qualitative methods and its outcomes derive from the analysis of findings gathered through desk research and semi-structured interviews with the aforementioned anti-trafficking stakeholders carried out by a research team in each participating country.

The report elaborates on the concept of the transnational referral mechanisms (TRM), their development and applicability. It offers a detailed description of what the TRM is and equips the reader with a theoretical understanding of its functioning. It provides a solid background for national stakeholders from countries that have a TRM in place, and serves as an introduction to the TRM concept for all those that in the process of implementing it.

[1] This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

The report further provides a description of the international, regional and bilateral instruments, mechanisms and tools relevant to transnational cooperation in cases of trafficking in human beings. Most of these documents are relevant for the SEE region; the report also features a in-depth analysis of the European Union anti-trafficking framework. Furthermore, the report documents how SEE countries, during the last decade, have made remarkable efforts to fight human trafficking and assist and protect trafficked persons, making use of additional initiatives and materials such as guidelines, declarations, statements, principles, codes of conduct, memoranda of understanding, resolutions, reports generally issued by international organisations but also by other relevant bodies.

These documents encourage the use of both formal and informal cooperation instruments among states when dealing with trafficking cases at different levels. Civil society organisations as well as international organisations also developed comprehensive assistance schemes to prevent the occurrence of trafficking and fully protect the rights of trafficked persons and several police and judicial agencies have been established to prevent and fight organized crime and related matters, including trafficking in human beings. Despite these positive developments, a number of issues remain which pose a fundamental challenge to further enhancing transnational cooperation.

Based on desk research and the interviews carried out, this report reflects that there are still clear discrepancies between "theory and practice" and highlights some crucial missing links between the intentions of many of the legal instruments and tools and the reality for practitioners on the ground.

However, notwithstanding the efforts made through the years and through the TRM programme it is evident that there is still a need to enhance coordination and cooperation among relevant stakeholders in order to tackle the complex phenomenon of combating trafficking competently. Developing TRM is an ongoing process and such mechanisms have to be regularly maintained in order to remain effective.

While assessing the transnational cooperation in the anti-trafficking field, the professionals interviewed provided several suggestions on how to develop new measures or to amend those already in place in order to enhance cross-border

cooperation. This led to some the following general recommendations which should be considered in order to improve transnational anti-trafficking cooperation mechanisms:

- Expand the TRM model geographically to include other countries in Europe and beyond. Specifically there is a need to ensure effective coordination and collaboration between migrant sending and receiving countries within Europe. Geographic expansion of the TRM model should also include exploring options for developing a TRM model between different regions and countries as also foreseen in the *EU Strategy Towards the Eradication of Trafficking in Human Beings (2012-2016).*

- In order to respond effectively to the specific cases of child trafficking and trafficking for labour exploitation there is a need to raise awareness about the TRM model amongst various stakeholders (e.g. labour inspectors, child care and welfare professionals etc.) and to mobilise a broader network of skilled and trained professionals to work on the specific cases.

- Ensure continuous and regular update of the TRM standard operating procedures (SOPs) including adaptation for specific forms of exploitation, such as trafficking for labour exploitation and child trafficking. Furthermore there is a need to include measures for integration and social inclusion in the destination country (destination based integration) as a potential alternative to return and reintegration (in country of origin).

- Systematic and regular development or update of existing lists of accredited stakeholder agencies and organisations (including in countries of destination) to ensure effective transnational cooperation.

- Ensure a more definite and outspoken political commitment to adhere to the TRM standards, in the form of a memorandum of understanding (MOU) or similar multilateral or bilateral agreement(s) in order to formally endorse the usage of the TRM SOPs at the national level and between countries that have adopted them.

- Further development of the TRM model and its related operational tools, especially through regular know-how transfer, exchange of good practices,

and the adoption of common tools, such as templates for transnational cooperation (refer to Annex I). Further development of the TRM shall also include encouraging spin-off initiatives at the bilateral level and continuous capacity-building among key stakeholders in SEE and EU countries.

- Recognize that an effective TRM is strictly intertwined with a well functioning NRM. Thus, ensure the full implementation of the NRM, the continuous development and strengthening of the skills of all anti-trafficking actors, the systematic monitoring and evaluation of the strategies and interventions, and the sound and regular allocation of economic resources.

- Implement legal provisions regulating different forms of transnational cooperation involving governments, NGOs, international organisations and other relevant stakeholders.

- Streamline national legislative frameworks to avoid overlap and duplication of measures for assistance and protection. Aim for clear and uniform guidelines which incorporate different available instruments and are accepted as well as utilized by all relevant national stakeholders.

- Consider developing and maintaining an online TRM website, to enable stakeholders and participating countries to update and access country specific information, to facilitate access to SOPs and TRM tools and to provide the platform to share news and information regarding anti-trafficking coordination.

# Structure of the Report

The report is comprised of the following sections:

***I. Introduction***

The introduction outlines the objectives, methodology, the target audience and geographical scope of the present report, as well as the ethical considerations and limitations encountered during the execution of the work.

***II. Transnational Referral Mechanisms: Concept and Applicability***

This section elaborates on the concept of the transnational referral mechanisms (TRM), their development and applicability. It offers a detailed description of what the TRM is and equips the reader with a theoretical understanding of its functioning. This section is relevant for countries that have a TRM in place and are in the process of implementing it as well as countries that are planning to develop it.

***III. International Cooperation in Cases of Trafficking in Human Beings***

This more theoretical section provides an overview of the main international, regional, and bilateral legal and operational instruments that include norms and tools for cross-border cooperation in cases of trafficking in human beings. Even though some of the instruments presented are specifically relevant for SEE countries, this section offers a wider overview of tools to be considered as a framework to initiate the design of a TRM. References to human rights and non-treaty instruments that are pertinent to trafficking cases are also included. Finally, the main regional and international bodies mandated to support cross-border cooperation (also) in cases of human trafficking are briefly introduced, with a focus on the EU context.

***IV. From a Theoretical Framework to Practice: Missing Links and Suggestions to Improve Transnational Cooperation***

This section presents the analysis of the interviews carried out with key TRM anti-trafficking informants on the practical side of transnational cooperation and the implementation of the TRM Standard Operating Procedures. The obstacles and gaps encountered, as well as the suggestions for improvements gathered from the actors that have contributed to first develop and then implement the TRM,

offer a valuable insight to those that are planning to introduce the TRM model in their respective national anti-trafficking context. This section also includes recommendations for improving the cross-border cooperation in cases of human trafficking as well as the transnational referral of trafficked persons and is relevant for both policy makers and practitioners.

# I.

# Introduction

# I. Introduction

The International Centre for Migration Policy Development (ICMPD) has been active in the field of anti-trafficking for over 10 years. Working closely with governmental institutions, both at the policy-making and operational levels, ICMPD has been supporting governments in many of their anti-trafficking initiatives: designing National Action Plans, conceptualising and conducting trainings for different professional groups, carrying out research activities, and, as the focus of this report demonstrates, developing Transnational Referral Mechanisms.

In the last decade, South Eastern Europe (SEE) countries have made remarkable efforts to fight human trafficking and assist and protect trafficked persons. During this time governments throughout the SEE region enforced wide-ranging anti-trafficking laws, ratified the relevant international and regional anti-trafficking instruments, enacted national action plans, national referral mechanisms (NRMs) and transnational referral mechanisms (TRMs). Civil society organisations as well as international organisations also developed comprehensive assistance schemes to prevent the occurrence of trafficking and fully protect the rights of trafficked persons.

Notwithstanding such efforts, it is evident that increased coordination and cooperation among relevant stakeholders remains crucial to tackle the complex phenomenon of human trafficking competently. Broadening and establishing cooperation within and across countries is then essential to address the multi-faceted issues of trafficking and to promptly meet the needs of trafficked persons. Significantly, the TRMs which were developed and implemented over the last few years in the SEE region are specifically founded on the principles of coordination and cooperation as strategic instruments of a successful anti-trafficking response.

This report provides an overview of the legal frameworks and operational tools for transnational cooperation available to the SEE anti-trafficking actors engaged in the prevention and fight of human trafficking as well as in the support and assistance of victims. Furthermore, the report includes useful recommendations from governmental officials, police officers, prosecutors, social workers, NGOs and international organisations on how to establish and improve cooperation amongst

counterparts across borders. Indeed, those questioned provided very useful recommendations to further develop and implement the TRM measures currently in place in their countries. In addition, the report provides specific recommendations on two thematic areas that are high on the anti-trafficking agenda in Europe such as trafficking for labour exploitation and child trafficking.

The report thus contains valuable suggestions and practical recommendations for policy makers and anti-trafficking stakeholders on how to improve anti-trafficking responses and establish more fruitful cooperation mechanisms across borders. These recommendations are considered especially valuable for countries that are planning to develop such a mechanism.

**Objectives of the report**

The purpose aims to gather information and opinions on the existing forms and tools of transnational cooperation used in cases of human trafficking in the SEE countries with the view to further enhance their implementation or development within and beyond the region.

The scope of the report is twofold: firstly, international, regional, and bilateral instruments, mechanisms and tools relevant to transnational cooperation in cases of trafficking in human beings in SEE have been described in the report. It must be noted, though, that this is not a legal analysis, but rather an overview of available tools for cross-border cooperation. Subsequently, viewpoints of a wide range of anti-trafficking stakeholders have been gathered and analysed.

Lastly, based on these findings and concrete examples, each section of the report provides practical recommendations for further action that are relevant for countries that on their way to implementing the TRM or are planning to develop such a mechanism.

**Methodology**

This report is strictly based on qualitative information. In fact, its outcomes derive from the analysis of the findings gathered through the desk research and the semi-structured interviews with relevant anti-trafficking stakeholders carried out in each

participating country by a research team composed of ten ICMPD Local Liaison Officers[2] (LLOs) experienced in human trafficking related issues.

In total, 83 key informants – representatives of governmental institutions, law enforcement agencies, judiciary, labour inspectorates, non-governmental organisations (NGOs) and international organisations (IOs) active in the anti-trafficking field in SEE – were interviewed (see *Table 1*) on the topics covered by this report, that is:

- whether, how and by whom the TRM SOPs are implemented;
- obstacles and gaps encountered;
- suggestions for improvements;
- description of transnational cooperation practices in place in cases of trafficking in persons involving two or more countries.

**Table 1: The key informants interviewed by type of anti-trafficking agency**

| Anti-trafficking agencies | No. of professionals interviewed |
|---|---|
| Ministries | 22 |
| NGOs | 15 |
| Law enforcement agencies | 11 |
| IOs | 11 |
| Others | 10 |
| Judiciary | 11 |
| Labour inspectorates | 3 |
| **Total** | **83** |

[2] The Local Liaison Officers were employed by ICMPD within the framework of the TRM II project in order to support the project implementation at the national level.

## Target audience

In the light of the considerations above, the report is meant to serve as a reference point for all practitioners involved in transnational cooperation in cases of trafficking in human beings beyond the SEE Region. In addition to containing an overview of the main legislative framework currently existing in South-Eastern Europe, this report also provides an analysis of the opinions of a large number of professionals from the field both at the policy making and operational level, thus allowing the reader to identify themselves with their counterparts and relate to lessons learned and practical observations. The reader will also find valuable recommendations that could improve their own work in this field.

## Geographical scope

South-Eastern European countries were the primary target of this report, namely Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo (this designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence), Macedonia, Moldova, Montenegro, Romania, and Serbia. The SEE region comprises countries of origin, transit and destination for women, men, and children who are trafficked internally or across borders within the same region or in other geographical areas. The SEE countries were the first ones to develop and implement the TRM mechanisms, and as such their experiences are particularly valuable to be taken into consideration in view of developing the TRM in another geographical context. To this effect, the report outlines policy recommendations that are valid for all countries planning to undergo the process of developing a TRM model.

## Ethical considerations and limitations

All interviews with the anti-trafficking key informants were carried out by the LLOs with due respect to the ethical standards for counter-trafficking research. Before the interview, each respondent was informed about the research goals and how the information gathered would be used. Furthermore, the names or any other identifying information of the respondents are not to be found in the quotations of the interviews included in the report. The key informants are in fact cited by their professional position in the anti-trafficking field (e.g. public prosecutor, NGO

worker, IO worker, governmental official etc.) and no reference is made about their country of origin in order to ensure their privacy and anonymity.

Some limitations were encountered while drafting the report, which must be taken into account when reading the current analysis. First of all, the interviews with the key informants were held in their own national languages and, in most cases, were recorded, transcribed and then translated into English with the permission of the interviewees. It should be taken into consideration that some nuances of the reasoning of the interlocutors that could contribute to a full understanding of their comments may not have come through in the translated version. The fact that many bilateral agreements and other similar instruments are only available in the respective local languages, to a certain extent, limited the capacity of the main drafter of the report to analyse them fully.

Finally, two very important voices were not heard and, thus, not taken into account while assessing the state-of-play of cooperation across borders in trafficking cases. Although this reports builds upon the lessons learned from "Listening to Victims," a 2007 study on the experiences of 80 trafficked persons who were asked about their personal experience of identification, return, referral, assistance and protection[3], this time trafficked persons who experienced transnational cooperation in the process of their referral were not interviewed. In addition, anti-trafficking stakeholders from the main countries of destination outside the SEE region, where South-Eastern European victims are trafficked and exploited, were also not contacted in the framework of the current exercise. Their comments and insights would have certainly contributed to further understand the existing forms of cooperation and the related gaps to overcome.

[3] Listening to Victims. Experiences of identification, return and assistance in South-Eastern Europe, ICMPD, Vienna, 2007.

# II.

# Transnational Referral Mechanisms:

## Concept and Applicability

# II. Transnational Referral Mechanisms: Concept and Applicability

In the last two decades, in Europe, many efforts have been made to improve the capacities of the anti-trafficking stakeholders to cooperate within and across their countries when tackling cases of trafficking in human beings. Comprehensive international and national legislation, systems of referral, information exchange tools, manuals and templates for a wide range of (anti-)trafficking-related matters have been issued. Yet, transnational cooperation[4] among different anti-trafficking stakeholders is still a challenge as a result of several factors such as, *inter alia*, language barriers, long and complex procedures, the lack of national focal points or the difficulty of easily identifying them. Consequently, the relevant anti-trafficking actors have not always been able to duly perform their duties and, most of all, may have failed to provide prompt assistance and full support to presumed or identified trafficked persons.

At the European Union level, the necessity for an institutionalized transnational referral mechanism was recognized in the EU anti-trafficking strategy of June 2012. Building upon existing National Referral Mechanisms or fostering their development where necessary, the Strategy envisions that "in line with a victim-centred approach, by 2015 the Commission will develop a model for an EU Transnational Referral Mechanism which links national referral mechanisms to better identify, refer, protect and assist victims."[5] This way the number of countries originally involved in the TRM process[6] will increase to incorporate all twenty-seven EU member states, which will close the currently existing gap in implementation between countries traditionally seen as source countries and those that commonly represent countries of destination. This report aims at being a useful resource for them.

The new EU anti-trafficking Strategy also recognizes that currently, when victims move across borders, arising issues are generally solved bilaterally on an ad-hoc basis. For this reason, it also foresees a development of **a model for an EU Transnational Referral Mechanism**, in line with a victim-centred approach.

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[4] In the framework of this report, the terms "transnational cooperation", "international cooperation", "cross-border cooperation", and "cooperation across borders" are used as synonymies.

[5] The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM(2012) 286 final, 19.06.2012, Pg. 6

[6] Ten countries were involved in the TRM SEE and additional four (EU member states) in the TRM EU.

Between 2006 and 2012, in order to contribute to the improvement of transnational cooperation among countries of origin, transit and destination of trafficking in human beings, the International Centre for Migration Policy Development implemented three projects:

- *Programme to Support the Development of Transnational Referral Mechanisms for Trafficked Persons in South-East Europe (TRM-SEE)*[7], funded by United States Agency for International Development (USAID), implemented in 2006-2009;
- *Development of Transnational Referral Mechanisms for Victims of Trafficking between Countries of Origin and Destination (TRM-EU)*[8], co-funded by the European Union and carried out between 2008 and 2010;
- *Enhancing Transnational Cooperation on Trafficking Cases in South-Eastern Europe (TRM-II)*, funded by the USAID, implemented in 2010-2012.

The results of these projects form a coherent framework for the implementation of transnational referral mechanisms. Having created a sustainable TRM infrastructure, which consists primarily of guidelines, activity reports, and a large network of professionals working in the field, the framing of the TRM model laid the foundation for improving and streamlining transnational cooperation within the SEE region and beyond.

A TRM refers to mechanisms and the associated procedures designed for the comprehensive assistance and transnational support of trafficked persons.[9] The TRM integrates the process of referral from initial identification through return and assistance between countries of transit, destination and origin. They involve cooperation between different government institutions and non-governmental

[7] The TRM-SEE involved as project partners MARRI, ACTA, UNICEF Regional Office CEE-CIS, and the Ministry of Interior of Bulgaria and was implemented in Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo (this designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence), Macedonia, Moldova, Montenegro, Romania, and Serbia.

[8] Implemented within the framework of the EU-funded Prevention of and Fight Against Crime Programme (DG Justice, Freedom and Security), the TRM-EU project was co-managed by ICMPD and the Italian Department for Equal Opportunities. The following partners took part to the project activities: Office of the National Co-ordinator for the Fight against Trafficking (Albania), National Commission for Combating Trafficking in Human Beings (Bulgaria), Department of Crime Prevention of the Ministry of the Interior (Czech Republic), Ministry of Justice and Law Enforcement (Hungary), National Commission for Combating Trafficking in Human Beings (Macedonia), Commission for Citizenship and Gender Equality (Portugal), National Agency against Trafficking in Persons (Romania), and the following Italian NGOs: Associazione On the Road, ECPAT-Italia, Cooperativa Sociale Dedalus, Associazione Mimosa, Comunità Oasi 2.

[9] Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons (TRM Guidelines): South-Eastern Europe, Vienna, ICMPD, 2009, pg. 24.

actors. The TRM encompasses five standard operating procedures (SOPs) which reflect the main phases of the transnational referral process:

SOP 1: Identification
SOP 2: First Assistance and Protection
SOP 3: Long-term Assistance and Social Inclusion
SOP 4: Return and Social Inclusion
SOP 5: Criminal and Civil Proceedings

These SOPs are included in one "manual": the TRM Guidelines. Each SOP includes several measures that answer four questions: WHAT is to be done; WHEN is action to be taken; WHO should be involved; and HOW should the action be executed. Accordingly, every action includes a step-by-step implementation guide. The TRM is a flexible tool that builds upon existing structures and procedures at the national, bilateral and multilateral level. Its structure is not prescriptive: actors are not obliged to implement the procedures sequentially. Instead, they can select those measures that would contribute most to the effective handling of a particular case. In short, the TRM, in practice, functions as an à-la-carte menu: the usage is left up to practitioners.

Yet, it should be understood that a TRM does not offer a comprehensive one-size-fits-all solution to the issue of trafficking. Moreover, the creation of such a mechanism is not a onetime activity; rather, it has to be regarded as a continuous process on which all involved actors continue to work in coordination with their international counterparts.

The efficacy of the TRM is a product of the commitment of the relevant actors to use it to its full potential. The TRM is meant to be used across the entire national range of anti-trafficking actors. It assumes involvement from police officers, border guards, judges and prosecutors, as well as NGOs, embassy officials, representatives from social and labour ministries, specialists dealing with minors and national anti-trafficking coordinators.

As the national anti-trafficking bodies are structured differently in every country where they exist, the exact composition of actors involved would naturally vary from country to country. It is, however, important that as many relevant actors apply and participate in the TRM in order to ensure a more efficient response. The TRM guidelines also include the contact details of relevant actors in participating countries, listed as to correspond to the five SOPs.

To this end, the TRM projects mentioned above brought multidisciplinary actors together both in the practical work on specific trafficking cases but also at the policy level. Including and consulting all relevant actors in order for them to devise the most comprehensive and up-to-date policies on THB is a priority for all involved in anti-trafficking efforts. One of the key strategies to a comprehensive anti-trafficking approach is the diversification of actors who work together on the issue: representatives of different institutions, with different backgrounds, expertise, methods and tools for combating THB. The interviews conducted in the framework of drafting of this report are a case-in-point: all involved stakeholders see the issue from their own institutional and professional perspective and it takes coordination and cooperation between them in order to address the issue transnational referral of victims in a comprehensive manner.

Trafficking in human beings is not disconnected from other crimes, migration-related issues, labour and social policies. On the contrary, it is increasingly interwoven with other issues: smuggling of people, irregular migration and irregular transit migration, labour laws and wage policies, free movement of labour, asylum procedures, social protection and inclusion of vulnerable groups, comprehensive policies directed at children, effective exchange of information and transfer of sensitive data across borders.

A transnational referral mechanism is a tool for institutionalised international co-operation. It is a way to encourage institutions and organisations to "talk to each other" more, in a more structured and solution-oriented way, crossing the boundaries of their specific mandates. The TRM does not offer a one-off comprehensive solution to the issue of trafficking. It is to be seen as a process on which all involved actors continue to work in co-ordination with their international counterparts.

At the final seminar of TRM II, held in Bucharest, Romania in February 2012 representatives of the SEE countries involved with the TRM programme reflected on the five years of TRM implementation. Praise was expressed for the TRM model and the strides taken to facilitate transnational cooperation. The TRM countries showed appreciation for the participatory approach applied in the course of the TRM programme and recognized that the TRM standard operating procedures closed a gap in the provision of assistance measures for trafficked persons across borders. However, only with the proliferation of the TRM model to other relevant destination and origin countries, especially in the EU, transnational referral and cooperation would me more effective, thus enhancing the anti-trafficking response at a wiser level.

**Table 2: TRM SOPs measures to be targeted by capacity development initiative[10]**

| TRM framework | | |
|---|---|---|
| SOPs | | |
| SOPs I | **Identification** | ◻ Initial referral<br>◻ Access to basic needs and information<br>◻ Early risk assessment<br>◻ Language interpretation and cultural mediation<br>◻ Recovery and reflection period<br>◻ (Formal) Identification |
| SOPs II | **First Assistance and Protection** | ◻ Information on assistance options and conditions<br>◻ Information on legal options and conditions<br>◻ Intake and needs assessment<br>◻ Assistance provision and protection |
| SOPs III | **Longer-Term Assistance and Social Inclusion** | ◻ Joint development of the individual assistance plan (IAP)<br>◻ Consent procedures to implement the IAP<br>◻ Adjustment and social inclusion<br>◻ Legal support and assistance |
| SOPs IV | **Return** | ◻ Informed decision to return<br>◻ Risk and social inclusion risk assessment<br>◻ Risk management plan<br>◻ Family tracing<br>◻ Documentation<br>◻ Information sharing between the receiving the and the referring organization and with the assisted person<br>◻ Safe transport/transfer and arrival assistance |
| SOPs V | **Civil and Criminal Proceedings** | ◻ Evidence gathering<br>◻ Preparing the victim-witness support before the trial<br>◻ Victim-witness support during the trial<br>◻ Victim-witness support after the trial<br>◻ Support for compensation claims |

The TRM also contains a "TRM contact list" – a sort of a database with the contact information of key stakeholders, listed by country and SOP. The TRM contact list in itself is a tool fostering transnational cooperation and was mentioned on multiple occasions as a good practice.

[10] See TRM Guidelines, 2009.

# III.

# International Cooperation in Cases of Trafficking in Human Beings:

## An Overview of Main Instruments and Frameworks

# III. International Cooperation in Cases of Trafficking in Human Beings: An Overview of Main Instruments and Frameworks

Taking into account that international cooperation is a crucial component of any anti-trafficking strategy, this section of the report provides an overview of the main international instruments and frameworks of cooperation to be considered as a pre-requisite to develop a TRM. As outlined in the Introduction, this section focuses specifically on the SEE region, however, it is a useful resource for any country that is pursuing the development of a TRM.

International cooperation is an integral part of a number of activities related to trafficking in human beings, namely, among others:

- Prevention
- Protection and assistance of trafficked persons
- Police investigation
- Criminal justice matters and prosecution

Regardless of the area of intervention concerned, in order to be truly effective, international cooperation must be ensured through flexible mechanisms and procedures regulated by formal and informal tools such as:

- Multilateral treaties
- Regional treaties
- Bilateral treaties
- Customary principle of reciprocity
- Rogatory letters
- Domestic law provisions
- Memoranda of understanding (MoUs)
- Declarations
- Statements
- Guidelines

Some of these instruments are legally binding for the concerned contracting parties that must equally comply with the provided obligations; others (i.e. MoUs,

declarations, statements, guidelines) do not imply legal commitments but express a common line of action. However, States and their relevant institutions may also sign MoUs to set forth principles and guidelines aimed at improving practical international cooperation leading to the accomplishment of common goals.

In the following pages, a short description of the main instruments of international cooperation is provided, specifically focusing on those relevant for the SEE region. Such a description nonetheless is of great relevance for countries that are about to start the process to develop a TRM. The items mentioned below can be used as a 'checklist' for a sound analysis of the international legal framework, which in turn is the first step to be undertaken to lay the foundation of a functioning TRM.

International cooperation can be twofold:

- 'Informal' when it includes cooperation between law enforcement or responsible authorities of different countries generally to exchange information and intelligence on a given case before the official investigation or prosecution starts. It does not require the use of letters of request (or letters rogatory) and, thus, it is a "faster, cheaper and easier"[11] tool;

- 'Formal' when the responsible authority from one country makes an official request to another country to provide information and/or evidence for investigation and prosecution purposes. Mutual legal assistance[12] and extradition are the most common forms of formal international cooperation, which are regulated by stringent rules.[13]

As the next paragraphs will highlight, most SEE countries ratified the relevant international treaties, namely multilateral, regional and bilateral treaties, which provide a key platform to cooperate across countries in cases of human trafficking for different purposes of exploitation.

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[11] ASEAN, *Handbook on International Legal Cooperation in Trafficking in Persons Cases*, Jakarta, 2010, p. 22.
[12] Also "mutual assistance" or "judicial assistance".
[13] ASEAN, *op. cit.*

## 3.1. International treaties

### 3.1.1. Multilateral treaties

International multilateral treaties are agreements on a given matter between more than two States, which are bound to the rights and obligations stipulated. States must transpose the requirements of the international treaties signed into their national law and ensure that they are fully met. Between the early 1900s and 2000, several treaties on or relevant to trafficking in human beings were adopted and to some extent, they called for cross-border cooperation to fight and prosecute cases of trafficking.[14]

The ratification of both the **United Nations Convention against Transnational Organized Crime (2000)**[15] and of its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (known as the **"Palermo Protocol"**, 2000)[16] is the milestone that contributed to enhancing and harmonizing laws and cooperation mechanisms to fight and prevent human trafficking and protect the rights of victims. Widespread cooperation among States is in fact at the core of these international instruments.

[14] They are the International Agreement for the Suppression of the White Slave Traffic (1904); International Convention for the Suppression of the White Slave Traffic (1910); Protocol Amending the International Agreement for the Suppression of the White Slave Traffic and the International Convention for the Suppression of the White Slave Traffic (1949); the International Convention for the Suppression of Traffic in Women and Children (1921); the International Convention for the Suppression of Traffic in Women of Full Age (1933); the Protocol Amending the International Convention for the Suppression of Traffic Women and Children and the International Convention for the Suppression of Traffic of Women of Full Age (1947); the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), which until 2000 served as the main international instrument on human trafficking.

[15] Entered into force in 2003.

[16] Idem.

## Box 1: Transnational cooperation as in the Palermo Protocol (2000) and in the UNTOC

**United Nations Convention against Transnational Organized Crime (2000)**

*Article 1 – Statement of purpose*

The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively.

**United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)**

*Art. 2 – Statement of purpose*

The purposes of this Protocol are:
(a) To prevent and combat trafficking in persons, paying particular attention to women and children;
(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
(c) To promote cooperation among State Parties in order to meet those objectives.

The **UN Convention against Transnational Organized Crime** (UNTOC) includes several relevant clauses for cross-border cooperation, namely:

- International cooperation for purposes of confiscation (Art. 12)
- Disposal of confiscated proceeds of a crime or property (Art. 14)
- Extradition (Art. 16)
- Transfer of sentenced persons (Art. 17)
- Joint investigations (Art. 19)
- Special investigative techniques (Art. 20)
- Transfer of criminal proceedings (Art. 21)
- Law enforcement cooperation (Art. 27).

The UNTOC Convention also provides for mutual legal assistance (Art. 18), which can be requested for the following purposes (paragraph 3):

- Taking evidence or statements from persons;
- Effecting service of judicial documents;
- Executing searches and seizures, and freezing;

- Examining objects and sites;
- Providing information, evidentiary items and expert evaluations;
- Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- Facilitating the voluntary appearance of persons in the requesting State Party;
- Any other type of assistance that is not contrary to the domestic law of the requested State Party.

These are indeed crucial provisions for human trafficking cases. Since the latter are mostly transnational in nature and the offenders may travel extensively across countries, the law enforcement agencies and the judicial authorities of a State need the assistance of another State to successfully investigate, prosecute and punish the offenders.

The **UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**, requires States Parties to criminalize trafficking in persons as defined in the Protocol[17] by amending their criminal law accordingly or establishing such an offence in their domestic legislation (Art. 5). The Trafficking Protocol therefore, fostered the criminalisation of human trafficking in the States Parties and the harmonization of the definition of trafficking across countries.

As far as the SEE countries are concerned, the domestic legislation in these countries criminalizes trafficking in human beings (Table 3), and is mostly in compliance with the UN definition.

[17] According to Art. 3 of the UN Protocol, "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

**Table 3: National anti-trafficking legislation in the SEE countries**

| Signatories | Domestic anti-trafficking legislation |
|---|---|
| Albania | Art. 110/a, 114/b, 124/b Criminal Code (c.c.) |
| Bosnia-Herzegovina | Art. 186 c.c. |
| Bulgaria | Art. 159 c.c. |
| Croatia | Art. 175 c.c. |
| Kosovo* | Art. 444 c.c. |
| Macedonia | Art. 418-a-c-e, c.c. |
| Moldova | Art. 165 and 206 c.c, L. no. 241-XVI/2005 |
| Montenegro | Art. 444, 445 c.c. |
| Romania | L. no. 678/2001 |
| Serbia | Art. 388 c.c. |

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

The UN Trafficking Protocol specifically requires international cooperation between the States Parties for:

- Repatriation of victims (Art. 8)
- Prevention of trafficking in persons (Art. 9)
- Information exchange and training (Art. 10)
- Border measures (Art. 11); and
- Legitimacy and validity of documents (Art. 13).

According to the Conference of the Parties,[18] several SEE countries use the UN Convention against Transnational Organized Crime as a legal basis for international cooperation especially in extradition (Art. 16) and mutual legal

[18] The Conference of the Parties was established to improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of the United Nations Convention against Transnational Organized Crime (Art. 32).

assistance (Art. 18).[19] For instance, in 2009, Romania sent a request for extradition to the United Arab Emirates using as a legal basis the Organized Crime Convention and its Protocol to Prevent, Suppress and Punish Trafficking in Persons. Another request formulated during the pre-trial stage and related to a case involving human trafficking was sent to Morocco.[20] Serbia also submitted a request for international legal assistance in criminal matters by applying the Convention and the Protocol to freeze the property (Art. 12) of a person accused in Spain of committing several offences, including trafficking in human beings.

The **UN Convention against Corruption** (2003)[21] is also a relevant tool since it calls for strong international cooperation to fight corruption, including the prevention, investigation and prosecution of offenders. This Convention is particularly pertinent for the prosecution of traffickers and their accomplices apprehended in a country different from the one in which they are prosecuted. Chapter IV of the Convention specifically focuses on international cooperation requiring State Parties to cooperate on the following matters:

- Extradition (Art. 44)
- Transfer of sentenced persons (Art. 45)
- Mutual legal assistance (Art. 46)
- Transfer of criminal proceedings (Art. 47)
- Law enforcement cooperation (Art. 48)
- Joint investigation teams (Art. 49)
- Special investigative techniques (Art. 50).

Since its establishment, the **International Labour Organization (ILO)** has played a crucial role in promoting the elimination of forced labour both of adults and minors. The ILO conventions relevant to cases of trafficking for forced labour are primarily *C29 Forced Labour Convention (1930), C105 Abolition of Forced Labour Convention (1957), C182 Worst Forms of Child Labour Convention (1999), and C189*

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[19] Fifth session of the Conference of the Parties to United Nations Convention against Transnational Organized Crime, *Catalogue of examples of cases of extradition, mutual legal assistance and other forms of international legal cooperation on the basis of the United Nations Convention against Transnational Organized Crime*, CTOC/COP/2010/CRP.5, see at: www.unodc.org/documents/treaties/organized_crime/COP5/CTOC_COP_2010_CRP5/CTOC_COP_2010_CRP5_E.pdf

[20] Idem.

[21] Entered into force in December 2005.

*Domestic Workers Convention (2011)*[22]. Also in the *ILO Declaration on Fundamental Principles and Rights at Work (1998)*, the International Labour Conference recalls to the Members their obligations to eliminate all forms of forced labour and to abolish child labour (2(b) and (c)). Other ILO Conventions provide for a legal framework to prevent trafficking for labour exploitation and protect potential or actual trafficked persons exploited abroad, namely *C97 Migration for Employment Convention (1949), C143 Migrant Workers (Supplementary Provisions) Convention (1975), and C181 Private Employment Agencies Convention (1997).*[23] C97 requires Member States to freely assist labour migrants by giving accurate information and preventing "misleading propaganda" on employment abroad (C97, Art. 2 and 3), and C143 establishes that Member States take measures to detect and suppress irregular movement and employment of migrants as well as to punish the "organisers of illicit or clandestine movements of migrants for employment" (Art. 2, 3, 5). C181 calls upon the Member States to take all necessary measures to prevent abuses of migrant workers by private employment agencies in the recruitment, placement and employment phases (Art. 8).

As far as transnational cooperation is concerned, Convention C182 specifically calls for Member States to "take appropriate steps to assist one another" in enforcing the Convention provisions through "enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education"(Art. 8). Both C97 and C143 Conventions urge Member States to systematically collaborate and exchange information to fully protect migrants from abusive conditions when migrating abroad for labour purposes. Furthermore, Conventions C181 and C189 call upon Member States to establish cooperative bilateral or multilateral agreements to effectively thwart abusive practices by private employment agencies when recruiting, placing and enrolling migrant workers (respectively Art. 8 and Art. 15(c)).

Most SEE countries ratified the above-mentioned ILO conventions (Table 4), which are regularly monitored by the Committee of Experts on the Application of Conventions and Recommendations. This Committee annually issues a report that covers selected matters related to the application of ILO standards and includes

[22] The ILO C189 Domestic Workers Convention was adopted on 16.06.2011; no Member State has ratified it yet (as of 30 January 2012).
[23] ILO, *ILO Action against Trafficking in Human Beings*, Geneva, 2008, p. 7.

detailed observations and requests addressing particular countries.[24] In several reports, specific comments and requests have been submitted to some SEE countries with the view to urge them to fully comply with the provisions stipulated by the conventions.[25]

**Table 4: Main ILO Conventions pertinent in cases of human trafficking for forced labour ratified in the SEE region**

| Signatories | C29 Forced Labour Convention (1930) | C97 Migration for Employment Convention (1949) | C105 Abolition of Forced Labour Convention (1957) | C143 Migrant Workers (Supplementary Provisions) Convention (1975) | C181 Private Employment Agencies Convention (1997) | C182 Worst Forms of Child Labour Convention (1999) |
|---|---|---|---|---|---|---|
| Albania | 25/06/1957 | 02/03/2005 | 27/02/1997 | 12/09/2006 | 30/06/1999 | 02/08/2001 |
| Bosnia-Herzegovina | 02/6/1993 | 02/06/1993 | 15/11/2000 | 02/06/1993 | 18/01/2010 | 05/10/2001 |
| Bulgaria | 22/09/1932 | | 23/03/1999 | | 24/03/2005 | 28/07/2000 |
| Croatia | 8/10/1991 | | 05/03/1997 | | | 17/07/2001 |
| Kosovo* | | | | | | |
| Macedonia | 17/11/1991 | 17/11/1991 | 15/07/2003 | 17/11/1991 | 17/11/1991 | 30/05/2002 |
| Moldova | 23/03/2000 | 12/12/2005 | 10/03/2003 | | 19/12/2001 | 14/06/2002 |
| Montenegro | 03/06/2006 | 03/06/2006 | 03/06/2006 | 03/06/2006 | 03/06/2006 | 03/06/2006 |
| Romania | 28/05/1957 | | 03/08/1998 | | | 13/12/2000 |
| Serbia | 24/11/2000 | 24/11/2000 | 10/07/2003 | 24/11/2000 | 24/11/2000 | 10/07/2003 |

*Source: ILOLEX (as of August 2012)*

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

[24] www.ilo.org/public/libdoc/ilo/P/09661/
[25] Idem.

### 3.1.2. Regional treaties[26]

There are several regional treaties concerning human trafficking ratified by the SEE countries that provide for cross-border cooperation. **The Council of Europe Convention on Action against Trafficking in Human Beings** (2005)[27] is certainly the most significant one since it concerns more than forty States of Western, Central and Eastern Europe and binds them, if compared to the UN Trafficking Protocol, to a higher level of obligation especially in regards to victim protection, assistance and redress.

The Council of Europe (CoE) Trafficking Convention specifically sets out the provisions as to international cooperation in Chapter VI (Art. 32-34).

**Box 2: Transnational cooperation as in the CoE Trafficking Convention (2005)**

**Council of Europe Convention on Action against Trafficking in Human Beings (2005)**

*Article 32 – General principles and measures for international co-operation*

The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

1. preventing and combating trafficking in human beings;
2. protecting and providing assistance to victims;
3. investigations or proceedings concerning criminal offences established in accordance with this Convention.

Similar to the UN Trafficking Protocol, the CoE Convention does not limit cooperation in the realm of judicial matters but calls for cooperation to "the widest extent possible", including the prevention of human trafficking and the provision of assistance and protection to victims. As far as judicial cooperation is concerned, the Convention is not intended to replace already existing Council of Europe

[26] Regional treaties are multilateral international agreements signed by States of a given geographical region, in some cases, they may include a few States of other geographical areas, however, the vast majority of the signatories belong to the same regional grouping of States.
[27] Entered into force in February 2008.

instruments[28] but to provide them with an added value to improve cooperation between Parties. In fact, as the Convention states, the Parties are to cooperate also "through application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws" (Art. 32).

In compliance with the Convention, the Parties have to internationally cooperate by providing special measures relating to endangered or missing persons. They have to transmit any relevant information to another Party in case they have "reasonable grounds to believe that the life, freedom or the physical integrity of a person [...] is in immediate danger on the territory of another Party" (Art. 33). They can also establish bilateral and multilateral agreements to strengthen their cooperation as to the search for missing persons, especially if children are suspected to be victims of trafficking. Prompt and accurate transmission of information is indeed crucial for the provision of appropriate protection to the persons in danger. To this end, the Convention stipulates that Parties have to cooperate in order to transmit any necessary information (Art. 34(4)) to grant the recovery and reflection period (Art. 13), the residence permit (Art. 14), and a sound repatriation and return of victims (Art. 16). Furthermore, information can be exchanged for investigation or proceedings purposes, provided that the receiving Party keeps it confidential if requested to do so.

Between 1 February 2008 and 1 September 2009, the Council of Europe Convention entered into force in the entire SEE region (except Kosovo[29]). **GRETA**, a group of independent experts specifically appointed by the Council of Europe, monitors the implementation of the Convention. The SEE countries are scheduled to be assessed during the first evaluation round between 2010 and 2013. More specifically, Albania, Bulgaria, Croatia Moldova, and Romania are part of the first group of Parties already monitored by GRETA (2010-2011); Bosnia and Herzegovina, and Montenegro belong to the second group of Parties (2011-2012); Macedonia and Serbia will be evaluated as components of the third group of

[28] See, inter alia, the *European Convention on Extradition* (ETS No. 24), the *European Convention on Mutual Assistance in Criminal Matters* (ETS No. 30), the protocols to these (ETS Nos. 86, 98, 99 and 182) and the *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime* (ETS No. 141).

[29] This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence. Kosovo is not an official member of the CoE, but there are CoE offices in Pristina, and Serbia is a member.

Parties (2012-2013)[30]. In December 2011, GRETA issued its first monitoring reports concerning Albania, Bulgaria, and Croatia, in February and May 2012 GRETA published its first reports on Moldova and Romania respectively.[31]

The Police Cooperation Convention for Southeast Europe was the first instrument adopted in the SEE region that encourages cross-border cooperation at the operational level amongst law enforcement authorities. Signed in 2006 and having entered into force in 2008, the Convention includes as Contracting Parties the following countries: Albania, Bosnia and Herzegovina, Bulgaria, Macedonia, Moldova, Montenegro, Romania, and Serbia. The scope of the Convention is to strengthen the cooperation among the signatory countries "with respect to prevention, detection and police investigation of criminal offences" (Art. 1) by using a wide range of tools, including:

- Joint threat analysis, liaison officers
- Hot pursuit
- Witness protection
- Cross-border surveillance
- Controlled delivery
- Undercover investigations
- Transmission and comparison of DNA profiles and other identification material
- Border search operations
- Mixed analysis working groups
- Joint investigation teams
- Mixed patrols along the state border;
- Cooperation in common centres[32].

The Police Cooperation Convention for Southeast Europe Secretariat is based in Ljubljana. Due to its recent implementation, no assessment on the functioning of the Convention has been carried out to date.

All SEE countries ratified the above-mentioned international and regional instruments (*Table 5*), thus establishing a key platform to cooperate across

[30] www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Timetable_en.asp#TopOfPage
[31] www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Past_country_visits_en.asp#TopOfPage
[32] www.pccseesecretariat.si

countries in cases of different forms of human trafficking involving nationals or foreigners, both children and adults.

**Table 5: Main multilateral and regional anti-trafficking and anti-trafficking related treaties ratified in the SEE region**

| Signatories | UN Convention and Trafficking Protocol* | Council of Europe Convention** | UN Convention on Corruption*** | Police Cooperation Convention for Southern Europe**** |
|---|---|---|---|---|
| Albania | 21/8/2002 | 1/2/2008 | 25/5/2006 | 10/10/2007 |
| Bosnia-Herzegovina | 24/04/2002 | 1/5/2008 | 26/10/2006 | 15/10/2007 |
| Bulgaria | 5/12/2001 | 1/2/2008 | 20/6/2006 | 1/3/2009 |
| Croatia | 24/1/2003 | 1/2/2008 | 24/4/2005 | |
| Kosovo˘ | | | | |
| Macedonia | 12/6/2005 | 1/9/2009 | 13/4/2007 | 10/10/2007 |
| Moldova | 17/02/2005 | 1/2/2008 | 1/10/2007 | 11/07/2008 |
| Montenegro | 23/10/2006 | 1/11/2008 | 23/10/2006 | 1/5/2008 |
| Romania | 4/12/2002 | 1/2/2009 | 2/11/2004 | 22/11/2007 |
| Serbia | 6/09/2001 | 1/8/2009 | 20/12/2005 | 11/12/2007 |

*Sources: (as of August 2012)*

* Entry into force dates, source: http://conventions.coe.int
** Ratification dates, source: http://treaties.un.org
*** Ratification dates, source: www.unodc.org
**** Entry into force dates, source: www.pccseesecretariat.si
˘ This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

### 3.1.3. Bilateral treaties

Bilateral treaties are instruments adopted by the States to develop tailor-made agreements on given issues. They are very relevant to be taken into

consideration in the process of developing a TRM, especially with regard to the implementation of the Standard Operating Procedures for assistance and referral of trafficked persons.

Most SEE countries signed bilateral agreements with EU and regional counterparts on judicial issues that may be pertinent in trafficking cases to strengthen the use of mutual judicial assistance in the civil, penal and commercial fields; to enforce foreign penal decisions; or to execute the transfer of convicted persons. Numerous bilateral agreements concern the readmission of country nationals or third nationals, comprising victims of trafficking. Furthermore, SEE countries signed a number of bilateral agreements specifically concerning trafficking issues or on related matters with countries within and outside the region. These kinds of agreements have proved very useful, and notably, during the course of the implementation of the TRM II project, participating countries expressed the need to establish more of these kinds of agreements.

For instance, in 2006 Albania and Greece signed an agreement for the protection and assistance of children victims of trafficking to cooperate on the basis of mutually accepted principles and methods. Action and cooperation between police authorities and exchange of information are at the core of the agreement as well as the implementation of comprehensive prevention and protection measures by means of cooperation agreements with IOs and NGOs. The agreement also provides for the procedures to set up for the return and reintegration of child victims of trafficking. In 2007 Albania also signed a bilateral agreement with Macedonia to improve cooperation measures to fight trafficking at the borders and to identify, notify, refer and return trafficked persons. In June 2012 Kosovo (this designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence) and Albania signed the Additional Protocol on cross border cooperation, to complete the Agreement on cross border police cooperation signed in 2009.[33]

Governmental agencies also use Memoranda of Understanding (MoU) to establish forms of international cooperation for trafficking related issues. In the SEE countries, some MoUs have been set out to facilitate cooperation, contacts and

[33] This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

exchange of information and know-how across borders. For instance, in 2009, both the Government of the Republic of Serbia and the Council of Ministers of Bosnia and Herzegovina signed a MoU with the Swiss Federal Council to "consider ways of establishing a regular and constant dialogue and a common reflecting process in order to enhance their cooperation in the field of migration" in a wide range of areas, including trafficking in human beings.[34]

### 3.2. European Union framework

Since the late 1990s, the European Union has enacted several instruments to foster cross-border cooperation in the fight against human trafficking and protection of the victims. Even though in the SEE context they primarily concern Bulgaria and Romania as Member States, such instruments may be pertinent also for non-EU countries, including the SEE countries, as Third Parties. Furthermore, some of the SEE countries have started the accession process with the EU and therefore have the responsibility to bring their legislation in line with the EU directives and instruments. In the following paragraphs, the most relevant instruments adopted between 2002 and 2012 are briefly presented.

Two EU directives directly regulate the status of trafficked persons and address the issue of their protection, as well the obligations of all stakeholders involved to step up their effort in the identification and adequate referral of trafficked persons.

On 29 April 2004, two days before the biggest single enlargement of the European Union took place, adding ten countries as member states, *Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities* was adopted. The Directive had to be transposed into the national law of EU member states by 6 August 2006. Its purpose is to provide a legal framework in which the Member States, can grant short-term residence status to victims of human trafficking, even

[34] Memorandum of Understanding between the Swiss Federal Council and the Council of Ministers of Bosnia and Herzegovina Establishing a Migration Partnership between and Bosnia and Herzegovina (2009), pp. 1-2; Memorandum of Understanding between the Swiss Federal Council and the Government of the Republic of Serbia Establishing a Migration Partnership (2009), pg. 1-2.

if they have entered the state illegally. Yet, the scope of this Directive only covers "third-country nationals", i.e. EU citizens are not subject of this Directive. Given that the latest data of the International Labour Organization (ILO) from July 2012 shows that EU citizens continue to constitute the highest number of trafficked persons within the EU[35], the impact of Directive 2004/81/EC might remain limited. Shortly before this report was published, the European Commission commissioned a study on the implementation of this Directive across EU member states, in order to look at the contribution the Directive has brought about in improving the protection of trafficked persons in the European Union.

In April 2011, *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* (or the so-called trafficking directive) was adopted and represents a significant outcome of the work carried out in the last decade by governments, NGOs and other relevant agencies to improve the European standards in the anti-trafficking field. Member states have two years to transpose the directive into their national law; which means that as of April 2013 they will be bound by the provisions of this directive. This Directive brings robust provisions on victim's protection, including national mechanisms for assistance of victims and supports the principle of non-punishment for petty crimes and unconditional assistance. It also obliges Member States to set up National Rapporteurs or equivalent mechanisms to be responsible for monitoring implementation of anti-trafficking policy at the national level. Furthermore, the Directive calls for the implementation of specific measures, such as support for the development of general common indicators of the Union for the identification of victims of trafficking, through the exchange of best practices between all the relevant actors, particularly public and private social services. It also urges the Member States to take all necessary actions to establish appropriate mechanisms aimed at early identification in cooperation with relevant support organizations.[36] As far as cross-border cooperation is concerned, the Directive calls on the law enforcement authorities of the Member States to continue to closely cooperate across borders in order to improve the fight against human trafficking by sharing information and best practices, as well as by supporting the dialogue between the police, judicial and financial authorities.

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[35] http://www.ilo.org/public/german/region/eurpro/bonn/download/eu_27_fl.pdf
[36] http://ec.europa.eu/anti-trafficking/entity.action?id=77172b8d-5d04-4cf0-b276-49f733ab93c8

Additional EU directives and regulations touch upon the issue of trafficking[37], thus building a solid body of law for the Member States to adhere to. This report will not go into the details of these additional documents.

The ***Lisbon Treaty on the Functioning of the European Union***[38] entered into force in December 2009, and provides, inter alia, for the development of a comprehensive common policy on asylum, immigration and external border controls. It addresses trafficking in human beings by stipulating that the EU shall enhance measures to prevent and combat irregular immigration and trafficking in human beings (Art. 79). Moreover, the Lisbon Treaty urges the EU Member States to ensure a high level of cooperation and coordination between police, judicial authorities and other competent authorities also through the mutual recognition of judgments in criminal matters and the approximation of criminal laws (Art. 67).

In 2009, the European Union also issued the ***Action-Oriented Paper on strengthening the EU external dimension on action against trafficking in human beings; Towards Global EU Action against Trafficking in Human Beings***[39] (AOP). This aims at strengthening a wide-ranging, coherent and coordinated action of the EU and the Member States to prevent and fight all forms of trafficking in human beings as well as to protect victims in close cooperation with third countries, regions and organisations at the international level. The AOP establishes the following four areas of priorities:

- Preventing trafficking, including addressing and reducing demand
- Protecting and supporting victims of trafficking
- Investigating, prosecuting and controlling the external borders of the EU
- Safe return and reintegration.

As far as cooperation and coordination of EU anti-trafficking action with third countries is concerned, the AOP specifically foresees the following actions:

- Donor coordination

[37] Among others, most notably, Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals and Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment, 13.7.2010.

[38] EU OJ 2010/C 83/01. The Lisbon Treaty amended the Treaty of Rome (1957) and the Treaty of Maastricht (1992) that comprise the constitutional basis of the European Union.

[39] http://register.consilium.europa.eu/pdf/en/10/st06/st06865.en10.pdf

- Improved information exchange on actions on human trafficking
- Financial support towards longer-term, sustainable support for organisations, structures and mechanisms
- Set up an EU anti-THB portal[40]
- Develop partnerships between the EU, third countries, regions and organisations at international level.

Within the framework of the latter action, the AOP calls for the full use of the existing multi-lateral and bilateral agreements as well as strategic partnerships and cooperation processes[41] and it promotes trafficking of human beings as an area of cooperation on its own by also enlarging its action scope into other policy areas and areas of cooperation.

The ***Stockholm Programme***[42] is a five-year plan adopted by the European Council to set out the EU strategic guidelines for common legislation and policies within the area of freedom, security, justice, external relations, development cooperation, social affairs and employment for the period 2010-2014. The Stockholm Programme considers trafficking in human beings a serious crime that must be a priority in developing common immigration policy and in the fight against irregular migration. The Programme requires the strengthening of assistance and protection measures for victims, comprising compensation schemes, safe voluntary return, assistance and capacity building in the country of origin; the further implementation of raising awareness activities; the prevention of fraudulent issuing of visas; and the employment of more efficient border checks to prevent human trafficking. All these measures shall be conducted in close partnership with the countries of origin of trafficked persons.

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[40] In 2010, the European Union established a website to raise awareness on human trafficking and to present the anti-trafficking activities carried out at the EU level and in the Member States with the view to promote exchange of ideas and co-operation among anti-trafficking stakeholders. For further details, see: http://ec.europa.eu/anti-trafficking/index.action.

[41] See the Stabilisation and Association Process for the Western Balkans; the EU-Russia Common Space of Freedom, Security and Justice, the EU-US and EU-Canada Strategic Partnerships; the European Neighborhood Policy; the Euro-Mediterranean Partnership; the Black Sea Synergy; the Eastern Partnership; the EU-Ukraine JLS partnership; the Ouagadougou Plan of Action and the EU-Africa Strategy; the dialogue with China and India; the Strategy for a New Partnership between the EU and Central Asia; the EU-ASEAN Enhanced Partnership; the EU's cooperation with South Asia and with Latin America and the Caribbean.

[42] EU OJ 2010/C 115/01 4.5.2010.

In December 2010, the European Commission appointed the first ***EU Anti-Trafficking Coordinator***, currently Ms Myria Vassiliadou, whose mission is to provide for an overall strategic and policy orientation in the field of trafficking in human beings in the European Union. Inter alia, the Anti-Trafficking Coordinator is mandated to contribute to the further development of anti-trafficking policies and actions, taking into due account the external dimension and, thus, providing for the strengthening of coordination and cooperation with third countries.

In June 2012, the ***EU Strategy Towards the Eradication of Trafficking in Human Beings (2012-2016)***[43] was adopted by the European Commission. The strategy is a practical instrument addressing the main needs and challenges in the EU from a human rights and gender-specific perspective. The aim is to involve and ensure better coordination between all possible actors working towards the eradication of trafficking, such as police officers, border guards, immigration and asylum officials, public prosecutors, lawyers, housing, labour, health, social and safety inspectors, social and youth workers, consumer organisations, trade unions, employers organisations, temporary job agencies, recruitment agencies, etc. One of the priorities identified by the EU strategy is to strengthen the identification, protection and assistance to victims, with a special emphasis on children. The identification of trafficking cases remains difficult, even though many people could potentially come in contact with a victim. The Commission proposes, for instance, to develop guidelines to help practitioners as well as consular officials and border guards better identify victims of trafficking.

In order to better assist victims in a cross-border situation the strategy also notably suggests to develop a model for an **EU Transnational Referral Mechanism**. As outlined above, applying the TRM model across the EU member states as a result of the EU strategy will provide for a broader and more binding implementation, thus contributing significantly to streamlining transnational cooperation.

### 3.3. Human rights instruments

Recognizing that the full implementation of human rights based responses in the process of victim referral is a key challenge, compliance with human rights

[43] http://ec.europa.eu/anti-trafficking/entity.action?id=714114c7-cd42-46cf-85eb-c09d042c7181

standards is at the core of all TRM Standard Operation Procedures in the process of cross border referral.

International human rights treaties that contain specific references to trafficking are the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) and the Convention on the Rights of the Child (CRC, 1989). Other international human rights treaties applicable to trafficking cases because they stipulate the protection of rights relevant for victims of trafficking (e.g. the right to life, dignity, liberty and security; the right to be free from slavery, forced labour and servitude; the right to health; the right to equal protection of the law; the right to freedom of movement; the right to privacy and family life; the right to work, to free choice of employment and favourable conditions of working) or forbid practices related to trafficking and exploitation (e.g. gender, racial, ethnic discrimination; torture and inhumane treatment and punishment; forced marriage; forced labour and servitude; slavery; sale and sexual exploitation of children; exploitation of prostitution) are[44]:

- Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR, 1966);
- International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966);
- Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1966);
- Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT, 1984);
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution (OPCRCSCCP, 2000);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW, 1990);
- Convention relating to the Status of Refugees (CSR, 1951);
- Protocol relating to the Status of Refugees (PSR, 1967);
- Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD, 2006);
- International Convention for the Protection of All Persons from Enforced Disappearance (ICAED, 2006).

[44] AESAN, op. cit., p. 13-14.

All SEE countries are party to all abovementioned human rights treaties (*Table 6*) and, therefore, they are bound to meet the obligations and duties contained in the treaties in order to protect the human rights of individuals and groups, including trafficked persons also during any of the TRM measures they may be involved in. Towards this end, States are required to duly monitor the implementation of the treaties within their territories. By doing so, they can greatly contribute to ensure the actual implementation of the human rights victim-centred approach called for in all anti-trafficking international, national, regional and local legislation and documents.

**Table 6: Main international human rights treaties containing specific references to trafficking or stipulating the protection of rights relevant for victims of trafficking ratified in the SEE region**

| Signatories | CEDAW | CRC | ICCPR | ICESCR | CERD | CAT | OPSC | CMW | CSR | CRPD | ICAED |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Albania | 11/5/1994 | 27/2/1992 | 4/10/1991 | 11/5/1994 | 11/5/1994 | 11/51994 | 5/2/2008 | 5/6/2007 | 18/8/1992 | - | 8/11/2007 |
| Bosnia-Herzegovina | 1/9/1993 | 1/)/1993 | 1/9/1993 | 16/7/1993 | 16/1993 | 1/9/1993 | 4/9/2002 | 13/12/1996 | 1/9/1993 | 12/3/2010 | 6/2/2007* |
| Bulgaria | 8/2/1982 | 3/6/1991 | 12/9/1970 | 8/8/1966 | 8/8/1966 | 16/12/1986 | 12/2/2002 | - | 12/5/1993 | 27/9/2007* | 24/9/2008* |
| Croatia | 9/9/1992 | 12/10/1992 | 12/10/1992 | 12/10/1992 | 12/10/1992 | 12/10/1992 | 13/5/2002 | - | 12/10/1992 | 15/8/2007 | 6/2/2007* |
| Kosovo˘ | | | | | | | | | | | |
| Macedonia | 18/1/1994 | 2/12/1993 | 18/3/2004 | 12/01/1994 | 18/1/1994 | 12/12/1994 | 17/10/2003 | - | 18/1/1994 | 30/3/2007* | 6/2/2007* |
| Moldova | 1/7/1994 | 26/1/1993 | 26/01/1993 | 23/01/1993 | 26/1/1993 | 28/11/1995 | 12/4/2007 | - | 31/1/2002 | 21/9/2010 | 6/2/2007* |
| Montenegro | 23/10/2006 | 23/10/2006 | 23/10/2006 | 23/10/2006 | 23/10/2006 | 23/10/2006 | 23/10/2006 | 23/10/2006* | 10/10/2006 | 2/11/2009 | 6/2/2007* |
| Romania | 7/1/1982 | 28/9/1990 | 9/12/1974 | 15/9/1970 | 15/9/1970 | 18/12/1990 | 18/10/2001 | - | 7/8/1991 | 31/1/2011 | 3/12/2008* |
| Serbia | 12/3/2001 | 12/3/2001 | 12/3/2001 | 12/3/2001 | 12/3/2001 | 12/3/2001 | 10/10/2002 | 11/11/2006 | 12/3/2001 | 31/7/2009 | 18/5/2011 |

*Sources: (as of 28.8.2012)*

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT)
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution (OPSC)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW)
- Convention relating to the Status of Refugees (CSR) and its Protocol relating to the Status of Refugees
- Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD)
- International Convention for the Protection of All Persons from Enforced Disappearance (ICAED)

˘ This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

* Signature, no ratification yet.

## 3.4. Agencies and institutional tools for cross-border police and judicial cooperation

A recurring observation throughout the development of the TRM is that protection, investigation and prosecution complement one another. Therefore law enforcement and judicial cooperation are of key importance at the transnational level and existing frameworks of cooperation have to be integrated in the TRM model.

In the last fifteen years, both in the EU and the SEE region, several police and judicial agencies have been established to prevent and fight organized crime and related matters, including trafficking in human beings. In the following paragraphs a short description of their mission, anti-trafficking activities and operational tools is provided.

The Southeast European Law Enforcement Center **(SELEC) formally known as the Southeast European Cooperative Initiative Regional Center for Combating Trans-border Crime (SECI Centre)**[45] was established in 1999 in Bucharest to build "a strong platform against criminality," "to sustain the Southeast European countries' declared combat against organized crime and to strengthen the law enforcement capabilities for countering organized crime."[46] The 13 SELEC Member States are: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Moldova, Montenegro, Romania, Serbia, Hungary, Greece, Slovenia, and Turkey. The SELEC personnel are composed of police and customs officers from the Member States based in the Bucharest headquarters and supported by their National Focal Points. SELEC provides, inter alia, support and coordination for the police field operations to prevent, detect, investigate, and prosecute transnational crime; and sound information exchange through a fast, highly encrypted and cost-effective communication system.[47]

SELEC carries out its activities through eight Task Forces specifically addressing issues of human trafficking and migrant smuggling, drug trafficking, stolen vehicles, smuggling and customs fraud, financial and computer crime, terrorism, container

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[45] As of 7 October 2011 the SECI Center became SELEC.
[46] Idem.
[47] On December 9, 2009, the SELEC Member States representatives signed the Convention of the Southeast European Law Enforcement Center (SELEC) to transform the SECI Center into SELEC.

security, and environmental and nature related crimes. The Task Force on Human Trafficking and Migrant Smuggling conducted several operations in the SEE region, in some cases cooperating also with international and non-governmental organisations. It ensured the protection and assistance of victims-witnesses by supporting their identification process in their country of origin, assisting them in the transportation and thus facilitating their testimony as witnesses in trials against traffickers[48]. Through this activity, 22 victims testified as witnesses in Bosnia and Herzegovina, Macedonia and Serbia and Montenegro (2004-2005), one victim testified by video-conferencing from Moldova for a Macedonian court (2005), one Romanian victim testified in Bosnia and Herzegovina (2006)[49].

Established in 2003, the **Southeast European Prosecutors Advisory Group (SEEPAG)** is an international mechanism of judicial cooperation and coordination aiming at increasing the practical capacity of its member states to suppress, investigate and prosecute significant trans-border crimes, including trafficking in human beings.[50] SEEPAG is composed of experienced public prosecutors or judges that are delegated to act as National Prosecutorial Focal Points in the following countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Greece, Hungary, Moldova, Montenegro, Romania, Serbia, Slovenia, and Turkey. Through the work of the Focal Points, SEEPAG intends, firstly, to promote the rapid exchange of information and evidence when executing mutual legal assistance requests or other related requests. Secondly, it provides guidance and issues recommendations and opinions on justice and law enforcement matters as well as practical support and assistance to the SELEC operations. SEEPAG also exchanges good practices concerning cooperation and the enhancement of criminal justice measures within the SEE region. SEEPAG's Secretariat is provided by SELEC and is based in Bucharest at SELEC's Headquarters.

The **European Judicial Network (EJN)**[51] is a network of more than 300 National Contact Points created in 1998 by the European Union[52] in order to improve, facilitate and accelerate the judicial co-operation between the EU Member States

[48] www.secicenter.org
[49] Idem.
[50] www.seepag.info
[51] www.ejn-crimjust.europa.eu/ejn/ejn_home.aspx
[52] Joint Action 98/428 JHA of 29 June 1998 in compliance with recommendation no. 21 of the Action Plan to Combat Organised Crime adopted by the Council on 28 April 1997. Council Decision 2008/976/JHA of 16 December 2008.

in criminal matters and especially among prosecutors, judges, and other national and local judicial authorities. The Contact Points are experts working in the central national authorities responsible for international judicial cooperation or with specific responsibilities in serious crimes, including human trafficking. They are mandated to promote and support judicial cooperation across borders by providing the pertinent direct contacts of the competent authorities; supplying practical and legal information; giving advice and mediating to tackle difficult cases, delays and conflicts resulting from the execution of judicial cooperation requests. Each Member State appoints a National Correspondent and a Tool Correspondent responsible for dealing with the EJN electronic tools. In order to constantly provide up-to-date background information, EJN has developed user-friendly online tools, namely the European Judicial Atlas to swiftly identify and contact the Member States' competent authorities to receive and execute the MLA requests; the List of the National Contact Points by Member State; brief legal and practical information on 43 investigation measures and judicial and procedural systems of all Member States ("Fiches Belges"); Compendium wizard, i.e. an interactive system to provide assistance for drafting rogatory letters.[53] The EJN Member States are Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Germany, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Malta, Netherlands, Poland, Portugal, Romania, Sweden, Slovenia, Slovakia, Spain and the United Kingdom. Croatia, Macedonia, and Montenegro are candidate countries along with Iceland and Turkey.[54] The EJN Secretariat is based in The Hague.

The **Migration, Asylum, Refugees Regional Initiative (MARRI)**[55] was set up in 2003, within the framework of the Stability Pact for South Eastern Europe, to promote and support a closer regional cooperation and a comprehensive and consistent approach in the fields of migration, asylum, integrated border management, visa policies and consular cooperation, refugee/displaced persons return and settlement in the Western Balkans. Some MARRI activities specifically focus on trafficking-related issues concerning the Member States[56]. In line with

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53 www.ejn-crimjust.europa.eu/ejn/EJN_StaticPage.aspx?Bread=1
54 Switzerland, Norway, and Lichtenstein are associate countries to the EJN.
55 www.marri-rc.org
56 See for instance the following recent initiatives: "January Trafficking in persons awareness presentation" (25 January 2012, Shtip); "Week of combating human trafficking in the Republic of Macedonia" (2-14 December 2011); the Second Meeting of the MARRI Network for Cooperation of the National Coordinators for Combating Trafficking in Human Beings (10-11November 2011, Skopje).

the international and European standards,[57] the MARRI activities aim at contributing to "the orderly and free movement of people in the interest of security and prosperity."[58] Since 2004, MARRI comprises the Regional Forum and the Regional Centre located in Skopje. The Regional Forum is mandated to provide political and framework support to the Initiative, whereas the Regional Centre is tasked to develop the cooperation activities and the decisions established by the Regional Forum. MARRI Member States are Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia, they meet twice a year at the MARRI Regional Forum.

**Interpol** is one of the most important channels for cross-border police cooperation in cases of human trafficking. Based in Lyon, Interpol is the largest police organisation that facilitates international cooperation among its 188 member countries and assists them in the prevention and fight against crime. All SEE countries are members of the Interpol. Trafficking in human beings is one of its six priority crime areas. Interpol can provide different services and tools to support its member states to investigate and prosecute trafficking cases. For instance, through the *Notice and Diffusion system*, Interpol can help police officers to track down traffickers and suspects as well as missing persons that may be victims of trafficking.[59] Since 2006, the member countries can also use the *Human Smuggling and Trafficking message (HST)* to exchange data on interceptions of trafficked persons and traffickers or their accomplices. This information is exchanged through a standardised format accessible to all authorised users via the Interpol communications system known as *I-24/7*.[60] Furthermore, frontline law agencies can use the Interpol Mind/Find databases to detect victims of trafficking when entering a country.

Created in 2005 and based in Warsaw, **Frontex** is a specialised and independent EU agency tasked to coordinate the operational cooperation between Member States in the field of border security; to assist Member States in the training of

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[57] MARRI's activities are part of EU integration process and in line with the EU Thessaloniki Agenda for the Western Balkans (for further information on this Agenda, see: http://ec.europa.eu/enlargement/enlargement_process/accession_process/how_does_a_country_join_the_eu/sap/thessaloniki_agenda_en.htm).

[58] www.marri-rc.org

[59] Interpol, Fact Sheet, Com/Fs/2009-12/Thb-02.

[60] www.interpol.int

national border guards, including the establishment of common training standards; to carry out risk analyses; to follow up the development of research relevant for the control and surveillance of external borders; and to provide Member States with the necessary support in organising joint return operations.[61] In 2012 Frontex prepared a *Common curriculum/training tool on Trafficking in Human Beings*, addressing the training needs of border guards from all EU member states.[62] Operational cooperation with third countries is part of the Frontex mission as a crucial tool to fight against illegal migration and cross-border crime. Towards this aim, Frontex strengthens the existing bilateral cooperation with the competent authorities of neighbouring States as well as countries of origin and transit of illegal migration as well as of trafficking in human beings to the EU. The *Western Balkans Risk Analysis Network* is a good example of an effective partnership involving non EU-countries working together and sharing a common methodology. As of June 2012, Frontex had concluded working arrangements with the authorities of 17 countries: the Russian Federation, Ukraine, Croatia, Moldova, Georgia, the Former Yugoslav Republic of Macedonia, Serbia, Albania, Bosnia and Herzegovina, the United States, Montenegro, Belarus, Canada, Cape Verde, Nigeria, Armenia and Turkey as well as with the CIS Border Troop Commanders Council and the MARRI Regional Centre in the Western Balkans.[63]

Since 1999, from The Hague headquarters, **Europol** supports the law enforcement agencies of the EU Member States[64] by collecting, analysing and disseminating information and coordinating operations to prevent, detect and prosecute crimes and the related offenders. The priority crime areas of Europol are: drug trafficking, illicit immigration networks and trafficking in human beings, illicit vehicle trafficking, cyber crime, money laundering and forgery of money. Europol personnel comprise officers from police, border police, customs and security services as well as criminal analysts and experts that use advanced databases and communication channels and produce regular assessment reports. In this regard, the *European Organised Crime Threat Assessment (OCTA)* is a useful source to be updated on the developments of the abovementioned priority crime areas, especially as to the structure of the organised crime syndicates and their *modus operandi*.[65]

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61 www.frontex.europa.eu
62 http://www.frontex.europa.eu/training/specialised-training
63 http://www.frontex.europa.eu/partners/third-countries
64 Europol also has non-EU partners, namely Australia, Canada, the USA and Norway.
65 Europol, *European Organised Crime Threat Assessment 2011 (OCTA)*, The Hague, 2011.

**The Analysis Work Files (AWFs)**[66] are large databases on specific crimes areas used by Europol to provide operational support to the European law enforcement agencies. Since 2007, through the *Phoenix AWF*, Europol stores, processes, analyses and disseminates data on human trafficking cases concerning at least two EU Member States. Currently, Phoenix AWF focuses on the following priority areas: trafficking in human beings organized by Nigerian, Romanian, Bulgarian, Hungarian, and Chinese criminal groups; labour exploitation; and child trafficking. However, Europol can support the Member States in trafficking investigations concerning other forms of exploitation and involving other national groups. Phoenix AWF is thus a useful tool that can complement the existing cross-border bilateral or multi-lateral cooperation by facilitating the information sharing, cross checking data against other investigations and work files, producing and disseminating analytical reports, supporting operational activities on the spot, providing logistical and language support.[67]

**Eurojust**[68] is the agency set up by the European Union in 2002[69] to improve cross-border cooperation and coordination for serious crime investigations and prosecutions involving at least two Member States, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests. Located in The Hague, Eurojust is staffed with senior and experienced judges, prosecutors, and police officers from the 27 EU Member States. Eurojust can also assist a non-Member State if a EU Member State requests it for investigation or prosecution purposes. Eurojust has established contact points in several non-Member States, including some of the SEE region, namely Albania, Bosnia and Herzegovina, Macedonia, Croatia, Moldova, Montenegro, and Serbia. As in the case of Europol, the priority crime areas concerning Eurojust are: terrorism, drug trafficking, trafficking in human beings, counterfeiting, money laundering, computer crime, crime against property or public goods including fraud and corruption, criminal offences affecting the EU's financial interests, environmental crime and participation in criminal organisations. Eurojust may ask

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66 Europol, *Frequently Asked Questions (FAQ) on the association of Third Parties to Europol's AWF*, File no. 3300-381, The Hague, 15 September 2009. This is a useful source to learn about the functioning and the tools of AWFs, since it also contains samples of AWF opening order, project plan, data collection plan, and feasibility study for Third Countries and for Third Organisations.

67 C. *Bandin, Phoenix AWF*, presentation held within the framework of the TRM II project's First Transnational Seminar, 16-18 March 2011, Budapest.

68 http://eurojust.europa.eu

69 Council Decision 2002/187/JHA.

the competent national authorities to investigate or prosecute specific acts; to coordinate with one another; to accept that one country is better placed than another to prosecute a given trafficking case; to set up a Joint Investigation Team; or to provide Eurojust with information necessary to carry out its tasks[70].

Eurojust and Europol – both separately or jointly – may promote and take part in *Joint Investigation Teams (JITs)*, which are another important tool to improve cross-border cooperation between judicial, police and customs authorities to solve criminal cases, including those of human trafficking. Established on the basis of a written agreement between two or more Member States and/or other parties, a JIT is an investigative team composed of law enforcement officers, prosecutors and judges and other relevant actors who work together for a specific purpose and for a limited time. A person from the State where the JIT operates leads the team and all members must perform their duties in accordance with the national law of the country where the investigation is carried out. The involvement of Eurojust and Europol is not obligatory, however, their participation in a EU JIT can be very useful since they can provide support at the operational and administrative level.

The establishment of the **Joint Investigation Teams (JITs)** and of the related conditions was provided by the 2000 EU Convention on Mutual Legal Assistance in Criminal Matter[71] and reiterated in the 2002 Framework Decision on joint investigation teams[72]. A EU Network of National Experts on Joint Investigation Teams was established in July 2005 to facilitate the establishment of the JITs and support their work, to share good practices and information, and to promote the Network's activities. Other relevant international instruments defined and strongly supported the establishment of joint investigation teams, such as: the United Nations Convention against Transnational Organised Crime (Art. 19); the United Nations Convention against Corruption (Art. 49); the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Art. 20); the Police Cooperation Convention for Southeast Europe (Art. 27). Furthermore, an agreement on mutual legal assistance, which includes an article on JITs (Art. 5), was signed between the EU and the United States in 2005.

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[70] http://eurojust.europa.eu
[71] http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/l33108_en.htm
[72] Framework Decision 2002/465/JHA on joint investigation teams.

JITs can play a key role in the fight against human trafficking across borders for many reasons as explained by Europol and Eurojust:

### Box 3: Advantages of using Joint Investigation Teams

**Joint Investigation Teams (JITs)**

Advantages of using a JIT:

- Ability to share information directly between JIT members without the need for formal requests
- Ability to request investigative measures between team members directly, dispensing with the need for Letters Rogatory. This applies also to requests for coercive measures
- Ability for members to be present at house searches, interviews, etc. in all jurisdictions covered, helping to overcome language barriers in interviews, etc.
- Ability to co-ordinate efforts on the spot, and for informal exchange of specialised knowledge
- Ability to build mutual trust between practitioners from different jurisdictions working together and deciding on investigative and prosecution strategies
- Ability for Europol and Eurojust to be involved with direct support and assistance
- Ability to secure potentially available funding.

*Source:* Europol, Eurojust, *Joint Investigation Teams Manual*, p. 3 (2009)

Europol and Eurojust produced two important manuals to support the Member States in setting up JITs. The *Guide to EU Member States' Legislation on Joint Investigation Teams* provides guidance on how to establish JITs in compliance with the national laws of the countries, while the *Joint Investigation Manual*[73] explains to practitioners how and when to set and run a JIT. Furthermore, a Model Agreement for setting up a JIT has been published in the Official Journal of the European Union in 2010.[74] In 2010 UNODC also published *Trafficking in Persons & Smuggling Migrants. Guidelines on International Cooperation*,[75] which is a helpful reference for the development of cross-border cooperation.

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73 Europol, Eurojust, Joint Investigation Teams Manual, 2009, at: www.eurojust.europa.eu/jit_manual.htm
74 OJ, 2010/C 70/01, at: www.eurojust.europa.eu/jit/model-agreement/2010-C70-01-EN.pdf
75 UNODC, Trafficking in Persons & Smuggling Migrants. Guidelines on International Cooperation, Vienna, 2010.

Another very recent tool that could be useful for international cooperation purposes is the *European e-Justice Internet portal*[76]. Managed by the European Commission[77], it was launched in mid-2010 to improve mutual understanding of Member States' legal systems and practices and support cross-border access to justice and its delivery to citizens, businesses, legal practitioners, and the judiciary. By recognizing the crucial role of information technology, the e-Justice portal contributes, *inter alia*, to facilitate the daily work of legal practitioners and foster cooperation among legal authorities. For instance, judges, lawyers, notaries can access legal databases, contact colleagues through judicial networks, find information on judicial matters and training, and arrange cross-border videoconferences[78]. In the future, courts will be able to deal with cross-border requests online and communicate with the claimants and defendants in a particular case as well as with courts in other Member States[79]. The website contents (more than 22,000 pages) are available in all official EU languages and they include links to national information of Member States.

In this framework, it is also worthwhile to mention the *Mutual Legal Assistance Request Writer Tool*[80] (MLA Tool), which is a user-friendly electronic tool developed by UNODC to help States to draft requests of mutual legal assistance with the aim to facilitate and strengthen international cooperation. The MLA Tool is currently available in several languages, i.e. English, Bosnian, Croatian, Montenegrin, Serbian, French, Spanish, Russian, and Portuguese.

### 3.5. Non-Treaty instruments

In the anti-trafficking area, there are several instruments that are not legally binding[81] but provide important guidance for policy makers and practitioners on a wide range of issues, including cross-border cooperation. They are guidelines, declarations, statements, principles, codes, memoranda of understanding, resolutions, reports generally issued by international organisations but also by other relevant bodies. In this regards, the most important documents are:

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76 https://e-justice.europa.eu
77 Multi-Annual European E-Justice Action Plan 2009-2013, OJ, 2009/C 75/01.
78 http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/956&format=HTML&aged=1&language=EN&guiLanguage=en
79 Idem.
80 www.unodc.org/mla/index.html
81 Also referred to as "soft law".

- *UNHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking* (2002): see "Guideline 11: Cooperation and coordination between States and regions";
- UNICEF, *Guidelines for the Protection of Child Victims of Trafficking* (2006): see section 2.9 "Coordination/Cooperation";
- OSCE, *Action Plan to Combat Trafficking in Human Beings* (2000): see section 3 "Law enforcement cooperation and information exchange between participating States".

These documents encourage the use of both formal and informal cooperation instruments among States when dealing with trafficking cases at different levels. They call for the adoption of common police and judicial methodologies and tools and the establishment of joint investigation teams. Furthermore, they underline the crucial role played by cooperation agreements within and across countries among the relevant anti-trafficking agencies, including NGOs, GOs, and IOs, to implement a successful anti-trafficking response and ensure comprehensive support to trafficked persons. According to all these documents, cross-border cooperation shall be based on the exchange of information, know-how, and personnel to enhance the collaboration and coordination of the anti-trafficking actions.

These documents also suggest the setting up of cooperative mechanisms based on minimum common standards for the identification, assistance and protection of victims of trafficking as well as for the prosecution of the perpetrators. Towards this aim, three main instruments were published in the last few years:

- OSCE/ODIHIR, *National Referral Mechanism. Joining the Rights of Trafficked Persons. A Practical Handbook* (2004)
- ICMPD, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons: South-Eastern Europe* (2009)
- ICMPD, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU* (2010).

The OSCE/ODIHIR handbook is intended for all relevant anti-trafficking stakeholders, which are encouraged to work in close collaboration within the framework of a National Referral Mechanism (NRM) to provide multi-agency support to trafficked persons and to prosecute traffickers. The handbook explains step-by-step how to

design and implement such cooperative structure by also defining the role and the obligations of each NRM participant. It identifies five main components comprising a NRM, namely Identification of Presumed Trafficked Persons; Basic Principles of Co-operation Agreements; Support and Protection Services; Repatriation and Social Inclusion; Specific Legal Provisions. Furthermore, the handbook provides guidance on how to develop cooperation agreements between governmental and non-governmental actors, providing useful models of formalized cooperation (e.g. MoU, letter of intent) and calling for the establishment of NRMs and a coordination of NRMs among countries to harmonize the anti-trafficking response.

As outlined in detail in the introductory section of this report, the ICMPD guidelines for the development of a **Transnational Referral Mechanism (TRM)** for trafficked persons in the SEE region and in the EU further elaborate the NRM concept by designing a mechanism for a comprehensive victim assistance based on Standard Operating Procedures (SOPs). The TRM Guidelines are a set of detailed recommendations and practical measures – to be adapted to the national legislation and procedures – to lead the States and the relevant anti-trafficking agencies through all crucial steps to soundly implement the TRM in full compliance with existing human rights standards. The TRM is thus intrinsically based on international cooperation as its own definition highlights:

**Box 4: TRM definition**

*A TRM is a co-operative agreement for the cross-border comprehensive assistance and/or transfer of identified or potential trafficked persons. A TRM links all stages of the referral process from the initial screening, through formal identification and assistance, to the voluntary assisted return, the social inclusion, and the civil and criminal proceedings. It is based on the co-operation between governmental institutions, intergovernmental agencies and non-governmental organisations of countries of origin, transit and destination of the assisted trafficked persons. Through the TRM, state actors of different countries fulfill their obligations to promote and protect the human rights of trafficked persons.*

Source: *ICMPD, Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU,* Vienna, 2010, p. 23.

The table below demonstrates the status of the implementation of the TRM guidelines as of January 2012 across the ten countries involved in the TRM SEE and the TRM II projects.

## Table 7: Status of the TRM Guidelines

| Beneficiary | Status of the TRM Guidelines |
|---|---|
| Albania | The Office of the National Anti-trafficking Coordinator (ONAC) and ICMPD published "The Guidelines on Standard Operating Procedures for Implementation of the Transnational Referral Mechanism of the Victims of Trafficking"in Albanian language. The publication, also known as TRM Guidelines/SOPs, was adapted according to the existing National Referral Mechanism (NRM) and was distributed to the relevant domestic and international stakeholders operating in Albania. The national "Standard Operating Procedures for Identification and Referral of Victims/Potential Victims of Trafficking" developed and adopted in 2011 were kept in full coherence with the ones developed in the ICMPD TRM Guidelines. |
| Bosnia-Herzegovina | The Guidelines were translated in the three official (by Constitution) languages of Bosnia and Herzegovina: Bosnian, Croatian and Serbian. Relevant parts of the SOPs, especially relating to the safe return of trafficked persons, were integrated in to the national Guidelines for the newly established Regional Anti-THB teams in BIH. |
| Bulgaria | The TRM Guidelines and experience during the project implementation served as a basis for the development of the national referral mechanism for victims of trafficking (NRM). The NRM was finalized and officially adopted by the Council of Ministers at the end of October 2010. It is linked to the TRM Guidelines and incorporates and collects all the existing practices in identification, referral, short-term and long-term victims support on the national level including the mechanism for referral of children. |
| Croatia | The TRM guidelines are successfully implemented in cases of assistance to trafficked persons, integration and reintegration of trafficked persons as well as return of trafficked persons. The TRM guidelines served as the basis for drafting the Protocol on voluntary return of victims of trafficking (entered into force on December 2009) and Protocol on integration and reintegration of victims of trafficking (entered into force on 5 May 2011). |
| Kosovo* | Kosovo developed SOPs for the referral of victims of human trafficking and adopted them in October 2008. These standards consist of measures for children, domestic and foreign victims of trafficking. For the first time, with the adoption of these standards, Kosovo has established National and Transnational Referral Mechanisms for victims of trafficking. |
| Macedonia | The TRM Guidelines were adapted on national level and the SOPs consist of measures for both domestic and foreign victims of human trafficking. The SOPs refer to both NRM and TRM. The Government adopted the SOPs on 29 January 2008 and thus they are being used on a regular basis by the practitioners. |

| | |
|---|---|
| Moldova | The Regulation on identification of trafficked persons elaborated based on the TRM Guidelines was approved by the National Committee to Combat THB in April 2011. The draft Regulation contains 4 annexes:<br>a) Standard questionnaire A for identification of victims/presumed victims<br>b) Standard questionnaire B for identification of potential victims<br>c) Standard list of direct indicators<br>d) Standard list of indirect indicators |
| Montenegro | In Montenegro the TRM guidelines are used as an overview of the law in Montenegro and only as support "guiding principle" in treating victims of trafficking. The TRM Guidelines were printed and distributed to the relevant anti-trafficking stakeholders. |
| Romania | The NRM was developed based on the TRM. The NRM was approved in 2007 by a Joint Order of the Ministries with attributions in the anti-trafficking field, which was published in the Official Gazette in December 2008. |
| Serbia | The new updated version of the TRM Guidelines was adopted in the form of an Annex to the Agreement on cooperation in fighting human trafficking signed on November, 12 2009 between the Ministers in charge of Interior, Justice, Finances, Education, and Labour and Social Policy. The TRM Guidelines were printed and distributed to the relevant anti-trafficking stakeholders. |

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Clearly all countries have made it a priority to, in one way or another, implement the TRM model, in order to improve their cooperation with international partners.

Cross-border cooperation between NGOs, IOs and other agencies of the civil society is crucial especially to comprehensively assist potential and identified trafficked persons. In some cases, international collaboration between these actors is performed within affiliates of an international NGO network or IO offices located in different countries. In most cases, though, it is occasional and based on informal contacts; only in a few instances, it is regulated by formalised agreements, such as letters of intent or memoranda of understanding. The latter are used to establish non-binding cooperation with the aim of achieving a common purpose. MoUs are used by IOs and NGOs to establish their specific roles and duties while collaborating in given actions, such as, for instance, the assisted voluntary return of victims of trafficking and their social inclusion; the exchange of information; the joint lobbying and advocacy work on selected matters; prevention activities and so on.

# IV.

## From a Theoretical Framework to Practice:

## Missing Links and Suggestions to Improve Transnational Cooperation

# IV. From a Theoretical Framework to Practice: Missing Links and Suggestions to Improve Transnational Cooperation

As outlined above significant efforts were made across the SEE region to prevent and fight human trafficking and protect the victims. All countries have wide-ranging anti-trafficking legislative and operational tools in place: they have adopted rather comprehensive anti-trafficking laws; ratified the relevant international and regional anti-trafficking instruments; enacted multi-annual National Action Plans and National Referral Mechanisms (NRMs); and participated in the development and implementation of the Transnational Referral Mechanism (TRM) mainly through the ICMPD-led projects outlined above. Compared with most European states[82] outside the region, the SEE countries have built a broader framework to strengthen the fight against human trafficking and to protect trafficked persons.

Through the desk research and the interviews carried out, a significant amount of information was gathered on the actual functioning of cross-border cooperation for cases of human trafficking and, more specifically, on the TRM and related Standard Operating Procedures (SOPs) adopted in the SEE countries. While assessing the established or missing transnational cooperation in the anti-trafficking field, the professionals interviewed provided several suggestions on how to develop new measures, amend those already in place in order to enhance cross-border cooperation, or more efficiently operationalise the TRM.

This section of the report presents the forms of transnational cooperation generally established by the stakeholders engaged in the anti-trafficking field and then outlines the missing links and the possible measures to close the gap between theory and practice for an efficient cross-border cooperation to fight human trafficking and fully protect trafficked persons. This section presents actual lessons learned and recommendations that are relevant both for countries that are implementing the TRM as well as for those that are about to undertake the development of such a

[82] E-notes project, *E-notes. Report on the implementation of anti-trafficking policies and interventions in the 27 EU Member States from a human rights perspective (2008 and 2009)*, Capodarco di Fermo, 2011.

model. The information provided in this section was mainly gathered through the questionnaires and interviews carried out with key informants.

### 4.1. Interrelation between National and Transnational Referral Mechanisms

*"International cooperation requires effective structures on a national and local level to forge partnerships in the fight against human trafficking. Ownership, sustainability, and reliability of anti-trafficking measures at the national level are requirements for successful and effective international cooperation."*[83]

As trafficking in human beings most often contains a transnational element, it is commonly acknowledged that relevant actors should coordinate their actions not only within, but also across national borders. However, better the cooperation is at national level and the more uniform national mechanisms are the easier to cooperate on referral of trafficking cases at transnational level. For this reason, as a starting point when developing the TRM as well as the methodology for this report was that TRMs can be effective only if the inter-institutional cooperation among state institutions at national level is functional.

In many of the countries the development of NRM and TRM took place at the same time, thus enabling the countries in SEE to simultaneously develop and coordinate the establishment of these two mechanisms. A good example of this coordinated action is the period when the development of the SOPs within the TRM project started. As it can be seen from the table below, in some countries one set of SOPs were established for both domestic and foreign victims of human trafficking. This means that SOPs were planned based on both national and transnational referral mechanisms. Some other countries looked into the TRM in order to develop NRM simultaneously. In fact, the TRM and NRM involve the same actors, are based on the same general human rights principles and contribute to the same priorities of combating human trafficking. Furthermore, the table gives an overview of the status of the TRM Guidelines in the SEE countries (last updated in January 2012).

Looking at the situation at national level as a pre-disposition for effective transnational cooperation, the findings from the questionnaires showed that all

[83] OSCE/ODIHIR, *NRM Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook*, Warsaw, 2003, p. 28.

SEE countries have rather comprehensive anti-trafficking legislation and mechanisms in place. As the table below shows, all countries in the region have enacted anti-trafficking legislation, established National Action Plans, developed NRMs and tested TRM guidelines over the last decade.

**Table 8: Anti-trafficking frameworks established and TRM involvement in the SEE region**

| | Legislation | National Action Plan (since) | NRM | TRM projects |
|---|---|---|---|---|
| Albania | Art. 110/a, 114/b, 124/b c.c. | 2001 | 2005 | 2006-2009 (TRM-SEE)<br>2008-2010 (TRM-EU)<br>2010-2012 (TRM II) |
| Bosnia-Herzegovina | Art. 186 c.c. | 2005 | 2003 | 2006-2009 (TRM-SEE)<br>2010-2012 (TRM II) |
| Bulgaria | Art. 159 c.c. | 2005 | 2010 | 2006-2009 (TRM-SEE)<br>2008-2010 (TRM-EU)<br>2010-2012 (TRM II) |
| Croatia | Art. 175 c.c. | 2002 | 2002 | 2006-2009 (TRM-SEE)<br>2010-2012 (TRM II) |
| Kosovo* | Art. 444 c.c. | 2008 | 2008 | 2006-2009 (TRM-SEE)<br>2010-2012 (TRM II) |
| Macedonia | Art. 418-a-c-e, c.c. | 2005 | 2005 | 2006-2009 (TRM-SEE)<br>2008-2010 (TRM-EU)<br>2010-2012 (TRM II) |
| Moldova | Art. 165 and 206, l. no.241-XVI 2005 | 2001 | 2006 | 2006-2009 (TRM-SEE)<br>2010-2012 (TRM II) |
| Montenegro | Art. 444, 445 c.c. | 2010 | 2007 | 2006-2009 (TRM-SEE)<br>2010-2012 (TRM II) |
| Romania | L. no. 678/2001 | 2002 | 2007 | 2006-2009 (TRM-SEE)<br>2008-2010 (TRM-EU)<br>2010-2012 (TRM II) |
| Serbia | Art. 388 c.c. | 2009 | 2001 | 2006-2009 (TRM-SEE)<br>2010-2012 (TRM II) |

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

This means that the SEE countries are well under way in terms of laying the foundations for national multi-disciplinary, multi-agency, institutionalised and "locally owned" anti-trafficking response. Yet, further efforts need to be made to fully comply with the minimum standards for the elimination of trafficking.[84] All key informants expressed positive comments on the establishment of the anti-trafficking framework in their countries; still, most of them called for the further development and a legally binding system of the NRMs. In this regard, some interviewees highlighted that, in several cases even when SOPs are compulsory, their formulation is still insufficiently detailed, in the form of recommendations or regulated by different rulebooks and bylaws. Consequently, anti-trafficking professionals may follow different procedures and hence fail to fully coordinate with their counterparts:

> "The fact is that the referral mechanism is still regulated by different rulebooks and bylaws. Sometimes the procedures designed are in form of recommendations, and sometimes I believe that all sides would work much easier if there was a standardised procedure, step by step, recognised by law, to make everyone to use it and to have it as standard, rather than example of well-trained team." (IO worker)

In this regard, many of the correspondents expressed the concern that although procedures and mechanisms for inter-institutional cooperation exist still they are not fully implemented in the practice, due to different reasons such as:

> "Local police officers do not have knowledge and experience to conduct an interview with the presumed victim. Also, they are not able to detect a person that might be at risk of trafficking and they do not refer the presumed victims to the responsible authorities. So, there are many cases of missed identification." (IO worker)

[84] For instance, in some cases, victims are still punished for unlawful acts committed as a direct result of being trafficked; many victims who testified against their traffickers are not fully protected; political will and cooperation in some key government agencies are sometimes lacking and, as a result, the governments' ability to prosecute all forms of trafficking is significantly obstructed; efforts to prosecute trafficking offenders and law enforcement officials complicit in human trafficking remains limited; large use of suspended sentences for trafficking offenders; insufficient support to service providers (Source: US State Department, *Trafficking in Persons Report*, 10th Edition, Washington, 2010 and 2011).

"There are no funds from the state budget for the referral of trafficked persons. NGOs use their own budget. It is necessary for the state to be responsible for funding returns." (NGO representative)

"The centers for social work are not motivated to dedicate to the victims needs due to lack of facilities and human resources in this sector. On the other side, the local police is not fully aware of the problem and the access to the victim is not fully appropriate" (NRM office)

"Judges and prosecutors poorly attend trainings related to trafficked persons and THB issues. They may think that the laws have answer to everything, but that is not the case." (Centre for Social Work representative)

"Not all the prosecutors who get cases of trafficking trials are experienced in this specific crime and due to the different skills the sentences demanded for perpetrators vary a lot from case to case" (Federal Prosecutor)

These are only some of the concerns mentioned by the correspondents. Nevertheless, the questionnaires used to collect the information for this report provided enough information to find out what are the remaining challenges at national level after the establishment of the NRM and TRM that have a negative impact on the transnational cooperation that can be seen in the following non-exhaustive points:

- Proactive identification of trafficked persons by the local stakeholders is still under development. As a result, identification opportunities of victims of trafficking are missed and victims do not receive the protection and assistance they are entitled to. In part, the reason for this can be explained due to the inability of local actors - in particular border police officers and local police to pre-screen potential victims of trafficking and refer them to the first points of notification at the central level. Lack of identification at national level has a direct impact on the assistance and referral of victims across borders.

- Creating effective and sustainable SOPs was a difficult process, however, the next challenge will be for the governments to decide upon financial

responsibility within its ministries and include these activities into the annual budget. In most of the countries the Governments still often rely on the support from the NGOs and IOs when it comes to assistance, protection and referral of trafficked persons. In order to ensure government ownership also at transnational level, the governments should make sure that funds are available to enable proper and effective transnational referral of trafficked persons.

- Employees from State institutions frequently change their positions, thus creating discontinuity and a need to constantly train and inform new staff about the existing procedures and mechanisms. Furthermore the development of TRM was a long standing process of establishing personal contacts between counterparts from different countries and it is based on mutual trust. Change of responsible authorities at national level who are in charge of transnational cooperation often causes delays in the communication, ad-hoc referrals by not following the established procedures and serious protection and assistance gaps.

- The adequate usage of the TRM requires regular trainings of the main stakeholders at national level. Until now, a number of trainings have been implemented on the usage of the SOPs not only with a support from ICMPD but also by other IOs and NGOs. Still, the quality and the number of trainings depend mostly of the available funds by the non-state actors. Therefore, there is a need to establish more sustainable national system of capacity building that will be mandatory for all of the institutions that are entitled to implement the SOPs. Regular and institutionalized capacity building will contribute towards wider and better implementation of the SOPs.

- The cooperation between law enforcement and judiciary authorities is still underdeveloped which leads to lack of prosecutions of trafficking offenders. Many correspondents complained that the representatives from the judiciary do not show interest to participate in the anti-trafficking events. As an independent power within the political system, the judiciary is not obliged to implement government's decisions. The SOPs are in most cases either supported or endorsed by the governments. In addition, it is to be deplored that persons indicted for crimes related to trafficking in persons are often not convicted as prosecutors and judges are not fully familiar with the new

legal concepts and instruments allowing for transnational support and assistance. In addition, prosecutors and investigative judges seem to be reluctant to use modern investigation techniques, such as video link, aiming at providing quality witness testimony.

It can be concluded that significant improvements have been achieved in the region since the establishment of both NRMs and TRMs. It is to be acknowledged that institutional recognition of the problem of human trafficking exists and most importantly structured national anti-trafficking response is established in each country. Still, to some extent certain procedures and instruments have so far remained recommendations only. In order to bridge these gaps, the NRMs in participating countries shall be further strengthened and developed in conjunction with the TRM.

*"The TRM does not replace any existing national anti-trafficking structures and procedures. It is meant to build upon the national referral mechanisms and takes them a step further to a transnational level."*[85]

Most interviewees share the opinion that transnational cooperation is crucial for their work. For many of them it is an important component of their profession because their countries are origin, transit and destination areas for trafficked persons and, thus, they often need to contact or be contacted by foreign counterparts.

Up until 2006-2007, before the TRM was developed, transnational elements of comprehensive victim and victim witness assistance and protection schemes were largely missing. Efficient standard operating procedures (SOPs) according to defined quality standards had not been established, entailing not only serious gaps in protection and assistance to victims of trafficking, but also a low level of system sustainability. Transnational cooperation was based mostly on formal procedures, which were often slow and lacked flexibility, sustainability and accountability.

To counteract this, a transnational referral mechanism for the management of individual transnational trafficking cases, along agreed quality standards and with

[85] ICMPD, Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons: South-Eastern Europe, 2009, p. 25.

due respect of data protection and privacy regulations was developed in the framework of the TRM model. More importantly, a human rights based and victim-centred multi-agency approach was promoted. This report clearly shows that the transnational cooperation at operational level has been established and state institutions and organisations today "talk to each other" in a more structured and solution oriented way in order to ensure a comprehensive transnational victim assistance and support. One piece of evidence for this are the regular meetings at the policy level of National Coordinators from the region within the scope of the Brdo Process. These meetings serve to establish common grounds in policy developments and discuss harmonized approaches, also in line with the most up-to-date EU and international standards.

Despite significant progress, there is still a lot to be done to ensure the full implementation of the TRM, to adapt the model to the changing situation and to fill in the gaps that still exist in the information exchange and communication between countries.

### 4.2. Existing forms of transnational cooperation in the SEE region

In order to understand the forms of transnational cooperation set up, the stakeholders interviewed were asked to specify if they had established any contact with a foreign counterpart regarding the entire sequence of measures for comprehensive victim's assistance and support of the TRM SOPs, namely:

- Identification
- First Assistance and Protection
- Longer-term Assistance and Social Inclusion
- Return and Social Inclusion
- Civil and Criminal Proceedings.

Those who gave a positive answer to this question were then asked to provide information on the type of assistance required or asked for, the actors contacted or by whom they had been contacted, the tools and means used to communicate. The following Tables (Tables 7 and 8) summarize their answers.

**Table 9: Types of assistance required or provided in cases of transnational cooperation listed by the key informants interviewed**

| INFORMATION ON | CHECKS ON | ISSUANCE OF | EXECUTION OF |
|---|---|---|---|
| Presumed trafficked persons, identified trafficked persons, traffickers, suspects, accomplices | Identity of the trafficked persons assisted | Passports | Evidence taking |
| Available social and protection services | Evidence gathered for police and judicial purposes | Visas | Statement taking |
| Social protection history of the trafficked persons assisted | Family situation of the trafficked persons assisted | Birth certificates | Searches, objects and sites examination |
| Anti-trafficking legislation and related provisions in place | Safety conditions for the referral or return of trafficked persons | Copies of criminal Records | Tracing of proceeds of crimes, properties |
| Contact details of NGOs, IOs, State social services, Child welfare services, Law enforcement agencies, the judiciary | | Copies of medical records | Assisted voluntary return of national trafficked persons |
| Reliability of given anti-trafficking agencies | | Copies of school Certificates | Assisted voluntary return of foreign trafficked persons |
| | | Marriage certificates | Transfer of offenders |

*Table 9* clearly shows that transnational cooperation is mainly sought during the phases of identification, return, civil and criminal proceedings and, to a much lesser extent, in the first assistance and protection and in the long-term assistance and social inclusion phases. This could be explained by the fact that cross-border cooperation is necessary to identify trafficked persons or their offenders; to properly fulfil the procedures to assist the victims returning to their home country or resettling in a third country; or to carry out a criminal investigation and judicial proceedings. These are all procedures generally provided by law or stipulated in MoUs that an anti-trafficking agency is required to follow.

First and long-term assistance and protection are offered by governmental organizations, NGOs and in some cases IOs. These agencies offer different services aimed at the comprehensive support of victims. However, as it will be underscored also in the following pages, the information exchange and communication between countries has been modest in terms of contacting and collaborating with foreign counterparts specifically on the assistance and protection of trafficked persons. Against this background, the full adoption and implementation of procedures and measures provided by the TRM would significantly contribute to fill in this gap and, thus, ensure a prompt and sound transnational cooperation between the relevant anti-trafficking stakeholders. Furthermore, in order to ensure full implementation of the TRM, additional tools should be developed to support the endorsement of its measures. In this regard, the template for follow up on transnational referral of trafficked persons developed within the framework of TRM II (See Annex I) might contribute towards more frequent information flow between countries of origin and destination regarding victim's assistance and protection.

The challenges mentioned above provide useful reflection points and assumptions to be taken into consideration by relevant actors when planning to develop a TRM model.

When asked about foreign agencies the interviewees had contacted or had been contacted by, they provided a long and comprehensive list as *Table 10* highlights.

**Table 10: Foreign agencies contacted or by which the key informants have been contacted broken down by type of stakeholder engaged in the anti-trafficking field**

| LAW ENFORCEMENT AGENCIES | THE JUDICIARY | GOVERNMENTAL AGENCIES | NGOs and IOs |
|---|---|---|---|
| **Ministry of Interior of the foreign countries concerned** | Ministry of Justice of the foreign countries concerned | Ministry of Foreign Affairs | Foreign NGOs |
| **Local police offices** | EUROJUST | Ministry of Interior | Offices of the same IOs |
| **Liaison officers** | | Ministry of Social Welfare | International NGOs networks (as members) |
| **Interpol** | | Embassies and Consulates | International NGOs networks (as non-member) |
| **Europol** | | National anti-trafficking coordinator's office | Embassies and Consulates |
| **Schengen Information System** | | | National anti-trafficking coordinator's office |
| | | | UNHCR |
| | | | OSCE |
| | | | ICMPD |

The agencies mentioned by the key informants comprise national, regional, European, international institutions as well as local, national, and international non-governmental organisations. When asked to mention the foreign actors contacted for transnational cooperation issues, the law enforcement agencies and the judiciary listed fewer interlocutors compared with those identified by the NGOs and IOs (*see Table 10*). This is probably because their work focuses on specific activities such as investigation and prosecution of trafficking cases. Law enforcement agencies and the public prosecutor's offices are required to comply with fixed rules provided by international and national legislation governing cross-border cooperation between

such bodies. As described in Section III (3.1. International Treaties) of the report, there are multilateral, regional and bilateral treaties as well as domestic norms that list the objects and fields of international collaboration; however, they rarely provide detailed guidance on the procedures, means and timeline to follow.

Contacts are clearly made across different anti-trafficking agencies and not only within the same type of agency. This is probably one of the results of the multi-agency approach strongly promoted in the anti-trafficking field since the early 2000's[86] and adopted in many parts of the SEE region. This approach is also one of the strongest foundations for the development and effective functioning of the TRM.

Moreover, the stakeholders interviewed also pointed out that the TRM Contact List provided a useful tool for cross- border cooperation by establishing direct contacts at operational level. This list is comprised of different contact points from each country.

Despite the fact that several well-functioning procedures of transnational cooperation are in place, especially within the SEE region, many interviewees pinpointed the current obstacles and called for improvements to ensure sustainable cross-border cooperation. In their views, collaboration between countries is hindered mainly by bureaucratic impediments (e.g. conflicting/diverse/changed procedures/lack of accompanying documentation/case backgrounds) and the so-called "human resource factors" (e.g. late responses, lack of professionals, untrained staff). In spite of the existing frameworks for transnational cooperation, several interviews highlighted that clear and regular procedures of transnational cooperation are used only in some cases and only by some anti-trafficking agencies.

### 4.3. Improving transnational cooperation: Suggestions from practitioners

The measures to be improved, the obstacles to be overcome and the gaps to be addressed both in the process of developing and implementing a TRM have been grouped in four distinct clusters, namely:

[86] See inter alia: European Commission, *Report of the Experts' Group on Trafficking in Human Beings*, EC, Brussels, 2004.

- Legislation: instruments and procedures in practice
- Good governance
- Communication
- Capacity development.

In the following pages, each cluster will be discussed taking into consideration the suggestions made by the interviewees to further develop and strengthen given measures of transnational cooperation in cases of trafficking in human beings.

### 4.3.1. Legislation: instruments and procedures in practice

As seen in Section III of the report all SEE countries ratified the main international and regional instruments concerning anti-trafficking issues and are either in the process of or plan to align their legislation with the *Acquis Communitaire*. Furthermore, they are members of bodies established to specifically prevent and fight organized crime and related matters, including trafficking in human beings, through cross-border initiatives and operations, such as, for instance, SELEC, the Southeast European Prosecutors Advisory Group (SEEPAG), the Migration, Asylum, Refugees Regional Initiative (MARRI), the European Judicial Network (EJN), Interpol, Europol. As far as international police and judicial cooperation is concerned, then, SEE countries have a wide range of regional and international provisions and operational tools to use when tackling human trafficking cases. Nonetheless, their regular implementation is not fully ensured or the support of the abovementioned bodies is not always sought. According to several interviewees, the procedures provided by the multilateral and regional instruments to internationally cooperate are considerably bureaucratic and lengthy:

> "As a common practice, there is delay in getting the expected answers from the respective authorities in the country of origin to the rogatory letters of request; too many bureaucratic 'chains' to overcome. For example, in 2009 out of 33 requests, only 4 have received an answer. This results in prolongation of the investigation, due to the fact that evidences are mostly based abroad – in the countries where the exploitation has occurred. [...] In the cases where the exploitation has occurred abroad, the collection of evidence remains in the phase of the previously verified facts, which makes the use of special investigation techniques ineffective. (Public prosecutor)

> "We sent information through our liaison officer there, but there was no feedback and actions from the foreign authorities." (Police officer)

> "It takes too long to receive an answer from abroad. If we receive any" (Public prosecutor)

> "Bureaucracy is the problem, especially with regard to prolonged procedures of answer to our formal requests of the destination countries." (Governmental officer)

As a result of delayed or missing responses from foreign counterparts, the investigation phase is prolonged and, consequently, the anti-trafficking case requires more time to be solved. Most of all, such delays may seriously endanger trafficked persons. In order to overcome these obstacles, some stakeholders have developed a two-step procedure based on an informal contact followed by a formal one:

> "Our institution contacts the police and/or prosecution authorities to ask for identification documents or verification of the available ones or other personal data of the assisted person. The main procedure in place is the addressing of a rogatory letter of request. In order to facilitate the procedure, first we send an informal request to the liaison officers. After receiving the reply, we send a formal letter of request to the Ministry of Justice, which authorizes the use of the requested information/data as evidence for the judicial proceeding." (Public prosecutor)

In order to avoid the lengthy bureaucratic procedures deriving from the use of multilateral treaties or more formalised means of communication, some interviewees suggested the use of bilateral agreements or memoranda of understanding because they can speed up the process of cooperation:

> "They provide for a quicker information channelling and sharing between related agencies inside and outside the country." (Police officer)

Some key informants highlighted that the tools for transnational police and judicial cooperation provided by law should be widely known and used by the anti-

trafficking agencies. For instance, both police officers and prosecutors strongly supported the usage of Joint Investigative Teams (JITs) envisaged by many international and regional instruments to enforce police and judicial cooperation across borders[87] since they proved to be very effective in human trafficking investigations:

"JITs are the future of the international cooperation in investigation and particularly in the international cases of trafficking." (Public prosecutor)

So far some JITs have been established in the EU to dismantle criminal organisations profiting from labour exploitation and child trafficking.

**Box 5: United Kingdom – Romania JIT**

In December 2007, a JIT was set up between the Metropolitan Police Service (United Kingdom) and the Human Trafficking Centre of the Romanian National Police to investigate cases of trafficking involving hundreds of Romanian Roma persons – mainly children – exploited as beggars and thefts in London and in the nearby areas. As a matter of fact, the British and Romanian law enforcement agencies had started to investigate these cases in early 2007 and, when they asked to be assisted by Europol and Eurojust, the latter suggested them to work together by establishing a JIT. The UK-Romania JIT was then initiated and funded for almost two years by the European Commission with the specific goals to investigate the trafficking cases and prosecute the criminals apprehended in the UK and in Romania; break the activities of the criminal networks profiting from human trafficking; confiscate the criminal assets; improve the British and Romanian police officers' skills as to the identification and assistance of child victims . The work of the JJT led to the identification and support of 272 victims and the arrest of 87 criminals charged for trafficking in human beings, child neglect, money laundering, and perverting the course of justice.

Source: http://ec.europa.eu/anti-trafficking, accessed on 13 June 2011

Some interviewees strongly supported the use of JITs to directly share information, coordinate efforts, and speed up cooperation procedures. To this end, they also called upon the development of trainings on how to set up JITs specifically targeting law enforcement agencies:

[87] For the normative frameworks and operational description of JITs, see the Part I of this report.

> "JIT agreements should be signed as well as bilateral agreements resembling those of JIT with non-EU countries. Also trainings on how to develop JIT for prosecutors should be developed." (Public prosecutor)

> "Besides the consolidation of communication channels through reviewing national and international laws in regard and permitting for regular exchange of information, this could be achieved also through joint investigative team practices/procedures. Furthermore, decisions may be taken at policy level, conventions may be signed, etc., but ways should be sought how to better implement them in practice, nationally and transnationally." (Public prosecutor)

In order to support a wider knowledge – within and beyond the EU – on the role and usefulness of JITs and, thus, facilitate their establishment, the European Commission recently funded a two-year long project named "The Introduction of the Requirements for Establishing Joint Investigation teams (JIT) to Fight Trafficking in Human Beings" (2011-2013). Managed by the Ministry of Interior of Slovenia, the project involves as partners the Ministry of Interior and the Public Prosecutor's Office of Bulgaria and it targets the following countries: Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Macedonia, Albania, Romania, and Moldova. Through five thematic workshops, two ministerial conferences and other *ad hoc* experts' meetings, the relevant anti-trafficking authorities will be trained on the legal and operational aspects of JITs as well as on the good practices that ensure the protection of victims. Through this project, the partners aim at promoting the establishment of JITs as well as at setting up a network of JITs contact points specifically focusing on trafficking in human beings in the countries involved.[88]

Finally, in order to ensure a better functioning of cross-border cooperation, some interviewees called for the formalization of the available TRM through their legal enactment:

> "Formalised procedures are to be put in place drawing on the responsibilities of each engaged agency – mainly law enforcement agency and prosecution – to ensure better role coordination within the National Referral Mechanism, and quicker and direct access to the homologous authority of origin and/or

[88] http://ec.europa.eu/anti-trafficking [accessed on 13 June 2011].

destination country under the Transnational Referral Mechanism." (Public prosecutor)

The formal adoption of the TRM procedures would contribute to fostering international cooperation provided that other countries also adopt the same mechanism, which they should regularly monitor, evaluate and – most of all – revise according to the report's findings.

### Box 6: Recommendations on legislation to improve the implementation of the TRM model

**Recommendations**

- **Anti-trafficking stakeholders** should **implement (or enforce)the provisions on transnational cooperation provided by the regional and international instruments their States ratified on trafficking in human beings or on related issues.**

- **Anti-trafficking stakeholders** should **make full use of the support of the regional and international agencies their States are members of or can act as third parties** (e.g. SELEC, SEEPAG, MARRI, Frontex, Europol, Eurojust, Interpol, Europol, EJN,...) to coordinate their transnational efforts in cases of human trafficking.

- **Anti-trafficking stakeholders should use to their full potential the available tools** (e.g. *European e-Justice Internet portal*, UNODC MLA Tool, Interpol *Human Smuggling and Trafficking message*, *Europol Phoenix AWF, JITs Manual*) that can improve their cross-border cooperation efforts in cases of human trafficking.

- States should **identify and overcome the legal and bureaucratic obstacles** hindering transnational cooperation and **provide for less rigid and lengthy procedures to collaborate across borders.**

- States and the competent agencies should **ensure prompt and accurate information and documents exchange** between the requesting and the requested authority of different countries in full compliance with **data protection regulations** in place.

- States should **further adapt and implement existing standardized forms, tools, and means of transnational cooperation** on trafficking cases. In this regard, States shall **consider the possibility to formalise the TRM** as a means to implement shared procedures and enforce cross-border cooperation. In this framework, **regular monitoring and evaluation of the TRM** shall also be carried out.

- The use of the Joint Investigation Teams to investigate and prosecute cases of trafficking in human beings involving different countries should be fostered in compliance with the provisions set by the regional and international instruments ratified by the SEE countries. (i.e. EU Convention on Mutual Legal Assistance in Criminal Matter, 2000; Framework Decision on Joint Investigation Teams, 2002; UN Convention against Transnational Organised Crime, 2000; UN Convention against Corruption, 2003; Council of Europe Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, 2002; Police Cooperation Convention for Southeast Europe, 2006). Further exchange with the EU Network of National Experts on JITs shall be established to share know-how, information, and good practices.

### 4.3.2. Good governance

The good governance of any anti-trafficking framework is paramount for the prevention and fight of human trafficking and for the protection of rights of trafficked persons at the local, national and transnational level. In all SEE countries, National Anti-Trafficking Coordinator's Offices or similar mechanisms are responsible for the governance of the anti-trafficking framework. They are mandated to ensure coordination and consistency in managing anti-trafficking policies, interventions, and processes at the national and transnational level, through the involvement of a broad range of stakeholders with distinct objectives and tasks. With the view "to exchange professional experiences, share the problems they are facing within their daily work and establish a kind of professional network in order to get the possibility to communicate more efficiently in the future,"[89] the National Anti-Trafficking Coordinator's Offices of the SEE countries organise regional meetings; participate in the conferences and workshops, including those held within the different TRM projects; and occasionally take part in the events held by the informal EU Network of National Rapporteurs or equivalent mechanisms on Trafficking in Human Beings set up by the European Commission in 2009.

During the drafting of the report, the key informants were specifically asked to provide information and comments on the TRM's governance in order to identify possible areas for progress to enhance cross-border cooperation. Interviewees generally underscored the crucial role played by the National Anti-Trafficking

[89] http://polis.osce.org/library/details?doc_id=3756&lang_tag=EN&qs=%2Flibrary%2Fresults%3Fca%3DEVT

Coordinator's Offices or other relevant mechanisms; they also provided some suggestions to improve the TRM governance.

The first and foremost need expressed was better coordination between stakeholders involved in transnational cooperation measures, especially with countries outside the SEE region. To this end, several interviewees called for further development of the TRM SOPs to ensure proper guidance and consistent management of cross-border cooperation. More specifically, they asked for more detailed specification of the duties of the actors involved, the procedures to carry out, and the timeline to comply with for each transnational measure. This would ensure clearer role definition among the parties concerned, the execution of more coherent procedures, and a well-defined division of accountability among the anti-trafficking stakeholders involved.

According to some interviewees, some measures provided by the TRM SOPs are not (fully) implemented, for a variety of reasons. The table below provides an insight into the current stage of implementation of the SOPs and the prospect for future implementation.

**Table 11: Current stage of implementation of the SOPs**

| How are the TRM SOPs integrated into your work? | Number of responses | Percent |
|---|---|---|
| They are incorporated in the national legal system | 2 | 5,26 |
| They are incorporated in official practice/acts of my institution or other institutions involved in anti-trafficking activities | 13 | 34,21 |
| They were adapted and then integrated into our national legal system | 9 | 23,68 |
| They were adapted and then integrated in the official practice/acts of my institution | 8 | 21,05 |
| They are not formally used, but they serve as a guidance to the practitioners in our teams | 10 | 26,32 |
| They are not used at all | 2 | 5,26 |
| I don't know | 0 | 0,00 |
| Other (*please add text to explain*) | | |

*Source: Final external evaluation report, September 2012.*

The interviewees who answered this question represent different countries and institutions; clearly, we have to take into consideration the difference in commitment to implementing the SOPs and making them binding. For an overview of the SOP implementation per country, please refer to Table 7.

The interviewees underlined that cooperative and coordination mechanisms should rely on simpler procedures and tools to favour faster information flows and quicker responses between agencies of different countries. In order to improve cross-border coordination and cooperation, some stakeholders called for the establishment of a national focal point specifically mandated to receive and reply to all requests received from abroad as well as to address requests to the competent foreign authorities:

> "Sometimes there could be a problem. Countries like Ukraine and Moldova don't have police liaison officers in our country and, as far as I know, we don't have such representatives in these countries either. The only person we can contact is the consul. But the real solution is to have a focal point with whom to have a direct contact when we need." (Police officer)

> "There should be one agency that would contact those foreign organisations." (Social worker)

In the following table, the UNESCAP definition of good governance found at the beginning of this section has been adapted in the challenging attempt to identify the fundamentals for the good governance of TRMs. The Table has been developed taking into account also the viewpoints on the issue expressed by the stakeholders interviewed.

## Table 12: Fundamentals for the good governance of TRMs

| Fundamentals for a good governance of TRMs | |
|---|---|
| **Participation** | Participation by all relevant anti-trafficking stakeholders and agencies of countries concerned is a key cornerstone of good governance of any TRMs. It is important to point out that the viewpoints of trafficked persons should be taken into account when developing, implementing, and assessing any TRM measures. Participation of both the stakeholders and trafficked persons involved needs to be informed and organized. |
| **Rule of law** | Good governance of TRMs requires fair legal frameworks fully enforced with due consideration of the full protection of human rights of the trafficked persons concerned. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force. |
| **Transparency** | Transparency means that decisions taken for the management of any TRM measure and their enforcement are done in a manner that follows rules and procedures agreed upon. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement, namely trafficked persons and stakeholders involved. It also means that enough information is provided in easily understandable forms. |
| **Responsiveness** | Good governance of TRMs requires that all anti-trafficking stakeholders and processes serve all trafficked persons and actors within a reasonable timeframe. |
| **Consensus oriented** | Good governance of TRMs requires mediation of the different interests at stake to reach a broad consensus on what is in the best interest of the trafficked persons concerned and how this can be achieved. It also requires a broad and shared perspective on what is needed for sound and sustainable development of the TRM measures and how to achieve them. |
| **Effectiveness and efficiency** | Good governance of TRMs means that processes and institutions produce results that meet the needs of the trafficked persons and the stakeholders concerned while making the best use of the human and economic resources at their disposal. |
| **Accountability** | All stakeholders involved in TRMs must be accountable for the measures they implement. They are primarily accountable to those who will be affected by their decisions and actions, namely trafficked persons, traffickers, other anti-trafficking stakeholders. Accountability cannot be enforced without transparency and rule of law. |
| **Monitoring and evaluation** | Governance of TRMs must be regularly monitored and assessed by independent evaluators. The findings of the evaluation must then be taken into due account to revise the governance procedures if needed. |

*Adapted from: UNESCAP, What is good governance? Bangkok, 2009.*

Furthermore, sustainable funding belongs to a good governance concept. All interviewees identified the lack of funding as a major obstacle hindering the proper implementation of different TRM measures. In some cases, the lack of money is so serious that some anti-trafficking agencies cannot ensure a safe return of a victim because they cannot cover the travel expenses or, due to the lack of human resources, they are unable to reply to the rogatory letters concerning cases of human trafficking in a timely way. Many key informants underlined that a lack of financial resources has a negative impact on the provision of proper services to the extent that the TRM procedures are slowed down:

> "Safe return should not be dependent on organisations' funds." (NGO worker)

> "There are cases when the social workers pay from their own pocket. There is not enough money for fuel." (Social worker)

> "The biggest obstacle that our employees meet is the lack of funds for victims' protection within our budget. (...) Some of the Embassies/Consulates have budget to support such cases as well as a place for accommodating the victims for a few days; they can provide local transportation, etc. But in most cases, these expenses are made from the general budget of the Embassy and sometimes even from the consular personal funds." (Ministry of Foreign Affairs official)

> "The main obstacle is the lack of resources for properly supporting the assisted cases." (NGO worker)

Against this background, many key informants underlined that proper and regular funding is a pre-condition for establishing sustainable transnational cooperation. They, then, suggested establishing a national fund[90] by law that provides funding or a specific budget line to cover expenses for TRM measures. They all urged the mandatory use of seized criminal assets to support the fund.

[90] Some interviewees called it "Victims of Crime Funds", others "Trafficking Victims' Fund", some others – referring only to a specific procedure – "Assisted Voluntary Return Fund".

## Box 7: Recommendations on good governance of TRMs to improve transnational cooperation

**RECOMMENDATIONS**

- Agencies responsible for the TRM governance shall ensure, through monitoring and evaluation, the efficiency and effectiveness of **their governance procedures and tools** to efficiently coordinate with their foreign counterparts on cases of human trafficking.
- In order to assure the good governance of the TRMs, Agencies responsible for the TRM governance should ensure the **full participation of all relevant anti-trafficking stakeholders, including NGOs and IOs.**
- In order to assure the TRM good governance, Agencies responsible for the TRM governance should provide for a **more detailed division of roles and responsibilities** of the local, national and international stakeholders involved in cross-border cooperation, who must be held accountable for their work.
- Agencies responsible for the TRM governance should ensure that TRM rely on **simpler procedures**, which should also include timelines, to speed up information exchanges between anti-trafficking stakeholders at the local, national and transnational level. Moreover, they should make sure that procedures are **coherent, transparent, efficient, and performed with due regard to the rule of law and within a reasonable timeframe.**
- **Regular and independent monitoring and evaluation** of the national and transnational anti-trafficking frameworks and activities should be performed to improve their governance and functioning.
- **Transnational cooperation measures** should be **adequately and timely funded** to ensure their sound implementation and the full protection of trafficked persons at any stage of their identification, referral, and support.

### 4.3.3. Communication

The availability of TRM contact list and regional instruments that allow for direct contacts at operational level (such as the Police Convention), enables the anti-trafficking stakeholders to use a variety of formal and informal means of communication. Due to the multidisciplinary approach in the whole process of assistance and protection of trafficked persons, different agencies share

information on different issues. As one of the most important cross-cutting issues throughout the process of transnational referral is that information and data shall be exchanged in a timely manner between all relevant actors having as a primary consideration the safety, security and privacy of the person. In this regard, TRM always refers either to specific national legislation on processing and protection of personal data or to the EC Directive on Data Protection[91].

Police officers and prosecutors communicate and exchange information and documents across borders. In cases of mutual legal assistance, they use the requested tools transmitted via diplomatic channels or faster means such as phone calls, e-mail messages, fax. Informal means of communication are often used to reply to requests placed before the official investigations or prosecutions start or to speed up cooperation procedures already set forth:

> "The provisions for the formal exchange of information are provided for in the Criminal Procedures Code, and other international instruments ratified. Worth mentioning here is the bilateral agreement [...], which allows for a quick and less bureaucratic way of information exchange. We use official letters – rogatory letters for the criminal investigation, done only officially according to the legislation in force – or communicate via e-mail but not in criminal proceedings, rather in cases when socio-economic risk analysis is needed, which is also considered an official way of information exchange." (Ministry of Interior official)

The main means used by IOs and NGOs to communicate with foreign counterparts and agencies are: e-mail messages, Skype conversations, fax and phone calls. In order to ensure data protection and confidentiality they exchange encrypted documents or employ traditional means such as P.O. boxes and traditional mail addresses. In some cases, the established NRMs require NGOs to follow given procedures to cooperate internationally. For instance, they may be asked to contact the national anti-trafficking body to identify the proper anti-trafficking interlocutor abroad:

> "Contacts with foreign NGOs and authorities are made through the responsible anti-trafficking authority." (NGO worker)

[91] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Conversely, a wide range of foreign actors directly contacted different agencies without involving the national anti-trafficking body:

> "NGOs, embassies, other organisations directly contact us to ask for assistance." (NGO worker)

> "Yes, [we are contacted by] foreign NGOs and authorities. We don't need to contact the embassies, but we have been contacted by some." (NGO worker)

Different positions were gathered as to the establishment of mandatory tools of communication across borders. Some key informants called for the adoption of specific obligatory tools for quicker information flow, whereas others valued the positive effects of informal communication:

> "[It is advisable] developing legally binding forms of quick information flow for all countries involved in the project." (Public prosecutor)

> "Informal procedures can give positive effects. Formalized procedures are not always flexible. Not having a bureaucracy system sometimes allows real assistance." (Social worker)

Information sharing and data protection may be challenging during the procedures of international cooperation. Even when proper data protection instruments are provided by law, the lack of coordination, inaccurate information, and unsuitable communication channels between agencies can have negative effects on the trafficking cases and, most of all, on the safety of the trafficked persons concerned:

> "The law stipulates that personal data are to be communicated by formal correspondence (enveloped documents), while the process of identifying and referring a person requires urgency and prompt response. In practice, professionals would communicate either by fax or e-mail or would use other electronic means, but would use initials and would try to reveal as little as possible of personal data." (Public prosecutor)

Good governance of TRM measures should also be based on practical tools fostering effective and efficient response and, thus, cooperation among, within

and across countries. In this regard, some interviewees mentioned the TRM-SEE and TRM-EU contact lists of anti-trafficking agencies broken down by country as very useful instruments that should be easily accessible and regularly updated:

> "The TRM contact list helped us a lot." (Public prosecutor)

> "The TRM contact list provides for fast communication with relevant authorities in other countries in the region" (Former police officer)

> "The TRM has really helped us because now we have some contacts that previously were formal and we didn't know how to get. We just open the TRM Guidelines and find the right contacts. It really proved to be very useful." (Governmental officer)

Others suggested drafting and widely distributing a shorter version of the TRM guidelines among all anti-trafficking professionals to foster their regular implementation:

> "The SOPs need to be shared and made public with all stakeholders. Procedures should be presented in a short, summarized document to be absorbed by everyone concerned. (International organisation worker)

In order to ensure good governance of transnational cooperation, the anti-trafficking agencies need to understand each other. Finding a common language/working definitions/field terminology for communication with foreign counterparts is crucial to ensure proper governance of the cooperation mechanisms:

> "We need to find a common understandable language for communication." (Police officer)

Even when a common language is found, different "languages" are still spoken in the anti-trafficking field, namely different meanings are often implied when using the same words/terms. This is often the result of distinct definitions provided by law of given terms or of dissimilar conceptualizations of practices and procedures. In the framework of the TRM projects, a list of working definitions was drafted to

promote a common understanding of the anti-trafficking terminology. This document is deemed to be a useful tool also to speed up cooperation as long as it is regularly updated and shared among stakeholders within and across borders (See Working Definitions and Terminology).

**Box 8: Recommendations on communication to improve transnational cooperation**

**RECOMMENDATIONS**

- Agencies responsible for the TRM governance should ensure that the **contact lists of the national anti-trafficking stakeholders are comprehensive, regularly updated and widely distributed within the countries and among their foreign counterparts.** This would also suggest continuously adding relevant stakeholders to the contact lists, to reflect the necessary diversification of actors.

- In order to improve cross-border coordination and cooperation, States shall consider the **establishment of a national focal point specifically mandated to receive and reply to all requests received from abroad as well as to address requests to the competent foreign authorities.** The focal point may be appointed within the existing NRM framework on national THB coordinator/rapporteur or equivalent mechanism.

- Agencies responsible for the TRM governance should organize **regular meetings and exchanges** with their counterparts in the countries of origin, transit and destination of human trafficking to discuss common issues on transnational cooperation.

- **Regular exchange of good practices on transnational cooperation** between anti-trafficking stakeholders of different countries should be regularly organized **through meetings, study visits, and exchange programmes with a view** to improve the cross-border procedures in place as well as to establish key contacts with foreign counterpart that can lead to a more efficient international cooperation.

### 4.3.4. Capacity development

The interviewees identified capacity development as a crucial element for the successful implementation of cross-border cooperation. The effective acquisition and regular updating of skills to aptly perform the provisions set by regional and international instruments and the TRM SOPs have been pinpointed as core prerequisites to systematically accomplish tasks and solve problems that may arise

in the execution of any given transnational measures. In this framework, capacity development is then a continuing learning process[92] that concerns all professionals as individuals and all entities (public bodies, NGOs, IOs and other anti-trafficking-related agencies) involved in the TRMs.

According to several key informants, capacity development needs to be strengthened since, in their experience, numerous anti-trafficking professionals are still insufficiently aware about the legal instruments for international cooperation and TRM SOPs or on how to actually implement them. This lack of proper skills concerns different stakeholders and agencies working at the central level or in more remote areas of the countries of origin and destination of trafficked persons and traffickers. Interviewees underscored that capacity development initiatives aimed at further strengthening cross-border cooperation should target all transnational measures provided by the TRM SOPs.

The need to further strengthen the stakeholders' capacity to cooperate across borders has also been identified by the GRETA Experts Group. The latter, in fact, in its reports on the implementation of the CoE convention in selected countries already encourages the national authorities to improve transnational cooperation in the areas of identification, protection, and voluntary return of trafficked persons; and prosecutions of traffickers.[93]

Capacity development targeting all anti-trafficking stakeholders can certainly contribute to avoid hearing the vastly different answers below from actors of the same country:

> "Yes, SOPs for the identification and referral of victims have been developed and their use is mandatory for all anti-trafficking agencies." (Police officer)

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92 UNDP, *Capacity development. Managing Development and Governance Division*, Technical Advisory Paper 2, New York, 1997, p. 3.

93 GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Albania*, Council of Europe, Strasbourg, 2 December 2011, pp. 42-44; --, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria*, Council of Europe, Strasbourg, 14 December 2011, p. 57; --, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Croatia*, Council of Europe, Strasbourg, 30 November 2011, pp. 32 and 34.

> "No standard procedure is being used. For a formal identification of a presumed trafficked person, only the criminal procedure code is used." (Public prosecutor)

Provided that capacity development should address all TRM measures, those concerning the SOPs Return and Social Inclusion seem to deserve special consideration. Several key informants in fact mentioned specific hurdles they face when dealing with certain procedures for the voluntary returning of trafficked persons to their home countries. For instance, they underscored the need to develop the skills to draft, manage and monitor return programmes for victims of trafficking, especially as to the establishment of comprehensive risk management plans and family tracing measures. The latter seem to be rather difficult to perform due to, *inter alia*, the difficulties to get in touch with family members, their fear of suffering from stigma or of threats from traffickers. Moreover, in some cases, return programmes – but not only – are based on different procedures, insufficient information exchange among agencies and poor forms of cooperation across countries:

> "The main acknowledged obstacle is that information is not regularly shared by the other respective country authorities, though the issue is constantly pursued by our side." (Governmental official)

> "In most cases, the domestic presumed victims of trafficking are dumped at the border, without any accompanying documentation on his/her case history." (Police officer)

> "Timely and documented information from the sending country in case of return is often lacking." (Police officer)

> "We often do not receive any feedback on the case." (Governmental official)

These findings are in line with those of a previous study on experiences of identification, return and assistance in South-Eastern Europe, for which 80 trafficked persons were interviewed.[94] According to this study, due to a lack of

[94] ICMPD, *Listening to Victims. Experiences of identification, return and assistance in South-Eastern Europe*, Vienna, 2007. See also, ICMPD, Italian Department for Equal Opportunities, *Study on Post-Trafficking. Experiences in the Czech Republic, Hungary, Italy and Portugal*, Vienna, 2010.

coordination and full cooperation between countries, many victims were "[...] kept in a legal limbo while documents were processed, transportation arrangements made, statements taken and other procedures undertaken."[95]

Furthermore, transnational cooperation in cases of assisted voluntary return can be hampered by malpractices or gaps in the local bureaucracy. For instance, an interviewee pointed out that the poor maintenance of the national civil registry, the lack of registration or issuance of birth certificates or the regular updating of data of citizens who change their place of residence can cause problems in case of family tracing for a safe assisted return of a victim or when it is necessary to gather evidence for police investigation purposes.

According to the interviewees, capacity development can be strengthened mainly through:

- Training
- Sharing of good practices
- Enforcement of existing tools.

In their view, trainings must be provided on a regular basis not only to newly recruited professionals but also to those who already work in the anti-trafficking field and need to update their knowledge on given matters. In particular, the key informants stressed that new or refresher courses should target especially (but not only) the following professionals: labour inspectors, child welfare officials, health professionals, in-court psychologists, lawyers, public prosecutors, diplomatic personnel, foster families.

Along with modules on different forms of human trafficking, anti-trafficking legislation, policies, interventions, very practical modules should be delivered on how to cooperate across borders and on how to use the TRM measures, taking into due account the special needs and rights to be granted to trafficked children. Training should be organized for stakeholders based in the main cities as well as for those working in rural and more distant areas so to enforce a sort of "decentralization of know-how" that can improve the capacity of all anti-trafficking

[95] Idem, pg. 238.

professionals to properly manage transnational cases of human trafficking regardless of where they work (central or remote places).

The capacity development of anti-trafficking agencies can greatly benefit also from the regular exchange of good practices on transnational cooperation within and across borders. Some key informants underlined the importance of fostering the transfer of know-how on transnational measures within stakeholders working in the same country such as, for instance, from international organisations to local anti-trafficking agencies:

> "[We would like to] learn how to do things ourselves in collaboration with these organisations on which, however, we have been relying too much". (NGO worker)

> "The state still relies upon the international organisations. The capacities are not being built. Even when we return a person back to the country of origin, there is no feedback provided about that person. (NGO worker)

Many key informants supported the sharing of good practices as a means to improve their knowledge, working methodologies, and performance as well as a way to establish new contacts for efficient international cooperation. In this view, more meetings, study visits, and exchange programmes for distinct professionals should be regularly organized among different countries. In this regard, the TRM infrastructure was praised as an example of good practice and hailed a success in regional programming by USAID. The TRM programme was implemented over 5 years within 10 countries in the region and reached out to over 2000 professionals who met on over 60 occasions to shape the transnational referral mechanism into a model for transnational cooperation, a model that offers harmonized standards and streamlined approaches to victim protection. Participants from the countries involved in the programme worked closely to exchange valuable experiences as well as expertise and expressed their desire to utilize and expand upon the TRM infrastructure. Despite the positive outcomes of the TRM programme, some key informants suggested involving representatives of countries and agencies that are not usually present in the meetings, conferences, working occasions in order to enlarge the geographical scope of the existing TRM networks.

In the last decade, many tools[96] have been produced to support the capacity building and development of a wide range of anti-trafficking professionals, namely training modules, handbooks on how to carry out measures (e.g. assistance, referral, JIT, etc.), to implement specific procedures (e.g. identification, interviews, etc.), to gather data on human trafficking (guides, software, etc.), to ensure the adoption of certain approaches (guidelines, manuals, etc.) and so on. Yet, these numerous tools have not been adequately promoted, adapted, distributed, and used:

> "There are many useful materials created in supporting the fight against trafficking. I'm disappointed by their low level of promotion, distribution, and use. Sometimes, the arena players simply do not use available support and guidelines." (NGO worker)

> "Some local NGOs, but sometimes even donor IOs, do not have proper communication of their projects toward the Office of National Coordinator, and they do not communicate properly among themselves in regards to funds and projects they do. So it happens that the coordination of activities is not very good." (NGO worker)

In order to widely circulate the instruments so far developed in the anti-trafficking field to support the strengthening of cooperation across countries, an interviewee suggested setting up an online database containing updated country-by-country information, international documents, and working tools broken down by country on:

- Legislation
- Programmes of social protection for victims

[96] See, *inter alia*, UNODC, *First Aid Kit for use by Law Enforcement Responders in Addressing Human Trafficking*, Vienna, 2011; UN.GIFT, IOM, London School of Hygiene & Tropical Medicine, *Caring for Trafficked Persons. Guidance for Health Providers*, Geneva, 2009; La Strada Express, *Reintegration Plan for Victims of Trafficking in Human Beings. Good practice and recommendations*, Chisinau, 2008; UNODC, *Toolkit to Combat Trafficking in Human Beings*, New York, 2008; UNHCR, *Guidelines on Determining the Best Interests of the Child*, Geneva, 2008; USAID, *Methods and Models for Mixing Services for Victims of Domestic Violence and Trafficking in Persons in Europe & Eurasia*, 2008; IOM, *Direct Assistance for Victims of Trafficking*, Geneva, 2007; ICMPD, *Anti-Trafficking Training Material for Judges and Prosecutors in EU Member States, Accession and Candidate Countries. Background Reader*, Vienna, 2006; --, *Anti-Trafficking Training Material for Frontline Law Enforcement Officers*, Vienna, 2006; UNICEF, *Guidelines on the Protection of Child Victims of Trafficking*, New York, 2006; WHO, *Ethical and safety recommendations for interviewing trafficked women*, Geneva, 2003. Anti-Slavery International et al., *Protocol for the identification and Assistance of Trafficked Persons and Training Kit*, ASI, London, 2005.

- Procedures
- Contact details of relevant and accredited agencies
- Forms to be downloaded for any type of request of transnational cooperation.

In the recent past, some NGOs and international institutions have developed websites and online databases to provide operational platforms for actors engaged in the anti-trafficking field. For instance, there are online databases on the available service providers and measures by country; on anti-trafficking legislation and related provisions[97]; on country assessments.[98] These are very useful initiatives, although some suffer from a constant lack of financial and human resources for their full implementation. For example, in the case of websites some are not regularly updated and therefore risk becoming obsolete thus failing to achieve their primary goal: to inform their users on the most recent developments and provide the latest tools to be used in the anti-trafficking field, including those for transnational cooperation purposes.

### Box 9: Recommendations on capacity development to improve transnational cooperation

**RECOMMENDATIONS**

- Agencies responsible for the sound implementation of the NRMs and TRMs should support **initiatives and tools aiming at making all anti-trafficking actors fully knowledgeable about the TRMs and their implementation.**
- **National and local multi-agency training modules and refresher's courses on how to perform TRM measures should be developed and provided on a regular basis both to newly recruited and experienced professionals throughout the country**, including those working in most remote areas.
- **Transnational multi-agency training modules on how to perform TRM measures** should be organized **linking up anti-trafficking stakeholders of countries of origin, transit and destination of trafficked persons and traffickers.** A wide range of trainees should be involved, thus, including professionals of all ranks.

[97] www.legislationline.org; http://ec.europa.eu/anti-trafficking
[98] www.state.gov/g/tip/; www.e-notes-observatory.org

- The numerous **operational tools** (e.g. guidelines, handbooks, training modules, portals, software...) produced by international or regional bodies, IOs, and NGOs **to foster the capacity development** of distinct anti-trafficking professionals to cooperate across borders in cases of trafficking **should be adequately promoted, adapted, translated, distributed, and used.**

- An **online database** containing updated country-by-country, regional, and international information on the available transnational cooperation instruments and tools; TRM guidelines; downloadable forms to place requests of transnational cooperation; contact details of relevant and accredited agencies, may be a useful means to support and strengthen transnational cooperation between anti-trafficking stakeholders of countries of origin, transit and destination of trafficked persons and traffickers.

- In compliance with its most recent commitments concerning human trafficking issues, including the, AOP, 2011 EU Directive on human trafficking, the EU THB Strategy the **EU should further support initiatives for strengthening transnational** police and judicial **cooperation** as well as assistance and protection measures for victims, comprising safe voluntary return, assistance and **capacity building** in close partnership with the countries of origin of trafficked persons.

## 4.4. Main challenges outside the SEE region

Transnational cooperation within the SEE region seems to be easier than cross-border cooperation outside the region, as a key informant clearly pointed out:

> "So far, in practice, we had cooperation on regional and international levels, primarily with law enforcement agencies in Kosovo, in Serbia, Bosnia, Croatia and in the whole region [...] This cooperation is established at the operational level because of the urgency of treatment, in order to collect data we establish contacts and exchange information, agree on a single joint action and mechanisms of action and, in order to formalize this operational procedure, we have mechanisms through which this cooperation is established – Interpol, Europol, liaison officers, diplomatic missions. We mostly address through liaison officers and Interpol and establish cooperation. Apart from the police, we also cooperate with other institutions, a variety of diplomatic and consular missions, NGOs, IOM and so on." (Police officer)

Transnational cooperation among the SEE countries seems to be more attainable due to several factors, such as:

- Similar languages spoken by some groupings of countries or minorities of the countries concerned;
- Similar legal systems in place in some countries (mainly in the countries of former Yugoslavia)[99];
- Establishment of national anti-trafficking mechanisms and structures with clear mandates and common procedures (i.e. NRMs, National Coordinator's Offices, National Action Plans);
- Implementation of several TRM SOPs by some stakeholders;
- Frequent exchange of information among anti-trafficking actors through meetings, workshops, seminars, conferences.

Furthermore, cooperation with countries outside the SEE region seems to be more problematic for all anti-trafficking actors interviewed, who highlighted the need to establish more structured and legally binding forms of cooperation:

> "The most common obstacles are: lack of developed international cooperation, both at the operational as well as the formal level, and the police and level of other relevant institutions. I do not mean the regional cooperation, which is ok, but still could be better, because trafficking in human beings involves foreign states. The country of origin may be a country in the Middle East, former Soviet state, the state with totally different features. I'm not referring only to language but also to the culture and the legal system." (Police officer)

Several key-informants pointed out the difficulty of clearly identifying the proper agency or acquiring the relevant contact details when trying to place a request. Consequently, in several cases, different agencies had been contacted at different times to place the same request. NGOs that do not rely on structured networks need to identify their foreign counterparts on a case-by-case basis using informal contacts. Furthermore, even for NGOs with long-standing experience in the field and good contacts abroad, it is not always easy to find a reliable counterpart in another country:

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99 UNODC, *Trafficking in Persons & Smuggling of Migrants. Guidelines on International Cooperation*, Vienna, 2010, pg. 2.

"The problem is to find an adequate partner in the country of origin." (NGO worker)

Furthermore, complete and up to date lists of accredited service providers of different countries (especially of those outside the SEE region) are often not available and, in several instances, coordinated information exchange across borders is still lacking.

Countries outside the SEE region seem to have difficulties finding the right interlocutors if they do not belong to a structured IO or NGO network or do not place their request through very formal channels of communication (e.g. Ministries of Interior, Justice, Foreign Affairs, Interpol, Europol, Eurojust, etc.). Therefore, it is rather common that some anti-trafficking agencies –such as NGOs – are contacted from abroad with no clear indication on how they have been identified, as one interviewee put it: "We don't know how they found us!" This sentence does not reflect the state-of-play for all agencies or all SEE countries or all procedures but it mirrors quite clearly many situations described in different interviews.

## 4.5. Reporting template

One of the objectives of the TRM II project was to develop a reporting template[100] for the facilitation of transnational cooperation at the operational level between countries of destination, origin and transit. Such a template was identified as a "missing link" in case follow-up in transnational cases of trafficking by TRM participating countries and was developed by a number of different actors participating in the project in the course of several workshops and meetings. The aim of the template is to support the practical implementation of the *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked* Persons[101] (TRM Guidelines).

[100] Refer to Annex I: Draft reporting template.

[101] Within the framework of the TRM-SEE and the TRM-EU projects, the following guidelines have been published: ICMPD, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: South-Eastern Europe*, Vienna, 2009; ICMPD, Italian Department for Equal Opportunities, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU*, Vienna, 2010.

Even though most participating countries and practitioners expressed their willingness to make use of the template in their work, certain challenges remain with regards to its practical implementation with regard to the compliance with (national) data protection laws when exchanging information about trafficked persons. Furthermore, the procedures of appointing appropriate national authorities with the responsibility of filling out templates and exchanging information at the transnational level vary immensely from country to country and need to be decided on a case by case basis.

Thus the template currently represents a model to be adapted by countries according to their internal legislation and procedures. It is considered to be a comprehensive and useful tool in supporting the information exchange for transnational referral of trafficked persons. It is also seen as only one of such available tools, having the potential to complement rather than replace existing information exchange and cooperation methods. At the national level, it is foreseen that the template can be modified and adapted according to the laws and needs of each country or coordinating body through the addition or deletion of certain information fields, as determined by national legislation and the specific mandates of responsible institutions.

## 4.6. Thematic focus areas

Two issues that are currently high on the policy agenda among anti-trafficking practitioners were also singled out in this report: trafficking for labour exploitation and child trafficking. These two thematic areas have been indicated as particularly relevant by the TRM participating countries and therefore specific recommendation for inclusion in a TRM model are formulated.

### 4.6.1. Trafficking for labour exploitation

The findings gathered in all ten countries of the region are rather homogeneous and highlight that the knowledge on trafficking for labour exploitation is at its early stage and practices of prevention, investigation and prosecution of the crime as well as identification and assistance of victims are very few and, in some areas, nonexistent. As a result, very little information on this issue was collected through

the interviews. Some comments, though, have been gathered and are hereinafter summarized.

In order to design and implement proper national and transnational procedures to manage cases of trafficking for labour exploitation, in-depth studies need to be carried out in all SEE countries in collaboration with countries of destination in order to fully detect the distinct stages of trafficking and exploitation. They will contribute to clarify the distinct features of this form of trafficking, thus, helping the anti-trafficking actors to develop identification procedures and plan targeted responses, which will involve all relevant agencies locally, nationally, and transnationally.

Collaboration across borders is mainly requested for transferring and adapting know-how, exchanging good practices, and delivering trainings on a wide range of issues specifically related to trafficking in human beings for labour exploitation.

Several key informants stressed the importance of promoting initiatives to expand knowledge on trafficking for labour exploitation, citing as a good example the assessment carried out in Croatia in 2010.[102] Research on this form of trafficking can greatly help to overcome the confusion between the concepts of undeclared labour, labour exploitation and forced labour, which can undermine the effectiveness of interventions designed to combat the phenomenon. Furthermore, fighting trafficking for labour exploitation means combating more vigorously undeclared labour, the underground economy and widespread irregularity in the labour market, which are factors that increase the vulnerability of (migrant) workers and the possibility to become easy prey in the hands of traffickers and exploiters. Understanding the different facets of trafficking for labour exploitation is crucial to develop identification procedures and plan targeted responses.

In the framework of the TRM implementation, it became evident that:

- No universal definition of trafficking for labour exploitation exists, although a number of international and EU documents define trafficking and forced labour separately;
- Specific attention shall be paid to the concept of "abuse of vulnerability" which places on the emphasis on any type of coercion, not just physical one;

[102] ICMPD, *Trafficking in Human beings in Croatia: An assessment focusing on labour exploitation*, Vienna, 2010.

- The relevant officials dealing with the issues should keep in mind victims often do not perceive themselves as victims, especially in cases of labour exploitation;
- Migration management is crucial for combating trafficking for labour exploitation;
- The "deportation" of trafficked persons – an act that is against all legislative provisions and human rights principles – also leads to the loss of evidence in criminal proceedings;
- For the successful combating of trafficking for labour exploitation, the focus should be placed on bridging the gap between labour law and criminal law;
- Cooperation with the private sector should be established and strengthened;
- Application of national social laws should be a guiding principle (e.g. taking into consideration the minimum wage in the country of destination);
- Overall the victim-centred approach should be strengthened.

Currently, identification of victims of trafficking for labour exploitation is a challenging task in the SEE region. Victims often do not identify themselves as such. This may be due to the harsh economic conditions they face and their willingness to accept any job even if it entails exploitative working conditions. In the case of foreign workers, they are often unaware of the legal framework regulating both labour and immigration of the host country; furthermore, their (exploitative) working conditions are similar to those experienced in their home country and, thus, not perceived as abusive[103].

If victims do not recognize themselves as such, they remain "invisible" and their identification becomes very difficult:

> "We face difficulties with identification of trafficking cases for labour exploitation – there are no threats, coercion, but finally persons are exploited, 'nicely' exploited; we see new methods of manipulation applied at the stage of exploitation that make victim stay at that place, to believe the promises of payment etc." (Labour inspector)

> "In general it is very unlikely for us to be contacted directly by the presumed victims, but such human trafficking cases can be detected by us during the

[103] F. Carchedi (ed.), *Schiavitù di ritorno. Il fenomeno del lavoro gravemente sfruttato: le vittime, i servizi di protezione, i percorsi di uscita, il quadro normativo*, Maggioli Editore, Sant'Arcangelo di Romagna, 2010.

> checks that we carry out. Most of our checks are carried out as a result of the filing of a complaint. If during a check we suspect something wrong we notify our suspicion to the Organised Crime Squad." (Labour inspector)

In some SEE countries sporadic trainings on issues related to trafficking for labour exploitation have been provided to a limited number of actors. Nevertheless, all key informants and, most of all, the labour inspectors expressed the strong need to be trained on the specific features of this form of trafficking, on how to identify and to whom to refer victims:

> "We feel a great need for training for labour inspectors. [...] It would be useful to have a joint training, with labour inspectors and representatives of other anti-trafficking actors." (Labour Inspection)

The sensitization and training of law enforcement agencies, labour inspectorates, judicial authorities, social services, NGOs, trade unions and all other actors that may come into contact with trafficked persons is crucial for the identification of victims and the provision of adequate assistance. To this end, it is essential to develop and regularly deliver joint training modules to strengthen the cooperation between these anti-trafficking agencies.[104]

Several key informants also underscored the lack of measures, services, and facilities aimed at the protection of victims of trafficking for labour exploitation. To overcome such gaps, some interviewees suggested linking up with relevant foreign agencies experienced in this field to access know-how and good practices on issues related to this form of human trafficking. Some stakeholders suggested using the state labour inspectorate websites to share knowledge and information on domestic and foreign labour legislation and regulations; migration legislation; anti-trafficking frameworks; SOPs of NRMs and TRMs; studies; and constantly updated key contact details of the relevant anti-trafficking agencies of different countries.

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[104] To this end, ICMPD is implementing the project on **Capacity Building for Labour Exploitation Project (CB-LAB)** funded by the Dutch Ministry of Foreign Affairs, which aims to support relevant national institutions of fourteen target countries by providing a series of specially formulated, interdisciplinary training sessions to labour inspectors, police officers, and representatives of the judiciary. In addition to strengthening the capacity of relevant officials to handle cases of trafficking for labour exploitation, the trainings will help lay the ground for improved transnational and intra-European cooperation on this issue.

**Box 10: Recommendations to improve transnational cooperation and capacity building to fight trafficking in human beings for labour exploitation**

RECOMMENDATIONS

- **Studies on trafficking for labour exploitation** should be encouraged and carried out **in the SEE countries in collaboration with other countries** in order to gather data and knowledge that can **contribute to develop proper prevention, prosecution, and protection activities at the national and transnational level.**

- **Continuous transfer of know-how and exchange of good practices on issues related to trafficking for labour exploitation** should be established with **foreign experienced anti-trafficking agencies.** In this view, **workshops and study visits** should be organized. This would also allow for the establishment of key contacts for future international cooperation.

- **Regular multi-agency training in collaboration with foreigner experienced agencies** should be developed and delivered on a wide range of topics, including identification, assistance, referral, and transnational cooperation. Training should target all anti-trafficking actors, with due regards to labour inspectors.

- An **online database** containing updated country-by-country, regional, and international legislation on human trafficking and related issues, labour regulations, practical tools, and forms, contact details of relevant and accredited agencies may be useful to support and strengthen transnational cooperation.

### 4.6.2. Child trafficking

Child trafficking in most of the cases is a phenomenon that requires extensive investigation in order to gather significant knowledge on its different forms, including the ever-changing recruitment and exploitation systems as well as tailor-made transnational referral and assistance. The TRM SOPs include specific measures for children and throughout the implementation of the programme great attention have been given to this issue. Finding durable solutions in the child's best interests and the challenges related to proper identification and age assessment were identified as the two most debated issues since no standard model and guidelines on how to determine these issues is available. The TRM participating countries came up with the following recommendations:

- There is a need to further strengthen relations between countries of origin, transit and destination, especially those outside the TRM network, in order to facilitate cooperation on transnational cases of child trafficking and ensure referral according to the child's best interests. Given the fact that most TRM countries have limited experience as destination countries, there is a need for continuous exchange of good practices between countries on specific topics related to the challenges faced by countries of destination, such as identification and age assessment.

- Transfer of knowledge on child protection is recommended to ensure a more comprehensive approach and to promote a shift of focus from operational procedures related to case management to the adoption of protection measures for vulnerable children.

- Many TRM countries identified street children as especially vulnerable and stressed the need for special protection measures for this high-risk group. Thus, more research is needed on the specific situation of street children in the SEE region in order to develop sustainable tailor-made protection mechanisms.

As far as the national and transnational response is concerned, key informants and workshop participants equally highlighted the need to improve the anti-trafficking actors' skills, the measures, and the procedures to fully ensure a child rights-based approach and protect trafficked children within and across borders. In particular, identification and age assessment of trafficked children are considered challenging procedures that need to be properly undertaken with due regard to the child's best interests.

Child trafficking for different purposes of exploitation is a phenomenon that involves the SEE countries as origin, transit and destination areas. In the framework of this report, the key informants were specifically asked to provide information on the functioning of the SOPs specifically targeting child victims and on the related forms of international cooperation in place.

All countries have legislation and child welfare systems to protect and take care of children, including minor victims of trafficking. Furthermore, as underscored in

Section III of this report, all SEE countries ratified the UN Convention on the Rights of the Child (CRC) and, therefore, are bound to comply with its regulations. However, since the CRC does not provide clear guidance on how to find durable solutions in the child's best interests, it is paramount that other human rights standards are employed to fully ensure a child rights-based approach.

The key informants specialized in child issues provided detailed explanations on the SOPs in place to assist children who are identified as victims. However, the same cannot be said for other anti-trafficking actors who sometimes were not informed about the procedures in place. In daily practice, several interviewees underlined that there is disrespect as to the definition and the status of minor victims of trafficking as well as to the procedures to follow:

> "Law enforcement officials often tend to forget that they have to wait for a guardian or a parent in order to talk to a child." (NGO worker)

> "Police officers are not trained to deal with children." (Police officer)

As a matter of fact, many interviewees highlighted that there is a severe lack of experienced staff to handle cases of child trafficking and, thus, asked for regular training modules for all anti-trafficking professionals to train them on how to deal and work with children according to the different SOPs provided by the NRMs and the TRM:

> "As for children, we all need more training, not only for us from the civil sector, perhaps the least for us, but for all of us who are part of national mechanisms for combating trafficking in human beings. Children are specific." (Governmental official)

> "As one of the problems that we could encounter is the situation when the child is a foreigner and doesn't speak the local language and more people need to be included in the process (such as translators). This could cause insecurity and confusion of child and leak of classified information." (Governmental official)

As a social worker pointed out, training should be provided also to foster families who are not generally prepared to take care of child victims:

> "We cannot return them in to a family. It gets complicated. It is hard to find a foster care family. Foster families are not trained to accept older children that are almost adults already. It is demanding to handle their upbringing. Also, for such children it is very hard to adapt and relax because they are aware it is only temporary, until they are 18." (Social worker)

There is a need to strengthen multi-disciplinary work through better coordination and better information channelling among the agencies at the national and transnational level so to promote collaboration and increase synergies between different countries to ensure protection of child victims and grant them durable solutions in their own best interests:

> "Lack of provision for the coordination mechanism for the return of children." (NGO worker)

> "The competent agency does not receive enough information – sometimes even there is no info – about the child who is returning." (Governmental official)

Also in case of child victims, key informants clearly underlined the need to speed up procedures of transnational cooperation and to appoint one national agency responsible for the referral of (both adult and child) trafficked persons and, thus, the exchange of the information with due respect of data protection regulations:

> "There should be one agency that would contact those foreign organisations. I don't know who to call abroad for a child." (Governmental official)

> "Cooperation and coordination between the relevant authorities of both the child's country of origin and the receiving state are thus essential." (Governmental official)

Similarly, workshop participants considered that while cooperation between countries within the TRM network was considered good, slow administrative procedures related to the referral of trafficked children, lack of cooperation on the part of destination countries outside South-Eastern Europe (SEE) and cases of trafficked children that do not regard themselves as victims of a crime were

identified as the main challenges in victim referral and obstacles in finding durable solutions.

Transnational cooperation needs to be further developed and coordinated between appointed national authorities in order to achieve better information exchange and case management to ensure full protection to child victims, who must be granted durable solutions. As highlighted in the capacity strengthening section of the report, the key informants call for the continuous transfer of know-how and exchange of good practices among countries also on the different steps of identification and protection of child victims of trafficking.

A good example of transnational cooperation to ensure protection and assistance of child victims of trafficking is the agreement signed between the Government of the Hellenic Republic and the Council of Ministers of the Republic of Albania in 2006. This is the result of a long-standing collaboration between the two countries, which started to collaborate to jointly address the challenges posed by child trafficking in their own territories.[105] Through this agreement, the Greek and the Albanian authorities set a common framework to harmonize methods and procedures and, thus, to fully cooperate in a wide range of child trafficking-related matters, namely prevention, protection, investigation, and prosecution. *Inter alia*, the following cross-border measures are foreseen: establishment of common standards for the regular and efficient collection and exchange of statistics; bilateral assessment of the adequacy of border control measures in relation to children; appointment of "responsible authority" dealing also with transnational cases of trafficking; shared procedures for the safe return or relocation in a third country. A similar MoU is also in place between Albania and Macedonia.

[105] See Terre des Hommes, *Transnational Protection of Children. The Case of Albania and Greece 2000-2006*, in www.crin.org/docs/tdh_transnat_protection.pdf

## Box 11: Recommendations on transnational cooperation to ensure protection and assistance of child victims of trafficking

**RECOMMENDATIONS**

- The bodies responsible for NRMs and TRMs should ensure that **requests of international cooperation concerning child victims of trafficking are managed by one single national authority.**

- The bodies responsible for TRMs should ensure that **all anti-trafficking actors** are **fully skilled to manage cases of child trafficking transnationally.**

- **Some administrative procedures** concerning the referral of trafficked children between countries **need to be improved in order to speed up the referral process** while ensuring the full protection of the children concerned.

- **Multi-agency training** modules and refresher's courses **on child trafficking-related issues and cross-border cooperation** should be provided **on a regular basis** both to newly recruited and experienced professionals **throughout the country,**

- **Clearer guidance on how to find durable solutions in the child's best interests** should be **developed and shared** at the transnational level in order to fully ensure a child rights-based approach and a **common standard operational model, based on transparent procedures.** Special attention should be paid to identification and age assessment procedures, which always require a multi-disciplinary and specialized approach.

- **Continuous transfer of know-how and exchange of good practices on trafficked children-related matters and transnational cooperation** between anti-trafficking actors of different countries should be encouraged as a means to improve knowledge, working methodologies, and performance as well as a way to establish new contacts for efficient international cooperation. Therefore, **more meetings and study visits** should be organized.

# V.

# Conclusions and Ways Forward

# V. Conclusions and Ways Forward

This report provides an overview of the legal frameworks and operational tools for transnational cooperation available to anti-trafficking actors engaged in the prevention and fight of human trafficking as well as in the support and assistance of trafficked persons. The experience gained in the SEE region allowed to collect a wide range of lessons learned as well as useful recommendations and reflections from government officials, police officers, prosecutors, social workers, NGOs and international organisations on how to establish and improve cooperation amongst counterparts across borders that are valid for any country that is in the process to develop or implement the TRM model.

It is evident that transnational cooperation is a fundamental component for any successful strategy to prevent and fight human trafficking as well as to protect trafficked persons, and several of the informants interviewed praised the TRM as an example of good practice and a model for enhancing transnational cooperation.

Despite these positive developments a number of issues remain which pose a fundamental challenge to further enhancing transnational cooperation. The interviews with the stakeholders presented in Section IV of the report reflect that there are still clear discrepancies between "theory and practice" and highlight some crucial missing links between the intentions of many of the available legal instruments and tools and the level of implementation as well as the reality for practitioners on the ground.

Developing a TRM is an ongoing process and such mechanisms have to be regularly updated in order to remain effective and at the same shall be expanded to other countries, widening its initial geographical scope.

In a response to these remaining challenges the following recommendations should be considered to improve transnational anti-trafficking cooperation mechanisms:

- Expand the TRM model geographically to include other countries in Europe and beyond. Specifically there is a need to ensure effective coordination and collaboration between main migrant sending and receiving countries within

Europe. Geographic expansion of the TRM model should also include exploring options for developing a TRM model between different regions and countries around the world as also foreseen in the *EU Strategy towards the eradication of trafficking in Human beings (2012-2016).*

- Ensure continuous and regular update and development of the TRM standard operating procedures (SOPs) including adaptation for specific forms of exploitation, such as trafficking for labour exploitation and child trafficking. Furthermore there is a need to include measures for integration and social inclusion in the destination country (destination based integration) as a potential alternative to return and reintegration (in country of origin).

- Systematic and regular development or update of existing lists of accredited stakeholder agencies and organisations (including in countries of destination) to ensure effective transnational cooperation.

- In order to respond effectively to the specific cases of child trafficking and trafficking for labour exploitation there is a need to raise awareness about the TRM model amongst various new stakeholders (e.g. labour inspectors, child care and welfare professionals etc.) and to mobilise a broader network of skilled and trained professionals to work on the specific cases and develop new tailor-made tools as needed.

- Ensure a more definite and outspoken political commitment to adhere to the TRM standards, in the form of a memorandum of understanding (MOU) or similar multilateral or bilateral agreement(s) in order to formally endorse the usage of the TRM SOPs at the national level and between countries that have adopted them.

- Further development of the TRM model and its related operational tools, especially through regular know-how transfer, exchange of good practices, and the adoption of common tools, such as templates for transnational cooperation (refer to annex 1). Further development of the TRM shall also include encouraging spin-off initiatives at the bilateral level and continuous capacity-building among key stakeholders in SEE and EU countries.

- Recognize that an effective TRM is strictly intertwined with a well functioning NRM. Thus, ensure the full implementation of the NRM, the continuous development and strengthening of the skills of all anti-trafficking actors, the systematic monitoring and evaluation of the strategies and interventions, and the sound and regular allocation of economic resources.

- Implement legal provisions regulating different forms of transnational cooperation involving governments, NGOs, international organisations and other relevant stakeholders.

- Streamline national legislative frameworks to avoid the overlap and duplication of measures for assistance and protection. Aim for clear and uniform guidelines which incorporate different available instruments and are accepted as well as utilized by all relevant national stakeholders.

- Consider developing and maintaining an online TRM website, to enable stakeholders and participating countries to update and access country specific information, to facilitate access to SOP's and TRM tools and to provide the platform to share news and information regarding anti-trafficking coordination.

# Working Definitions and Terminology[106]

**Assistance:** Measures, programmes and services aimed at the recovery of trafficked persons that might include, but are not limited to, appropriate housing; medical, psychological and material assistance; educational, training and employment opportunities; legal counselling and assistance. First, short- and long-term assistance may be offered by non-govern¬mental, governmental or international organisations in countries of destination, transit and origin and they may involve one or multiple services.

**Assisted Victim of Trafficking:** A person who has been identified as a victim of trafficking and who has agreed to accept assistance from a non-governmental, governmental, international or other relevant organisation (also referred to as "assisted trafficked person" or "assisted person").

**Best Interests Determination:** It "describes the formal process with strict procedural safeguards designed to determine the child's best interests for particularly important decisions affecting the child. It should facilitate adequate child participation without discrimination, involve decision-makers with relevant areas of expertise, and balance all relevant factors in order to assess the best option ".[107]

**Best Interests Assessment:** It "is an assessment made by staff taking action with regard to individual children, except when a best interest determination (see supra) procedure is required, designed to ensure that such action gives a primary consideration to the child's best interests. The assessment can be done alone or in consultation with others by staff with the required expertise and requires the participation of the child ".[108]

**Case Manager:** A case manager is the primary point of contact for a trafficked person and shall co-ordinate the services deemed necessary to provide her/him assistance throughout the whole process. The case manager works within a consultative team of other professionals when decisions are to be made about each victim's care plan. In a TRM instance, a case manager shall be appointed in the country of origin and in the destination country.

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[106] Adapted from: ICMPD and Italian Department for Equal Opportunities, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU*, Vienna, 2010.
[107] UN High Commissioner for Refugees, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, available at: http://www.unhcr.org/refworld/docid/48480c342. html, p. 8.
[108] Idem.

**Child:** A person under 18 years of age (also referred to as a "minor").

**Compensation:** It is the procedure to support the victim to obtain – through criminal proceeding, civil action or administrative systems – material and moral damages from the perpetrator(s) and/or from the State for the physical and psychological harm suffered and wages lost during the trafficking and exploitation experience (also generally referred to as "restitution", "reparation", "redress", "damages").

**Country of Origin:** The country a trafficked person comes from (also referred to as "source country").

**Country of Transit:** The country a trafficked person travels through to reach her/his final destination.

**Country of Destination:** The country that is the ultimate destination of a trafficked person (also referred to as "receiving country").

**Cultural Mediator:** A foreigner him/herself, the mediator is a professional who functions as an intermediary between the needs of migrants and the response of public services and NGOs to facilitate the placement of foreign citizens into the hosting social context. S/he works respecting neutrality, professional secrecy and equidistant mediation between institution and user (also referred to as "cultural-linguistic mediator").

**Data Protection:** This must be guaranteed through the regular implement¬¬ation of security measures for the protection of personal data collected, stored, and used in full compliance with the pertinent laws that protect the right to privacy of any individual.

**Empowerment:** It is the process of improving the capacity of a person to gain the knowledge, skills and attitude to cope with her/his private and professional life and make self-determined choices and changes. In order to do so, a person must have access to information and resources for taking full, properly informed decisions and have a wide range of options to choose from.

**Guardian:** The individual who acquires the primary responsibility for the well-being of the child and co-ordinates the efforts of all involved agencies to ensure the best interests of the child. This individual also serves as the case manager in the cases of referral of child victims of trafficking.

**Family Tracing:** This is the procedure aimed at identifying the family of the trafficked person assisted when she or he cannot contact or reach them. Such procedure should be put in place only if the trafficked person expresses the wish to return home and stay with her/his family. In the case of a child victim, the family should be found only when this is in the best interests of the child, given the fact that sometimes it is the family, or family members, who are at the source of the trafficking. Family tracing may involve different governmental and non-governmental institutions.

**Family Reunification:** This is the act of reuniting the trafficked person with her/his family after a thorough risk assessment has been made. It should be made upon the assisted trafficked person will and considered as a long-term solution for her/his social inclusion. Follow-up visits should be made to monitor the process of family reunification and social inclusion, particularly with a view to ensuring that no risks for re-trafficking are present.

**First Point of Notification:** Institution/organisation that acts as a central point of information, referral and initial support for presumed victims; this institution bears responsibility for nominating the case manager.

**Human Rights:** Fundamental and universal rights and freedoms that all human beings are entitled to. They consist of civil, political, economic, social and cultural rights that States are obliged to fully respect according to common standards ratified by national and international legislation.

**Key informant:** A person who is a primary expert source of qualitative information on given topics due to his/her profession, position in the society, and personal skills. S/he can provide descriptive data and a deeper insight into specific aspects of a social phenomenon. The key informant technique is part of the qualitative tools used in different branches of social research.

**Identified Victim of Trafficking:** a person who has been identified as a victim of trafficking according to a formal or informal identification mechanism (also referred to as "Identified trafficked person").

**Identity Document:** A personal paper or card that gives identifying data (e.g. name, age, nationality, address, etc.) about a person. It is generally issued by local or national institutions.

**Individual Assistance Plan (IAP):** It is a written agreement jointly developed by the case manager and the assisted trafficked person where goals, activities and services – tailored to the individual's needs – are clearly defined.

**Informed Consent:** Any free, voluntary permission or approval to something proposed or requested based on full exposure to all facts; fully informed decisions-making, including awareness of any risks involved and any available options. Information-sharing is an essential component of "informed consent".

**Integration:** See "Social inclusion".

**Mutual legal assistance:** In order "to facilitate the enforcement of their domestic criminal laws, national governments cooperate with each other in the transfer of offenders from one jurisdiction to another and in a number of other ways (e.g. information gathering and exchange, relating to the investigation of crimes and the gathering and production of evidence".[109]

**National Referral Mechanism or System (NRM or NRS):** "It is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-coordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help to improve national policy and procedures on a broad range of victim-related issues such as residence and return regulations, victim compensation, and witness protection. NRMs can establish national plans of action and can set benchmarks to assess whether goals are being met. The structure of an NRM will vary in each country; however, NRMs should be designed to formalise co-operation among government agencies and non-governmental groups dealing with trafficked persons."[110]

**Non-residential Programme:** This is an assistance programme offered to trafficked persons who do not face safety risks and enjoy an autonomous accommodation usually shared with significant others (i.e. partners, family members, friends). The rationale of the non-residential programme is that it is

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[109] Encyclopoedia Britannica, www.britannica.com

[110] OSCE-ODIHR, *National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook*, Warsaw, 2004, p. 15.

fundamental to value the assisted person's network in order to support her/his process of social inclusion in the community s/he is living in.

**Person at Risk of Trafficking:** Any person (minor or adult) who has not been trafficked but, given her/his profile or the appearance of certain indicators, faces a greater possibility of being trafficked in the future.[111]

**Personal Data:** Identifying (direct or indirect) information or sensitive data related to an identified or identifiable person.

**Potential Victim:** An individual identified before being exploited who shows strong signs of being in the trafficking process. This differs from a presumed victim, the definition for which appears below (also referred to as "potential trafficked person").

**Presumed Victim:** A person who is presumed to be a victim of trafficking but who has not been formally identified by the relevant authorities or has declined to be formally or legally identified (also referred to as "presumed trafficked person"). Presumed victims are entitled to the same treatment as the identified victims from the beginning of the identification process. In some countries, this category of persons is referred to as "potential victim"; however, in this document, potential victim has a different meaning. Please see definition above.[112]

**Protection:** This is an essential component of any assistance scheme, both for the trafficked person's physical safety and for the safeguard of her/his prospects of social inclusion in the country of origin, destination, or a third country.

**Recovery:** The process by which trafficked persons are stabilised and their well-being restored psychologically, socially and physically.

**Reintegration:** See "Social inclusion".

**Residence Permit:** Any permit or authorisation issued by the authorities of a country, in the form provided for under that State's legislation, allowing a third country national or stateless person to reside on its territory.

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[111] Adapted from Save the Children Italia, *Agire. Austria, Greece, italy and Romania. Acting for stronger private-public partnerships in the field of identification and support of child victims and at risk of trafficking in Europe. Agire methodology*, mimeo, pp. 6-7.

[112] Each country in the region has different terminology for trafficked persons, particularly those considered 'at- risk' of trafficking and those considered to be trafficked but not formally identified as such by authorities. In addition, different organisations also often employ different terms for these categories. In the context of this study, we use the terminologies of 'potential victim' and 'presumed victim' as outlined in the definitions above and not in conformity with any one country's or organisation's terminology.

**Risk Assessment:** A formal procedure to identify and assess the risks associated with the trafficked person's situation and future plan of assistance in the country of origin and/or transit and destination.

**Risk Management Plan:** A plan that outlines the steps and measures to take in order to reduce to a minimum the risks and effectively manage the activities planned for the trafficked person assisted (e.g. voluntary assisted return, etc.). The plan should be regularly reviewed and updated by the case manager and the assisted trafficked person.

**Return:** To return to one's country and/or community of origin. In the context of anti-trafficking work, return involves not only the physical transportation of the victim but also mechanisms to ensure that the return is voluntary, assisted, safe and dignified.

**Separated Child:** A child under 18 years of age who is outside her/his country of origin and separated from both parents, or her/his previous legal/cus¬tomary or primary caregiver. S/he may be alone or living with extended family members. In either case the child is entitled to international protection under a broad range of international and regional instruments.[113]

**Service Providers:** Organisations and individuals that provide one or more of the support and assistance measures supplied to trafficked persons. These may include social workers, psychologists, shelter staff, medical personnel or legal professionals from NGOs, IOs and GOs.

**Shelter/Residential Facilities:** Premises where trafficked persons are hosted. Shelters may be open or closed; offer short- or long-term stay; provide round-the-clock, part-time or no in-house assistance. Shelter should be run by qualified and specifically trained staff. In the case of children, the accommodation has to be appropriate to their specific needs.

**Smuggling of Migrants:** "(...) the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident".[114]

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[113] Separated Children in Europe Programme, *Statement of Good Practice*, International Save the Children Alliance – Unhcr, Geneva, 2004, p. 2.

[114] Art. 3 of Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing The United Nations Convention against Transnational Organized Crime (2000).

**Social Inclusion:** This refers to the process that ensures that those at risk of poverty and social exclusion have the opportunities and resources necessary to participate in economic and social life, securing a standard of living that is considered acceptable in the society in which they live[115]. It also ensures that they have greater participation in decision-making that affects their lives and access to their fundamental rights. Through such a process vulnerable groups are granted access to education, training, employment, accommodation, collective services, and health assistance. A social inclusion programme can take place either in the country of origin or in that of destination.

**Trafficked Child:** Any person under eighteen who is recruited, transported, transferred, harboured or received for the purpose of exploitation, either within or outside a country, even if no element of coercion, deception, abuse of authority or any other form of abuse is used[116].

**Trafficker:** Person complicit in the trafficking of another human being (or human beings) for any form of exploitation.

**Trafficking in Human Beings:** "(...) the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs"[117].

**Transnational Referral Mechanism:** This refers to mechanisms and systems designed for the comprehensive assistance and transnational support of victims of trafficking. Transnational referral mechanisms link the full process of referral from initial identification, through return and assistance between

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[115] http://ec.europa.eu/employment_social/spsi/poverty_social_exclusion_en.htm and Joint Report by the Commission and the Council on social inclusion (2003) http://europa.eu.int/comm/ employment_social/soc-prot/soc-ncl/final_joint_inclusion_report_2003_en.pdf).

[116] Separated Children in Europe Programme (SCEP), *op. cit.*

[117] Art. 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (also known as the "Palermo Protocol"), 2000.

countries of transit, destination and origin and involve co-operation between different government institutions and non-governmental actors. This may involve one or all of the steps in the process.

**Travel Document:** Any identification document required to travel and enter into another country (e.g. passport, identity card, visa, etc.).

**Unaccompanied Child:** An accompanied child or minor who has been separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so[118].

**Victim of Trafficking/Trafficked Person:** A person who is subject to the crime of trafficking in human beings (see definition supra).

**Witness Protection:** The range of security measures employed to assure the safety of a witness involved in legal proceedings. Witness protection may be offered, before, during and/or after the legal proceedings and may include any single or combination of measures that are geared towards assuring the safety and security of the witness and her/his family.

[118] Unicef, Guidelines on the Protection of Child Victims of Trafficking, New York, 2006, pg. 3.

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www.state.gov/g/tip

# Annex I: Draft Reporting Template

One of the objectives of the TRM II project was to develop a reporting template for the facilitation of transnational cooperation at the operational level between countries of destination, origin and transit. Such a template was identified as a "missing link" in case follow-up in transnational cases of trafficking and was developed by a number of different actors participating in the project in the course of several workshops and meetings. The aim of the template is to support the practical implementation of the *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked* Persons[119] (TRM Guidelines).

Even though most participating countries and practitioners expressed their willingness to make use of the template in their work, certain challenges remain with regards to its practical implementation with regard to the compliance with (national) data protection laws when exchanging information about trafficked persons. Furthermore, the procedures of appointing appropriate national authorities with the responsibility of filling out templates and exchanging information at the transnational level vary immensely from country to country and need to be decided on a case by case basis.

Thus the template currently remains a draft version. It is considered to be a comprehensive and useful tool in supporting the information exchange for transnational referral of trafficked persons. It is also seen as only one of such available tools, having the potential to complement rather than replace existing investigation and other cooperation methods. At the national level, it is foreseen that the template can be modified and adapted according to the laws and needs of each country or coordinating body through the addition or deletion of certain information fields, as determined by national legislation and the specific mandates of responsible institutions.

[119] Within the framework of the TRM-SEE and the TRM-EU projects, the following guidelines have been published: ICMPD, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: South-Eastern Europe, Vienna, 2009; ICMPD, Italian Department for Equal Opportunities, Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU*, Vienna, 2010.

## DRAFT Template for Transnational Referral

DATE: dd/mm/yyyy

| |
|---|
| Name of the institution/organisation completing the template in the country of exploitation:<br>Contact person(s):<br>Address:<br>Telephone:<br>Fax:<br>Mobile:<br>E-mail:<br>Skype Id.: |
| Name of the institution/organisation completing the template in the country of origin:<br>Contact person(s):<br>Address:<br>Telephone:<br>Fax:<br>Mobile:<br>E-mail:<br>Skype Id.: |

**Victim's consent for data to be shared between country of exploitation and country of origin:**

☐ Yes ☐ No

| |
|---|
| Comments: |

*** TO BE FILLED IN BY COUNTRY OF EXPLOITATION**

**Victim's consent to return to country of origin/third country:**

☐ Yes ☐ No

| |
|---|
| Comments: |

## 1. General Information

### 1.1. Personal information:

- Name of the trafficked person (incl. any previous names, nicknames etc.):
- Sex: ☐ Male ☐ Female ☐ Other
- Place of birth:
- Date of birth:
- Age (if unknown, provide an estimate): ☐ under 18 ☐ over 18
- Address and country of residence:
- Citizenship:
- Marital status: ☐ Single ☐ Married ☐ Divorced ☐ Widow/widower ☐ Partnership
- In possession of valid travel document: ☐ Yes ☐ No
- Passport ☐
- Laissez passer ☐
- Identity card ☐

| Comments: |
|---|

- Identity confirmed? ☐ Yes ☐ No

  If yes, by whom:

  ☐ Police ☐ Embassy or Consular Representation ☐ Local Municipality/ Civil Registry ☐

  Other: _____

| Comments: |
|---|

- Children to be returned: ☐ Yes ☐ No

  *If yes, see attached template for more details.*

- Language(s) spoken by the trafficked person: _____

- Reflection period provided: ☐ Yes ☐ No

- Duration of the reflection period: Start date _____ End date _____

**1.2. Case information:**

- Type of exploitation:

  ☐ Sexual exploitation ☐ Labour exploitation ☐ Begging
  ☐ Removal of organs ☐ Adoption ☐ Delinquency
  ☐ Other _____

| Comments: |
|---|

- Means of recruitment:

  ☐ Via personal contact ☐ Via advertisement ☐ Via travel agency
  ☐ Via employment agency ☐ Via family member ☐ Abduction/force
  ☐ Other: _____ Unknown

| Comments: |
|---|

- Country of recruitment: _____

- Country/ies transited during the travel: _____

- Country/ies of exploitation: _____

- Date when trafficking exploitation began: _____

- Date exited trafficking/exploitation: _____

- Country of identification: _____

- Formal identification: ☐ Yes ☐ No

- Date of identification: _____

- Person trafficked previously: ☐ Yes ☐ No
- Country/ies of previous exploitation: _____

## 2. First assistance received in country of exploitation

### 2.1. Basic needs

☐ Accommodation ☐ Medical examination/assistance/evaluation
☐ Psychological counselling/psycho-social support ☐ Language interpretation
☐ Established contact with family or significant others ☐ Legal adviser appointed
☐ Guardian appointed

| Comments: |
|---|

### 2.2. Legal assistance

- Temporary residence permit obtained: ☐ Yes ☐ No ☐ Procedure started
- Legal representative provided: ☐ Yes ☐ No
- Other procedure(s) initiated (please specify): _____

### 2.3. Protection

- Safety measures provided:

  ☐ Accommodation in shelter

  ☐ Victim protection

  ☐ Physical protection

  ☐ Resettlement in third country

  ☐ Other: _____

## 3. Short outline of assistance needs in country of origin or in a third country

### 3.1. Basic needs

- Accommodation in country of origin

☐ Shelter ☐ Own family ☐ Alternative accommodation

☐ Medical examination/assistance/evaluation

☐ Psychological counselling/psycho-social support

☐ To establish contact with family or significant others ☐ Legal adviser ☐ Guardian

Other assistance: _____

### 3.2. Health

| Medical history: |
|---|

- Chronic diseases: _____
- Addiction: _____
- Prescription medication(s) _____

| Comments: |
|---|

### 3.3. Safety concerns

- Risk assessment: ☐ Yes ☐ No
- Individuals who may cause harm: ☐ Family member ☐ Partner ☐ Friend ☐ Member of the community ☐ Other: _____
- Location that may not be safe:

| Comments: |
|---|

### 3.4. Risk of re-trafficking

☐ Very high ☐ High ☐ Medium ☐ Low

Risk assessment carried out: ☐ Yes ☐ No

If yes, in cooperation with: ☐ Trafficked person ☐ Relatives ☐ Authorities in country of origin

| Comments: |
|---|

## 4. Perspective of the victim

- Wishing to enter assistance program in country of origin or third country:
  ☐ Yes ☐ No

- Information on assistance program in country of origin or third country received:
  ☐ Yes ☐ No

## 5. Information on return / travel data

- Date and time of arrival in country of origin or third country: _____

- Means of transportation (specify border crossing point, carrier's name, number and schedule):

☐ By air: _____ ☐ By land: _____ ☐ By sea: _____

- Name and contact details of escort(s): _____

- Security measures: _____

- Medical treatment: _____

- Name and contact details of the receiving person: _____

*** TO BE FILLED IN BY COUNTRY OF ORIGIN OR THIRD COUNTRY AFTER THE VICTIM'S RETURN**

## 6. Long-term assistance offered in country of origin or third country

### 6.1. Basic needs

- Accommodation:

  ☐ Shelter ☐ Own family ☐ Alternative accommodation
  ☐ Other _____

| Comments: |
|---|

### 6.2. Long-term assistance and social inclusion measures

- Long-term medical assistance

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Psychological counselling

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Education

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Vocational training

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Job placement assistance

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Financial support

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Housing subsidy/assistance

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Language interpretation

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Family mediation

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Family therapy/consulting

☐ offered to trafficked person ☐ accepted by trafficked person

| Comments: |
|---|

- Trafficked person in regular contact with family ☐ Yes ☐ No

| Comments: |
|---|

### 6.3. Legal and administrative assistance

☐ Issuing identity documents ☐ Appointment of a guardian
☐ Issuing of a health insurance card ☐ Legal counselling ☐ Legal representation
☐ Other _____

### 6.4. Protection

- Safety measures applied: _____

## 7. Civil and criminal proceedings

### 7.1. In country of exploitation

Case initiated ☐ Yes ☐ No ☐ Civil proceedings ☐ Criminal proceedings

- Trafficked person's statement taken by the police ☐ Yes ☐ No
- Trafficked person testified in court ☐ Yes ☐ No
- Compensation claim filed by trafficked person ☐ Yes ☐ No

- Compensation obtained by trafficked person ☐ Yes ☐ No
- Court decision: ☐ Trafficker sentenced ☐ Trafficker released
  ☐ Proceedings underway
- Legal status of the victim: _____

| Comments: |
|---|

### 7.2. In country of origin

- Case initiated: ☐ Yes ☐ No
- Trafficked person's statement taken by the police: ☐ Yes ☐ No
- Trafficked person testified in court: ☐ Yes ☐ No
- Compensation claim filed by trafficked person: ☐ Yes ☐ No
- Compensation obtained by trafficked person: ☐ Yes ☐ No
- Court decision: ☐ Trafficker sentenced ☐ Trafficker released

## 8. Contacts in country of exploitation and origin/third country

| TRM procedures | Country of exploitation | Country of origin |
|---|---|---|
| **Identification** | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail |
| **First Assistance and Protection** | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail |

| | | |
|---|---|---|
| **Long term assistance and social inclusion** | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail |
| **Return** | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail |
| **Criminal and civil proceedings** | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail | Responsible body<br>Responsible person<br>Name<br>Title<br>Address<br>Telephone<br>Fax<br>E-mail |
| **Interpretation** | Name of interpreter | Name of interpreter |

# Annex II: TRM List of Contacts

The contact lists are a crucial part of the TRM and should be updated regularly in order to ensure smooth transnational communication. This list of contacts is accurate and updated as of August 2012.

| Albania | | |
|---|---|---|
| **TRM Measures** | **Responsible Body** | **Contact Details** |
| NIT Coordinator | Director of Anti-trafficking Unit, Ministry of Interior, Tirana | Ms. Irena Taga<br>Tel & Fax: +355 4 2269 404<br>Mob: + 355 69 41 09 117<br>E-mail: at_nationalcoordinator@yahoo.com<br>anja_idem@yahoo.com |
| Identification | Specialist; State Labour Inspectorate; Tirana | Mr. Shkëlqim Tarelli<br>Mob:+ 355 67 29 16 724<br>+ 355 69 22 82 999<br>E-mail: Shkelqim.Tarelli@sli.gov.al<br>shkelqim.tarelli@gmail.com |
| Longer-Term Assistance and Social Inclusion | Executive Director; Different & Equal (D&E) NGO; Tirana | Mrs. Marjana Meshi/Muslia,<br>Tel:+ 355 4 2254 532<br>Mob:+ 355 69 20 88696<br>E-mail: mmeshi@yahoo.co.uk |
| Return | Chief; Green Border Sector/ Directorate of Operational Services/ Border and Migration Department; State Police; Tirana | Mr. Genc Merepeza,<br>Tel:+ 355 4 227 9255<br>Fax:+ 355 4 2279 263<br>Mob:+ 355 69 41 02 153<br>E-mail: merepezag@mrp.gov.al |
| Criminal and Civil Proceedings | Prosecutor; Serious Crimes Court; Tirana | Ms. Erviola Stoja<br>Mob:+ 355 69 41 13 270<br>E-mail: estoja@pp.gov.al |

| Regional contact points (state social services) for referral of trafficking cases | | | |
|---|---|---|---|
| **Name, city** | **Telephone** | **Mobile** | **Fax** |
| Mr. Mihal NAÇO<br>Director; General of State Social Services; Ministry of Labour, Social Affairs, and Equal Opportunities; Tirana | + 355 4 4503802 | + 355 672082050 | + 355 4 4503802 |
| State Social Services, (Mr. Lulzim KONÇI); Tirana | + 355 4 2348 654 | + 355 68 21 35 36<br>+ 355 69 20 74 135 | + 355 4 2348 645 |
| State Social Services (Ms. Luljeta TAVANI); Berat | + 355 322 35 610/ 322 34141 | + 355 68 40 70 408 | + 355 32 234141 |
| State Social Services (Mr. Mite MEJDI); Gjirokastër | + 355 84 264557/ 084265331 | + 355 69 40 048 81 | + 355 84 265331 |
| State Social Services (Mr. Ylber BRAHIMAJ); Vlorë | + 355 33 227891 | + 355 69 20 940 89 | |
| State Social Services (Mr. Aleksandër SHANAJ); Fier | + 355 34 224567/ 34 23638 | + 355 68 26 052 32 | + 355 34 223638 |
| State Social Services (Ms. Brunilda DULJA); Elbasan | | + 355 69 54 240 95 | + 355 54 52246 |
| State Social Services (Ms. Marjana HAMITI); Durrës | + 355 52 226096 | + 355 67 20 45 009 | |
| State Social Services (Mr. Shukri MEHMETI); Kukës | + 355 24 223287/ 24 24562 | + 355 68 20 95610 | + 355 24 24562 |
| State Social Services (Mr. Shukri SHEHI); Dibër | + 355 212 83279/ 21 82157 | + 355 68 27 77856 | + 355 21 82157 |
| State Social Services (Mr. Gjergj LULAJ); Lezhë | + 355 212 52547/ 21 53586 | + 355 67 20 37 297 | + 355 21 53586 |
| State Social Services (Ms. Mirela SHIROKA); Shkodër | + 355 222 48907/ 22 48907 | + 355 66 65 129 68 | + 355 22 48907 |
| State Social Services (Ms. Marsel SULÇE); Korçë | + 355 82 54 325 | + 355 67 40 006 66 | + 355 82 42539 |

| Bosnia and Herzegovina | | |
|---|---|---|
| **TRM Measures** | **Responsible Body** | **Contact Details** |
| Identification | Office of the National Anti-Trafficking Coordinator; Sarajevo | Office of State coordinator for combating trafficking and illegal migration in BIH<br>Address: Greece and Bosnia and Herzegovina friendship Building<br>12th floor; Office nr 1224<br>Trg BIH 1, 71000 Sarajevo<br>Tel/fax: +387 33 492 454<br>+ 387 33 710 531<br>E-mail: ureddk@msb.gov.ba |
| First Assistance and Protection | Office of the National Anti-Trafficking Coordinator; Sarajevo | Office of State coordinator for combating trafficking and illegal migration in BIH<br>Address: Greece and Bosnia and Herzegovina friendship Building<br>12th floor; Office nr 1224<br>Trg BIH 1, 71000 Sarajevo<br>Tel/fax: +387 33 492 454<br>+ 387 33 710 531<br>E-mail: ureddk@msb.gov.ba |
| Longer-Term Assistance and Social Inclusion | Office of the National Anti-Trafficking Coordinator; Sarajevo | Office of State coordinator for combating trafficking and illegal migration in BIH<br>Address: Greece and Bosnia and Herzegovina friendship Building<br>12th floor; Office nr 1224<br>Trg BIH 1, 71000 Sarajevo<br>Tel/fax: +387 33 492 454<br>+ 387 33 710 531<br>E-mail: ureddk@msb.gov.ba |
| Return | Office of the National Anti-Trafficking Coordinator; Sarajevo | Office of State coordinator for combating trafficking and illegal migration in BIH<br>Address: Greece and Bosnia and Herzegovina friendship Building<br>12th floor; Office nr 1224<br>Trg BIH 1, 71000 Sarajevo<br>Tel/fax: +387 33 492 454<br>+ 387 33 710 531<br>E-mail: ureddk@msb.gov.ba |

| | | |
|---|---|---|
| Criminal and Civil Proceedings | Office of the National Anti-Trafficking Coordinator; Sarajevo | Office of State coordinator for combating trafficking and illegal migration in BIH<br>Address: Greece and Bosnia and Herzegovina friendship Building<br>12th floor; Office nr 1224<br>Trg BIH 1, 71000 Sarajevo<br>Tel/fax: +387 33 492 454<br>+ 387 33 710 531<br>E-mail: ureddk@msb.gov.ba |

| **Bulgaria** | | |
|---|---|---|
| **TRM Measures** | **Responsible Body** | **Contact Details** |
| Identification | National Commission for Combating Trafficking in Human Beings; Sofia | Address: Blvd. "G.M.Dimitrov" 52A, 1 floor, 1797 Sofia<br>Tel: +359 2 807 8050<br>+359 2 807 8052<br>Fax:+359 2 807 8059<br>E-mail: office@antitraffic.government.bg |
| | Sector "Trafficking in Human Beings"; Directorate "Combating organised and serious crime"; | Address: 133 Tsarigradsko shose Blvd, Sofia 1784<br>Tel:+359 2 982 8038<br>Fax:+359 2 988 5902<br>E-mail: 170@mvr.bg |
| | Chief Directorate "Criminal police"; Ministry of Interior; Sofia | Address: 1 Aleksander Malinov Blvd, Sofia 1715<br>Email: gdkp@mvr.bg |
| | International Organization for Migration (IOM); Sofia | Address: 145-B Knyaz Boris I St., Sofia 1000<br>Tel:+359 2 93 94 774<br>E-mail: iomsofia@iom.int |
| First Assistance and Protection<br><br>Longer-Term Assistance and Social Inclusion | National Commission for Combating Trafficking in Human Beings; Sofia | Address: Blvd. "G.M.Dimitrov" 52A, 1 floor, 1797 Sofia<br>Tel: +359 2 807 8050<br>+359 2 8078052<br>Fax:+359 2 807 8059<br>E-mail: office@antitraffic.government.bg |

| | | |
|---|---|---|
| | NGO Animus Association; Sofia | Address: "Ekzarh Yossif" St. 85, 1000 Sofia<br>Tel/fax: +359 2 983 5205<br>+359 2 983 5305<br>+359 2 983 5405<br>Hotline: +359 2 981 7686<br>E-mail: animus@animusassociation.org |
| | International Organization for Migration (IOM); Sofia | Address: 145-B Knyaz Boris I St., Sofia 1000<br>Tel:+359 2 93 94 774<br>E-mail: iomsofia@iom.int |
| Return | National Commission for Combating Trafficking in Human Beings; Sofia | Address: Blvd. "G.M.Dimitrov" 52A, 1 floor, 1797 Sofia<br>Tel: +359 2 807 8050<br>+359 2 807 8052<br>Fax:+359 2 807 8059<br>E-mail: office@antitraffic.government.bg |
| | Sector "Trafficking in Human Beings"; Directorate "Combating organised and serious crime"; | Address: 133 Tsarigradsko shose Blvd, Sofia 1784<br>Tel:+359 2 982 8038<br>Fax:+359 2 988 5902<br>E-mail: 170@mvr.bg |
| | Chief Directorate "Criminal police"; Ministry of Interior; Sofia | Address: 1 Aleksander Malinov Blvd, Sofia 1715<br>Email: gdkp@mvr.bg |
| | International Organization for Migration (IOM); Sofia | Address: 145-B Knyaz Boris I str, Sofia 1000<br>Tel:+359 2 93 94 774<br>E-mail: iomsofia@iom.int |
| Civil Proceedings | National Commission for Combating Trafficking in Human Beings; Sofia | Address: Blvd. "G.M.Dimitrov" 52A, 1 floor,1797 Sofia<br>Tel: +359 2 807 8050<br>+359 2 807 8052<br>Fax:+359 2 807 8059<br>E-mail: office@antitraffic.government.bg |

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|---|---|---|
| | Supreme Cassation Prosecutor's Office; Sofia | Address: 2,"Vitosha" Blvd, 040 Sofia<br>Tel: +359 2 9219 235<br>Fax: +359 2 9219 452 |

| Croatia | | |
|---|---|---|
| **TRM Measures** | **Responsible Body** | **Contact Details** |
| Identification | Organized Crime Unit; Ministry of Interior; Zagreb | Ms. Katrin Gluić<br>Tel: + 385 99 73 202 42<br>E-mail: kgluic@mup.hr |
| First Assistance and Protection | Mobile teams; Croatian Red Cross; Zagreb | Ms. Selma Golubović, Tel: + 385 99 3114 862<br>E-mail: selma.golubovic@hck.hr |
| Longer-Term Assistance and Social Inclusion | Operational Team; Office For Human Rights (National Coordinator's Office); Zagreb | Ms. Maja Bukša;<br>Secretary of National Committee for Combating THB<br>Tel: + 385 1 48 77 660<br>Fax: +385 1 48 13 430<br>E-mail: mbuksa@ljudskaprava- vladarh.hr |
| Return | Illegal Migration Unit; Ministry of Interior; Zagreb | Ms. Lidija Pentavec<br>Tel: + 385 1 3788 559<br>Fax:+385 1 37 88 158<br>E-mail: lpentavec@mup.hr |
| Criminal and Civil Proceedings | Croatian State Attorney Office; Zagreb | Mrs. Marinka Orlić<br>Deputy of Head State Attorney<br>Tel: + 385 1 4591 951;<br>E-mail: marinka.orlic@dorh.hr |

| Kosovo* | | |
|---|---|---|
| **TRM Measures** | **Responsible Body** | **Contact Details** |
| Identification | Directorate for Investigation of Trafficking in Human Beings, Kosovo Police; Ministry of Interior; Pristina | Mr. Arben PACARIZI<br>Director of Directorate for Investigation of THB<br>Tel:+377 44 506 093<br>E-mail:arben.pacarizi@kosovopolice.com |

| | | |
|---|---|---|
| | | Mr. Ramadan AHMETI<br>Chief of Central Unit THB<br>Tel:+377 44 506 097<br>E-mail:shtqnj@gmail.com<br><br>Ms. Sevdije EMINI<br>Chief of THB Victim's Asisstance Unit<br>Tel:+377 44 505 628<br>E-mail:sevdije.emini@kosovopolice.com |
| | State Prosecutor's Office | Ms. Shenaj BERISHA<br>Victims Advocate Coordinator<br>Tel: +377 44 345 356<br>E-mail: shenaj.berisha@rks-gov.net |
| First Assistance and Protection | PVPT – Centre for protection of Victims of Trafficking in Human Beings; Pristina | Ms. Hamijet Dedolli<br>Executive Director<br>Tel:+377 44 167 395<br>E- mail: Hamijet_dedolli@yahoo.com |
| | State Prosecutor's Office | Ms. Shenaj BERISHA<br>Victims Advocate Coordinator<br>Tel: +377 44 345 356<br>E-mail: shenaj.berisha@rks-gov.net |
| | Anti Trafficking Police Directorate; Ministry of Interior; Pristina | Ms. Sevdije EMINI<br>Cheif of THB Victim's Asisstance Unit<br>Tel:+377 44 505 628<br>E-mail:sevdije.emini@kosovopolice.com |
| | Hope and Homes for Children Shelter, Pristina | Ms.Valbona Çitaku<br>Executive Director<br>Tel: +377 44 200 353<br>Fax: +381 38 517 848<br>E-mail: sdsf_ks@yahoo.com; vqitaku@yahoo.com |
| Longer-Term Assistance and Social Inclusion | PVPT -Centre for protection of Victims of Trafficking in Human Beings; Pristina | Ms. Hamijet Dedolli Executive Director<br>Tel:+377 44 167 395<br>E- mail: Hamijet_dedolli@yahoo.com |
| | Ministry of Labor and Social Welfare, Pristina | Ms. Valbona Jaha<br>ISF Manager<br>E-mail:vali3210@gmail.com |

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|---|---|---|
| | Hope and Homes for Children Shelter | Ms.Valbona Çitaku<br>Executive Director<br>Tel: +377 44 200 353<br>Fax: +381 38 517 848<br>E-mail: sdsf_ks@yahoo.com; vqitaku@yahoo.com |
| Return | Directorate for Investigation of Trafficking in Human Beings, Kosovo Police; Ministry of Interior; Pristina | Mr. Arben PACARIZI<br>Director of Directorate for Investigation of THB<br>Tel:+377 44 506 093<br>E-mail:arben.pacarizi@kosovopolice.com |
| | Migration Directorate Kosovo Police Ministry of Interior, Pristina | Mr. Refki Morina<br>Director of Migration Directorate<br>Tel: +377 44 158 408<br>E-mail: refki.morina@kosovopolice.com |
| | Department for Social Welfare, Ministry of Labor and Social Welfare; Pristina | Mr. Bajram Kelmendi,<br>Head of Social Department<br>Tel: +377 44 11 8664<br>E-mail:bajram.kelmendi@rks-gov.net |
| Criminal and Civil Proceedings | Directorate for Investigation of Trafficking in Human Beings, Kosovo Police; Ministry of Interior; Pristina | Mr. Arben PACARIZI<br>Director of Directorate for Investigation of THB<br>Tel:+377 44 506 093<br>E-mail:arben.pacarizi@kosovopolice.com |
| | State Public Prosecutor Office; Pristina | Mr. Besim Kelmendi<br>Tel: + 377 44 666 913<br>E-mail: Besim.Kelmendi@rks-psh.org |

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

| Macedonia | | |
|---|---|---|
| **TRM Measures** | **Responsible Body** | **Contact Details** |
| Identification | Sector for Trafficking in Human Beings and Illegal Migration; Ministry of Internal affairs; Skopje | Mr. Sande Kitanov<br>Head of the Sector<br>Address: Dimce Mircev bb, 1000 Skopje<br>Tel: +389 2 3116280<br>Fax: +389 2 3142201<br>Mob: +38970323497<br>E-mail: sande_kitanov@moi.gov.mk |
| | Office of the National Referral Mechanism; Ministry of Labour and Social Policy; Skopje | Ms. Elena Grozdanova<br>State Councillor<br>Address: Dame Gruev 14, 1000 Skopje<br>Tel: +389 2 3106 558<br>Mob:+389 70 311 726<br>E-mail: egrozdanova@mtsp.gov.mk<br><br>Ms. Svetlana Cvetkovska<br>NRM Coordinator<br>Address: Dame Gruev 14, 1000 Skopje<br>Tel: +389 2 3129308<br>Mob: +38970498113<br>E-mail: scvetkovska@mtsp.gov.mk; nmuofficemk@yahoo.com |
| First Assistance and Protection | NGO Open Gate; Skopje | Ms. Maja Varoslija<br>Tel/fax:+389(0)2700107<br>E-mail: mvaroslija@lastrada.org.mk; lastrada@lastrada.org.mk |
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* (National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking in Human Beings)

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**The Way Forward in Establishing Effective Transnational Referral Mechanisms**

A Report Based on Experiences in Cases of Human Trafficking in South-Eastern Europe

Trafficking in human beings is a crime that requires a coherent transnational response in order to be tackled effectively. It is evident that transnational cooperation is a fundamental component of any successful strategy to prevent and fight human trafficking as well as to protect trafficked persons.

The report "*The Way Forward in Establishing Effective Transnational Referral Mechanisms. A Report Based on Experiences in Cases of Human Trafficking in South-Eastern Europe*", drafted in the framework of the project *Enhancing Transnational Cooperation on Trafficking Cases in South-Eastern Europe (TRM-II)*, concludes the work under the TRM programme (2006-2012). It elaborates on the concept of Transnational Referral Mechanisms (TRM), their development and applicability. It offers a detailed description of what the TRM is. The report further provides a solid background for national stakeholders from countries that have a TRM in place, and serves as an introduction to the TRM concept for all those that in the process of implementing it.

The report also contains an overview of the forms and tools for transnational cooperation used in cases of human trafficking. Notwithstanding its primary geographical scope, the report serves as a useful tool to all countries that have embarked on developing a transnational referral mechanism, or are considering doing so in the future. Practical advice on how to design and implement a functioning TRM can be found in the many recommendations that this report brings forward. In addition to introducing the main legislative framework currently existing in South-Eastern Europe, this report also provides an analysis of the opinions of a large number of professionals from the field both at the policy making and operational level, thus allowing the reader to identify themselves with their counterparts and relate to the lessons learned and practical observations. The reader will find valuable recommendations that could improve their own work in this field.

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