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Department for Empiric Researches

LEGAL TREATMENT OF TEMPORARY STAY OF HUMAN TRAFFICKING VICTIMS IN MONTENEGRO

Survey results Report

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INTRODUCTORY METHODOLOGICAL REMARKS

In this report, we will present data and analyses that were the result of survey conducted during June 2006. The time in which the survey was conducted has, in a way, determined the choice of interviewees, and therefore, also the quality of obtained information. The data were collected immediately after the referendum on the statehood status of Montenegro, in which Montenegro has become an independent state. CEDEM's Department for Empiric Researches was intensively engaged in public opinion surveys regarding the referendum and this is the key reason for the delay of this report. Furthermore, the entire Montenegrin society, its institutional structure, individuals and organizations, were, in one way or another, involved in the referendum process. In other words, shortly before the referendum, and after it, every social activity, as well as every research activity, was 'labeled' to be integral part of someone's campaign. This is a natural reflex of one, politically, deeply divided society, and only thanks to experience and personal connections of prominent CEDEM's leaders, using various 'persuasion' methods, we managed to provide cooperation of interviewees during interviews. Therefore, (this is an important methodological remark) regardless of the importance of human trafficking issue, within actual political context, when future of the state was at stake, this issue was interpreted as marginal and that was simply a 'feeling in the air' experienced when scheduling and conducting the interviews.

In this survey, we have used semi-structured interview, which was formulated within IOM project as a whole. Therefore, based on questions made in these interviews, we have collected opinions of relevant interviewees, as follows:

- Five judges;
- Five prosecutors;
- Five police officers;
- Five NGOs' representatives;
- Five representatives of Center for Social Care;
- One IOM representative – Podgorica, and
- Consultant of National Coordinator for Fight against Human Trafficking.

Regarding the choice of interviewees, the survey team faced the problem at the very start of its work, which was unable to overcome. Four, out of five state institutions that due to the nature of the problem, were encompassed by this project, after being contacted by CEDEM, have self-initiatively made the selection of interviewees, without providing the explanation regarding the criteria of that selection. We didn't have that kind of problem regarding the representatives of NGOs that are primarily engaged in issues and problems of human trafficking. This, of course, also applies to IOM representative and Consultant of National Coordinator for Fight against Human Trafficking.

Duration of interviews varied in respect to quantity of data that interviewees had regarding human trafficking. In cases when interviewees didn't have the data, the interview lasted 25 minutes in average, and in cases

when interviewees had these data the average duration of interview was 50 minutes. We have produced a transcript of all interviews and we also used software 'Nvivo' for quality data processing. We will methodically present the results in 'blocks of questions' that have defined the semi-structured interview.

I Information on eventual direct engagement with victims of human trafficking and data on victims

1. HUMAN TRAFFICKING DATA

Regarding the possession of information on human trafficking, the survey showed that **there are significant variations with respect to institutions from which the interviewees were coming from.** From interviewed prosecutors, only one said that he does not have this information, and the same goes for representatives of NGO sector. On the other hand, out of five police representatives, two had said that they do possess this information while remaining three said they did not. IOM representative and Consultant of National Coordinator certainly were familiar with these data. Finally, it is while noting that from five **Center for Social Care** representatives, only one was able to provide information on human trafficking and the same apply to judges.

2. QUALITY AND QUANTITY OF HUMAN TRAFFICKING DATA

The aim of this question was to describe all the human trafficking cases, which the interviewees were familiar with. As in the case of possession of information, even regarding the quality and quantity of information we have registered variations, both between institutions and between interviewees.

Prosecutors have provided all relevant information at their disposal. First, one of them have simply instructed us to go to the clerk's office, without giving us personally any of the data. The other said that three criminal charges were pressed against four persons. After the conducted investigation, the prosecutor pressed charges against all four persons, and one of them was convicted. One charge was pressed in 1999, and the other 2 in 2005. All criminal offenses were committed in Podgorica. In total, there were four offenders and all for were men. Three of them are approximately 30 years of age and one is 50 years old. They are citizens of Serbia and Montenegro (SCG). The victims were women; one was just above 20 years of age, the second 32, and the third was minor. All three women had the citizenship of SCG. Two were accommodated in appropriate shelter and all three were victims-witnesses.

The second prosecutor said that he had pressed three criminal charges and that offenses were committed in Podgorica. There were 6 persons accused

in total, 5 men and one women. All accused were of Montenegrin nationality and one was the Serb. Only one of them had prior convictions but this prosecutor was unaware what his prior crimes were. All the victims, 4 in total, were women. One was from Serbia and three from Montenegro. Two of them are adults and two minors. Regarding the victims this prosecutor said, "I think that they were not sentenced before". Two of these victims were in the 'Women's Safe House' and one was in the Institute for Youth Education. They were all victims-witnesses.

The third prosecutor, who said to possess the information on human trafficking, was engaged in two indictments when 4 persons were accused, and all 4 were citizens of SCG. In these cases, three persons were victims; two young SCG citizens and one person from Moldavia. Regarding the SCG citizens, one person was minor and all three victims were women.

Finally, the fourth prosecutor was possession of information regarding three criminal charges that were brought against 11 persons; one of these cases was completed and three persons were acquitted. The prosecutor said that he has filed a complaint regarding this acquittal and the case is currently at the Appellate Court. Other charges are still being processed. The location of committed offenses is Montenegrin territory- one in Ulcinj, and this is exactly the case where acquittal was passed. The other two locations are Budva and Podgorica. All criminal offenses were committed in period 2004- 2006. Regarding the perpetrators, the three that were acquitted are 22 years of age; they are of Albanian nationality and men. Then we have six perpetrators who are of Roma nationality and two of them are refugees from Kosovo. These persons were charged for *trafficking of children*. Three of them are women and three men age between 40 and 45. As far as victims are concerned we have a case of one baby (Roma case) and the case of Albanian women from Ulcinj some 20 years old that was admitted to the shelter. This victim participated in the proceedings as a witness but we don't have the data regarding her temporary stay permit.

The **Judges** haven't gave us almost any information regarding this issue, what is quite normal because only one judge said to be in possession of human trafficking information. Therefore, the four judges without any information were not able to give us data that are more precise regarding the mentioned cases. One judge that did say to have information on human trafficking has referred us to the clerk's office to get more detailed data, and he added that 'in his opinion there are a dozen cases regarding this issue'.

Police definitely has detailed information on human trafficking cases. One police officer gave us detailed information in that respect. He said that in period 2004 – 2006 12 criminal charges were brought and as many actions. Location of committed offenses is Podgorica and almost all cases were linked to sexual exploitation and one case of forced labor and one case of children trafficking for purpose of adoption. In 2004 there were 6 criminal charges brought and 14 persons accused, out of which 8 were from Montenegro, 3 from Serbia, 2 from Bosnia and Herzegovina and one person from Ukraine. All suspects that were latter in the processed accused were men except one person (Ukrainian women). Regarding the victims, in this year we had 5 women

(2 are Montenegrin, 2 from Serbia and 1 Albanian). Two of them are minor, two were between 25-30 years of age and we had four men that were the victims of labor exploitation. These were Ukrainian citizens age 30-50. In 2005, there were 5 criminal charges brought against 8 offenders, out of which 7 had Montenegrin citizenship and one Serbian citizenship. In total, there were 8 victims; four of them were women from Serbia (one was minor, and others were 20-30 years of age) and four men smuggled from Bangladesh. In 2006, we had just one criminal charge regarding children trafficking for the adoption. As far as offenders are concerned, there were 6 of them and all of Roma nationality living in Montenegro but originally from Kosovo. The victim was a baby; its parents sold it for an old car. Regarding the sentences, there were 3 sentences passed in 2005. The first one related to labor exploitation and 4 persons were convicted (in total 14 years in jail) as follows: one person was convicted to 5 years in prison, the second 4, and third and fourth got each 2,5 years in prison. The second sentence related to one person for soliciting. The sentence was 6 months in prison. In 2006 the following sentences were passed: one sentence for smuggling the Bangladeshi men in total duration of 8 years and 2 months (one person was sentenced to 3 years, the second to 2 years and 8 months, and the third one to 2 years and 6 months). In these cases, the victims were accommodated exclusively by the Montenegrin Women Lobby because in their premises the government run shelter for victims is located. All victims had testified before the court.

NGOs that participated in the survey also have certain data regarding human trafficking. In one NGO they told us to be in possession of data only about victims. 90% of all the cases the victims are women, they said, and only 8 out of total number were men. All the victims were from Ukraine, Moldavia, Lithuania, China, Albania, Republic Srpska, and Serbia. The age of these women varied from 15 (the youngest) to 34 (the oldest). The victim from Albania (of Montenegrin nationality), is the mother of three children and she is 24 years old. Based on data analysis it is obvious that all the NGOs have the same data, but it remains unclear whether the NGOs are cooperating and sharing the data among them or they collect them from the same sources.

Center for Social Care is the institution that didn't provide many information regarding human trafficking cases in Montenegro. Only one interviewee from this institution told us that they had two cases of children trafficking. The first case was the boy of Roma nationality who was put into the shelter but outside of Montenegro- more precisely at the location where he was found. The second case was a baby also of Rom nationality and the place where the crime was committed is Podgorica. This baby is put to the home for infants.

National Coordinator Consultant told us that in November 2005, four persons were convicted for criminal offense of human trafficking to 2,5 and 5 years. These data corresponds with data obtained from the Police. In December 2005, one offender was sentenced to 6 months in prison. In addition, in November 2005, in Bijelo Polje one person was sentenced to 5 months but this sentenced was in latter stage transformed to 1 year. National Coordinator Consultant points out that in 2005, 28 persons- victims of human trafficking were

accommodated in the Shelter. Out of total number, 11 were from Serbia, 4 from Montenegro, 2 from Republic Srpska, 6 from Rumania, 4 from Bangladesh, and 1 from China. 13 victims were women, 7 of them were minors and here were also four children and 4 adult men. With the help of the Police, 25 persons was accommodated in the Shelter, 2 persons with the help of SOS Phone and one with mediation of Center for Social Care. There is general agreement that out of 28 sheltered persons 4 were the victims of trafficking.

IOM office in Podgorica runs the statistics on human trafficking victims, but they were unable to find those data during the interview. Mentioned data were not submitted at the latter stage even after additional contacts with the office.

3. RECORDS OF HUMAN TRAFFICKING CASES

Recording the data, accessing the data, categorization, delivery, and organization of data obviously **represents the problem for all the institutions** that were the subject of this survey. Prosecutor's Office, or more precisely, all the **prosecutors** gave us almost unique but scarce information regarding recording of human trafficking cases. They pointed out that Prosecutor's Office is running its own record for these offenses as for any other criminal offenses, according to the regulations and instructions provided by the Supreme State Prosecutor on recording methodology. They said that the base regulating the keeping of records is the Provision on Office Work, Law and Book of Procedures regarding the work of State Prosecutors. Data are being submitted to them by the Police. There is no formal questionnaire for collection of data and the data are obtained directly from the Police and investigative bodies. All official cases are registered; the Police prefers criminal charge containing all the data regarding criminal proceedings, offender, and the victim. Prosecutor's Office does not have direct contact with the victims but it is working with them through protectors from NGO sector, and only at the court and during the trial.

Speaking of **judges**, they are not keeping any kind of records, and one judge said that he is getting information on these cases through media, and that he is getting some data from 'others'.

Police is running its records and obtains the data from its teams, inspectors, and archives. Furthermore, the Police is conducting questioning, which serves as an important source of information. Finally, police officers said that they are in constant contact with neighboring countries and the Interpol.

NGO sector is feeding its records with data obtained from other subjects, mostly from authorized bodies, more precisely from documents and Government reports, Police reports, etc. Each NGO is making reports but also collecting data from other NGOs. Usually the data collected relate to identity of the victim, to what actually happened to the victim, whether the victim had any

prior convictions, etc. There is no formal questionnaire for collection of data except in one NGO (Safe Women's House). Data are also being collected through interviews with persons with whom the contacts are established. Safe Women House is obviously the most active NGO engaged in human trafficking issue; as a source of information, this NGO is using citizens reports, direct work with victims in shelters. Data are also obtained through information collected by SOS Phone for anti-trafficking and the very victims are sometimes applying (willingly) to give the data on their identities.

The **Center for Social Care** doesn't collect the data nor does it runs special records on human trafficking. Data are being submitted to them by the Police, and in one case (we already mentioned it) they got the information from one Slovenian NGO.

National Coordinator Consultant is collecting the data from others, from the State Prosecutor, Police, and NGOs, and he doesn't keep records.

IOM office is running its own records on human trafficking victims. Victims are asked to provide data regarding their identity and there is formal questionnaire created for that purpose.

4. DATABASE – PC NETWORK

Speaking of centralized database and existence of PC networks, based on survey findings we can conclude that **in general regarding this issue there is a huge deficit**. Comparatively, the Prosecutor's Office is the best-organized institution regarding this issue. Interviewed **prosecutors** point out that they have centralized database at their disposal. Supreme State Prosecutor, deputy prosecutor working on specific case, as well as employees authorized to maintain the database have the access to it. According to Supreme State Prosecutor Law, only the Supreme State Prosecutor is authorized to give data on certain cases. In addition, all state bodies can access the data, but they have to submit written request first. Database is not connected to any other database at the moment, but networking with the Ministry of justice is on the way.

Judges say that they don't have centralized database, or at least they say they DON'T, i.e. if there is such a database they are not aware of it.

Police claims that there is a database, but only chief inspectors and heads of teams have access to it. In other words, only some police employees, according to hierarchy, as well as officers in charge of specific case, have the access to this database. Interviewed police officers were unaware of eventual linkage of their database with some other.

Regarding the **NGO** sector, only some of these organizations have the database. Safe Women House has centralized database and it is of internal character only, i.e. their database is not linked to any other database. Montenegrin Women Lobby also has the database, and special Police team also has the access to their database. Their database is not linked to any other database. However, statistical data coming from this database, regarding the origin and number of victims, their age, especially the number of victims that are

minors, their sex, etc, are posted on their website and their publications. Therefore, these data are public.

Center for Social Care doesn't have any database on human trafficking victims.

National Coordinator Consultant has the database, which is available to public. She is unaware if somebody else is connected to that database.

IOM office in Podgorica has the database, and IOM is the only institution that has the access, i.e. the entire IOM (at the world level). Nobody is networked with this database and there is no possibility to access it. IOM representative in Montenegro can therefore, only access the data from Montenegro.

5. EXPERIENCES IN WORK WITH HUMAN TRAFFICKING VICTIMS

All the organizations that were the subject of this survey had certain experiences in work with human trafficking victims. **Prosecutors** said that they were engaged in the work with human trafficking victims in a sense that they were giving instructions regarding the accommodation of victims into the Shelter, performance of medical checkups, etc. They work mostly referred to giving instructions to the Police and the Shelter where the victims was sheltered. Relationship with victims was of official nature. Furthermore, they have certain experiences with victims gained during the whole process, i.e. during hearing and interrogation. Majority of persons that prosecutors worked with regarding this area, were women and domestic citizens. Regarding foreign citizens, prosecutors worked with just one woman from Moldavia, than 4 Ukrainians age 20-25 that were submitted to forced labor and finally one Albanian women 20 years of age.

Out of five interviewed **judges** just two had the experience regarding the work with human trafficking victims, and even these two gave us very poor information. The only thing we were able to find out was one case of women from Serbia and the case of foreign citizen- Moldavian women.

The same goes for the **Police**. Interviewed police officers gave us very few information on the issue. They said to have some experiences and contacts with both domestic and foreign citizens (Albania, Bangladesh, and Ukraine), both men and women.

The **NGO** sector also has some experiences in work with victims. In that regard, they worked both with domestic and foreign citizens- mostly from southeast European countries and ex USSR countries, as well as from Romania, Moldavia, China, and Albania. Victims are mostly women.

At the **Center for Social Care** only one of the interviewed employees said to have some experience regarding the issue, and that particular experience related to domestic citizens.

National Coordinator Consultant didn't have any experience in work with the victims.

IOM office employee said to had worked with domestic and foreign citizens-human trafficking victims. She said that trend is changes in respect to

this structure. In the last year the victims were only domestic citizens, i.e. from SCG, with few individual cases from Ukraine and Albania, of both sexes, although more women than men. From this statement, one can conclude that in previous years the foreign citizens dominated this category.

6. WORK WITH THE VICTIMS

Depending on institution and individuals that had experience in work with human trafficking victims, we registered different activities in that area. The **prosecutors** usually had official relationship with victims, what is in line with their role in the court process. This primarily means, police interrogating the victims, giving instructions to the police regarding eventual accommodation of the victim, than we have interrogation before investigative judge, and work with the witness that is damaged party within the court process. Finally, we have the work in pre-trial proceedings, meaning establishing the communication with the government's Shelter by giving instructions to psychologically prepare the victim for court appearance.

As far as **judges** are concerned, the only activities they had in respect to victims relate to court process. More precisely, these are hearing the damaged party, investigative activities, hearing of other persons, etc.

Police activities also come just to investigative activities and interrogations.

NGOs, unlike police and judges, have wider spectrum of activities in communicating with victims. These are: educative-informative workshops in the Shelter, help provided by expert team comprised of psychologist, sociologist, lawyer, and pedagogue. Than they have conversations and provide legal protection, safe accommodation, medical, legal and psychological helps. Some NGOs are mediating with institutions such as Police, court, medical facilities; they offer escort during police interrogation, executing transfers within Montenegro, etc. All the help given to victims is free of charge.

Center for Social Care points out that activities related to victims are primarily linked to accommodation in shelters, or social centers.

National Coordinator Consultant, didn't have any experiences in work with the victims and therefore no activities related to this issue.

IOM office was offering complete assistance that varied from one individual victim to another, depending on their needs.

7. DURATION OF VICTIMS' STAY IN MONTENEGRO

Regarding the length of stay of victims there is no unique pattern nor stipulated deadline, at least this is our conclusion based on the interviews. The **prosecutors** are saying that for aforementioned persons- victims, this timeframe varies from one month to five years. Almost identical data was given to us by the **judges**. At the **police**, we were told that victims use to stay approximately one year, and in case of male victims couple of months. **NGOs'** representatives are saying that this timeframe varies from several weeks up to

10 years, while at the **Center for Social Care** they have no data about that. **National Coordinator Consultant** doesn't have data on this particular issue, while at **IOM** we were told that timeframe ranges from several days up to maximally two years. Therefore, it is obvious that length of stay is determined by specific characteristics of each individual case.

8. HOW THESE PERSON DID REGULATE THEIR STAY FOR THE TIME OF THE SUPPORT PROGRAM DURATION

Regarding the issue of regulating the stay for the time of support program duration, based on conducted interviews we can conclude that **the biggest confusion reigns exactly regarding this issue**. Thus, the interviewees gave us completely different, even contradictory data. The **prosecutors** said that these persons were placed in some NGO and regarding the permit for temporary stay, prosecutors are unaware whether those persons regulated their stay, and if they did, how they did it. The prosecutors are also mentioning the role of IOM in this regard, although they were not quite clear about that role. The **judges** said that in cases when victims were from Serbia there was no need to regulate anything, and in cases of foreign citizens, their status was regulated by the Police. At the **police**, we got very unclear answer so we will quote it: "Everything was done on human bases. Department for foreigners was in charge of solving that". Interviewees from NGO sector gave us little bit more information. They said that there was no legal provision regulating legalization of human trafficking victims stay in until 2005, and that these victims were placed in Shelters. They also said that in some cases, in cooperation with IOM and Police temporary stay permits for three months were issued, and when INSTRUCTION was adopted there was no single victim at that point (Note: this is the first time that INSTRUCTION was mentioned). At the **Center for Social Care** they told us they had experience only with domestic citizens and in those cases there was no need to regulate the stay. **National Coordinator Consultant** hasn't answered this question and from IOM we got the answer that these persons for the time of support program duration haven't regulated their status in ANY WAY, i.e. that their status was unregulated.

9. RETURN HOME

One of the question during interviews was 'how did these persons organize their trip back home'. The **prosecutors** almost unanimously answered that this matter is solved through the Government and primarily through the IOM. The judges simply answered either 'I don't know' or 'through IOM', and interviewed **police officers** also told us that return of these persons was organized through IOM. The **NGOs** said that in majority of cases, the IOM organized the return home for these persons but also that in certain cases the victims were returning home individually and on their own so there was no

escort to protect their safety. NGOs also pointed out that some persons haven't returned yet. **National Coordinator Consultant** gave us no information on the issue, while at **IOM** they told us that this organization has organized the return for these persons.

10. VICTIMS' TESTIMONIES BEFORE THE COURT OF LAW

Special question in the interviews was: 'Did the victims testify before the Court?' Data are indicating that in usually this was the case. Therefore, the victims had testified before the Court. Concretely, based on their experience the **prosecutors** said that victims did testify. The persons in question were women with local citizenship and two of them were minor. In addition, one Moldavian women 29 years of age, and Albanian women of some 20 years also testified. In one case, it is still unknown whether the victim testified because the proceedings were interrupted and case was turned to special prosecutor. The **judges** gave us almost identical data on these cases and at the **Police** they said that many victims testified including the ones from Bangladesh when all victims gave their depositions. From **NGOs**, we got the information that there were cases when victims didn't testify, but in 90% of the cases they did. Victims and witnesses were mostly women and their age ranges from 13 to 35 years. At **Center for Social Care**, we were told that in one case they had to deal with the victim didn't testify. **National Coordinator Consultant** doesn't have these information and in the case of **IOM** they said that victims did testify, both domestic and foreign citizens of both sexes.

II Information on INSTRUCTION regarding the conditions and method for regulating the stay of foreign citizens – human trafficking victims

1. INFORMATION ON THE INSTRUCTION

The first question within this part of the survey was rather easy and simple. Interviewees were asked if they are aware that the INSTRUCTION on conditions and methodology for regulating the stay of foreign citizens-human trafficking victims, was adopted in Montenegro? All five **prosecutors** positively answered this question, meaning that they were all aware of the INSTRUCTION. Furthermore, all five **police** representatives were aware of the INSTRUCTION, and one of them commented that the Police was involved in drafting of this instruction and that this was done in cooperation with IOM (although we are

unable to check the truthfulness of this information). On the other hand, from five interviewed **judges**, one didn't have the information regarding the INSTRUCTION. Just two, out of five interviewed **NGOs'** activists, were aware of the INSTRUCTION. At the **Center for Social Care** just one interviewee knew about the INSTRUCTION but still unaware of its contents because he didn't have the opportunity to read it. **National Coordinator Consultant** was aware of the INSTRUCTION, as well as **IOM** representative. Furthermore, all those that have heard about the INSTRUCTION, pointed out that they received the information about it **through their work or official channels**. What is important is that all interviewees have gone through the INSTRUCTION and that **they all individually agreed that this is useful legal act**. There were some additional comments from which we shall single out just the paradigmatic ones. One of the interviewees (the judge) said that so far there was no institutional framework, that INSTRUCTION is human and comprehensive and that it enables the procedure to be completed. With the comment that she needs more time to review the INSTRUCTION one NGO representative said that INSTRUCTION should be transformed into Law. It is interesting that **all representatives of Center for Social Care**, who by the way had the least information regarding the INSTRUCTION, paid special attention to the INSTRUCTION and gave large number of positive comments to this act. They said that INSTRUCTION is useful legal act and in line with international recommendations. In addition, they pointed out that the INSTRUCTION is the new and big challenge for Center for Social Care, and that they should implement it.

2. THE INSTRUCTION AS ONE OF THE WAYS TO PROTECT VICTIMS, AND POSITIONS REGARDING SUPPORT SYSTEM

Even regarding this issue, the interviewees were **unanimous**, without differences in their positions. They all agree that INSTRUCTION is one of the ways to protect human trafficking victims, but also almost unanimously, they pointed out that adequate **support system needs to be formed** in order to make the INSTRUCTION effective. One of the interviewees (prosecutor) said that support system should be incorporated in all the bodies involved in the victims' recovery process. One of the police officers (inspector) said that INSTRUCTION is one of the ways to guarantee the victim personal safety and security, but also possibility to legalize its stay in Montenegro. He added that in respect to other countries in the region, the Montenegro was the last to adopt the INSTRUCTION and before it there was no regulation regarding the temporary stay for human trafficking victims. Finally, he thinks that support system should be definitely formed and that "we have to see to it that it is functioning". Interviewees often stressed that INSTRUCTION should be transformed into Law and that support system is the key thing for its implementation. Interviewees from Center for Social Care 'expressed sorrow'

because the INSTRUCTION wasn't adopted before and they agree that support system should be established.

3. POSITIONS REGARDING ENVISAGED REFLECTION PERIOD

One of the questions during interviews was related to envisaged reflection period of three months. **Prosecutors** think that this period is sufficient and proposed solution positive one. On the other hand, they also said that this timeframe could be problematic if we are dealing with cases that are more difficult. One of the prosecutors, however, said that work on the cases should intensify and this period shortened because that is in the interest of discovering the offenders.

Judges, on the other hand have ambivalent position. Three of them think that three month period is quite sufficient while one interviewee said that period is too short because they are overburdened with cases and they cannot pay due attention to these cases. She said that witnesses are often not responding to court calls, so the lawsuits are being postponed and more time is needed. Furthermore, one of the judges thinks that timeframe depends on specific cases. This judge said he is sorry that we didn't have the INSTRUCTION at the time when the victim was in Montenegro (judge is refereeing to his own case).

At the **Police**, they are of the opinion that this period is sufficient (three interviews). One of the interviewees said that this period is not too long but if the victim was subjected to torture more time is usually needed. In addition, he also said that if the victim insists that period should be extended for another month, it should be done so. Finally, one of the police officers believes that INSTRUCTION was drafted on bases of comparative experiences from the region and therefore the proposed timeframe is the optimal one.

Speaking about **NGOs'** activists, the dominant position is that this period is optimal unless we are faced with difficult cases (three interviewees). Two interviewees said that timeframe depends from specific cases, or as they had put it, "everything is on individual bases". They think that for some cases the timeframe is OK, although according to their experience, this timeframe is not implemented in practice, and the victim is being questioned from the very start. They also said that there are always some difficult cases, on which this timeframe is inapplicable. Finally, the last interviewee in this group said that this timeframe is optimal but that everything should be done in this period to help the victim.

At the **Center for Social Care**, we got different opinions. Two interviewees agree that timeframe is sufficient, the following two think it is too short explaining that in such short period the victim does not have enough time to stabilize itself and reach a decision. However, one of the interviewees working at the Center said that timeframe is actually too long and in his opinion, some 30 days would be enough. He justified this proposal with the need for efficiency, although he wasn't very convincing while elaborating his theses.

Thus, in this category of interviewees we have diversified and ambivalent positions, but **when assessing the relevance of these positions we should bear in mind that Center for Social Care didn't have enough experience in dealing with human trafficking victims so their oppositions should be taken with some reserve.**

National Coordinator Consultant, without thorough explanation, said that the timeframe is sufficient, and **IOM** representative that this timeframe represents adequate period for victim to get the hold of itself and decide what to do in future. Therefore, the assessment is that this is an optimal period.

4. FAMILIARITY WITH EU STANDARDS AND INSTRUMENTS¹

Speaking of familiarity with EU standards and instruments that relate to temporary stay permits, our interviewees gave quite different answers. Primarily the **prosecutors** had wide difference of opinions. Two prosecutors think that Police should be handling that issue and not the Prosecutor's Office, and that these standards are not the concern of the Prosecutor's Office. One prosecutor simply answered that he knows nothing about these standards. The fourth prosecutor, noting that 'he can't remember', claimed that there are numerous conventions passed by the EU. Finally, the last interviewed prosecutor 'assumes' that standards in the region are similar to the ones defined by the INSTRUCTION.

Even among **judges**, we had different opinions on the issue. Two of the judges said they are completely unaware of EU standards. One judge was critical of these standards saying that Montenegrin standards are better. He also said that EU countries have all that in paper but implement very little of that. Furthermore, he is convinced that our legislation is above EU standards, noting that EU countries have everything that we have: a house sheltering the victims, protected witnesses, no meetings with people that abused them, change of identity- meaning they have all the things we got. Although it remained unclear regarding this interviewee why our standards are better than EU ones if they have 'everything just as we do'? One of the interviewed judges said that she is familiar with EU standards, mentioning the Convention on trans-national crime with two protocols, which served as UN recommendations and guidelines, for example Convention on Slavery, Convention on Forced Labor, Convention on Stamping Out Women Trafficking, Convention on Children Labor, European Convention on Human Rights, and Convention on Children Rights. Of course, as

¹ Note: Here, **serious methodological mistake** was made. It is quite inappropriate to question the interviewees on standards after they have been shown the INSTRUCTION. In this way, using elementary intelligence the interviewees knew that the INSTRUCTION complies with EU standards. Finally, elementary methodological rule is that questions are made according to principle 'from general toward individual', and there are no reasons that could justify the violation of this rule regarding this case. If the question regarding familiarity with standards was made before the interviewees got their hands on the INSTRUCTION, it is obvious that we would have gotten different answers and reach different conclusions regarding their familiarity with EU standards.

CEDEM researchers do not have adequate specialist knowledge in this area, it remains up to experts to assess whether this answer means that interviewee in question really knows EU standards. Finally, the last interviewee- judge, simply said that EU standards are within boundaries set by the INSTRUCTION.

Police officers, were giving 'wise' and moderate answers on this question. Just one police representative said he knows nothing about EU standards in respect to this issue, and another one said that he is unaware of these standards but thinks that Montenegro should adopt them. The third police representative said that he does not know directly EU standards but on some seminars he has heard some recommendations. In addition, he said that the only thing Montenegrin Police needs is cooperation with the team for fights against human trafficking, which members know standards and regulations recommended by EU. Finally, two police officers said that EU standards are the same one incorporated by the INSTRUCTION, and by simply implementing the INSTRUCTION the Montenegro is also implementing these standards.

Within **NGO sector**, generally speaking, there is no widespread familiarity with EU standards. One NGO activist said that these standards are in compliance with UN protocol, and activist from **Safe Women House** said that she know that Italy is not conditioning the stay while majority of other EU countries do no (again because of poor information we have regarding this topic we cannot assess how much is this answer correct). All other NGO activists said that they don't know EU standards.

Interviewed representatives of **Center for Social Care** unanimously said they do not know EU standards, and one of them said that he thinks that in Italy the reflection period is six months.

National Coordinator Consultant, said that she knows EU standards, naming the Palermo Protocol and Council of Europe Convention on Human Trafficking (we don't know whether this is true or not).

Finally, **IOM** representative said to be familiar with EU standards, and regarding the instruments she said that these are in fact guidelines from different organizations, UN Protocol from Palermo 2000, Tirana Declaration 2002, and EU Directive- April 2004.

5. FAMILIARITY WITH UN PROTOCOLS ON PREVENTION, SUPPRESSION, AND ERADICATION OF HUMAN TRAFFICKING

As in the case of previous issues, which are of cognitive character even regarding this issue we have determined different level of knowledge that varies both among different categories and within individual category. Two **prosecutors** said that they don't know UN protocols while other three gave us almost identical answer saying that UN protocol regulates this matter in principal norms and instructs the signatory states to define that more precisely within proper legislations. They add that Protocol in question is complementing the Convention against Trans-National Crime. They also said that these are the acts regulating the position of the victim. One of these three prosecutors even

claimed that this is regulated by chapter 2, article 6, of UN Convention against Trans-National Crime, which explicitly defines the help and protection of victims.

Judges, just as in previous cases, have demonstrated far less knowledge in respect to prosecutors. One judge explicitly said that she does not know UN protocol and the other said 'I think it does regulate, I don't remember', while the third said that she knows the Protocol without providing any details about that knowledge. Based on our methodological experience we express doubt that this interviewee really knows the Protocol in question. The fourth interviewee in this category said that there is a Protocol for Children-victims but, as he put it 'can't remember right now'. Finally, the last interviewed judge was quite insecure regarding this issue, saying that he thinks that Protocol exists as well as some other documents, mentioning OSCE documents in form of recommendations, as well as protocols from Athens, and finally Brussels Declaration from 2002. All in all, the judges have demonstrated insecurity and seemed quite unconvincingly regarding the UN protocols.

Police officers knew practically nothing about the Protocol. Only one of them said that national legislations are passing new laws based on that Protocol, while another police officer had mentioned international Convention on Human Rights in this context.

Even the **NGO** activists demonstrated unsatisfactory awareness on UN Protocol. Three activists said that they don't know the Protocol while one interviewee said that each country has its own Protocol. The most detailed answer, once again, we got from Safe Women House representative, who said to know the UN Protocol and that this Protocol defines that victim cannot be conditioned to testify before the court.

Interviewees from **Center for Social Care** were absolutely unaware of the Protocol, but they simply said they know that there is some document regulating the temporary stay.

National Coordinator Consultant said that some other- regional document is regulating temporary stay without specifying the document in question.

IOM representative said she knows the UN Protocol.

6. THE ISSUE OF JURISDICTION REGARDING ISSUING OF PERMANENT STAY PERMITS TO THE HUMAN TRAFFICKING VICTIMS IN MONTENEGRO

This is one of the questions where we had almost unanimous answer of all interviewees. Thus, almost **all interviewees unanimously said that Police is issuing temporary stay permits**. Relative poor information regarding this issue was noted at interviewees working in **Center for Social Care**. Two interviewees working in this institution said that they don't know who is in charge of issuing the permits, while one said 'so far nobody was issuing permits'. Two interviewees said that Police is in charge of that but in

cooperation with Center for Social Care. **Police officers** gave the most precise information regarding this particular issue. They told us that permit is being issued by the Department for State Border and Cross-Border Affairs, in Podgorica and Bijelo Polje. They also said that permits are also being issued by Department for Administrative Affairs in some Police centrals: Žabljak, Šavnik, Plužine, Danilovgrad, Mojkovac, Kolašin, Cetinje. Approval of temporary stay is given by official from Security Department and he is not the inspector but Commander assistant, which is in charge of handling the work of an inspector for foreigners. **IOM** representative gave us a little bit more details saying that cross-border police- Department for foreigners is in charge of issuing these permits.

7. PERIOD FOR WHICH THE PERMIT IS BEING ISSUED – FAMILIARITY WITH THE PROCEDURES²

Even in respect to this issue the **prosecutors** demonstrated the highest level of knowledge. They said that permits are being issued on 3, 6 and 12 months and can be extended. As far as procedure is concerned, both the victim and the shelter are submitting the request.

Speaking of **judges**, two interviewees are unaware neither of the period nor the procedures for issuing the permits. One judge said that permit is being issued on 3 months, the other on 3 and 6 months, in accordance with duration of judicial process, and the third one said that permits are issued on 3, 6 and 12 months but he doesn't know the procedures.

Police representatives know the period and the procedures, obviously in line with the role they have within the police. First, four police representatives have said that permits are issued on 3, 6 and 12 months with possibility for extension. Two interviewees gave us detailed information, and one of them (inspector) demonstrated enviable knowledge regarding this matter. He said that permits are being issued on 3, 6, and 12 months depending on the role of the victim within process. He knows the procedure although he is personally not engaged in that field. According to his interpretation, the Ministry of Labor and Social Care submits the request to the Department for Administrative Affairs, which can be approved for period of 3 months. The victim is sent to the Shelter. Temporary stay permit is issued within 7 days. During these 7 days, special team is conducting interviews with the victim. After that, the stay can be extended to 6 months if the victim is cooperating with investigative bodies and it can be extended to one year if the victim is participating in the court process,

² **Note:** Again the same methodological mistake. Of course that all interviewees to which the instruction was already given, know who is issuing the permits and that period is 3, 6, and 12 months, when that is clearly stated in the INSTRUCTION that was given to them and where they simply read those things!

but also it can be extended because of lack of safety if the victim were to return to its home.

All the representatives of **NGO** sector were simply citing what they have read in the INSTRUCTION. Therefore, they said that permits are being issued on 3, 6 and 12 months, but they do not know the procedure. One interviewee was the exception because she said that IOM is usually performing this procedure for issuing the permits.

Interviewees from **Center for Social Care** said that they don't know anything neither about length of stay nor about procedures for issuing the permits.

National Coordinator Consultant said that the permit is being issued on 3, 6 and 12 months and that she knows the procedure but failing to give any details in respect to that.

IOM representative said that permits are being issued on 3, 6 and 12 months.

8. SHOULD THE ISSUANCE OF PERMANENT STAY PERMIT BE CONDITIONED BY THE TESTIMONY GIVEN BEFORE THE COURT OR NOT? – EVALUATION OF THE SOLUTION

All the **prosecutors** think that the solution proposed by the INSTRUCTION is 'positive'. They think that mentioned period should encompass even the time when victim is supposed to testify before court. Finally, one prosecutor is of the opinion that victim should be protected but also conditioned.

Regarding the **judges**, which gave very sketchy answers on this question, two of them think that solution is not good but they didn't elaborated on that. Remaining three judges said that both the conditioning and proposed period are positive solutions.

From all the **police officers** just one explicitly said that proposed solution is not good, while other two clearly and briefly said that solution is good. One police officer (inspector) said that victim shouldn't be conditioned with anything during first three months, but for extended stay the conditioning is desirable, unless the safety of the victim is endangered. Basically, this interviewee agrees that proposed solution is positive. The last interviewee from police ranks, disagrees with period of three months and suggests that issuance of permit shouldn't depend on victim's participation in the trial. However, according to the INSTRUCTION, the victim is conditioned on longer stay than three months. He respects the people who were drafting the INSTRUCTION but he said that victim shouldn't be 'a priori brought into position to cooperate with investigative bodies'.

NGOs' activists have conflicting opinions on this issue. Three interviewees are explicitly disagreeing with the INSTRUCTION saying that this

is not positive solution. One interviewee said that this 'should be' positive solution and only one interviewee openly said that this is positive solution. The last interviewee from this category said that proposed solution is positive in a sense that court proceedings could be made faster but it is difficult to assess whether this acceleration would be good or bad for the victim. This interviewee thinks that victim should face the trafficking offender and when e is sentenced the victim will 'feel stronger and more courageous'.

At the **Center for Social Care**, they expressed their uncertainty regarding this question. In three cases, the answer was 'I don't know'. Therefore, these three interviewees are unable to assess whether proposed solution is positive or not. One interviewee said that there should be no conditioning calling upon comparative experience from Italy where, according to this interviewee, there is no conditioning. Even the last interviewee from this group thinks similarly, i.e. there should be no conditioning.

National Coordinator Consultant briefly said that victim should be conditioned by court testimony, and that proposed solution is positive one.

IOM representative said that solution proposed by the INSTRUCTION is positive but that victim shouldn't be conditioned if its stay in Montenegro is lasting up to three months.

9. FAMILIARITY WITH THE PRACTICE OF OTHER COUNTRIES WITHIN REGION

In summary, our interviewees demonstrated the smallest level of knowledge when it comes to familiarity with practice of other countries within region. Four, out of five **prosecutors** said that they are not familiar with the practice of countries within region, and only one of them said that mentioned practice is the same as in Montenegro, but that other countries have adopted this practice before we did. Similarly, three **judges** are completely unaware of practice exercised in other countries in the region, and one judge said that this practice is adequate to measures and proposals that are implemented in Montenegro. The last interviewee in this category was very critical, saying that all countries of southeast Europe have introduced standards on trans-national crime in 2004, and that even Albania used to have better legal solution from Montenegro. Three **Police** representatives said they don't know anything about the practice in the region, and two police officers said that practice in those countries is similar to ours. **NGOs** activists (three of them) said to be unaware of practice in the region, one activist said that those countries have similar solutions as Montenegro. Only one activist gave the example of Italy claiming that this country has the program that doesn't condition the victim, i.e. that in Italy people are trying to employ the victim and to offer her help to its full recovery. Interviewed representatives of **Center for Social Care** knew almost nothing about the practice of other countries within region, except one interviewee who claimed that in Italy they have protection program lasting six

months. **National Coordinator Consultant** also knows nothing about the practice in the region, while **IOM** representative said that in Serbia and Croatia they issue the permits just as in Montenegro at the moment.

10. SHOULD THE INSTRUCTION BE TRANSFORMED INTO LAW?

All **prosecutors** answered positively on this question. Therefore, YES, the INSTRUCTION should be transformed into Law. At the same time all interviewed prosecutors said that, they don't know if that is already done. Even the **judges** mostly agree that INSTRUCTION should be transformed into Law, although two of them said they don't know, i.e. they are not sure whether this should be done or not. **Police** representatives unanimously and with no exception agree that INSTRUCTION should be transformed into Law, while three of the **NGOs** activists are not sure compared to two activists who are in favor of transforming the INSTRUCTION into Law. At the **Center for Social Care** they are also uncertain regarding this issue, and one of the interviewees said that this should be done if human trafficking is widespread phenomenon in our society, thus demonstrating how much is he uninformed about this issue. **National Coordinator Consultant** thinks that this is necessary, but added that it was already done. **IOM** representative not knowing whether this is already done thinks that it should be done.

11. EXPERIENCES WITH HUMAN TRAFFICKING VICTIMS, WHO WERE INFORMED ABOUT POSSIBILITIES TO LEGALIZE TEMPORARY STAY-PUBLIC ANNOUNCEMENTS AND FLOW OF INFORMATION³

Only one of the **prosecutors** had the experience in working with victims who had used their right of temporary stay. However, all five interviewed prosecutors agree that possibility for legalization of temporary stay for human trafficking victims should be publicly announced. In their judgment, this should be done through media, on cross-border points, as well as in institutions engaged in this issue. One prosecutor said that more efforts should be made to educate the persons working on cross-border points, courts, NGOs, etc. When identifying the victim these people should be able to instruct her/him how to implement her/his rights, and to help the victim in the process and to report her/him.

Not one of the interviewed judges had any experience in work with victims that were informed about possibilities for temporary stay, and the judges also said that in some of the cases they were processing the INSTRUCTION wasn't in force. Four judges clearly said that public

³ **NOTE:** In this part of the report, whenever we are talking about victims we refer to victims that were informed on possibility to legalize their temporary stay.

announcement should be avoided, expressing fear from abuse of this action, and only one judge think that public announcements should be made but without elaborating on that.

Just as in the case with judges, four out of five **police officers** is opposing public announcement, while one police officer think that public announcement should be done, primarily through informing the NGOs, cross-border points, and also the media. None of the interviewed police officers had experience in working with victims that were informed with possibility to legalize their temporary stay.

Regarding the **NGOs**, none of the interviewees had experience in work with victims that were informed with possibility to legalize their temporary stay. However, unlike police officers and judges, all NGOs representatives are in favor of public announcement, and primarily in form of training for cross-border services, police officers, citizens, etc.

Interviewees from **Center for Social Care** again expressed uncertainty, by saying that public announcement should be done using propaganda materials and electronic media. Furthermore, cross-border points should be in focus of public announcements. None of the interviewees employed in the Center had experiences in work with human trafficking victims.

National Coordinator Consultant said she had no experience in work with victims; she thinks that possibility for legalization of temporary stay should be publicly announced, but than said, it is already done.

IOM representative, who had no experience in work with the victims, thinks that announcements are positive thing but added that IOM is working on announcement at the cross-border points, Center for Social Care (what is odd as so few people in the Center knows about these issues), in some diplomatic missions, etc.