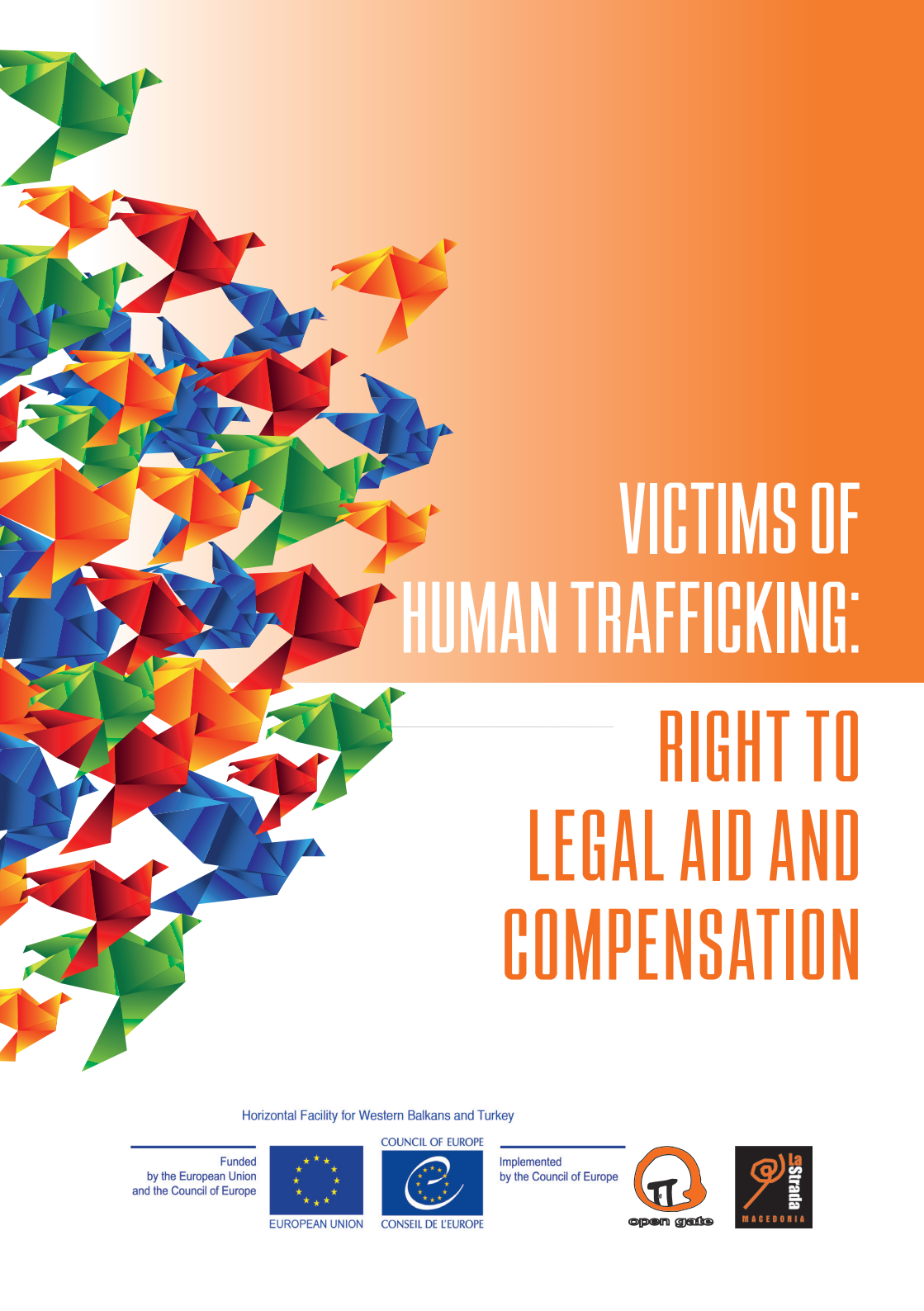




VICTIMS OF HUMAN TRAFFICKING:

RIGHT TO LEGAL AID AND COMPENSATION

Horizontal Facility for Western Balkans and Turkey

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

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FREE LEGAL AID

Trafficking in human beings is widely recognised as a serious criminal offence and a human rights violation, under both international and domestic law. Human trafficking is a form of modern-day slavery. This crime occurs when a trafficker uses, for example, force, fraud or coercion to control another person for the purpose of, for example, engaging in commercial sex acts or soliciting labour or service. Human trafficking can include, but does not require, movement. People may be considered trafficking victims regardless of whether they were exploited in their home town, were transported to the exploitative situation, previously agreed to work for a trafficker, participated in a crime as a direct result of being trafficked, or the exploitation has taken place. A child is considered to be a victim of human trafficking regardless of whether any means (force, fraud, abuse of position of vulnerability etc.) have been used to recruit the child for the purpose of exploitation.

"Ana was lured in to a trafficking chain through a false promise for work in a restaurant. She was sexually exploited for one year without a chance to escape from the traffickers. Ana was rescued in a raid by the Police. She was involved in a social assistance program, accommodated in a safe space, provided with psychosocial and medical support. She participated in the court proceedings as a damaged party/witness. She was provided with free legal aid by a lawyer who represented her in court and claimed compensation for her sufferings. At the end of the court proceedings, the traffickers were sentenced and Ana's claim for compensation amounting to 6,500 Euro was approved by the court."

AS A VICTIM OF HUMAN TRAFFICKING, YOU ARE ENTITLED TO THE FOLLOWING RIGHTS LINKED TO INVESTIGATIONS AND COURT PROCEEDINGS":

- access to free legal aid, as a victim, an injured party or a witness;
- protection and information from the police, the prosecutor's office, and the judiciary about your rights and obligations, which is noted in writing;
- information about your rights in judicial proceedings;
- right to a period for decision-making;
- right to seek compensation for inflicted injuries;
- right to a guardian if you are a child victim;
- right to an interpreter if you are a foreigner and you do not understand the language;
- right to a temporary residence permit;
- right to seek asylum;
- right to privacy and safety;
- other rights aimed to ensure your mental and physical well-being.

FREE LEGAL AID

- You are included in programmes for protection of victims of human trafficking implemented by NGOs, for which you should refer to the police, the Ministry of Labour and Social Policy - National Referral Mechanism (NRM), the Centre for Social Work, or to the NGO Open Gate.
- You request it through the regional departments of the Ministry of Justice or through authorised associations of citizens (see at the end of the brochure), through which a lawyer will be assigned to you.
- The lawyer will explain to you the procedure for protection of your rights. The lawyer should listen to your story in detail, since he/she will represent you before the competent bodies, he/she will inform you about the course of the procedure and advocate for your interests.

COMPENSATION

Victims of human trafficking suffer gross violations of their human rights. In addition to severe physical and psychological trauma, you may suffer economic loss as a result of the crimes committed against you through loss of wages or property. As a victim of trafficking **you have the right to request fair compensation from the perpetrator of the criminal act for material and non-material damages**

- **Material damage** - includes all the costs of medical treatment and medical examination, transportation, damage to your property and lost earnings (if you have not been able to earn or you lose income from other activities).
- **Non-material damage** - includes suffered physical and mental pain, fear, severe disability, reduced working capacity (future non-pecuniary damage).

IN CRIMINAL AND CIVIL PROCEEDINGS:

CRIMINAL PROCEEDINGS AGAINST THE PERPETRATOR OF HUMAN TRAFFICKING

The proceedings serve to collect solid evidence for the criminal prosecution and punishment of the perpetrators of human trafficking crimes. You have the right yourself or through your lawyer to:

- Request the undertaking of certain activities during the investigation and trial in order to exercise your rights;
- Attend the trial, propose evidence, tell your story and ask for compensation;
- Request to be protected from the public, media and perpetrator(s). You have the right to privacy and safety as a victim of human trafficking.

IF YOU ARE A CHILD VICTIM (UNDER 18 YEARS OF AGE):

- You will be included in the Witness Protection Programme after your parent/guardian has given written consent and you will receive free legal aid and protection;
- The police will protect you and your family from further harassment and suffering;
- The competent authorities must treat you

with special care and your privacy shall be protected;

- You will receive the necessary aid and support from the Centre for Social Work and NGOs;
- You and your parents/guardians will be informed about the criminal prosecution and proceedings and you may participate as an injured party or exercise your right to compensation.

CIVIL PROCEEDINGS

The lawsuit for material and non-material damages may be submitted in person or through an authorised proxy. After the main trial which you are entitled to attend, the court will make a decision to adjudge compensation, if the request is well explained and supported with documents and facts. If the court fails to adjudge compensation, or if it is not sufficient, you are entitled to appeal to the Appellate Court within 15 days, through authorised lawyer.

EXECUTIVE PROCEDURE

After you have received the final (criminal or civil) judgment with the amount for compensation, you may collect the adjudicated property legal claim.

- If you are above the age of 18, personally or aided by a legal representative, you may engage the executor who will collect the adjudicated damage from the perpetrator(s).
- If you are under 18, your parent, guardian or assigned lawyer will initiate a procedure before the executor in order to establish the property of the sentenced persons. If the perpetrator(s) do not have (sufficient) property or means out of which damage can be collected, a request for verification of the grounds for damage is filed to the competent court. After the court has issued decision, there is a possibility for the Ministry of Justice to approve payment of the damage.

TO PROTECT YOUR RIGHTS

You can also submit an application to the European Court of Human Rights if every other means are exhausted within the domestic legal system.

CONTACTS OF RELEVANT INSTITUTIONS AND ORGANISATIONS FOR PROVIDING ASSISTANCE TO VICTIMS OF HUMAN TRAFFICKING:

- **The Ministry of Labour and Social Policy - National Referral Mechanism,**
Phone: 2 310 6443,
mob.: 076 456 795; 075 311 726
- **Police: 192**
- **Association for Action Against Violence and Trafficking in Human Beings – Open Gate,**
Toll-free SOS line:
0800 11 111; 02 27 00 107;
www.lastrada.org.mk;
e-mail: lastrada@lastrada.org.mk
- **Ombudsman,**
ul. Makedonija br. 19,
Phone: 02 312 9335; 02 312 9359;
e-mail: contact@ombudsman.mk
Website:
<http://pristapdopravda.mk/bpp/>

LIST OF ORGANISATIONS AUTHORISED TO PROVIDE FREE LEGAL AID

- **“Macedonian Young Lawyers Association” – Skopje**
ul. Donbas no. 14 1/6, Skopje
Contact person: Elena Georgievska
Phone: 02/3220-870
E-mail: contact@myla.org.mk;
www.myla.org.mk
- **“National Roma Centrum” – Kumanovo**
ul. Done Bozhinov no. 11/5, Kumanovo
Contact person: Oliver Mitov, LL.B.
Phone: 031/427-558
E-mail: info@nationalromacentrum.org
web: www.nationalromacentrum.org
- **“Educational Humanitarian Organisation EHO” – Shtip**
ul. Hristijan T. Karpos no. 6/4, Shtip
Contact person: Blagica Kirov, LL.B.
Phone: 032/384-143
E-mail: ed_hum_eho@yahoo.com
web: www.eho-org.mk

ABOUT OPEN GATE

The Association for Action Against Violence and Trafficking in Human Beings – Open Gate/La Strada is a national non-governmental organisation, fully committed to combating human trafficking. Since its establishment in 2000, Open Gate has comprehensively treated the problem of the human trafficking and actively participated in building policies and strategies with a purpose of reducing the number of victims of human trafficking and ensuring better treatment of trafficked people. Open Gate manages a shelter where the victims of human trafficking are taken care of and provides services for successful reintegration; provides information about the problem of human trafficking and manners for prevention via the SOS telephone line that is toll-free for local calls.

This brochure is not intended as legal advice and does not substitute for seeking legal advice.

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