



## Report: Monitoring court cases on trafficking in human beings

Plovdiv, 22 May 2015

1. Reporting period: **September 2014 – April 2015**
2. Number of **THB sessions** monitored: **23**
  - Trafficking for prostitution: **23**
  - Trafficking for other purposes (pls indicate which purposes, e.g. agricultural work, begging, etc.):
  - If applicable: related offences (e.g. exploitation of prostitution/ pandering/ prostitution/ other; pls specify): **in one of the cases (kidnapping, rape, fornication, robbery).**
3. Total number of **THB cases** monitored (several sessions can be monitored in relation to the same case): **7**
  - Trafficking for prostitution: **7**
  - Trafficking for other purposes (pls indicate which purpose):
  - If applicable: related offences (pls specify):
4. Total number of **suspects** involved in the cases monitored: **13**
  - Women: **1**
  - Men: **12**
  - Other:
5. Total number of **victims** involved in the **THB cases** monitored: **20**
  - Women: **19**
  - Men: **1**
  - Transgenders:
  - Children (pls indicate ages):
6. Stage of the trial:
  - Investigation stage: **1<sup>1</sup>**
  - Court of First instance: **4<sup>2</sup>**
  - Court of Appeal: **1**

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<sup>1</sup> Plovdiv

<sup>2</sup> Two in Petrich and two in Plovdiv

- Supreme Court/cassation:
- Civil court: 1<sup>3</sup>

If applicable pls split the numbers for the different type of cases (trafficking for prostitution; trafficking for other purposes; related offences)

#### 7. Protection of privacy (use of personal data of the victim):

The personal data of the victims was only used during the court hearings. It should be noted, however, that almost all the court hearings were held in public, thus every person present in the court rooms could obtain details of the victim's personal data and life.

#### 8. Psychological and/or social support of the victim:

All the victims in the pending criminal proceedings acted in their capacity of witnesses and not as victims, thus none of them was provided with any type of psychological or social support during the process.

In one of those cases, which was monitored in the second instance, the victim was accompanied by the Judicial Police in order to undergo a Combined Psychological and Psychiatric examination for the need of the proceedings, namely a specialized Medical conclusion to be drawn by expert on her medical and mental status after the act of trafficking for sexual exploitation was committed. She was later accompanied by the Judicial Police to her relatives in order to ensure her safety.

In the case at interrogation stage, the victim is supported by an NGO - legal, social and psychological support.

In the civil case, the victims are also supported by an NGO - legal, social and psychological support.

#### 9. Information of the victim:

There was no clarity in 4 of the monitored criminal cases as to did the victims receive proper information on the proceedings and their rights - before the judicial stage of the process. In 3 of the cases the victims were properly informed by the Police during the investigation stage about their rights, including the right to compensation, hence the civil case for compensation was initiated. It should be noted, however, that in two of the three cases, victims are supported by NGOs, thus they are properly informed about their rights.

In the court, the judges in the criminal cases formally gave information to the victims only in their capacity as witnesses.

#### 10. Presence of the public and/or media:

No Media interest was noticed in the 7 monitored cases. Public presence was noticed in few of the sessions but it consisted mainly with relatives and friends of the defendants.

#### 11. Protection of the safety of the victim:

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<sup>3</sup> Varna

None of the victims was protected during court sessions but in the case monitored at its second instance the Judicial Police accompanied the victim for her medical examination and provided her with protection after the examination by taking her home to her relatives.

Both in the case at investigation stage and the civil case, the relevant NGOs support the victims ensuring them safety.

#### 12. Manner of interrogation of the victim:

- Communication & attitude of the prosecutor and the court towards the victim
- Role of the prosecutor in protecting the victim/ defending the interest of the victim
- Role of the court in protecting the victim (e.g. against improper or irrelevant questions)
- Role of the lawyer in defending the interests of the victim

In general, as most of the victims were, one way or another, involved in prostitution before the crime of THB was committed, all the parties in the proceedings lacked sensitivity towards them perceiving them only as “prostitutes”.

In the session of the case monitored at second instance, the victim was questioned by the defendants’ lawyers about her sexual habits and taste as well as how she could be raped when she is a prostitute. There was also a question about the usual number of men she is having intercourse with during her “working day”. The court and the prosecutor, however, strongly opposed to such questions. They were not allowed and the victim did not have to reply. Both the court and the prosecutor were very sensitive towards the victim during their interrogation. However, from time to time, all the parties in the proceeding were treating the victim as a prostitute and not as a victim. The court verdict partly expresses some of the attitude of the parties and the society as a whole stating that this THB case is not a “classic” one as the victim was a prostitute in the time of the trafficking. The punishment is in itself an expression of such attitude although a guilty verdict was pronounced.

In the case when 6 victims were involved, one of whom a man, all of them were questioned rudely in the court room as they were involved in prostitution in the time THB took place, did not cooperate with the authorities by not being present in the hearing when they were summoned which led to fine with 100 BGN for some of them and to their forced questioning ensured through the Judicial Police. The court did not take into account their statements that the Police officers who interrogated them in the beginning of the proceedings forced them to make particular statements.

In one of the hearings of the case involving two victims, the judge made a statement after the questioning of one of them saying: *“you are in between the ditch and the sidewalk but, surely, sooner or later, you will fall in the ditch as you are a prostitute at the age of 20 and you are arrogant and brutal”*.

#### 13. Compensation:

No financial compensation was requested in the 5 criminal monitored cases as all the victims participated in the court proceedings only as witnesses and none of them was represented by a lawyer. In only one of the cases, civil by nature, the victim claimed compensation. The 7<sup>th</sup> case is at its investigation stage.

#### 14. Based on your observations, can you mention few things that stroke you most?

- No victim was constituted as a party in the 5 criminal monitored cases (e.g. claimant). All were questioned as witnesses, which deprived them of their rights as victims, including legal and psychological/social support as well as from compensation. At the case in interrogation stage, the victim is to be included in the proceedings as such. In the civil case, the victim is the claimant.
- In most of the pending criminal cases the court hearings were prolonged as numbers due to the defendants' lawyers behavior (e.g. the lawyers were getting "sick" often, thus the court was not able to conduct the hearings as the defendants expressed their will to be legally represented by their lawyers) or irrelevant procedural request allowed by the court (e.g. the lawyers requested irrelevant information several times but the court allowed it every time – which is an expression of its lack of will to rule on the cases).
- With the exception of the case monitored at second instance, in all the pending criminal cases the parties communicated unofficially between themselves in and out of the court room (judges, prosecutors, lawyers) and expressed almost friendly relations and knowledge of their personal lives – they had each others' phone numbers, discussed common vacations, common friends, common relatives, etc. In one of the cases, the judge was asking, unofficially, the prosecutor and the defendants' lawyer to make an agreement because she was not in a mood to decide it.
- Very often, the prosecutors in the criminal cases are changed which leads to confusion as they do not know the facts of the cases and make irrelevant requests and remarks.

15. Based on your observations, please give your 3 most important recommendations:

- The victims should be informed properly about their rights in the beginning of the work under THB cases – by the Police, prosecutors, lawyers and should be supported to participate in the judicial proceedings as claimants not only as witnesses.
- Sensitive interrogation should be ensured to the victims – one-time interrogation in a "blue room" by experts prepared to work with THB victims.
- The State provided legal help for the victims, through the Legal Aid Act, should be a standard for the participation of the victims in the court proceeding.

The research has been conducted within the project "THB: from exit to insertion, barriers and leverage" (HOME/2013/ISEC/AG/THB/4000005340), implemented in France and Bulgaria by Amicale du Nid and Gender Alternatives.Foundation.

"This document does not represent the views of the European Commission. The interpretations and opinions contained herein are those of the authors."