



G R E T A

Group of Experts on Action
against Trafficking in Human Beings

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Reply from North Macedonia to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties

Third evaluation round

Thematic focus: Access to justice and effective remedies for
victims of trafficking in human beings

Reply submitted on 1 October 2021

Part I - Access to justice and effective remedies

1. Right to information (Articles 12 and 15)

1.1 How, at what stage and by whom are presumed victims and victims of THB informed of their rights, the relevant judicial and administrative proceedings, and the legal possibilities for obtaining compensation and other remedies, in a language that they can understand? Please provide copies of any information materials developed to inform victims of THB, including any materials specifically developed for child victims, in the languages in which they exist.

The national legislation, i.e. **the Law on Free Assistance**¹ from 2019, provides for primary legal assistance to the victim, which includes legal counseling and informing the victims about their rights. The provider of primary legal assistance may be an authorized official of the Ministry of Justice, the authorized association and the legal clinic. These primary legal assistance providers provide information to potential victims about their rights during criminal proceedings and about the right to compensation. Additionally, this primary legal assistance is provided to victims through the participation of NGO representatives in mobile teams to identify vulnerable categories, including VTHBs present in the field and legal counseling takes place at an early stage, i.e. during their Identification.

In addition, Article 122 of the **Law on Foreigners**² stipulates that during the period of recovery and reflection, the victim of trafficking has the right, in addition to other guaranteed rights, to translation and interpretation of advice and information on their legal rights, as well as legal assistance during criminal or other procedure in which a victim of trafficking exercises his or her rights under the law.

The Standard Operating Procedures (SOPs) for dealing with victims of trafficking (2018) regulate procedures and manners of providing assistance and protection to all victims of trafficking (whether domestic or foreign nationals with legal or illegal entry In the country), through a comprehensive approach based on human rights and victim-oriented approach in the form of institutionalized frameworks of cooperation. The above SOPs stipulate obligations for the competent officials to provide initial information as soon as possible. Relevant information should also be available in written form and translated into a language understandable to the potential victim if he or she is a foreign national.

Acting upon the above guidelines, police officers from the Unit for Trafficking in Human Beings and Migrant Smuggling (ETLKM / NESKMTL) during the first contact with the potential victim verbally inform her/his about her/his rights in a language she/he understands. After being placed in the appropriate shelter for protection of the VTHB, the victim is again instructed about his/her rights by the police officers from the ETLKM / NESKMTL, but also by a person employed in the shelter who is trained to work with the victims in the process of providing assistance and support.

For potential THB victims and THB victims (migrants), legal advice is provided by representatives of the mobile teams in Gevgelija and Kumanovo, which are close to both transit centers (Tabanovce and Vinograd), and a translator in a language they understand is also provided. The foreign victims are informed about the period of reflection and rest, the possibility to apply for asylum, the possibilities and the procedure for their return to the country of which they are citizens or in which they had legal residence before their entry into the territory of the Republic of North Macedonia, as well as the conditions for issuance of a temporary residence permit in the Republic of North Macedonia.

Within a project implemented in partnership of MYLA with GIZ, 3 bilingual videos in Macedonian and Albanian language were made to raise awareness about cybertrafficking and how to report information, posted on

¹ Law on Free Legal Assistance, Official Gazette of the Republic of North Macedonia, No. 101/2019 (LFLA 2019)

² (Official Gazette of the Republic of North Macedonia, No. 97 from 28.05.2018)

youtube, facebook and instagram, while in the second phase 2 there were trilingual videos in Macedonian, Albanian and Roma language for seasonal work, posted on the same media and advertised on TV. Additionally, two educational videos were made within the project implemented by MYLA in partnership with the EU and the Council of Europe, which aimed to raise awareness about the risks of human trafficking and abuse of children with disabilities. Except on social networks, all videos are available at: <https://www.youtube.com/channel/UCtubQoGuPkK1PgMzEunZ9UQ>, as well as at <https://kazistop.mk/>. A handbook for seasonal work was prepared from informative materials, where there is information on exploitation and how to report it. <https://kazistop.mk/wp-content/uploads/2021/04/MZMP-Priracnik-za-sezonski-rabotnici-vnatre-korici-za-web.pdf>. Within a project implemented by MYLA in cooperation with the EU, several informative materials were prepared in Macedonian, Albanian, Turkish and Roma language on the rights of victims of violent crimes, but also on the services offered by the project itself.

The materials were promoted at social media

https://www.facebook.com/%D0%9F%D1%80%D0%B0%D0%B2%D0%BD%D0%B0-%D0%BF%D0%BE%D0%B4%D0%B4%D1%80%D1%88%D0%BA%D0%B0-%D0%BD%D0%B0-%D1%80%D0%B0%D0%BD%D0%BB%D0%B8%D0%B2%D0%B8-%D0%B6%D1%80%D1%82%D0%B2%D0%B8-%D0%BD%D0%B0-%D0%BD%D0%B0%D1%81%D0%B8%D0%BB%D0%BD%D0%B8-%D0%BA%D1%80%D0%B8%D0%B2%D0%B8%D1%87%D0%BD%D0%B8-%D0%B4%D0%B5%D0%BB%D0%B0-107498294076302/photos/?ref=page_internal.

1.2 How is the obligation to provide translation and interpretation services, when appropriate, met at different stages of the legal and administrative proceedings by different agencies?

The rights of victims set out in the Law on Foreigners and other national regulations in reference to translation and interpretation, along with the procedure how to provide them are elaborated in the **Standard Operating Procedures for Dealing with Victims of Trafficking**. The basic principle is to provide adequate translation for potential victims who do not have proper knowledge of the language of communication with the authorities. Before starting the identification process, it should be determined whether a translator is needed and if necessary a translation should be provided. The translation is done by certified court translators or interpreters (for a person who knows the sign language); Police Officers from the Ministry of Interior and competent officials from the CSR at the MLSP. In cases where there is a need to hire translators who are not certified court interpreters, careful selection should be made, and this should not pose an additional risk to the safety of the potential victim. People who have been caught with the potential victim should not be used as translators - even when they claim to be friends of the victim, family members, etc. The translator signs a statement of accuracy and confidentiality of the information received. In some emergency/urgent cases, professionals from the MLSP and police officers from the Ministry of Interior are used for translation. Regarding the method of translation, it should be determined whether the potential victim is able to speak the language well enough and to communicate effectively and clearly. A potential victim who does not accept an interpreter, signs a statement that he or she understands the language and that there is no need for translation. A child who does not understand the language is provided with an interpreter, and if he/she understands the language, a statement is signed by the parent/guardian. Prior to the interview, the potential victim must be informed of the role of the interpreter, the duties and responsibilities of the interpreter, and their right and opportunity to revoke from the designated interpreter at any time. The interpreter should be informed in advance about the nature of the conversation, and it is best to have previous experience or to be trained to work with highly vulnerable categories of people. The translator is clearly informed of his/her duties and responsibilities during and after the interview. At the same time, the criteria for selecting an interpreter are defined: not to know the potential victim beforehand; not come from the same place of residence or from the place where the potential victim was found; not be a person representing the country of origin of the potential victim.

In cases where the need for translation is detected, ETLKM/NESKMTL police officers seek support from Citizens' Associations (La Strada - Open Gate or Young Lawyers of Macedonia) or international organizations (such as IOM), which either provide a translator or fund his engagement.

2. Legal assistance and free legal assistance (Article 15)

2.1 How, by whom and from what moment is legal assistance provided to victims of trafficking? How is legal assistance provided to children?

The Law on Free Assistance (LFLA)³ provides for two types of free legal assistance - primary and secondary legal assistance.

Primary legal assistance for the victim includes legal counseling and informing the victims of their rights at the earliest stage when there is a suspicion that they are a victim of trafficking. Such legal assistance is provided at the stage when they are treated as potential victims in order to be provided with appropriate rights, procedural opportunities, to be provided with support, assistance and protection at the stage of identification when the victim is most vulnerable. Primary legal assistance is provided by an authorized official of the Ministry, an authorized association and a legal clinic.

The primary legal assistance includes: initial legal advice on the right to use free legal assistance, general legal information, general legal advice, assistance in completing the application for secondary legal assistance, assistance in completing forms, forms issued by an administrative body in an administrative procedure for social protection and protection of children's rights; pension, disability and health insurance; protection of victims of gender-based violence and domestic violence; procedure for registration in the birth register; obtaining documents for personal identification and citizenship, compiling complaints to the Commission for Protection against Discrimination and the Ombudsman and requests for protection of freedoms and rights before the Constitutional Court of the Republic of North Macedonia.

Secondary legal assistance includes representation in court proceedings, a state body, the Pension and Disability Insurance Fund, the Health Insurance Fund and persons exercising public authority. Secondary legal assistance means representation by a lawyer before one of the listed bodies and it is provided by lawyers upon an approved request for secondary legal assistance.

With regard to secondary legal assistance and the right to free lawyer, unlike the LFLA 2009 which provided for legal assistance in all court and administrative proceedings, the LFLA 2019 excludes criminal proceedings and provides for secondary legal assistance for representation at all levels in civil court proceedings, administrative proceedings and administrative disputes⁴. Thus, the question of a lawyer who will represent the rights of the victim of human trafficking is left to be regulated by the Law on Criminal Procedure.

With regard to children who are **THB victims**, the legislator clearly prescribed that the provisions of the secondary legal assistance procedure do not apply, they are not regulated by the Law on Free Legal Assistance, but the provisions of the Law on Juvenile Justice, the Law on Criminal Procedure and the Law on Witness Protection. Legal assistance for children is provided through the appointed guardian, but if necessary and in consultation with the guardian, the child can be interviewed depending on the situation.

In the police and criminal procedure, the child victim of a crime has the right: to legal assistance from a lawyer before giving a statement, ie statement or submission of a property claim, ie to a proxy from taking the first statement, as well as during the entire procedure. Special attention is given to the quality of legal assistance

³ Law on Free Legal Assistance, Official Gazette of the Republic of North Macedonia, No. 101/2019 (LFLA 2019)

⁴ Ibid, Article 14, scope of secondary legal assistance

that every child victim needs to receive, and the law provides for legal assistance to a child victim to be provided by a lawyer who has attended specialized training on children's rights⁵.

Legal assistance is provided at the time of identification, usually by a trained legal representative from the ranks of a citizens' association for legal advice, and representation in court proceedings. Legal advice is also provided by the Centers for Social Work depending on the individual needs of the victims regarding the realization of the rights in the field of social protection.

2.2 Do all presumed victims of THB have access to legal assistance, irrespective of immigration status or type of exploitation?

According to Article 122 of the Law on Foreigners⁶, during the period of recovery and reflection, the victim has the right to adequate and safe accommodation; medical and psychological-social assistance; material assistance; translation and interpretation of advice and information on their legal rights, as well as legal assistance during criminal or other proceedings in which the victim of trafficking is exercising his or her rights.

At the same time, the victim of trafficking is informed in a language he or she can understand about the right to education, the relevant court or administrative proceedings, as well as the exercise of the right to asylum, the possibilities and the procedure for their return to the country of which they are nationals or in which they had legal residence before their entry into the territory of the Republic of North Macedonia, as well as the conditions for issuing a temporary residence permit in the Republic of North Macedonia.

These rights apply to all victims of trafficking, regardless of the type of exploitation. It is also important to note that the victim while in the period of reflection and during the stay, cannot be exiled from North Macedonia, which guarantees the principle of non-return for the victim. The rights guaranteed in the law are developed with SOP, which is based on the principle that all entities involved in the SOP implementation process, who have come into contact with a potential victim of trafficking or victim of trafficking should act in accordance with the principle of non-discrimination on the grounds of sex, age, social status, race, religion, political belief or any other difference.

The Law on Free Legal Assistance⁷ provides legal assistance for persons who have a residence or stay on the territory of the Republic of North Macedonia. Right to submit a request for secondary legal assistance has: a citizen of Republic of North Macedonia with permanent residence in the Republic of North Macedonia, a foreign citizen with a temporary or permanent residence permit or a stateless person legally residing in the Republic of North Macedonia, a person entitled to legal assistance provided by the Republic of North Macedonia in accordance with international agreements ratified in accordance with the Constitution of the Republic of North Macedonia and asylum seekers. Therefore, it is positive thing that foreigners are covered by the Law on Free Legal Assistance, but only after regulating their stay upon grounds of humanitarian protection.

2.3 What are the conditions for access to free legal assistance for victims of THB, including children? For which types of proceedings is free legal assistance available? Is free legal assistance available to help victims claim compensation and execute compensation orders? Please provide the text of the relevant provisions.

⁵ Law on Children Justice, Article 145.

⁶ Law on Foreigners, Official Gazette of the Republic of North Macedonia, No. 97/2019, Article 122

⁷ Law on Free Legal Assistance, Official Gazette of the Republic of North Macedonia, No. 101/2019 (LFLA 2019), Article 5 (primary) and Article 15 (secondary legal assistance)

The LFLA does not specify special conditions for access of victims of trafficking to free legal assistance, which means that the general rules set out in the law will apply to them. We would like to point out that according to Article 13 of the LFLA, secondary legal assistance is granted to a person who needs professional legal assistance from a lawyer for a specific legal work and who is unable to pay the costs of the proceedings due to his financial situation and whose request is justified. The applicant for secondary legal assistance, in accordance with Article 17 of the LFLA, has the right to receive secondary legal assistance if due to his/her financial situation he/she can not exercise the rights guaranteed by the Constitution of the Republic of North Macedonia and the law, without endangering his/her family with whom he/she lives in a joint household. Given that the basic condition for all other persons is their property status, the same will apply to the victim of trafficking, meaning that the victim should be in poorer financial condition to be able to obtain free legal assistance.

Regarding the procedures for free legal assistance, LFLA 2019 provides for two types of legal assistance, primary legal assistance and secondary legal assistance received by a lawyer.

Primary legal assistance - According to the LFLA of 2019, legal assistance is provided by an authorized official of the MoJ, the authorized association or the legal clinic. It can also be provided by mobile teams the members of which are representatives from the non-governmental sector.

Secondary legal assistance - Regarding the secondary legal assistance and the right to a free lawyer, unlike the LFLA 2009 which provided legal assistance in all court and administrative proceedings, the LFLA 2019 excludes criminal proceedings and provides secondary legal assistance for representation at all levels in civil court proceedings, administrative proceedings and administrative disputes⁸. For victims of trafficking, the law stipulates that a lawyer may be appointed in civil proceedings seeking compensation of damages. Article 22 stipulates that a request for secondary legal assistance will be rejected if it concerns compensation for non-pecuniary damage, except in cases of victims of crime⁹.

Pursuant to Article 49 of the Law on FLA, on the day of commencement of the application of this Law, the Law on Free Legal Assistance ('Official Gazette of the Republic of Macedonia' No. 161/2009, 185/11, 27/14 and 104/15) ceases to be valid, except for Article 8¹⁰ in the part which refers to the protection of victims of criminal offenses and protection of victims of trafficking in human beings.

The intention of the legislator is not to leave the victims of THB without legal protection, but given the completely different concepts of free legal assistance regulated in the LFLA 2019 and LFLA 2009, open issues arise in reference to the implementation of these provisions in practice.

Only if the victim submits a criminal verdict which shows that he/she has the right to a claim for compensation damages, a lawyer shall be allowed to represent him/her in a civil dispute to determine the compensation of damages. This is a general rule for everyone, without excluding only the victims of trafficking.

2.4 Are there lawyers specialised to provide legal aid and represent victims of THB in court? What regulations, if any, are applicable to the provision of such legal aid/representation?

Standard operating procedures for dealing with victims of trafficking impose the need for trained persons to provide legal assistance to victims.

There are trained lawyers in the country to represent victims of human trafficking. However, in the register of the Ministry of Justice, the providers of free legal assistance are not grouped by specialties.

⁸ LFLA 2019, Article 14 scope of secondary legal assistance

⁹ LFLA 2019, Article 22

¹⁰ LFLA 2009, Article 8 (1) The request for legal assistance pursuant to the provisions of this Law shall be approved in all court and administrative proceedings if it addresses an issue of interest for the applicant for free legal assistance. (2) The issues in the sense of paragraph (1) of the present Article shall be: rights in the area of social, medical, pension or invalid insurance, labor relations, protection of children and minors, victims of domestic violence, protection of victims of punishable acts, protection of victims of trafficking in human beings and property-legal issues.

2.5 How is the provision of legal assistance and free legal assistance for victims of THB funded? Do victims have to pay a fee to obtain legal assistance or start a procedure, or are there other financial barriers in place? If yes, please specify the amount(s).

Free legal assistance is legal assistance approved and financed by the state in a manner and under conditions provided by the LFLA. Primary legal assistance is funded by the state and primary legal assistance providers receive a certain fee for the legal assistance provided. Secondary legal assistance is also funded by the state, but does not cover criminal proceedings. If the victim receives a power of attorney at the expense of the budget in accordance with the provisions of the Law on Criminal Procedure, it is covered by the state budget.

Victims of trafficking are exempt from fees and charges in respect of legal assistance they are entitled to. Furthermore, the victim has the right to submit a request for exemption from court fees, where the first instance court will decide whether the request will be accepted depending on the financial situation of the applicant and the court also considers that it is a victim of human trafficking.

3. Compensation from the perpetrators (Article 15)

3.1 What measures are in place to enable courts to award compensation to victims of THB, including children, from the perpetrators as part of criminal proceedings? What is the role of prosecutors in this respect?

The Law on Criminal Procedure stipulates that the victim has the right to receive compensation or indemnification from the perpetrators of the crime, more precisely, the right to compensation for material and non-pecuniary damage by convicted perpetrators of human trafficking, which can be realized in criminal proceedings initiated for the crime of 'trafficking in human beings', as well as in civil proceedings for compensation of damages. According to the Law on Criminal Procedure (consolidated version with the Official Gazette 198/2018), victims of trafficking can exercise their right to compensation by filing a claim for compensation at any stage of the criminal proceedings for the crime of trafficking in human beings. Victims are obliged to provide evidence (expertise) regarding the type and amount of damage Article (112, paragraph 3), and if they have not provided this type of evidence, ie expertise, the court with the conviction directs the victims to exercise this right in Civil court proceedings (114, paragraph 2);

The civil court procedure is initiated by filing a lawsuit for compensation of damages, which encloses evidence regarding the type and amount of damage: inspection by a neurologist, inspection by a neuropsychiatrist, inspection by an orthopedic surgeon, interrogation of relevant parties as witnesses, examination of witnesses, inspection of medical documentation and alike. **The Law on Free Legal Assistance** (consolidated version 101/2019) provides for the provision of free legal assistance for compensation of non-pecuniary damage to victims of crime (Article 22, paragraph 1, line 9);

The Law on Juvenile Justice (consolidated version 275/2019) stipulates that in order to compensate a child who is a victim or is an injured party by an act prescribed by law as a crime of violence and other acts of individual or group violence, a special program allocates funds from the budget of the Ministry of Justice (Articles 151 and 152). The Minister of Justice, after previously obtaining an opinion from the State Council for Prevention of Juvenile Delinquency, adopts an annual program that plans the sources and manner of spending the funds.

The Minister of Justice in accordance with the provisions of Articles 151 and 152 of this Law from 2014 adopts a **Program for compensation of a child victim or injured by an action which is provided by law as part of violence and other acts of individual or group violence**. For this program for 2020 and 2021, one million denars have been allocated from the Budget of this Ministry. From January to June 2021, 4 decisions for compensation of a child victim were paid in total amount of 1,500,000.00 denars. The payment was made within the Program for compensation of a child who is a victim or is an injured party by an act prescribed by

law as a criminal act of violence and other acts of individual or group violence for 2021 (Official Gazette of Republic of North Macedonia No. 32/21)

3.2 How is the amount of compensation calculated and are there specific criteria or models for calculating it? What types of injury/damage and costs are covered? Are there any circumstances/conditions that would lead to a reduction of the amount of compensation?

The legislation of the Republic of North Macedonia provides for compensation of two types of damage: tangible/material and intangible/immaterial.

Material damage represents all costs incurred in connection with the health care of the victim of trafficking, transport costs, as well as damage to movables owned by the victim as well as lost earnings (if the victim of trafficking was employed or earned income from other activity, it has suffered material damage in relation to the salary it was supposed to receive at its place of work or loses the income from the other activity).

Immaterial damage includes property claims for physical pain, mental pain, fear, severe disability, and fair monetary compensation for future immaterial damage. Regarding the last category, ie the fair monetary compensation for future immaterial damage, most often the victims of human trafficking suffer more injuries and their life activity may be reduced (for example, if the victim at the time of the commission of the crime by the defendant / acquires permanent disability - amputation of the leg, part of the body, eye, etc.). In such a case the victims of trafficking may seek **fair monetary compensation for future immaterial damage which the court may award as “rent” or total monetary amount**. Awarding such compensation as “rent” means that the court obliges the defendant to pay a certain amount of money in the name of fair monetary compensation for future non-pecuniary damage to the victim human trafficking every month while she/he is alive or the court may charge the defendant full amount of monetary compensation for future immaterial damage to pay immediately. The practice shows that the victim of human trafficking usually asks the court to oblige the defendant to pay the fair monetary compensation to the defendant at once because the victim of human trafficking is not sure whether the defendant will pay an orderly fair monetary compensation in the future and how long he/she will be alive, that is, whether he/she will be able to do so.

The victim is entitled to receive compensation for immaterial damage from the perpetrator due to the damage suffered. The compensation of the victim is realized by submitting a property claim in a criminal procedure. A proposal for realization of the property-legal request is submitted to the court before which the procedure is conducted. Property lawsuits are decided by the criminal court. Namely, with the verdict by which the defendant is found guilty, the court decides in whole or in part on the property claim. If the evidence in the criminal procedure does not provide a sufficient basis for a full or partial adjudication of the property-legal claim, and for their additional securing there is a danger of unjustified delay of the criminal procedure, the court will direct the injured party property-legal claim to be realized in a civil procedure. In order to protect the property-legal claim in the criminal procedure, temporary measures may be determined for securing the property-legal claim that occurred due to the commission of the crime. Temporary security of property or assets also includes temporary freezing, seizure, withholding of funds, bank accounts and financial transactions or proceeds of crime. If necessary, the provisions of the CC for extended confiscation apply. When the court issues a verdict of acquittal, it instructs the injured party to realize its property-legal claim in a civil procedure.

3.3 How are compensation orders/verdicts enforced? What measures are in place to guarantee and ensure effective payment of compensation?

The final judgment with which compensation has been awarded is executed when it has been served and when there are no legal obstacles for its execution. If no appeal has been lodged or the parties have renounced or withdrawn the appeal, the judgment is enforceable upon the expiration of the deadline for appeal, ie from the day of renunciation or cancellation of the appeal. In the case of a final, enforceable verdict by which a certain

person has been found guilty of crimes in the field of illicit trafficking and has been punished by law and with the same verdict of the victim of human trafficking a property claim has been awarded, ie compensation of damage, the victim of human trafficking should wait for the defendant to pay the damage himself within the deadline specifically stated in the final and enforceable judgment. If the defendant does not do so, the victim of trafficking in human beings, in the case of an adult, should seek enforcement of the final and enforceable judgment, through a competent enforcement agent appointed for that specific issue, where the convict's property or residence is located. The authorized enforcement agent is then obliged in order to collect the property legal claim, to take all legal measures in accordance with the Law on Enforcement, to collect the damage from the property of the defendant. If the authorized enforcement agent from factual obstacles (no property) or legal obstacles (property mortgaged, etc.) or the property legal claim can not be executed out of the property of the perpetrator of the crime, the competent enforcement agent adopts a decision by which the enforcement procedure is suspended due to inability to claim property or the collection of damages to be forcibly collected from the property of the convicted person. In this case, the legal possibilities for realization of the awarded property right claim differ depending on the age of the victim of human trafficking. According to the current legal regulations, only juvenile victims of crime, including victims of human trafficking in our country can collect the claim (compensation) by the state, ie from the Budget of the Ministry of Justice.

3.4 When foreign victims of THB are removed from or choose to leave the country where the exploitation took place, what measures are in place to enable them to obtain compensation and other remedies?

Foreign victims of human trafficking who have been removed or chosen to leave the country where the exploitation took place have access to legal remedies, under the same conditions as to stay on the territory of Republic of North Macedonia. They can exercise their rights through their proxy and through them to submit a claim for compensation.

3.5 What procedures are in place to ensure effective access to compensation for victims of THB for the purpose of labour exploitation? Can such victims bring civil claims for compensation and/or recovery of unpaid wages and social contributions on the basis of tort, labour, employment or other laws? Please specify the relevant measures. Can victims of THB working in irregular employment or without a contract claim unpaid wages and other compensation and if yes, how is the amount of unpaid wages and other compensation established?

These are established standard procedures for compensation of property claims that are applied in criminal proceedings regardless of the type of crime committed. The law stipulates that for criminal offenses for which a prison sentence of at least 4 years is prescribed, there is a possibility for compensation of property - legal claim, as well as for the incurred costs of the victim in the procedure, in case they cannot be compensated by the defendant, to be compensated by Special Compensation Fund, the establishment of which is provided precisely for the purpose of efficient and effective protection of victims.

There is a possibility for the victims to be able to realize their claims in a civil procedure, but in practice so far no such case has been registered.

The State Labor Inspectorate sanctions the employer for unregulated employment. **Article 13 of the Law on Labor Relations** stipulates that the signing of the employment contract establishes an employment relationship between the employee and the employer, and failure to act under this article is sanctioned by Article 259 and Article 265 of this Law.

Article 20 of the Law on Labor Relations on the other hand regulates the employment of foreign nationals and stateless persons. The Law on Employment and Work of Foreigners specifies the manner in which the employment of these persons can be performed.

Liability of the employer for compensation is determined by **Article 159 of the Law on Labor Relations**.

If the employee has suffered damage at work or in connection with work, the employer is obliged to compensate the damage, according to the general rules of liability for compensation of damage.

The liability for compensation of the employer also refers to the damage caused by the employer by the violation of the employee's rights from the employment relationship.

The **Law on Labor Relations, Articles 105 - 115**, regulates the payment of labor. The General Collective Agreement for the private sector in the field of economy precisely regulates the amount of salary payment, supplements and salary allowances. The Law on Minimum Wage in the Republic of North Macedonia determines the minimum wage that should be paid to a full-time employee.

Exercise of the rights of the employer and judicial protection is guaranteed by **Article 181 of the Law on Labor Relations**.

If the employee considers that the employer does not provide him with the employment rights or violates any of his employment rights, he/she has the right to submit a written request to the employer to remove the violation, ie to fulfill his obligation.

If the employee considers that his / her right has been violated by a written decision of the employer, he/she has the right to request the employer to remove the violation within eight days from the delivery of the decision with which the right was violated.

If the employer does not fulfill his/her obligations from the employment within an additional period of eight days after the submission of the written request by the employee, ie does not eliminate the violation of the right, the employee can request court protection before the competent court within 15 days.

The employee has the right to object to the decision for termination of the employment contract to the management body, ie the employer, within eight days from the day of receiving the decision for termination of the employment contract.

When no decision has been made on the complaint, within eight days from the day of filing the complaint or when the employee is not satisfied with the decision made on the complaint, within 15 days from the day of receiving the decision on the complaint, the employee has the right to initiate a dispute before the competent court.

Regardless of the deadlines referred to in paragraphs (2) and (3) of this Article, the employee may realize the monetary claims from the employment directly before the competent court..

<p>3.6 What training is provided to build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of THB to obtain compensation and other remedies?</p>

To build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of trafficking to receive compensation and other remedies, the Academy for Training of Judges and Public prosecutors of the Republic of North Macedonia is organizing continuous training on this topic in cooperation with other institutions with relevance on the topic.

In addition, a number of inspectors from the State Labor Inspectorate (excluding persons employed in the last quarter) have undergone basic training on early detection, identification and treatment of potential victims of trafficking. Some of the inspectors have passed advanced trainings. The trainings are organized by the Council of Europe through the Horizontal Facility for the Western Balkans and Turkey for the Prevention and Combating of Trafficking in Human Beings, as well as by the OSCE.

For easier detection, identification and treatment of potential victims of trafficking, inspectors can refer to the Pocket Guide, which in a simple and concise way elaborates the indicators as well as the manner of treatment of potential victims, and the Manual for early detection of cases of human trafficking for labor inspectors (revised version in 2017) which also provides guidance on identifying, detecting and dealing with potential victims of THB.

4. State compensation (Article 15)

4.1 Do the eligibility criteria for State compensation schemes for victims of crimes exclude some victims of THB (e.g. due to irregular residence status, nationality, nature of the offence)? Does access to State compensation depend on the outcome of the criminal case and on failure to obtain compensation from the offenders?

The Republic of North Macedonia, in order to actively participate and implement international standards and instruments for a modern criminal justice system, set off towards the establishment of standards for victims of violent crimes. According to the Law on Criminal Procedure, the victim has the right to compensation for material and non-material damage from a state fund under conditions and in a manner prescribed by a special law, if the compensation for damage cannot be provided by the convicted person. Activities proposed in the Strategy for Reform of the Judicial Sector 2017-2022 with the Action Plan set in motion the drafting of this special law as a strategic measure in the area of criminal law. A wide working group composed of representatives of stakeholders (governmental and non-governmental organizations), international and national experts and academia personnel developed a draft text of the law which was submitted for consideration before the competent institutions and before the general public through the ENER system for a period of more than a year. Upon received opinions, the text of the Proposal was adopted by the Government in July 2021 and it is now in parliamentary procedure. The answers to the questionnaire for this part take in consideration the provisions provided in this draft text.

With the provisions in the Draft Law on Payment of Monetary Compensation to Victims of Violence, there is no restriction on exercising the right to monetary compensation of all victims of human trafficking and child trafficking (all victims of human trafficking and of child trafficking are entitled to compensation, in accordance with the territorial principle of Article 7 of the Law). The only precondition for exercising the right to monetary compensation in accordance with the provisions of this Law is that the crime is registered or reported to the police or the public prosecutor's office. The victim is entitled to monetary compensation regardless of whether the perpetrator is known and whether a criminal procedure has been initiated against the perpetrator for the criminal act or if there are factual or legal obstacles for initiating criminal procedure. By paying compensation to the victim, the claim of the victim towards the perpetrator of the crime up to the amount of the paid compensation is transferred to the Republic of North Macedonia. When the Commission pays compensation to the victim, and it realizes complete or partial compensation from the perpetrator of the crime, the state has the right to recourse from the victim, for the amount already paid.

Crime of violence in the sense of this law is considered:

- a crime committed with intent using physical force or other actions that cause serious damage to health, as well as gender-based and domestic violence, crimes of establishing slavery relation and transporting persons in slavery, trafficking in human beings and trafficking children in accordance with the provisions of the Criminal Code,
- a crime that violates sexual integrity or
- a criminal offense which endangers the life or property of a person with a generally dangerous action, tool or means, which caused death, severe bodily injuries or severe damage to the physical or mental health of one or more persons, and is stipulated in the Criminal Code as qualifying form of the basic form of the crime.

4.2 How is the amount of State compensation calculated so as to address the gravity of the harm endured by the victim?

The purpose of the Draft Law on Payment of Monetary Compensation to Victims of Violence is to provide monetary compensation to victims of violent crimes as assistance of the state, in accordance with the principle of social solidarity and to prevent possible victimization and secondary victimization as additional suffering

that victims may be subject to with the attitude of the competent authorities. Victims are entitled to monetary compensation to mitigate the consequences of a crime of violence under this law. The exercise of this right does not exclude the right of the victim to claim damages or to make another claim in accordance with another law before a competent court.

In order to mitigate the consequences of the crime, the victim is entitled to the following types of monetary compensation:

- medical treatment and assistance,
- lost earnings,
- funeral expenses,
- lost support, and
- solidarity assistance for consequences suffered from the crime.

In deciding on the amount of monetary compensation to the victim, the Commission for Compensation of Victims of Violent Crime will especially take into account the following circumstances:

- behavior of the immediate victim before, during and after the commissioning of the crime;
- contribution of the immediate victim to the occurrence and consequences of the crime;
- material and financial condition of the victim;
- type and gravity of the crime.
- If the victim is entitled to other benefits from health, pension or other type of insurance according to law, the compensation that will be determined in accordance with the provisions of this law is reduced by the amount that belongs to the victim under other grounds. Voluntary insurance paid by the immediate and indirect victim is not considered as other grounds.

- Compensation for medical treatment and assistance

The immediate victim is entitled to monetary compensation for the costs of treatment and medical devices in accordance with the regulations for health care in the Republic of North Macedonia. The monetary compensation of the costs of the immediate victim can be realized only if these costs cannot be reimbursed by the person's health insurance, as per regulations for health insurance in the Republic of North Macedonia. The monetary compensation is paid as a single payment of a maximum amount of up to 2000 Euros in denar denomination.

- Compensation for lost earnings

The immediate victim is entitled to monetary compensation for lost earnings that occurred as a result of the crime committed with violence ending with incapacity to work as per regulations for pension and disability insurance in the Republic of North Macedonia. The monetary compensation is paid as a single payment of a maximum amount of up to EUR 2,000 in denar denomination.

- Compensation for funeral expenses

The indirect victim is entitled to monetary compensation for regular funeral expenses, in the amount as provided by the Law on Pension and Disability Insurance. Person who paid funeral expenses is not entitled to reimbursement of these expenses in accordance with the provisions of this Law, unless he/she is entitled to collect these funds on other grounds prescribed by law.

- Compensation for lost support

An indirect victim supported by an immediate victim who lost her/his life is entitled to monetary compensation for lost support in a single payment determined according to the circumstances of the case, taking into account the lowest amount of family pension pursuant to a law and the expected period of support of the person.

The compensation belongs to the immediate victim only if he / she is not entitled to a family pension. The compensation is paid in a single payment of maximum EUR 4,500 in denar denomination.

- Solidarity assistance for consequences suffered from the crime

The direct and indirect victim have the right to solidarity assistance for consequences suffered from the crime of violence. In determining the amount of compensation for solidarity assistance for consequences against the

physical and mental health, the following is taken into account: the severity of the consequences, the circumstances of the case and / or the type and severity of the crime. The compensation is paid as a single payment with a maximum amount of up to EUR 500 in denar denomination.

Maximum amount of total monetary compensation

The amount of monetary compensation of the victim on all grounds cannot exceed the total amount of EUR 5,000 in denar denomination.

4.3 Is it possible for foreign victims of trafficking to submit claims for State compensation in your country after being returned or repatriated to their countries of origin? Please provide examples of any such cases and indicate the measures stipulating such a possibility.

Pursuant to Article 7 of the Draft Law, which regulates the **territorial principle** of application of the law, the right to monetary compensation can be exercised only for consequences of a crime prescribed in Article 9 of this Law, committed against a victim on the territory of the Republic of North Macedonia, on a domestic boat, regardless of where the boat is located at the time of the commissioning of the offense or in a domestic civil aircraft while in flight or in a domestic military aircraft regardless of where the aircraft was located at the time of the commissioning of the offense.

The **personal principle** of application of the law in Article 8 provides:

Right to monetary compensation for a victim who is a citizen of the Republic of North Macedonia, right to monetary compensation for a victim foreign citizen who at the time of committing the crime prescribed in Article 9 of this Law resided on the territory of the Republic of North Macedonia in accordance with Article 7 of this Law, based on the principle of reciprocity or international agreement ratified in accordance with the Constitution of the Republic of North Macedonia; right to monetary compensation for a stateless victim or a victim who is a person who is not registered in the birth registry and who at the time of the commissioning of the crime resided on the territory of the Republic of North Macedonia, pursuant to Article 7 of this Law; the right to monetary compensation for a victim who is citizen of a member state of the European Union, pursuant to Article 7 of this Law; and per exception of the conditions specified in this Article, all victims of trafficking in human beings and of trafficking in children are entitled to compensation, pursuant to Article 7 of this Law.

4.4 Are victims seeking State compensation liable for lawyers' costs and fees? Are State compensation awards subject to taxation? Does the receipt of compensation have consequences for access to social security or other benefits?

No administrative fees are paid in the procedure for obtaining compensation. The costs of translation, the costs of expert opinion and other evidence are covered by funds of the Commission. The police, the public prosecutor's office, the courts, the Ministry of Justice and the centers for social work, health and social institutions are obliged to provide the person entitled to monetary compensation in the Republic of North Macedonia with all the necessary information on the right to compensation and the competent authority to whom he/she can turn to exercise this right, to give him/her all necessary forms and at his/her request to provide general instructions and information on how to fill out the request and what other documentation he/she needs. Likewise, citizen's associations and other legal entities which come in contact with victims in the course of performing their activities provide adequate assistance for the realization of the rights of the victims of crimes of violence. The costs and fees for a lawyer, if they meet the requirements of the Law on Free Legal Assistance, are at the expense of the state.

5. Sanctions and measures (Art. 23)

5.1 Please describe the legislative and other measures adopted by your country which allow to:

i) confiscate or otherwise deprive perpetrators of the proceeds of criminal offences, or property of an equivalent value to those proceeds; and ii) identify, trace, freeze or seize rapidly property which is liable to confiscation, in order to facilitate the enforcement of a later confiscation. .

- **Criminal Code**

The Criminal Code (CC)¹¹ regulates the confiscation of property and property gain and confiscation of items, as well as the crime of money laundering and other proceeds of crime.

Subject and manner of confiscation (Article 97 CC) - subject of confiscation is the direct and indirect property gain obtained through a crime. Direct and indirect property gain is confiscated by a court decision determining the commission of the crime.

Pursuant to Article 98 (1) of the Criminal Code, property gain may consist of money, movable or immovable property, securities, as well as any other property or assets, tangible or intangible rights. Article 98 (1) The CC also enables value-based confiscation for direct proceeds of crime, if the perpetrator does not allow confiscation of direct or indirect proceeds of crime. In such cases, the subject of the value-based confiscation will be other property corresponding to the value of the property gain. Article 98 (3) also enables confiscation of the property benefit from family members of the perpetrator to whom the direct or indirect property benefit has been transferred, if it is obvious that they have not given compensation that corresponds to the value of the acquired property benefit.

Confiscation of indirect property gain (Article 97-a CC) - indirect property gain that can be confiscated from the perpetrator of a crime consists of: (i) property in which the benefit obtained from a crime has been transformed or converted; (ii) property acquired from lawful sources, if the proceeds of crime are mixed - in whole or in part - with the relevant property, as per the estimated value of the mixed proceeds of crime; and (iii) proceeds or other gains arising from the proceeds of crime, from property in which the proceeds of crime have been transformed or converted, or from assets mixed with the proceeds of crime as per the estimated value of the mixed gain from a crime.

Extended confiscation (Article 98-a CC) - refers to property for which the court has determined that there is a reasonable suspicion that it was acquired in the period before the conviction, but not longer than 5 years before the commissioning of the crime, and which exceeds the legal income of the perpetrator and originates from a crime. Extended confiscation may include third parties and family members of the perpetrator. The extended confiscation provision appears to meet the technical requirements set out in Article 5 of Directive 2014/42 / EU.

Confiscation that is not based on a conviction (Article 97 (3) CC) - there are grounds for the court to determine a measure of confiscation when, due to factual or legal obstacles, it is not possible to conduct criminal proceedings against the perpetrator in which his/her guilt would be determined. However, the law does not define factual and legal obstacles, which indicates that such obstacles will be determined by the courts through case law.

Despite the current absence of a legal definition as mentioned above, consideration should be given to include the triple cumulative test in Article 4 (2) of Directive 2014/42 / EU: (i) confiscation is not possible at least due to illness or escape of the suspect or the accused person; (ii) criminal proceedings have been instituted in connection with any offense which may, directly or indirectly, bring economic gain; and (iii) such criminal proceedings could lead to a conviction when the suspect or accused person is able to stand trial. This will bring the legislation of North Macedonia closer to the requirements of Article 4 (2) of Directive 2014/42 / EU.

Confiscation by third parties (Article 98 (2), (3) and (4) CC) - refers to confiscation of direct or indirect property gain by third parties. Article 98 (2) of the Criminal Code regulates the confiscation of direct and indirect property benefit from third parties, when such property is acquired by committing a crime. Article 98

¹¹ Criminal Code, Official Gazette of the Republic of North Macedonia No. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017 and 248/2018.

(3) of the CC, on the other hand, states that the property benefit¹² should be confiscated when the direct and indirect property benefit is transferred to:

- family members, who can not prove that they have compensated for the object or property that corresponds to the value of the acquired (direct or indirect) property benefit;
- third parties, unless they prove that they have provided compensation for the object or property that corresponds to the value of the acquired (direct or indirect) property benefit¹³.

In addition, Article 98 (4) of the CC states that objects having the status of cultural heritage and natural rarities, as well as those to which the injured party is personally bound, are confiscated by third parties, regardless of whether they were transferred to them with appropriate compensation.

Law on Criminal Procedure

According to Article 46 of the Law on Criminal Procedure (LCP)¹⁴, the judicial police¹⁵, ex officio or by order of the public prosecutor, undertake measures and activities for the purpose of:

- Detection and criminal investigation of crimes;
- Preventing further consequences of crimes;
- Apprehending and reporting perpetrators of crimes;
- Providing evidence and other measures and activities that can be used to conduct criminal proceedings.

The Public Prosecutor conducts the preliminary proceedings and is obliged to issue an order to the representative of the judicial police to undertake activities within their competencies. Judicial police also conducts investigations and actions ordered or entrusted by the court and the public prosecutor's office.

Submission of documentation, data on bank accounts or financial transactions - in cases when there is a reasonable suspicion that a natural or legal person receives, keeps, transfers or otherwise disposes of the proceeds of crime through a bank account of that (natural or legal) person, and when those proceeds of crime are:

- Important for the investigation procedure for the specific crime; or
- Subject of forced confiscation;

The court may issue an order, upon an elaborated request of the public prosecutor, the bank or other financial institution to submit within a certain deadline the documentation and data related to the bank accounts and other financial transactions and activities of that (natural or legal) person. Such an order may also apply to persons for whom there are reasons to believe that they could be involved in the suspect's financial transactions or activities if such information can be used as evidence in criminal proceedings.

Access to bank safes - when there is knowledge that the person keeps proceeds of crime in a bank safe, the court may issue a decision, upon an elaborated request of the public prosecutor, ordering the bank to allow the public prosecutor access to the safe.

Monitoring payment operations or transactions - the court may decide, upon an elaborated request from the public prosecutor, to order the bank or other financial institution, within a certain period, to monitor the payment operations, transactions on the accounts or other matters of a certain person and to regularly inform the public prosecutor.

¹² In Article 98 (1) of the CC *property benefit is defined as*: money, movable and immovable objects of value, as well as any other possession, property or asset, material or immaterial rights.

¹³ Protection of rights of independent third parties is provided as per Article 202 (10) from the Criminal Procedure Law.

¹⁴ Criminal Procedure Law, Official Gazette of the Republic of North Macedonia, no. 150/2010, 100/2012, 142/2016 and 198/2018.

¹⁵ Judicial Police according to Article 19 (1) includes police officers of the Ministry of Interior and members of the Financial Police, persons from the Customs Office authorized by law to work on detection of crimes and authorized persons from the Ministry of Defense working on detection and reporting of crimes.

Temporary suspension of a financial transaction (freezing of a bank account) - upon an elaborated proposal of the public prosecutor, the court may order the financial institution or legal entity to temporarily suspend the execution of a certain financial transaction or activity while the property is temporarily seized. However, in urgent cases, the public prosecutor may order the above measures without a court order. In such cases, the public prosecutor must immediately notify the pre-trial judge, who must decide on the matter within 72 hours. If the pre-trial judge does not issue such an order, the public prosecutor must return the data without opening it. However, this provision is not effective as it does not prevent the complete consummation of the property, as the Prosecutor may request information on the basis of urgency, but may not then consider information deemed urgent until the Court decides on that issue.

With regard to point (i), the following aspects are important, in accordance with Article 202 of the LCP:

- Temporary confiscation for security reasons can be issued only upon the request of the public prosecutor. The request shall contain: (i) a brief description of the offense and its legal title; (ii) a description of the property or objects originating from the offense committed; (iii) information about the person who owns that property or objects; (iv) evidence on which the suspicion relating to property is based; and (v) reasons for the likelihood that the seizure of property or items will be particularly difficult or impossible by the end of the criminal proceedings.
- Temporary confiscation for security reasons can be determined at any time during the criminal proceedings.
- In its decision, the court will indicate the value and type of the property or the object and the time for which it is confiscated.
- The request from the public prosecutor and the decision for imposing the measures, are submitted electronically without delay, to all competent bodies for registration of the property and the objects whose security is requested and determined.
- If there is a danger of delay, the judicial police may temporarily seize property or items or take other necessary interim measures to prevent any use, alienation or disposal. The judicial police must immediately inform the public prosecutor about the undertaken measure, and the undertaken measure must be approved by the pre-trial judge within 72 hours from the moment of its undertaking. If the pre-trial judge does not approve the measure, it will be terminated, and the temporarily confiscated property or items will be immediately returned to the person from whom they were confiscated. In any case, it is important to note that there is insufficient case law on this issue that would allow a more complete interpretation of the legal text, according to which the operational activities of the relevant law enforcement agencies and the prosecution would be conducted.
- Temporary confiscation for security reasons may last until the end of the criminal procedure before the first instance court. If the measures are determined during the previous procedure, they will be revoked ex officio if the investigation procedure does not start within 3 months from the day the decision is made;
- The measures, may be revoked before the expiry of the prescribed time limits - ex officio by the court or at the request of the public prosecutor - if it is shown that: (i) they are not necessary or justified given the gravity of the offense; (ii) the financial circumstances of the person to whom it relates or the circumstances of the persons that this person is legally obliged to support and the circumstances indicating that the seizure of the property or objects will not be prevented or made particularly difficult until the completion of the criminal proceedings.

Procedure for confiscation of objects and confiscation of property and property gain obtained by committing a crime – both property and property gain obtained by committing a crime are determined in a criminal proceedings (Article 530 CPC), whereby the public prosecutor is (i) obliged to gather evidence and examine the circumstances relevant to the determination of property and assets and (ii) propose appropriate measures. If the injured party has placed a property claim in relation to the return of the objects obtained by crime, ie in relation to the amount corresponding to the value of the objects, the property gain will be determined only in the part that is not covered with the property claim.

In case of confiscation of property and property gain obtained through a crime, in accordance with Article 531 of the LCP, the person to whom the property benefit has been transferred, as well as the representative of the legal entity will be summoned for examination in the pre-trial procedure and at the main hearing. The invitation will warn them that the procedure will be conducted even without their presence. The representative of the legal entity will be examined at the main hearing after the defendant. The same shall apply to the person to whom the property benefit has been transferred, if he/she has not been called as a witness.

The person to whom the property benefit has been transferred, as well as the representative of the legal entity are authorized to propose evidence in connection with the determination of the property benefit and to ask questions to the defendant, witnesses and experts upon authorization of the president of the council.

When during the main hearing it is determined that there are conditions for the application of the measure confiscation of property and property gain, the public prosecutor will propose to adjourn the main hearing and to summon the person to whom the property and property benefit has been transferred, as well as the representative of the legal entity. Pursuant to Article 532 of the LCP, when collecting the necessary evidence to determine the amount of property and property gain obtained through a crime, the public prosecutor may request for necessary notifications from other state bodies, financial institutions and other legal entities and citizens, who are obliged to provide them without delay. When there is a suspicion that the property is located abroad, the court is obliged to issue a request for international cooperation.

Confiscation of property may be imposed by the court with a verdict by which the defendant is found guilty, with a decision for court reprimand or with the decision for application of educational measure, as well as with a decision issuing a security measure. When issuing the verdict or the decision, the court will state which property or object, ie monetary amount is confiscated. A certified copy of the verdict or the decision shall be submitted to the person to whom the property benefit was transferred, as well as to the representative of the legal entity, if the court has imposed confiscation of the property and property benefit from that person, ie from the legal entity.

Execution of confiscation of property and property gain - confiscation of property and property gain is executed within 30 days after the verdict enters into force. The enforcement order is issued by the court that rendered the first instance verdict. Enforcement is carried out over the property and property gain determined by the court decision, and if that is not possible in part or in full, the enforcement is carried out from the remaining property of the person to whom such a measure has been imposed. The execution of the confiscation falls under the competence of the Agency for Management of Confiscated Property (AMCP). Pursuant to the Law on Management of Confiscated Property, Property Benefit and Confiscated Objects in Criminal and Misdemeanor Procedure, when executing a confiscation order, if the person does not own property determined by a court decision, the AMCP will confiscate amount of money or property whose value corresponds to the property determined by a court decision. There is also a provision that all legal acts concluded after the committed crime, with the intention to reduce the value of property that may be subject to confiscation, are to be considered invalid.

Appeal to the order of enforcement is not allowed, and the enforcement shall be adverted only if the person voluntarily returns the property or pays the amount of the property benefit to the account of the court. Banks and other financial institutions holding the account upon which this measure is performed, are obliged to perform it without any delay and to prevent possible transfer or financial transactions.

However, an appeal against a court order for enforcement is allowed only when the court order for enforcement refers to the remaining property of the person, and not the same one as determined by the court decision for confiscation. The objection is submitted within eight days before the immediately higher court, which decides also within eight days after receiving the appeal.

Do these measures allow the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted.

Measures for temporary confiscation of property for the purpose of security and confiscation of property and property benefit are stipulated in Article 97, Article 97-a, Article 98-a of the Criminal Code and Article 202 of the Law on Criminal Procedure, enabling for identification, monitoring and confiscation of property into which the proceeds of illegal activities have been converted.

5.2 In what way do victims of THB benefit from seized and confiscated assets of perpetrators of THB? Do the confiscated assets go directly to victims, to a compensation fund or scheme for victims of

trafficking or to other programmes for the assistance or support of victims of THB? Please provide information on seizures and confiscations of assets in THB cases and how they were used.

5.3 Is it possible to use plea bargaining or some other form of settlement in cases of THB? If yes, please provide the relevant provisions. What protections are in place for victims of THB to ensure that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?

The Law on Criminal Procedure, Chapter XXIX, provides for the following legal provisions:

REACHING A JUDGMENT ON THE BASIS OF A PLEA AGREEMENT BETWEEN THE PUBLIC PROSECUTOR AND THE SUSPECT

Article 483

Filing draft plea agreement

(1) Before raising the indictment, the public prosecutor and the suspect may submit a draft plea agreement requesting from the preliminary procedure judge to impose a criminal sanction determined by type and duration within the legally prescribed limits for the specific criminal offence, however, not lower than the limits for mitigation of the sentence as defined by the Criminal Code.

(2) The Public Prosecutor shall be obliged, along with the draft plea agreement, and together with all the evidence, to enclose a written statement signed by the injured party regarding the type and amount of any legal or property indemnification claim.

(3) The plea agreement procedure shall be conducted between the competent public prosecutor and the suspect, in the presence of his or her defence counsel.

Article 484

Subject of the plea agreement

The subject of the plea agreement shall be the type and duration of the criminal sanction to be proposed in the draft plea agreement, and if consented by the accused, the subject of the plea agreement may also be the legal or property indemnification claim of the injured party.

Article 485

Elements of the draft plea agreement

(1) Any submitted draft plea agreement, as referred to in Article 483 of this Law shall have to contain the following:

- 1) Data on the public prosecutor, the suspect and his or her defence counsel.
- 2) Description and legal qualification of the criminal offences covered by the draft plea agreement.
- 3) Proposed criminal sanction by type and duration.
- 4) Type and amount of any legal or property claims and the manner of its effectuation.
- 5) Statement by the suspect that he or she is consciously and voluntarily accepting the draft plea agreement and any consequences derived thereof.
- 6) A statement by the public prosecutor and the suspect that they waive their right to an appeal, provided a judgment accepting the draft plea agreement is passed.
- 7) The costs for the procedure.
- 8) Signatures of the public prosecutor, the suspect and his or her defence counsel.
- 9) Date and venue of concluding the draft plea agreement.

Article 486

Participation of the counsel of the suspect in the plea agreement procedure

(1) The suspect must have a defence counsel present from the moment of commencing the plea agreement procedure.

(2) The suspect shall have a counsel of his or her own choosing. If he or she fails to choose one himself, the president of the competent court shall appoint a counsel ex officio.

Article 487

Non participation of the court in the plea agreement procedure

The judge of the preliminary procedure shall not participate in the plea agreement procedure between the public prosecutor and the suspect and his or her defence counsel.

Article 488

Acting upon the draft plea agreement

(1) The judge of the preliminary procedure shall schedule a hearing for assessment of the draft plea agreement within three days from the receipt of the draft plea agreement.

(2) The judge shall summon at the hearing the persons who filed the draft plea agreement and is obliged to examine if it has been submitted voluntarily, whether the suspect is aware of the legal consequences from its acceptance, any consequences related to any legal or property claims and the costs for the criminal procedure.

(3) Throughout the hearing, the public prosecutor, the suspect and his or her defence counsel must not put forward a motion for a criminal sanction that is different to the criminal sanction contained in the draft plea agreement. If the public prosecutor or the suspect and his or her counsel put such a motion, they shall be considered to have desisted from the draft plea agreement and the judge of the preliminary procedure shall issue a ruling as referred to in paragraph 1 of Article 489 of this Law.

(4) The preliminary procedure judge shall advise the public prosecutor and the suspect and his or her defence counsel of their right to withdraw from the draft plea agreement before the ruling is made. (5) The preliminary procedure judge shall advise the public prosecutor and the suspect and his or her defence counsel that the acceptance of the draft plea agreement shall be considered as waiving the right of appeal against any judgment reached on the basis of the draft plea agreement.

Article 489

Rejecting the draft plea agreement

(1) If the preliminary procedure judge finds that the collected evidence regarding the facts relevant for selecting and determining the criminal sanction do not justify the pronouncing of the proposed criminal sanction, i.e. that the public prosecutor, the suspect and his or her defence counsel filed a motion during the hearing for a criminal sanction that is different than the one contained in the draft plea agreement, he or she shall enact a decision rejecting the draft plea agreement and submit the case files to the public prosecutor.

(2) In the event of reaching a decision as referred to in paragraph 1 of this Article, the records from the held hearing and the draft plea agreement may not be used in the further course of the procedure, and they shall be treated as provided for in Article 336, paragraph 4 of this Law.

(3) An appeal against the decision reached as referred to in paragraph 1 of this Article shall not be allowed.

Article 490

Judgment on the basis of a draft plea agreement

(1) If the preliminary procedure judge accepts the draft plea agreement, he or she shall pronounce a judgment where he or she must not pronounce a criminal sanction different to the criminal sanction contained in the draft plea agreement.

(2) The judgment shall contain the elements of a judgment of conviction pursuant to Article 404 of this Law.

(3) The judgment shall be announced immediately and prepared in writing within three days of its announcement. The judgment shall be delivered to the public prosecutor, the suspect and his or her defence counsel without any delay.

(4) The injured party shall also receive a copy of the judgment without any delay. If the injured party is dissatisfied with the type and amount of the legal or property indemnification claim awarded with the judgment, he or she may effectuate such right through dispute litigation.

5.4 What is the average duration of court proceedings in THB cases? In which circumstances are such cases given priority? Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children? What safeguards are in place to ensure that judges deal with cases of THB without undue delay?

Human trafficking trials are urgent cases and are given priority.

5.5 How do you ensure that sanctions for THB offences are effective, proportionate and dissuasive?

With the amount of the threatened penalty and the confiscation of the property acquired by committing a crime.

1. Ex parte and ex officio applications (Article 27)

6.1 What is the procedural position of a victim of THB in criminal proceedings? What steps are taken to assist victims of THB, including children, to enable their rights, interests and views to be presented and considered during the criminal proceedings against offenders? Who is entitled to assist victims of THB in court? Can victims of THB be represented by NGOs in criminal proceedings?

The victim of the crime of trafficking in human beings in criminal procedure, according to the Law on Criminal Procedure, has the right to participate in the procedure as injured party by joining the criminal prosecution or to realize the property claim for damage, right to special care and attention by the authorities and entities participating in criminal proceedings, as well as the right to effective psychological and other professional assistance and support by bodies, institutions and organizations to assist victims of crime.

In terms of the steps taken to assist victims, there are institutions that assist victims throughout the procedure as well as in court. These are the police, the public prosecutor and the court, who have the obligation to act with special care towards the victims of crimes, giving them legal advice and defending their interests when making decisions for criminal prosecution against the accused, ie when taking actions in the criminal court. A procedure in which the victim must be present in person, for which an official note or record is drawn up.

In accordance with the special regulations, the victim of a crime for which a prison sentence of at least four years is prescribed has the right to a counselor at the expense of the budget funds before giving a statement, ie statement or filing a property claim, if there is severe psycho-physical damage or severe consequences from the crime.

Pursuant to Article 54 of the **Law on Criminal Procedure**, victims have the right to special measures of procedural protection when giving testimony and examination at all stages of the procedure, if:

- at the time when giving the statement, the victim is less than 18 years of age;
- giving a statement or an answer to a certain question would mean exposing themselves or another close person to a serious threat for their life, health or physical integrity (endangered victims);

- because of their age, the nature and consequences of the crime, the physical or psychological disability or another significant health condition, the social or cultural history, family circumstances, religious beliefs and the ethnic affiliation of the victim, the behaviour of the defendant, members of the defendant's family or friends towards the victim, there might be harmful consequences for their psychological or physical health or if it has a negative effect on the quality of the statement provided (especially vulnerable victims).

The special measures of procedural protection are determined by the court upon proposal of the public prosecutor or the victim or at their own discretion when it is necessary to protect the endangered and especially sensitive victims, where the court must take into account the will of the victim.

The court must determine a special measure of procedural protection when the child victim needs special care and protection or when the child is a victim of human trafficking, violence or sexual abuse. In that case the court must ask for a video and audio recording of the statement and interrogation of the child to be used as evidence in the proceedings. In exceptional cases, due to new circumstances of the case, the court may order a re-examination of the child victim, once more at most through the use of technical means of communication.

The victim of crimes against sexual freedom and sexual morality, humanity and international law, in addition to the above, has the following rights:

- to talk to a free counselor or a proxy before the interrogation, if he/she participates in the procedure as a injured party;
- to be interrogated by a person of the same sex in the police and the public prosecutor's office;
- not to answer questions that refer to the personal life of the victim, and are not related to the crime;
- to request interrogation with the help of visual-audio means in a manner determined by this Law and
- to request exclusion of the public from the main hearing.

The stated rights are guaranteed in Article 55 of the Criminal Procedure Law. The court, the public prosecutor's office and the police are obliged to instruct the victim of all his/her rights no later than their first interrogation, for which they compile an official note or minutes.

The rights of the children are specially elaborated in the **Law on Juvenile Justice** ('Official Gazette of the Republic of Macedonia' no. 148/13, 275/2019 and 152/2010). The child victim of a crime has the following rights: to be treated with respect for his or her dignity; to be protected from any discrimination, to be informed of their rights in a language understandable and appropriate to their age, as well as respect for the right to privacy; to inform the parents, ie guardians, about all questions related to the crime and about the suspect, the accused and the convict; the child, ie the parents, ie the guardians, to participate in the criminal procedure as injured party by joining the criminal prosecution or realizing the property claim for damages; special protection of the child's safety and the safety of his/her family, care and attention by the bodies and entities participating in the criminal proceedings; right to special protection against secondary victimization or revictimization and the right to psychological and other professional assistance and support by an authority.

The child victim is entitled to special procedural protection measures during the statement and interrogation at all stages of the proceedings. As special measures of procedural protection when giving a statement, in accordance with Article 147 of the Law on Juvenile Justice, the court may determine:

- use of screens to protect the victim and the witness from the view of the defendant,
- concealment of identity or appearance,
- giving a statement through a video conference,
- removal of toga and hats,
- exclusion of the public,
- video and audio recording of the statement that will be used as evidence,
- video and audio recording of the interrogation which will be used as evidence,

- taking a statement through a mediator,
- use of special technical means for communication and
- protection of the privacy of the child and his family.

6.2 If the authorities fail to discharge their obligation to effectively investigate and prosecute suspected cases of trafficking, what possibilities for redress exist for victims of THB and their families? To what extent have victims of trafficking, including children, access to complaint mechanisms, such as Ombudsman institutions and other national human rights institutions?

Pursuant to Article 58 of the **Law on Internal Affairs** (Official Gazette of the Republic of Macedonia No. 42/2014-No. 110/2021) for the purpose of protection and realization of his/her rights and when he/she considers that the actions of the employee in the Ministry violate his/her freedoms and rights, the citizen has the right to submit a complaint to the Ministry. The Ministry is obliged to check the allegations in the complaint and within a period not longer than 30 days from the receipt of the complaint, to inform the submitter in writing about the determined situation and the undertaken measures.

In addition, the Law on Internal Affairs (Article 64-a) establishes an obligation upon receipt of a criminal charge or information that an employee of the Ministry with the status of a police officer has committed a crime while performing an official duty or has committed a crime outside the service using a serious threat, force or means of coercion resulting in death, grievous bodily harm, bodily injury, unlawful deprivation of liberty, torture or other cruel, inhuman or degrading treatment or punishment; if the law provides for criminal prosecution ex officio, the Ministry shall immediately inform the Section for Investigation and Prosecution of Crimes Committed by Persons with Police Powers and Members of the Prison Police in the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption.

Any dissatisfied victim party or his/her family has the right to appeal the decision of the public prosecutor. In cases when the authorities have not fulfilled their obligation to effectively investigate and prosecute suspected cases of trafficking in human beings, victims of trafficking in human beings and their families may file a complaint to the Ombudsman for action in exercising their legal rights.

On 12.09.2017, the Government of the Republic of North Macedonia adopted a model of **External Mechanism for Control over the work of persons with police powers and members of the prison police**, which aims to ensure impartiality, objectivity in acting in cases where there is a suspicion that criminal acts have been committed by persons with police powers and members of the prison police, and thus to a greater protection of human rights and freedoms.

The concept of the External Mechanism consists of two components, on the basis of which a package of laws were amended to establish:

- Specialized Section for Investigation and Prosecution of Crimes Committed by Persons with Police Powers and Members of the Prison Police in the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption and
- separate organizational unit at the Ombudsman - mechanism for civil control

The concept of External Mechanism applies in case of suspicion of crimes committed by persons with police powers: police officer, authorized security and counterintelligence officer with police powers, members of the financial police, legally attorneys of the Customs Administration working on detection of criminal acts and authorized officials of the Ministry of Defense working on detection and investigation of criminal acts, as well as members of the prison police.

An **external mechanism for control over the work of persons with police powers and members of the prison police** is in line with the reform processes for the creation of accountable, transparent services, where any actions against the law will be promptly and effectively prosecuted and properly sanctioned.

6.3 What reporting and complaint mechanisms are in place for victims of THB who are in an irregular migration situation and/or in detention?

Immediately upon arrival at the Reception Center, the foreigner is introduced to his/her rights and the rules of residence in the Reception Center, the opportunity to contact the diplomatic-consular mission of the country of which he/she is a citizen, the right to contact and hire a lawyer, ie to use legal aid and the right to appeal against the decision for detention in the Reception Center.

The Reception Center provides foreigners with access to legal aid. The foreigner can hire a lawyer who is allowed to meet with the foreigner in order to be authorized to represent him/her, as well as to make ongoing visits to the foreigner for the needs of the procedure.

In addition to the possibility of hiring a lawyer, the Reception Center provides the presence of lawyers or attorneys from associations or international organizations that provide legal aid. If the foreigner has received a decision for which there is a deadline for seeking legal aid, the foreigner is informed about this circumstance in a language he/she understands, and his lawyer or legal representative is contacted immediately.

The stated rights are guaranteed for all foreigners-illegal migrants who are accommodated in the Reception Center for Foreigners and which are elaborated in the Rulebook on the house rules of the Reception Center for Foreigners ("Official Gazette of RM" no. 93/20120).

However, the referral to the Reception Center is made only as a last resort, for as brief period as possible and in cases when the conditions contained in the Law on Foreigners are met.

6.4 Can victims of THB bring claims against the state or its officials for:

i) direct involvement in THB;

ii) failure to prevent THB or protect them from THB? Have there been cases where State agents or persons acting on behalf, or at the direction of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from THB by third parties? Please provide information on any prosecutions against diplomatic and consular staff for alleged involvement in THB.

No such cases have been registered

6.5 What steps have been taken to strengthen and maintain the capacity of prosecutors to effectively prosecute trafficking cases?

Educate prosecutors for the purposes of effective prosecution of cases of trafficking in human beings with regards to the handling of the case and the treatment of the victim.

2. Non-punishment provision (Article 26)

7.1 Please indicate what measures are taken to ensure that victims of THB, including children, are not punished for their involvement in unlawful activities (criminal, civil, administrative offences), to the extent they were compelled to do so, providing any concrete examples of their implementation.

The principle of impunity for THB victims was introduced with the amendments in the Criminal Code of RNM as follows::

- In Article 418-a "Trafficking in human beings" a new paragraph (7) is added which reads:

"The victim of trafficking in human beings who was forced to commit a crime or other criminal offense while she/he was a victim, and which is directly related with her/his position as a victim."

- In Article 418-d "Trafficking in children" a new paragraph (8) is added which reads:

"A child - a victim of human trafficking shall not be punished in cases where the law provides for the punishment of a child, when the perpetrator of the crime forced it to commit a crime, if its action is a direct consequence of its position as a victim."

In February 2020, Guidelines for the implementation of the principle of impunity for victims of trafficking in human beings and child trafficking were prepared. These guidelines in the form of a Publication were prepared with the assistance of the OSCE Mission to Skopje in cooperation with the National Commission for Combating Trafficking in Human Beings and Illegal Migration and the Academy for Judges and Prosecutors "Pavel Shatev", in order to assist all competent authorities and entities dealing with acts of trafficking in human beings and trafficking in children to properly apply the principle of impunity for victims. The guidelines are intended to serve as a practical tool and guide in the work of the authorities for detection, prosecution and adjudication of these serious criminal acts, as well as the bodies and institutions responsible for prevention, identification, assistance and support of victims and civil society organizations to recognize and establish the presumption of impunity of the victim.

The guidelines refer to the actions of the relevant authorities and entities after the first suspicion that in this case there may be a potential THB victim. The suspicion is the basis for undertaking certain actions and activities that precede the formal identification of the person as THB victim and are in function of assessing the situation according to the indicators, coordinated interdisciplinary and inter-ministerial cooperation, initial care of the person, his/her accommodation and appropriate health or psychological help.

Thereby, the action of the authorities in order to take care of, assist, support and protect the potential THB victim is not conditioned by the cooperation of the person if he / she is later really identified as a THB victim. The impunity clause is aimed at full protection of the THB victim from the application of measures of procedural coercion (deprivation of liberty, detention), initiating criminal proceedings, obtaining a criminal record, imposing a sanction, etc.

In this context, the explicit way to protect the THB victim from criminal prosecution contained in the victim impunity clause in Article 418-a, para. 7 "Trafficking in human beings" - "(7) The victim of trafficking in human beings who was forced to commit a crime or other criminal offense while he/she was a victim, and which is not directly related to his/her position as a victim", shall apply regardless to the form of exploitation that was the target of the trafficking.

Several consultations and trainings were realized for the implementation of the Guidelines for the implementation of the principle of impunity for victims of trafficking in human beings, which were implemented by the OSCE, in cooperation with the National Commission for Combating Trafficking in Human Beings and Illegal Migration (NCCTHBIM) and the Academy for Judges and Prosecutors.

7.2 Can persons who have breached national laws in the course, or as a consequence, of being trafficked have access to remedies for victims of trafficking, including State compensation?

MoI / NCCTHBIM consistently implements the recommendations of the UN High Commissioner for Human Rights from 2002, on the principles and guidelines (UNHCR Recommended Principles and Guidelines on Human Rights and Human Trafficking) requiring (principle 7) that trafficked persons should not be detained, prosecuted or charged with illegality in entering or staying in countries of transit or destination, or of their involvement in illegal activities to the extent that it is a direct consequence of their condition of trafficked persons. Principle 8 refers to the protection of child victims, who may not be the subject of criminal proceedings or sanctions for offenses related to their victim status (The United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking (included

as an addendum to High Commissioner for Human Rights' report to the Economic and Social Council (E/2002/68/Add.1).

In accordance with the above and the principle of impunity for THB victims, every identified victim has access to all legal remedies available to the THB victim in accordance with international conventions and agreements, which have been signed and ratified by the Parliament of the RNM.

3. Protection of victims and witnesses (Articles 28 and 30)

8.1 How are victims of THB protected in practice against potential retaliation or intimidation before, during and after legal proceedings? How is the assessment of the needs for protection performed and who recommends the application of the protection measures? Who is responsible of the implementation of the protection measures?

There are procedural and non-procedural measures to protect victims and witnesses.

The Law on Witness Protection regulates the non-procedural measures for protection, while the procedural protection is regulated in the Law on Criminal Procedure.

The **Law on Witness Protection** stipulates the following measures for protection 1) keeping the identity secret; 2) providing personal protection; 3) change of domicile, ie residence and 4) change of identity.

A proposal for inclusion in the Protection Program is submitted by the Public Prosecutor of RNM, based on a written request for inclusion in the Program submitted by the Ministry of Interior, the competent public prosecutor or a judge acting in the specific case.

The **Witness Protection Council** is a body that makes a decision on the inclusion of persons in the Protection Program, its termination and for the determination of the protection measure "change of identity". Members of the Council are a representative of the Supreme Court from among the judges, a representative from the Public Prosecutor's Office of the Republic of Macedonia from among the deputy public prosecutors, the director of the Directorate for Execution of Sanctions in the Ministry of Justice, a representative from the Ministry of Interior and the Head of the Witness Protection Section at the Ministry of Interior

Upon receipt of the proposal from the Public Prosecutor, the President of the Council, immediately or after 8 days at the latest convenes a session of the Council. If the proposal for inclusion in the Program is accepted, the Council will oblige the Witness Protection Section to conclude an agreement with the person involved in the Program. In order to be included in the Program, a written consent is required from the person who is proposed to be included in the Program, and in order to include a minor in the Program, a written consent from his / her parent, legal representative or guardian is required.

A Witness Protection Section has been established in the Ministry of Interior, within the scope of which is the implementation of the Protection Program.

Procedural protection of witnesses and victims is regulated in the Law on Criminal Procedure with Articles 53,54,55, 226, 227, 228, 229, 230 and 231. The protection of the endangered witness consists in the special way of interviewing and participation in the criminal procedure and through the application of measures for protection outside the procedure.

In the **previous procedure**, if there is a probability that by giving a statement or answering a certain question, the witness, ie the injured party would expose himself/herself or a person close to him/her to a serious danger to life, health or physical integrity, the public prosecutor is obliged to provide conditions for his/her protection. The Public Prosecutor will determine the pseudonym of the endangered witness with a decision, as well as the special way of participating in the procedure and the interviewing. The public prosecutor will

seal the data on the endangered witness in a special envelope and will record it in the file, using the pseudonym of the endangered witness. Only the court can request and open the sealed envelope with the data on the endangered witness.

During **the main hearing**, if the above circumstances exist, the public prosecutor in a sealed envelope submits to the judge a written proposal for the special way of participating in the procedure and interviewing of the endangered witness. The court decides on the said proposal with a decision. The special way of interviewing may consist of concealing the identity, and in certain cases the appearance or voice of the endangered witness. In order to protect the endangered witness, the court may decide to exclude the public from the main hearing during his/her interview. The interview can be carried out with the help of technical devices for transmitting image and tone, whereby the face of the endangered witness and his/her voice are changed. In this case, the endangered witness during the examination is in a separate room, which is physically separated from the room where the judge and other participants in the proceedings are. The examination can be performed with the help of a psychologist, social worker or other professional.

8.2 How do you ensure that victims are provided with realistic and practical information about the progress of the case and whether the perpetrator has been detained or released?

Article 53 of the Law on Criminal Procedure stipulates a special obligation for the police, the public prosecutor and the court to act with special care towards the victims of crimes, giving them lessons for their rights and to take care of their interests when making decisions for criminal prosecution against the accused, i.e. when undertaking actions in the criminal procedure in which the victim must be present in person, for which an official note or minutes are compiled.

The manner of exercising the rights of victims guaranteed by law are elaborated in the Standard Operating Procedures for Dealing with Victims of Trafficking.

Namely, in the part dedicated to the preparation of the victim for criminal procedure, the preparatory phase before the trial is elaborated, the purpose of which is to ensure that the victim is aware of his/her rights:

- the right of an authorised person to represent him/her and actively participate in the criminal proceedings,
- the right to translator, i.e. interpreter,
- to respect the right to privacy
- not to answer certain questions,
- until conditions are provided for protection, to postpone the giving of a statement or the presentation of personal data,
- the right to attend the main hearing and to participate in the evidentiary procedure to ask questions to witnesses, experts and defendants (if at the same time there is a damaged person),
- the right to submit a property-legal claim for compensation of material and / or non-material damage,
- the right to a trial, to which the public is excluded,
- **To be fully informed about the criminal procedure: for non-takeover or for any waiver of criminal prosecution by the public prosecutor**, which is provided by the attorney / guardian in communication with the public prosecutor and the Psycho-social Support Team from the SSW (Center for Social Work/ THBVC (THB Victim Centre) and Victim Protection

8.3 How do you ensure respect for the victims' right to safety, privacy and confidentiality during court proceedings?

Ensuring respect for the victims' right to security, privacy and confidentiality is done in accordance with the provisions of the Criminal Code, the Criminal Procedure Code and the Law on Witness Protection.

8.4 In how many cases were witness protection measures used for the protection of victims and witnesses of THB, including children? If witness protection measures/programmes are not applied to victims of trafficking, what are the reasons?

No case of a trafficked victim who was a protected witness has been registered.

8.5 When victim protection is provided by NGOs, how are NGOs resourced and supported to perform this function and how do the police and the prosecution co-operate with NGOs?

The physical protection of the THB Victims is exclusively within the competence of the Ministry of Interior. The victims (domestic citizens and adult foreigners with approved residence or foreign children) are placed in a shelter run by an NGO in charge of providing assistance and support to the THB Victims and in this context the cooperation with the NGO is at a high level. Procedural protection is provided by the competent Public Prosecutor from the Public Prosecutor's Office for POCC.

NGOs provide most of the resources for working with victims of trafficking through project activities funded mostly by foreign donors. Cooperation with the police and the prosecution is satisfactory, but there is room for improvement.

8.6 How do you ensure that child victims of THB are treated in a child-sensitive way and are provided with protection before, during and after judicial proceedings in accordance with the Council of Europe Guidelines on Child Friendly Justice? Are interviews with children conducted in specially designated and adapted spaces by professionals trained to interview children? What measures are taken in order to ensure a limited number of interviews?

The listed issues are regulated in the Law on Family, the Law on Criminal Procedure, the Law on Child Justice, as well as in the Standard Operating Procedures for Dealing with Victims of THB.

The appointment of a guardian of a child who is a victim of trafficking in human beings is regulated in a separate chapter in the Law on Family (Articles 177-a to Article 177-m).

Pursuant to Article 177-b of the Law on Family ("Official Gazette of RNM 'no. 153/2014), whenever the Center for Social Work receives a notification from the Ministry of Interior that a juvenile victim of THB has been identified, it immediately undertakes measures for protection of the person, rights and interests of the child and puts him / her under guardianship. As guardian of a juvenile victim of trafficking is appointed a person trained to work with children victims of trafficking.

The guardian is obliged to provide the child with health and psychosocial assistance and protection, accompanies the child to a safe place for care, is obliged to provide the child with full and timely legal aid and protection, to obtain personal documents for the child, to provide the child to receive all information in its mother tongue, as well as to assist in the process of finding and returning the child to the family, guided by the best interests of the child (Article 177-e of the Law on Family).

An assessment is also made and, depending on the assessment of safety or social risk, the child is provided with safe and secure accommodation (shelter center, foster family, small group home or family) before, during and after the court proceedings.

Immediately after the identification of the child victim of THB, it is provided with temporary safe accommodation that is suitable for children, medical, psychological care and assistance. A security plan for risk assessment and a plan for the needs of the child is also prepared by the competent services, in accordance with the SOP for victims of trafficking and based on the plans, measures are taken for protection and the best interest of the child before, during and after court proceedings. The child victim is entitled to special protection measures implemented by police officers from the Witness Protection Unit and the Unit for Combating THB and Migrant Smuggling (NESKMTL) Public Prosecutor, Judge, Attorney / Guardian and accompanying NGO.

Upon a decision of the court, during the procedure, the hearing is performed with a video recording, ie testimonies are given in a special court room in order for the child victim not to appear or the accused to be removed from the main trial, avoiding contact with the perpetrator or persons close to the perpetrator when entering the building (through a separate entrance, room, etc.), support persons should stand in close proximity during the testimony, exclude the public from the courtroom, and provide witness-victim protection through their inclusion in the Witness Protection Program. The special measures of procedural protection are determined by the court upon the proposal of the public prosecutor when it is necessary to protect the endangered and especially sensitive victims.

The interview is conducted by police officers (specialized in interviewing children) in specially adapted rooms for children, in the presence of a guardian / parent, translator (if it does not understand the language) and a psychologist.

When interviewing a child victim, the gender of the police officer conducting the interview is always taken into account (for example, due to the degree of trauma experienced by female victims, they may prefer the interview to be conducted by a female police officer. gender). Police officers identify the victim's mother tongue and an interpreter is provided to facilitate communication. The translators are selected from the approved list of certified translators in the Republic of North Macedonia and if possible a person of the appropriate gender is offered.

Also, when conducting the interview, the police officers always take into account the vulnerability of the child victim of THB, the mental, emotional and psychological state in which it finds itself. They establish a friendly relationship, allowing the child victim to feel safe and secure, do not put pressure on it to give a statement and answer questions, give it enough time to answer, but always keeping in mind its basic needs.

When taking a statement, in accordance with the Law on Criminal Procedure and the Law on Justice for Children of the RNM, due to the vulnerability of the victim, other special measures of procedural protection are provided, as follows: use of screens to protect the victim and witness from the view of the defendant, concealment of identity or appearance, giving a statement via video conference, excluding the public, taking a statement through an expert, use of special technical means of communication and protection of privacy of the child and its family. In exceptional cases due to new circumstances of the case the court may order a re-interviewing of the child victim at most once more through the use of technical means of communication.

4. Specialised authorities and co-ordinating bodies (Article 29)

9.1 What budget, staff and resources, including technical means, are put at the disposal of law enforcement bodies specialised in combating and investigating THB?

The budget of the Ministry of Interior envisages a linear budget that refers to activities intended to combat human trafficking, ie refers to funds for capital expenditures, such as office equipment and computer software and Goods and services including materials and small inventory, ongoing maintenance, contract services, organization of meetings, conferences, etc. which are provided in the Annual Public Procurement Plan of the Ministry of Interior.

9.2 If your country has specialised units for financial investigations, financial intelligence units and asset and recovery units, please describe whether and how are they used in investigating and prosecuting THB cases. Which special investigation techniques do these units use? Which public and/or private bodies do these specialised financial investigation units co-operate with in relation to THB cases?

Special units for conducting financial investigations have been established in the Ministry of Interior, the Customs Administration (CA), and the Financial Police Directorate (FPD). The **Unit for Financial Investigations in the Ministry of Interior** was established in the Department for Suppression of Serious and Organized Crime, based on the Decree on Organization and Work of the Ministry of Interior SConf. No. 33/1

and amendment of the Rulebook on job systematization in the Ministry of Interior in 2019. The **Financial Investigation Unit within the Customs Administration** was established in 2019 and is part of the Control and Investigation Sector at the Investigation Department. The Financial Investigation Unit in the Financial Police Directorate was established on the basis of the Law on Amendments to the Law on Financial Police (Official Gazette 198/18 of 31.10.2018) and the Rulebook on job systematization of 08.02.2019. The **Financial Investigation Unit in the Financial Police Directorate** was established on the basis of the Law on Amendments to the Law on Financial Police (Official Gazette 198/18 of 31.10.2018) and the Rulebook on job systematization of 08.02.2019.

The **Property Restitution Office ARO** was established in 2019 within the Public Prosecutor's Office by a special decision of the Public Prosecutor of RNM. A Draft-Law for the ARO office has also been prepared and the procedure for its adoption is expected to start soon.

Strengthening national capacities to conduct financial investigations in parallel with criminal investigations is the focus of our activities. For that purpose, the Government of the RNM in July 2021 adopted the new **Strategy for strengthening the national capacities for conducting financial investigations and confiscation of property 2021-2023**, which is based on an in-depth analysis of the harmonization of the national legislation with the relevant international standards and real needs of the institutions involved in financial investigation and confiscation of property. The systematic monitoring and evaluation of the Strategy will be realized through the establishment of a National Commission for monitoring of the action plans of the Strategy.

Measures have been taken to unify the way of work of the specialized units for conducting financial investigations by adopting standard operating procedures in the mentioned institutions, an activity which is expected to be finalized in a short time. The Ministry of Interior already has standard operating procedures for conducting financial investigations, based on which checks are made on bank accounts, transactions and bank safes, real estate, motor vehicles, vessels and aircraft, securities, determination of ownership and shares of legal entities, determination of pledged movab

le and immovable property, determination of property and income reported for taxation in the PRO, public data sources (websites, social networks, etc.) and other techniques in order to provide data that will emerge from the previously collected. Regarding the cooperation with public and / or private bodies, the Financial Investigation Unit cooperates with the following institutions: Financial Intelligence Office, Agency for Cadastre of the Republic of North Macedonia, Central Securities Depository, Central Registry and Pledge Register, Public Revenue Office.

10. International co-operation (Article 32)

10.1 How does your country co-operate with other countries to enable victims of THB to realise their right to redress and compensation, including recovery and transfer of unpaid wages after they leave the country in which the exploitation occurred?

The victim is entitled to non-pecuniary damage from the perpetrator due to damage suffered, by submitting a property legal claim in criminal proceedings to the court conducting the proceedings. If the court acquits, the victim can pursue his or her property claims in civil proceedings. He/She submits the claims alone or through his/her attorney or guardian. The victim - a foreign citizen is informed through his/her attorney about the course of the civil procedure conducted in the country of destination. Information is also shared in the country of destination on the right to a property claim and victim monitoring by a support team.

10.2 Has your country co-operated with other countries in the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams? Please provide statistics on such cases and examples from practice.

To date, no Joint Investigation Team for THB / child cases has been registered, nor international cooperation (at our own initiative or the initiative of another country) in conducting financial investigations. The main

reason is that most of the identified victims are our citizens, and when it comes to foreign citizens, they were exploited on the territory of RNM by perpetrators who either do not have (im)movable property or its value is too low and insignificant.

Example from practice

Through the EUROPOL channel from 2016 to 2021, no cooperation was observed with other countries through joint investigation teams or financial investigations to shed light on the crime of trafficking in human beings. Through the INTERPOL channel, in 2016, cooperation was established with Switzerland with a joint investigation team.

Namely, a Macedonian citizen was a victim of THB in Switzerland and in order to avoid additional burden for the victim, a Swiss team of officers have submitted a request for hearing of the victim in the court premises in Skopje. Officials from the Ministry of Interior were also present at the hearing.

10.3 How many mutual legal assistance requests and/or European Investigation Order have you made in THB cases and what was their outcome?

A European investigation warrant is only possible between EU member states.

In 2021, a large case of international trafficking in human beings for labor exploitation was realized through mutual cooperation with the police services of the People's Republic of China - Taiwan, during which 39 victims of THB and 9 perpetrators of criminal act of Trafficking in Human Beings were identified. All the evidence was exchanged with the relevant institutions in Taiwan in order to prosecute the organizers and members of the international OCG for several crimes "Fraud", "Trafficking in human beings" and "Money laundering".

A request for international legal assistance and / or a European Investigation Order has not been submitted to the Sector for International Police Cooperation in the Ministry of Interior.

10.4 What forms of international co-operation have proven to be particularly helpful in upholding the rights of victims of trafficking, including children, and prosecuting alleged traffickers?

The National Unit for Combating Migrant Smuggling and Trafficking in Human Beings exchanges information through the channels of the Sector for International Police Cooperation (EUROPOL, INTERPOL, SELEC, contacts with the liaison officers in the country), as well as through participation in the Western Balkans Working Group on Smuggling migrants (Western Balkan Task Force). Regarding the protection, assistance and return of the victim of THB, information is exchanged through the Transnational Referral Mechanism.

The most common forms of international police cooperation that are particularly useful and commonly used in practice in shedding light on human trafficking are:

- identification (usually by comparing dactyloscopic material, but it is also possible with DNA profile);
- checking documents;
- locating a person and determining the address of residence;
- performing checks in the Passenger and Vehicle Control System (checks at border crossings);
- exchanging information on a police file (criminal history);
- conducting informative conversation;

10.5 What international co-operation measures are in place to ensure protection and assistance to victims on return from your country to their countries of origin following their participation in criminal proceedings?

The procedure for returning a victim of trafficking to his or her home country is regulated by the Standard Operating Procedures for Dealing with Victims of Trafficking. These procedures use the Transnational Referral Mechanism, as well as the concluded bilateral agreements.

Victims of trafficking are returned to their home country according to the security risk assessment. In case of return of child victims of trafficking, the guardian is always involved in the return procedure, who is obliged

to hand over the child with the necessary documentation and report on the child's condition from a health and social aspect. UCTHBMS (Unit for combating Migrant Smuggling and THB) / NUSMSTHB (National Unit for Suppressing Migrant Smuggling and THB) accompanies the victim / witness from the safe location, where he / she is accommodated, to the required place (court, public prosecutor, health institution, police station, etc.), while the Witness Protection Unit is involved in cases where the victim has received status of a protected witness.

10.6 What international co-operation measures are in place to protect and assist victims of THB for the purpose of sexual exploitation through online streaming where the perpetrator is a national or habitual resident of your country and elements of the crime have occurred in your country's jurisdiction?

The protection and assistance of the victims of THB are provided according to the needs arising from the specifics of each individual case, regardless of the type of exploitation.

If inappropriate content is published through social networks or the Internet, the appropriate provider is required to delete it and block the profile of the person who publishes it, in parallel with conducting an investigation into the identity of the perpetrator.

11. Cross-cutting questions

11.1 What steps are taken to ensure that victims of THB have equal access to justice and effective remedies, irrespective of their immigration status and the form of exploitation?

Article 121 of the Law on Foreigners regulates the period of reflection, so a foreigner suspected of being a victim of trafficking in human beings is allowed a period of recovery and reflection lasting up to two months. The period of recovery and reflection is not conditioned by the cooperation of the victim of THB with the competent state authorities. The temporary stay of the potential victim is approved by the Ministry of Interior for the shortest period possible, but not longer than five days. This indicates that the stay and safety of the victims is provided and gives a chance for cooperation and participation in the process. During the reflection period, the victim is informed of his/herrights, including legal remedies.

11.2 What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?

When interviewing a victim, the person conducting the interview has an obligation to ask if the victim feels comfortable talking to a person of the same or opposite sex. If the victim does not feel comfortable, the direct interview should be conducted by another officer. The same rules apply if a representative of a non-governmental organization participates in the interview.

Gender sensitivity and non-discrimination is one of the basic principles on which the standard operational procedures for dealing with victims of trafficking are based, on the basis of which all competent authorities are obliged to act.

11.3 What steps are taken to ensure that procedures for obtaining access to justice and remedies are child-sensitive, readily accessible to children and their representatives, and give weight to the child's views?

The standard operating procedures for dealing with victims of trafficking, which define the steps for dealing of the responsible persons, provide for the obligation of the child to have available information about its condition, rights and services available to it, in accordance with its age and language understandable to it. They also contain clear guidelines for the assessment of a child's needs to be carried out in coordination with the parent / designated guardian and in a language understandable to the child. The conversation with the

child should not start unless a parent / legal guardian or a representative from the Social Work Centre is present. If the child refuses to talk, the parent / guardian or SWC representative decides on the next steps. The children also participate in the creation of the assistance plans, and those plans are reviewed and revised in accordance with the situation continuously together with the child, and the principle of the best interest of the child is taken into account.

When talking to a child victim, it is extremely important to emphasize that it is performed by a professional who is trained to work with child victims. Care is taken to ensure access to the child, as well as the room to be appropriate for its needs. Adequate breaks as well as conversation at the child level are key aspects as well.

11.4 What steps are taken to ensure that private entities take steps to prevent and eradicate trafficking from their business or supply chains and to support the rehabilitation and recovery of victims? What options exist for victims of trafficking to access effective remedies from businesses implicated in human trafficking?

The **Open Gate Association - La Strada** in cooperation with Accor Group, the world leading hotel group and the National Commission for Combating Trafficking in Human Beings signed a code of cooperation on the eve of the European Anti-Trafficking Day on November 18, 2019. The code is the first of its kind in the hotel industry in our country and is aimed at protecting children from sexual abuse in the travel and tourism industry. The signing ceremony was at the Ibis Hotel, which was followed by the premiere of a video to promote the SOS line for information and prevention of trafficking in human beings. The event was also used to distribute posters to combat child trafficking in 3 languages (Macedonian, Albanian and Roma) made with the support of the Council of Europe Office.

11.5 What legal, policy and practical measures are taken in your country to prevent and detect situations where corruption facilitates human trafficking and infringes the right of victims of THB of access to justice and effective remedies? Please provide information on any known or proven cases of corruption or related misconduct of public officials in THB cases and any sanctions issued.

An anti-corruption legal and institutional framework has been established.

Key laws for prevention of corruption are the Law on Prevention of Corruption and Conflict of Interest, the Law on Whistleblower Protection, and the risk management in the institutions is performed in accordance with the Law on Public Internal Financial Control. Criminal law in the field of corruption is in line with relevant international instruments, as noted by GRECO, the European Commission and expert teams to review the implementation of the United Nations Convention against Corruption.

There is a specialization of the institutions for prevention and fight against corruption:

- The **State Commission for Prevention of Corruption**, established in 2002, is responsible for the implementation of the measures and activities regulated by the Law on Prevention of Corruption and Conflict of Interest - measures and activities to prevent corruption in the exercise of power, public authority, official duty and politics, measures and activities for prevention of conflict of interests, measures and activities for prevention of corruption in performing activities of public interest of legal entities related to the exercise of public powers. The State Commission for Prevention of Corruption also has competencies determined by provisions of the Law on Whistleblower Protection, the Law on Lobbying and the Electoral Code.

- **Specialized organizational units** are established in law enforcement agencies with investigative powers (Criminal Police Department - Sector for Economic Crime and Corruption; Bureau for Public Security - Department for Organized Crime - Sector for Criminal Investigations - Unit for Corruption and Sector for Internal Affairs Skopje - Unit for Corruption and Computer Crime), Financial Police Directorate (Sector for

Integrated Financial Investigations - Unit for Detection of Abuses of Official Position and Sector for Criminal Intelligence Analysis - Unit for Detection of Corruption in Public Procurement).

- **Specialization of courts:** In the Criminal Court Skopje there is a Department for Organized Crime and Corruption, established in 2008.

- **Specialization of Public Prosecutors**

The Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, established in 2004 by the Department for Prosecution of Perpetrators of Criminal Acts in the Area of Organized Crime and Corruption at the Public Prosecutor's Office of the Republic of Macedonia, since 2007 is a special Public Prosecutor's Office for dealing with cases related to organized crime and corruption at the level of the entire territory of the Republic.

Anti-corruption strategic and program documents have been adopted.

The National Strategy for Prevention of Corruption and Conflict of Interest is the only strategic document at the national level. According to the Law on Prevention of Corruption and Conflict of Interest, the National Strategy is a five-year strategic document with an action plan for its implementation, which is prepared after a preliminary analysis of sectorial risk assessment and in a broad consultative process (with representatives of state bodies, institutions, associations, foundations, private sector and media). The National Strategy is adopted by the State Commission for Prevention of Corruption, and approved by the Parliament of the Republic of Macedonia.

The fight against corruption is a constant strategic priority of the Government. In September 2020, the **Deputy Prime Minister in charge of the fight against corruption and crime**, sustainable development and human resources was appointed within the Government.

The **anti-corruption plan** is contained in the annex to the government strategic document "Action 21 - for European standards at home" which lists key projects and programs for implementation in 2021, in order to implement European standards.

With a conclusion adopted at the session of the Government held on 02.03.2021, all state administration bodies are in obliged, the institutions that do not have the status of state administration bodies have been pointed out and the local self-government units were recommended **to prepare and publish an annual plan for prevention of corruption** appropriate to their competence, with precise activities that include analysis of risk areas for corruption, shortcomings in the laws, possible causes and factors of corruption as well as measures to strengthen the tools for transparency and accountability.

Part II – Country-specific follow-up questions

12. Please provide information on new developments in your country since GRETA's second evaluation report concerning:

- **emerging trends of trafficking in human beings (new forms of exploitation, new recruitment methods, vulnerable groups, gender-specific aspects of trafficking, child trafficking);**

Regarding the forms / types of exploitation of the victims, it is mostly sexual exploitation, which is most often performed in catering facilities and night clubs in the western part of the country. Labor exploitation is carried out through forced labor in catering facilities combined with sexual exploitation, and labor exploitation for the needs of agriculture, stockbreeding and through forced begging. Forced marriage as a form of exploitation is combined with sexual and labor at the same time.

In the period 2016-2020, out of a total of **30 identified victims** (of which 21 children), 17 were victims of sexual exploitation, 7 of forced marriage, 3 of begging, 2 of labor and 1 of combined sexual and labor exploitation.

- **the legislation and regulations relevant to action against THB (e.g. criminalisation of THB, identification and assistance of victims of THB, recovery and reflection period, residence permit, supply chains, public procurement);**

During 2020, an interdisciplinary working group, composed of representatives of all relevant institutions, associations and international organizations that are part of the Secretariat, coordinated by the Ministry of Justice (MoJ) actively worked on drafting the **Law on Payment of Monetary Compensation to Victims of Criminal acts** involving the crime of trafficking in human beings.

A proposal has been initiated to amend Articles of the Criminal Code (CC) which will be in accordance with Directive 2011/36 / EU of the European Parliament and of the Council of 5 April 2011 on the prevention of THB and protection of victims of THB as well as to replace the Framework Decision 2002 / 629 / JHA. The amendments to the Criminal Code envisage tightening of the penal provisions and new qualifying forms of the crime "trafficking in human beings". In the following period, a procedure will be initiated to the Ministry of Justice in order to amend the CC.

During 2019- In order to overcome GRETA's remarks and to comply with Article 8 of Directive 2011/36 / EU in December 2018 in the Criminal Code¹⁶ **was introduced the principle of impunity for victims of trafficking in human beings / children in the criminal legislation of RNM**. The amendments to the Criminal Code¹⁷, which entered into force on January 1, 2019, provided for an explicit provision for impunity of victims of the crime of trafficking in human beings (Article 418-a, paragraph 7) and the crime of trafficking in children (Article 418-d, paragraph 8). The essence of this principle / provision is that it covers impunity, acquittal and non-detention of victims. The new provisions will enable more efficient identification, assistance and support of victims, who in many cases, given their situation, are forced by traffickers to commit other offenses themselves. Applying the principle of impunity will encourage victims to cooperate with law enforcement in identifying and punishing perpetrators. Also, an amendment was made in Article 418-a where the sentence for the crime from paragraph (4) is reduced from at least eight to at least five years; and Article 418-b reduces the sentence for the crime from paragraphs (3 and 5) from at least eight and ten to at least five years.

In May 2018, the Law on Foreigners¹⁸ was adopted, which fulfills the recommendations of GRETA regarding the temporary residence permit for victims of trafficking, the period of recovery and reflection and providing more rights for victims.

With amendments to the **Law on Social Protection**¹⁹ in March 2018, the mandate of the Center for Victims of Trafficking in Human Beings was extended and accommodation of victims of sexual violence was provided. Also made by amending the "Rulebook on norms and standards for space, equipment, professionals and funds needed to establish and start operating a social protection institution in the **Center for Victims of Trafficking and Sexual Violence**." In this way, a safe place can be provided where the identified victims of these types of gender-based violence can be accommodated, it is adapted for people with special needs. For the functioning of this Center, according to the international human rights standards, internal documents have been prepared that refer to the proceedings and procedures of referral, accommodation, stay, the rules of conduct of the engaged staff, the protection protocol, etc.

Also in 2018, the National Commission revised the Standard Operating Procedures for Dealing with Victims of Trafficking in Human Beings (SOP).

¹⁶ Adopted by the Assembly of RNM on December 31, 2018

¹⁷ Official Gazette of RM no. 248/18.

¹⁸ Adopted by the Assembly of RM on May 21, 2018

¹⁹ („Official Gazette of RM" no. 79/2009, 36/11, 51/11, 166/12, 15/13, 79/13, 164/13, 187/13, 38/14, 44/14, 16/14, 180/14, 33/15, 72/15, 104/15, 150/15, 173/15, 192/15, 30/16 163/17 и 51/18)

During 2016 - the Government of the Republic of Macedonia adopted the **Standard Operating Procedures for dealing with vulnerable categories of persons - foreigners.**

- **the institutional and policy framework for action against THB (bodies responsible for coordinating national action against THB, entities specialised in the fight against THB, national rapporteur or equivalent mechanism, involvement of civil society, public-private partnerships);**

There is a combined competence of several institutions in dealing with trafficking in human beings and illegal migration, coordinated by the **National Commission for Combating Trafficking in Human Beings and Illegal Migration**.

The Commission is composed of representatives of state institutions, headed by a National Coordinator. The Commission has an administrative body, a Secretariat and a Subgroup for Combating Child Trafficking.

The **National Rapporteur in RNM** was established on the proposal of the National Commission in 2009. In accordance with the recommendations of the Expert Group for Action against Trafficking in Human Beings of the Council of Europe - GRETA, in order to enable the independent function of the National Rapporteur, the Government of North Macedonia by Decision adopted on 01 December 2019 appoints a representative from the Ombudsman's Office of RNM.

Under its mandate, the National Rapporteur is responsible for: overseeing overall anti-trafficking activities, collecting and analyzing data from relevant partners, monitoring and evaluating the implementation of the National Action Plan, drawing conclusions and making recommendations for improving and perfecting the fight against trafficking in human beings in terms of law enforcement, policies for better institutional response and recommendations for revision of strategic goals and preparation of an annual report.

The Office of the National Referral Mechanism (NRM) has been institutionalized within the MLSP - Sector for Equal Opportunities since 2009. The role of the NRM is to provide adequate identification, referral, first aid and protection, based on international human rights standards for victims of trafficking, especially child victims of trafficking, regardless of nationality, ethnicity, age or gender. NRM cooperates with other institutions and stakeholders in the process of prevention, identification, support and protection of victims of trafficking, especially children.

The establishment of an **Operational Team for coordination and management of cases of trafficking in human beings, formal identification and its status** is underway, an activity which was adopted by a Decision of the National Commission at a session held on 08.07.2021.

- **the current national strategy and/or action plan for combating trafficking in human beings (objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results);**

At its session held on April 20, the Government of the Republic of North Macedonia adopted the new National Strategy for Trafficking in Human Beings and Illegal Migration, which set out the strategic priorities, as well as the specific activities that will be undertaken in the next 5 years. The basis of our anti-trafficking policy is to provide a comprehensive, multi-disciplinary victim-centered approach that ensures that every victim of trafficking, woman, man, boy or girl, is promptly identified, protected and their rights are guaranteed in accordance with international standards. The stated strategic commitment is operationalized through the five strategic areas on which the National Action Plan is based: 1. Support framework, 2. Prevention, 3. Identification and referral, 4. Direct assistance, protection, integration and voluntary return of THB Victims / migrants, and 5. Effective detection and prosecution of the perpetrators of the crime THB and MS.

The Action Plan envisages and specifies the strategic goals, specific goals, activities to be undertaken to achieve the set and expected goals, time frame for undertaking, the competent institution / citizens' associations. In order to successfully achieve the set goals, a budget framework and a budget holder are envisaged. In order to effectively monitor and evaluate the results of the implemented planned activities in the NAP, the National Commission and the Subgroup for Combating Trafficking in Children have prepared annual operational plans.

➤ **recent case law concerning THB for different forms of exploitation.**

According to the court judgments for the period 2009-2019 presented in the Analysis of the Rights of Victims of Human Trafficking in Court Proceedings, made in line with Greta's recommendations for raising awareness, increased skills and training of persons involved in the fight against THB. In a total of 19 first instance verdicts, 24 victims appear as damaged. In terms of gender, 22 of them are women (more than 90%) and 2 are men (Macedonians). According to the ethnicity of the victims, the verdicts state the following: Macedonians-7, Albanians-5 (women), Roma-4 (women), Turks-1(woman) and foreign nationals. Regarding the type of exploitation, by far the highest number (17) is of victims of sexual exploitation. Five of the victims were victims of labor exploitation, two of whom were men. In three of the cases, the victims were forced into marriage.

13. Please provide information on measures taken in your country in respect to the following recommendations made in GRETA's second evaluation report:

- **Provide the necessary human and financial resources to enable law enforcement officials, social workers, NGOs and other relevant actors to take a more proactive approach and increase their work to detect victims of trafficking;**

In order to successfully deal with the fight against trafficking in human beings and illegal migration in the Republic of North Macedonia, in accordance with the Plan 3-6-9 of the Government of the Republic of North Macedonia dedicated to the migration sector has established the **National Unit for Combating Trafficking in Human Beings people and smuggling of migrants"**, by Decision of the Minister of Interior and after concluding a Memorandum of Cooperation between the Ministry of Interior and the Public Prosecutor's Office of the Republic of Macedonia, in the field of suppression of organized forms of migrant smuggling and trafficking in human beings, which officially started working on March 1, 2018. The National Unit for Migrant Smuggling and Trafficking in Human Beings lasted for three years, but due to the special results achieved in the field of trafficking in human beings and smuggling of migrants, its mandate in accordance with the National Strategy for Combating Trafficking in Human Beings and Illegal Migration in RNM and the National Action Plan for Combating Trafficking in Human Beings and Illegal Migration in RNM 2021-2025 has been extended until 2025.

- **increase efforts to proactively identify victims of trafficking in human beings for labor exploitation by strengthening the role and training of labor inspectors.**

The Council of Europe, within the Horizontal Facility program for the Western Balkans and Turkey, through the project Prevention and Combating Trafficking in Human Beings, conducted training for inspectors from the State Labor Inspectorate. Most inspectors have undergone basic training in recognizing and identifying potential victims of trafficking, as well as in dealing with potential victims. All inspectors have received contacts from the Ministry of Interior - Unit for Trafficking in Human Beings and Migrant Smuggling / NUSMGTHB, MLSP - National Referral Mechanism, as well as from all contact persons from the Centers for Social Protection. This project also resulted in the Pocket Guide for Identifying Victims of Trafficking, which was received by the inspectors who underwent the training. Some of the inspectors have passed advanced training and training for trainers. The trainings strengthened the capacities of labor inspectors for detection and preliminary identification of victims of trafficking in human beings for the purpose of labor exploitation. As the trainings were organized with participants from all relevant institutions, the cooperation between these institutions, labor inspectors, police officers, social workers and the NGO sector was also improved.

Please provide detailed information on the efforts made to ensure the sustainability of mobile teams and the number of victims of trafficking in human beings detected by mobile teams;

In order to meet the objectives set out in the Plan for Urgent Reform Priorities 3-6-9 of the Government of the RNM, as well as for the purposes of operationalization and implementation of the signed memorandum of cooperation concluded between the Ministry of Labor and Social Policy and the Ministry of Interior on January

23, 2018, 5 **Mobile teams for identification of vulnerable categories, including victims of trafficking in human beings were formed** (in Bitola, Gevgelija, Kumanovo, Skopje and Tetovo). The work of the mobile teams was supported by the International Organization for Migration (IOM) within a project funded by the European Union. The mobile teams are a joint action of the Ministry of Labor and Social Policy / Centers for Social Work and the representatives of the Ministry of Interior / SIA. Representatives of citizens' associations also support the work of the Mobile Teams, in accordance with the Decision for establishment of Mobile Teams for identification of vulnerable categories. In the period March 2018 - December 2019, the mobile teams initially contacted, informed and assisted 797 people (719 citizens of the Republic of Macedonia and 78 foreign citizens), of which **14 victims of trafficking in human beings** (all females, 10 children and 4 adults) and 190 potential victims of trafficking in human beings (132 female and 58 male, of which 141 are children and 49 adults) and 593 vulnerable categories of persons, of which 318 men and 275 women. The mobile teams and the results they have shown in the previous period are an example of good practices in the field of multidisciplinary approach and cross-sectoral cooperation with a proactive approach in identifying vulnerable categories of citizens at high risk of THB. The National Commission in its NAP envisages measures to ensure their sustainability in the institutional framework for THB and IM.

In August 2021, short-term financial support for the work of mobile teams was provided by IOM, mainly by supporting the participation of representatives of the NGO sector in mobile teams, in order to overcome the challenges caused by the COVID-19 pandemic.

- **pay increased attention to identifying potential victims of trafficking between migrants and asylum seekers and provide access to interpretation to facilitate the process;**

A victim of trafficking can become an asylum seeker, at the same time an asylum seeker can become a victim of trafficking. The Asylum Department, after submitting the application, conducts an initial interview with the asylum seeker. If the same person shows certain behavior that can be indicated that he / she is a victim of trafficking in human beings, that person in the procedure upon the submitted request, including the main interview, is treated by one of the two counselors who have a job of conducting procedures for vulnerable category of persons. At the same time, the Asylum Sector may propose to the MLSP, the Center for Asylum Seekers, to work with a psychologist, to make a medical examination that would be the basis for further treatment.

In order to detect potential victims of human trafficking among migrants, the mobile teams from Kumanovo and Gevgelija, in the period 2018-2019 regularly visited the Temporary Transit Centers Vinojug and Tabanovce. Of the informed, assisted and referred persons by MT Kumanovo and Gevgelija, 62 were foreign persons, out of which 2 potential victims of trafficking in human beings, both females aged 21 and 23, and 60 vulnerable categories of persons, mostly males.

- **Improving assistance to victims of trafficking in human beings. What steps have been taken to increase public funding for relief measures, including running a state shelter for victims of trafficking in human beings, as well as NGO's work against trafficking in human beings? What assistance measures, including accommodation, are provided for potential and formally identified male victims of trafficking?**

- **The Ministry of Labor and Social Policy** provides a budget for financing the Center for Victims of Trafficking in Human Beings (Shelter Center) for overhead costs. Only in 2019, the MLSP also financed the service in the shelter provided by the association Open Gate in the amount of 20,000 euros.

For male victims of trafficking, the same assistance and support measures are provided as for women by the fact that men are not accommodated in a shelter center but other alternative safe accommodations are found, such as: in family homes in possession or owned by their families. , for children depending on age in foster family, small group homes.

- **Open Gate** provides the means to implement the victim assistance and support program to a large extent through project activities financially supported by foreign donors. For the functioning of the State Shelter, assistance was provided by the MLSP in covering the overhead costs for the shelter. In 2019, Open Gate received financial support from the MLSP for the implementation of program activities in the shelter, which covered 30% of the required budget for the implementation of an effective victim assistance program.

➤ **improving the identification and assistance of child victims of trafficking**

The Ministry of Labor and Social Policy, more precisely, the Sector for Equal Opportunities, through the office of the National Referral Mechanism for Victims of Human Trafficking (NRM) is a competent service for child victims of trafficking in RNM. The activities of this body are focused on preventing child trafficking and improving the protection of juvenile victims, as well as coordinating cooperation between stakeholders. For the purpose of more efficient implementation of the legal measures and competencies, NRM continuously implements the activities envisaged by the National Strategy and the Action Plan for Combating Trafficking in Human Beings and Illegal Migration. While, in order to protect the victims of trafficking, it continues to develop cooperation and coordination with social workers, labor inspectors, the Ministry of Interior through the Unit for Combating Trafficking in Human Beings and Migrant Smuggling, as well as with the Center for Victims of Trafficking in Human Beings and non-governmental organizations.

➤ **issue clear instructions to authorities identifying the need to offer a recovery and reflection period to victims of trafficking before making formal statements to investigators and without being conditioned on the victim cooperating.**

The period of reflection as well as the rights that the victim of human trafficking has in the mentioned period are regulated in the Law on Foreigners. The stated legal provisions, as well as the entire identification process are elaborated in Standard Operating Procedures for Dealing with Victims of Trafficking in Human Beings adopted by the Government of the RNM.

Part III - Statistics on THB

14. Please provide the following statistics, per year STARTING WITH 2016, where available disaggregated as indicated below:

- **Number of presumed victims and identified victims of THB in the sense of having been recognised by a state institution or mandated NGO as bearers of rights to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).**

	Potential			Identified	Identification performed by	Sex		Age		Nationality	Form of exploitation	Internal or transnational
	Adult	Children	Women			Men	Adults	Children				
2016	1 2 5	7 8	4 7	6	3 - MoI and MLSP 3 - MoI	6	/	3	3	1-RNM 1-B&H 1-SRB 1-ALB 2-Roma	5-sexual 1-forced marriage (sexual)	5-internal trafficking 1 foreign victim of THB detected in RNM

2017	97	56	41	2	1-MoI and MLSP 1 - MLSP	1	1	/	2	2-Roma	1-begging 1-sexual	2- internal trafficking
2018	124	37	87	9	9-victims of THB mobile teams	9	/	3	6	3-RNM 3-Roma 3-ALB	5-sexual 3-forced marriage 1-sexual/labor	7- internal trafficking 1- foreign victim of THB detected in RNM 1-domestic victim detected in neighboring country
2019	124	39	85	6	5-mobile teams 1-MoI	6	/	2	4	3-ALB 1-TUR 1-Roma 1-B&H	3-forced marriage 1-begging 1-labor 1-sexual	3- internal trafficking 3- foreign victim of THB detected in RNM
2020	6	1	5	7	3-MoI and MLSP 4-MLSP	6	1	1	6	4-RNM 2-ALB 1-Roma	5-sexual 1-begging 1-labor	6- internal trafficking 1- domestic victim detected in neighboring country

➤ **Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).**

In 2016, an asylum application was submitted for a female person, who initially declared herself a minor, but during the procedure it was determined that she was 21 years old, from Nigeria, sexual exploitation and that was the only case who was confirmed as a victim of trafficking in human beings.

➤ **Number of victims of THB who received assistance (disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).**

In the period from March 2018 to December 2019, the mobile teams identified, referred and assisted a total of 797 users (719 citizens of RNM and 78 foreigners), out of which 14 victims of trafficking in human beings (6 for forced marriages with sexual exploitation, 6 for sexual exploitation, and one for labor exploitation), 190 potential victims of trafficking in human beings and 593 vulnerable categories of persons at risk of THB. Of the total number of persons, 464 (58%) were women while 333 were men (42%). All victims of trafficking in human beings were women, while out of 190 potential victims, 132 were women and 58 men. Of the 593 vulnerable categories of persons, 318 were women and 275 men. According to age, 11 victims of THB were children under 18 years of age, while 3 were aged 19-30 years. Out of 14 victims of THB, 11 were citizens of RNM, while 3 were foreign citizens (Albania and Kosovo). Of the potential victims of trafficking in human, 143 were under the age of 18, while 47 were between the ages of 19 and 50. Of the vulnerable, 302 were under the age of 18, while 291 were aged 19-82.

Victims of THB who received assistance	Age	Nationality	Form of exploitation	Internal/ Transnational trafficking
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2016	6 (female)	3 - children 3 - adults	1 - ALB 1 - SRB 1 - B&H 1 - RNM 2 - Roma	5 - Sexual 1 - forced marriage (Sexual)	5 - internal 1 - transnational
2017	1 (female) 1 (male)	2 - children	2 - Roma	1 - Sexual 1 - begging	2 - internal
2018	9 (female)	6 - children 3 - adults	3 - ALB 3 - RNM 3 - Roma	6 - Sexual 3 - forced marriage	8 - internal 1 - transnational
2019	6 (female)	4 - children 2 - adults	3 - ALB 1 - TUR 1 - B&H 1 - Roma	1 - Sexual 3 - forced marriage 1 - labor 1 - begging	3 - internal 3 - transnational
2020	6 (female) 1 (male)	6 - children 1 - adult	2 - ALB 4 - RNM 1 - Roma	5 - Sexual 1 - labor 1 - begging	6 - internal 1 - transnational

➤ **Number of child victims of THB who were appointed legal guardians.**

Number of child victims of THB who were appointed legal guardians	
2016	2
2017	1
2018	5
2019	4
2020	4

➤ **Number of victims of THB granted a recovery and reflection period (disaggregated by sex, age, nationality, form of exploitation).**

	granted recovery and reflection period		Nationality	Form of exploitation
	adults	children		
2016	/	2 female	1 - ALB 1 - Roma	2 - Sexual
2017	/	1 female	1 - Roma	1 - Sexual
2018	1 female	4 female	1 - RNM 2 - Roma 2 - ALB	2 - Sexual 2 - Forced marriage 1 - Sexual /labor
2019	2 female	4 female	3 - ALB 1 - TUR 1 - Roma 1 - B&H	3 - Forced marriage 1 - Begging 1 - Labor 1 - Sexual
2020	/	4 female	2 - RNM 2 - ALB	4 - Sexual

- **Number of victims of THB granted a residence permit, with an indication of the type of the permit and its duration (disaggregated by sex, age, nationality, form of exploitation).**

	Residence permit	Period	Gender	Age	Nationality	Form of exploitation
2016	/	/	/	/	/	/
2017	/	/	/	/	/	/
2018	/	/	/	/	/	/
2019	1	21.11.2019- 14.05.2019	Female	Major	ALB	Forced marriage
2020	/	/	/	/	/	/

- **Number of persons given refugee status or subsidiary/complementary protection on the grounds of being victims of THB (disaggregated by sex, age, nationality, form of exploitation).**

Subsidiary protection of a female person, who was initially declared a minor, but during the procedure it was determined that she was 21 years old, from Nigeria, sexual exploitation.

- **Number of victims of THB who claimed compensation, who were granted compensation and who effectively received compensation (disaggregated by sex, age, nationality, form of exploitation, with an indication of whether the compensation was provided by the perpetrator or the State, and the amount awarded).**

According to information from Open Gate, so far only one victim (female, 15 years, of sexual exploitation) has received a claim for damages. With a verdict from 2015, the Basic Criminal Court awarded the child victim 400,000 denars in non-pecuniary damage, after the perpetrator was found guilty. According to the Law on Child Justice, child victims are entitled to compensation from the budget of the Ministry of Justice if the funds cannot be collected from the perpetrator of the criminal act.

Additionally, 2 victims received a claim for damages, but it was not realized. One victim was not awarded claim for damages and it has been referred to civil proceedings, and it is ongoing. A claim for damages has been awarded to one victim and the enforcement procedure is ongoing.

- **Number of victims of THB who received free legal aid.**

Number of victims of THB who received free legal aid	
2016	5
2017	/
2018	7
2019	4
2020	4

- **Number of victims of THB who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation).**

	Repatriated victims of THB		Nationality	Destination country	Form of exploitation
	Adults	Children			
2016	1 female	/	1 - SRB	Serbia	1 - sexual
2017	/	/	/	/	/
2018	/	1 female	1 - ALB	Albania	1 - arranged marriage
2019	2 female	1 female	2 - ALB 1 - B&H	2 Albania 1 B&H	1 - forced marriage 1 - begging 1 - labor
2020	/	/	/	/	/

- **Number of prosecutions in THB cases (disaggregated by type of exploitation, with an indication of the number of victims and defendants concerned).**

	Submitted criminal charges (CC)		Perpetrators		Victims		Form of exploitation
	418a	418d	418a	418d	418a	418d	
2016	1CC	2CC	6 persons (2 women and 4 men)	7 persons (2 women and 5 men)	1 female	2 female	sexual
2017	/	1 CC	/	1 male person	/	1 male	begging
2018	/	2CC	/	6 (4 women 2 men)	/	3 female	sexual and labor
2019	/	3CC ²⁰	/	6 (2 women и 4 men)	/	3 female	sexual forced marriage
2020	/	/	/	/	/	/	/

- **Number of convicted perpetrators of THB (disaggregated by sex, age, nationality, form of exploitation)**

Number of investigations/ CC for cases of trafficking in human beings	Number of reported persons
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²⁰ One of the CCs is for a victim of THB identified in 2018

2016	3 CC	Against 14 persons
2017	3 CC	Against 3 persons
2018	4 CC	Against 13 persons (8 men 5 women)
2019	3 CC	Against 8 persons (5 men 3 women)
2020	/	/

- **Number of convictions for THB, with an indication of the form of exploitation, whether the victim was adult or child, the type and duration of the penalties, and whether they were effectively enforced or suspended.**

	Received				Effective				Imprisonment				Suspended sentence			
	418a		418z		418a		418z		418a		418z		418a		418z	
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
2016	1	1	1	1	1	1	/	/	/	/	/	/	1	1	/	/
2017	/	/	/	/	1	1	/	/	/	/	/	/	/	/	/	/
2018	/	/	3	6	2	3	1	3	/	/	/	/	2	3	/	/
2019	/	/	1	2	/	/	1	3	/	/	1	3	/	/	/	/
2020	/	/	1	1	/	/	2	3	/	/	2	2	/	/	/	/

- **Number of judgments in THB cases resulting in the confiscation of assets.**

- 2020 – In the reporting period, no verdict was rendered resulting in the closure of a business used to carry out THB, nor in the confiscation of property or cash.
- 2019 – In the reporting period, no verdict was rendered resulting in the closure of a business used to carry out THB, nor in the confiscation of property or cash.
- 2018 – A confiscation of 150 euros and 1620 denars was committed, and 2500 euros and 200 denars were seized. No judgment was rendered in the reporting period resulting in the closure of a business used for trafficking in human beings.
- 2017 – Property and property assets were confiscated in one case (judgment), while in 18 cases (judgments) physical assets were confiscated. No verdict has been rendered resulting in the closure of a business used to commit trafficking in human beings.
- 2016 – Physical assets were confiscated in 72 case verdicts, and funds were confiscated in 5 cases. No verdict has been rendered resulting in the closure of a business or organization used to engage in trafficking in human beings.