

PROTECTION OF ADULT VICTIMS OF TRAFFICKING IN HUMAN BEINGS AND THE STATUS OF A PARTICULARLY SENSITIVE WITNESS

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Abstract: In addition to the introduction and conclusion, the paper consists of three logically related parts within which an analysis of certain international and national legal standards in the protection of victims of crime and particularly sensitive witnesses in criminal proceedings has been performed. Particular subject of analysis were the national criminal law provisions regulating the protection of adult victims of the criminal offence of trafficking in human beings. Key problems and omissions in the protection of these witnesses were identified, as well as suggestions for overcoming them. In its conclusion, the paper underlines that particularly sensitive witnesses are not always provided protection in accordance with minimum international standards, and the reasons can be found in the impossibility of providing technical conditions, insensibility of acting officers, as well as an inadequate assessment by the authorities in charge of applying certain elements of criminal law protection.

Keywords: witness, victim, particularly sensitive witness, trafficking in human beings.

INTRODUCTORY CONSIDERATIONS

“In theory and in comparative procedural legislation, according to different criteria, particularly sensitive witnesses are divided into following groups: children, juveniles and old witnesses, those with impaired health, severe physical disabilities, those with special mental status, victims of crime, witnesses who are in a state of extreme stress (which is a consequence of the experienced crime), those whose sensitivity is caused by various difficulties, impairment or illness relevant to testifying, those with

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severe intellectual disabilities, social functioning difficulties or mental disorders or diseases, those who are seriously physically or mentally disturbed by the committed crime, etc. This is done in order to adjust the manner of questioning, provide support and assistance, plan and take other protection measures for such witnesses during the criminal proceedings and after its completion” (Atanasov, 2016: 50). For that reason their protection is specific and particularly important, especially when it comes to victims of the criminal offences related to human trafficking. In Serbia, the criminal offence of trafficking in human beings was prescribed for the first time in 2003, under Article 111b of the Criminal Law (Official Gazette RS, 16/90), with amendments and after approval of the provisions of the Law on Ratification of the United Nations Convention against Transnational Organized Crime and Additional Protocols, Palermo Protocol – Protocol for the Prevention, Suppression and Punishment of Trafficking in Human Beings (Official Gazette RS, 6/01). Nowadays this criminal offence is prescribed by Article 388 of the Criminal Code (hereinafter referred to as “CC”) (Official Gazette RS, 85/05) whereby in paragraph 8 in connection with paragraph 1 of the Criminal Code³ the term victim is used, although this term is unknown for the Criminal Procedure Code (hereinafter CPC) (Official Gazette RS, 72/11). Namely, the term victim is a criminological term that has narrower meaning than the term injured party (which is used in the CPC) and that is one of the reasons why there are some advocates arguing against its use in the criminal law context. However, the term victim does not exist in the criminal procedural protection of persons but it is still imposed through some provisions related to criminal offence, so it can be said that legislative harmonization is needed. In addition, due to the amendments to the CPC, that have been introduced since 2003, victims of this criminal offence have periodically had the opportunity to obtain the status of a particularly sensitive witness under national law, which could have affected their secondary victimization during criminal proceedings. However, a question arises as to whether the protection of particularly sensitive witnesses was only formal when the law allowed it or whether it was really a case of protection ensured in accordance with international standards. The answer to this question can only be given by an analysis of each individual criminal proceeding for trafficking in human beings. There are obvious problems in the evidentiary procedure due to the specifics of the criminal offence, but also the victims who could be witnesses, and there are also the problems in terms of endangering the safety of witnesses, ensuring their maximum protection and preventing secondary victimization. These problems have long been the subject of international law that has introduced manners of protecting victims and witnesses of criminal offences in its conventions, directives and recommendations. In relation to the problem, protection and provision of support, the authors of this paper will mention relevant documents and manners in which that protection is provided.

INTERNATIONAL STANDARDS IN THE PROTECTION OF VICTIMS OF CRIME

Articles 24–26 of the United Nations Convention against Transnational Organized Crime regulate the terms for providing witness protection. States have to provide effective protection against potential retaliation or intimidation of witnesses who testify in criminal proceedings and, where appropriate, their relatives and other close persons. The witness participating in a proceeding should have the right to security, protection of privacy (provided by the criminal justice system) and the right to psychologi-

³ Whoever knows or should know that the person is a **victim** of trafficking, and abuse its position or allow to another to abuse its position for the exploitation envisaged in paragraph 1 this Article, shall be punished with imprisonment of six months to five years.



cal, social and professional support, which should be provided by specialized professionals, independent of the authority in charge of the formal crime control.⁴

Pursuant to the Directive 2012/29/EU of the European Parliament and the Council establishing minimum standards on the rights, support and protection of victims of crime (Replacing Council Framework Decision, 2001/220/JHA), minimum regulations regarding the protection of victims of crime are being established in the Member States of the European Union. These rules aim to protect the victim of a criminal offence during criminal proceedings, and in particular from actions that may lead to secondary victimization. According to Article 5, Chapter 2, and point 24, it is prescribed that the victim has to receive a written confirmation from the police on the submitted report, which should contain all the data on the report. Furthermore, point 26 prescribes the rules on how to enable the victim to exercise the right on information. It is necessary to provide the victim with the required information so that the victim could make a decision on participation in the proceedings and giving testimony, and then to have information on the course of the proceedings at each stage of the proceedings. Article 8 and Article 9 of the Directive, as well as point 37 and point 38, refer to the need to provide support to victims, which has to be present from the moment of learning about the victim and after the completion of the criminal proceedings. It is necessary to provide them with specialist support, which has to be based on an integrated and targeted approach, taking into account the needs of victims and all other circumstances. Specialist support services have to include shelter and safe accommodation, emergency medical care, referrals for medical and forensic examinations, short-term or long-term psychological counseling, care for traumatized persons, provision of legal advice and representation. In order to avoid secondary victimization and re-victimization, point 40 emphasizes that frequent referrals from one institution to another should be avoided, while point 53 states that interaction with competent authorities should be facilitated as much as possible, and that the number of such interactions should be reduced by use of video recordings of statements and permission for their use during criminal proceedings. Chapter 4 refers to the specialized support that is provided to victims. For instance, it is interesting to note that states have to provide separate waiting rooms in order to prevent any contact between the defendant and the victim of the criminal offence participating in the criminal proceedings (Article 19), then that the victim has to be questioned a minimum number of times and it can be done only if the questioning is strictly related to criminal investigation (Article 20). The need for individual assessment in the protection of the victim is also emphasized (Article 22) in order to avoid the risk of secondary victimization based on data on the personal characteristics of the victim, the circumstances under which the crime was committed and the nature and type of the criminal offence. The specific measures that may be applied after the assessment are prescribed in Article 23. They pertain to the manner of taking the statement, the person taking the statement, elimination of any contact with the defendant, use of communication technology, avoidance of questioning the victim's privacy if it is not related to a criminal offence, etc.

The Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims underlines that there have to be introduced measures of assistance and support to victims of crime in order to enable provision of free emotional, social and material support to victims before, during and after investigation and judicial proceedings, as well as the necessity to provide information and pay compensation. Much earlier, the Recommendation No. R (85) 11 of the Committee of Ministers to member states on the position of the victim in the framework of criminal law and procedure pointed out that special rules on the questioning of witnesses are necessary to prevent sec-

⁴ In addition, the foregoing rights have been proclaimed by the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted in 1985. *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, United Nations General Assembly A/RES/40/34, 29 November 1985. <http://www.ohchr.org>, accessed on December 15, 2020*



ondary victimization, primarily direct victimization, and then indirect (insufficient flow of information between the victim and the criminal justice system, as well as compensation for damage). Thus, international documents take into account the fact that testifying is a particularly stressful experience and that therefore respective witnesses have to be granted the right to special protection.

PROTECTION OF PARTICULARLY SENSITIVE WITNESSES ACCORDING TO CERTAIN INTERNATIONAL DOCUMENTS

Particularly special protection should be provided to the victims of trafficking, and it has been underlined in the Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims. Namely, it refers to, *inter alia*, the need to provide victims of human trafficking with legal support during the proceedings and for a certain period after its completion (point 19 and Article 11), and to protect them from secondary victimization (point 20). It is necessary to avoid repeated questioning of the victim using video recordings, and based on the individual assessment of each victim, it is necessary to provide adequate treatment to the victim depending on the age of victims, potential pregnancy, health condition or presence of any disorder and other personal circumstances, but also physical and psychological consequences of the criminal offence to which the victim was exposed (Article 12). In addition, it is very important to emphasize their definition of vulnerability – a situation in which a person has no real or acceptable alternative other than to accept the abuse that is taking place (Article 2, paragraph 2), which can be important in assessing the credibility of the victim as a witness. It is emphasized that support should be provided regardless of whether the victim decides to participate in the criminal proceedings or not (Article 11, paragraph 3).

The emphasis on such measures for the protection of witnesses who are victims of criminal offences in the proceedings can also be seen in the text of the “Warsaw Convention” (Law on Ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, Official Gazette RS, 19/09) whose signatories are bound to implement measures that will protect privacy (Article 11), provide safe accommodation, medical and social support (Article 12), provide legal protection and guarantee damage compensation from the perpetrator, and even provide a compensation fund for victims (Article 15, Chapter III).

In addition, in the practical sense of enforcement of these standards in the protection of victims who are witnesses in criminal proceedings, the European Court of Human Rights has a notable role. The importance of implementing these measures to particularly sensitive witnesses is particularly emphasized. “There is a high degree of risk of secondary victimization in this category of witnesses, so the European Court of Human Rights considered that such persons would be particularly seriously traumatized by facing the defendant during the trial, which is why it considered justified to take certain measures to protect the intimacy of these types of witnesses and victims, as well as their psychological status, which could be seriously endangered or injured if these persons appeared directly at the trial” (Škulić, 2015: 18). In certain proceedings, it was considered justified to use video recordings of statements of witnesses, especially when the person could not be present for objective reasons: at trial, but they also preferred to use audio-video recording during the trial because it ensures factual immediacy in the proceedings and the witness gives a statement in “real time”.

As the assessment of witnesses is considered to be the basis for granting protection measures, the Council of Europe has identified factors to be considered in the assessment: the role of the person to



be protected in the investigation and/or case, the relevance and importance of testimony for the case, level and importance of threats and readiness and ability of the witness to adapt to protection measures (Burnside, 2018: 35). A particularly sensitive witness may receive the following protection measures: access to psychological and social assistance, a change in the method of questioning, including the possibility for the court to ask questions directly to the witness on behalf of the parties and defense counsel, the use of communication aids (technical devices for image and sound transmission such as a video conference call), shortened hearing times, or recovery periods and limitations in terms of complexity and length of questions (Burnside, 2018: 37).

By analyzing international documents, certain minimum standards in the protection of particularly sensitive witnesses in the relevant provisions of the national legislation can be recognized.

NATIONAL STANDARDS IN THE PROTECTION OF PARTICULARLY SENSITIVE WITNESSES

The institute of a particularly sensitive witness, i.e. special witness protection as such has not existed in the procedural legislation of Serbia for years, and it was first mentioned in the articles of the CPC dating from 2006 (Official Gazette RS, 46/06). However, until the CPC adopted in 2011⁵, witnesses to crimes (trafficking in human beings) could not be granted the status of a particularly sensitive witness.

The reason for determining this status may be age, life experience, lifestyle, gender, health condition, nature, manner or consequences of the committed crime, or other circumstances pertaining to the case that make the witness particularly sensitive (Article 103, paragraph 1 of the CPC). The formulation used in this Article “other circumstances pertaining to the case” can provide a wide range of indicators for assessment and interpretation. In the mentioned CPC the legislator did not prescribe one of the very important indicators for determining this status, which is the *individual assessment of the degree of endangerment of witnesses*. In this regard, special consideration should be given to the victim’s subjective assessment of their safety, sense of vulnerability, fears and problems that they have or anticipate as a result of testifying, without necessarily having an objective risk⁶. Performance of a comprehensive risk assessment could be entrusted to specialized professional services and organizations that also identify victims of crime (e.g. trafficking in human beings) at the request of the public prosecutor. In that case, after the assessment, the public prosecutor would issue a decision on determining the status of a particularly sensitive witness (Article 103, paragraph 2 of the CPC). Precise indicators would enhance the quality of such solution because “it is necessary that it contains an adequate explanation, although the appeal is not allowed, given that the use of the rules on the questioning of such a witness encroaches on the rights of the defendant” (Sinanović, 2014: 28) and, therefore, it is necessary to make it as well reasoned as possible.

The prescribed rules on the questioning of a particularly sensitive witness (Article 104 of the CPC) are in favor of the protection of a witness who has been granted that status. Only the authority in charge of the procedure, i.e. only the judge and the public prosecutor participating in the procedure can ask

⁵ The law did not commence to apply in 2011. In fact, its application started on January 15, 2012, for the procedures pertaining to organized crime, and on January 15, 2013, for other procedures.

⁶ The creation of a subjective feeling of insecurity can be influenced by the opinion about the perpetrator and their brutality, the “severity” of the crime, and a prescribed higher penalty, then the victim’s capacity to overcome the traumatic event but also to reactivate the experienced trauma by remembering it, which can lead to withdrawal from testimony.



questions to the witness. The questioning can be performed with the help of a psychologist, social worker or other professional, which is decided by the authority in charge of the procedure. It must be emphasized that it is necessary to perform the questioning in the presence of an expert in order to reduce the traumatization of the witness caused by the examination. The judge has the ability to control the course of the proceedings but also the course of testimony in terms of protecting witnesses from harassment, confusion or provocation. The judge can have impact on the tone and the way of asking questions, the type of questions, given the fact that the questions are asked exclusively through him. Inappropriate questions are questions that are confusing, unclear, that lead to an anticipated answer, suggest an answer, provoke, express some stereotypical attitude, cause anxiety, insult and humiliate, those that are asked in a disparaging tone. At this point the legislator's failure to prohibit the possibility of asking suggestive questions that are possible in a situation of cross-examination should be underlined (Article 98, paragraph 3 of the CPC). Suggestive questions tend to refute the witness's testimony, impair its quality or discredit the witness. Accordingly, there is an intention to guide one to the facts in favor of the cross-examining party. As the legislator failed to provide explanation pertaining to the possibilities of applying limited and unlimited examination, as well as to the possibility of compromising cross-examination during the main hearing, one can only rely on the sensibility and knowledge of the judges conducting the proceedings. Questions, insults and remarks are often not limited only to the witness, but also to their defense, to the persons who support them, and certainly it is additionally disturbing to the witness if the judge does not react to them. Such questions can be one of the sources of secondary victimization during criminal proceedings. In his analysis, Prof. Škulić concluded that "it is necessary to completely prohibit the possibility of asking suggestive questions in relation to the injured party against whom was committed a crime against sexual freedom or some other crime characterized by coercion or abuse (alternative: crime with elements of violence)". (Škulić, 2018: 68).

Witness protection is also possible by prohibiting confrontation with the suspect, unless otherwise assessed by the authority in charge of the proceeding (discretionary assessment of the court, which must be sensitized, taking into account that it has a particularly sensitive witness in front of it). Confrontation is not considered an independent means of evidence, but a preventive measure to ensure the credibility of testimony (Brkić, 2014: 216), and the court practice can still show that in a situation of disagreement between the testimony of the defense and witnesses, it can opt for confrontation. However, the credibility of the statement can be ensured if the statement is taken through technical means/video link and monitored through a monitor placed in the courtroom. In that case, the witness has to be in another room, safe, in the presence of an expert and has to be informed that they can be seen in the courtroom via a monitor during the questioning process⁷. The technical equipment enables the transmission of the tone and image, and ensures that the witness is not surrounded by all the people in the courtroom. Court security may be present in front of the room where the witness is located. This method of interrogation is especially important for witnesses of crimes with violent and sexual elements, given that such victims are under the impression of the experienced, under stress, fear, shame and additionally sensitive and disturbed by the formality of the investigation and court proceedings. The methods of technical organization of the trial and protection of such a witness are the burden for the holders of judicial functions who are obliged to ensure their protection and to be sufficiently sensitized to conduct such proceedings.

A particularly sensitive witness may be assigned an attorney, according to the order on the list of ex officio attorneys. However, the authors of this paper believe that it is disputable in Article 103 of the CPC that it does not prescribe an explicit obligation of the authority in charge of the procedure to

⁷ The questioning may be conducted in another courtroom, in the witness's apartment or any another room within an authorized institution that has professional staff trained to conduct questioning of particularly sensitive persons (Article 104, paragraph 3 of the CPC).



appoint an ex officio attorney to each particularly sensitive witness, but to leave it to them to assess “if he/ she deems it necessary”. Such amendment would guarantee legal protection to every witness with this status.

In addition, the legislator failed to regulate the possibility of mandatory exclusion of the public from the court process, which could reduce the secondary victimization of witnesses. When the witnesses are adults, the court may at any time make a decision either ex officio or at the request of the parties and the attorney to exclude the public, explain it and publish it (Article 363 of the CPC⁸).

Apparently, the application of the status of a particularly sensitive witness as a procedural measure of witness protection in our country is related only to the period lasting until the end of criminal proceedings with the aim to ensure psychological protection of witnesses, prevention of secondary victimization and providing quality testimony (evidence) for criminal proceedings. As the authors have noticed, the provisions prescribed by the CPC can be enforced, but some of them are not strictly binding and therefore always leave room for personal assessment or discretionary assessment of the authority in charge of the proceedings in each particular case, which may be seen as a flaw in the process of witness protection and ensuring legal certainty.

PROTECTION OF A PARTICULARLY SENSITIVE WITNESS AND TRAFFICKING IN HUMAN BEINGS

Witnesses of human trafficking can be considered to have the most drastically endangered human rights. Accordingly, their right to protection in court proceedings may be endangered, because it is a specific criminal offence (preparation for execution, manner of execution, psychological mechanisms of influence on the injured party, consequence of execution, etc.). The victim of a crime must not be forced to testify, even though the victim may be the only source of evidence, and must not give testimony in a legal case if that will put them in a more difficult situation than they already are. If the victim agrees, they must be prepared to testify, provided that the public prosecutor informs them of the rights, possibilities of protection and possible consequences of testifying, and the victim must not be promised anything that is not realistic to fulfill in terms of protection. The Special Protocol on the Conduct of Judicial Authorities in the Protection of Victims of Trafficking in Human Beings in the Republic of Serbia (Ministry of Justice of the Republic of Serbia, 2012) underlines that it is necessary to know whether there is something that the victim considers particularly private or intimate and doesn't want to be used during the procedure. If the victim provides some information and characterizes them as particularly intimate or private, it is necessary to respect their wish and not use the information if possible. If it is not possible, the victim should be explained why the public prosecutor's office has to use the information, or should be promised that the information will not be used unless necessary. If the personal history of a witness/victim of trafficking in human beings and sexual offenses is not protected during the court proceedings, we face a situation of secondary victimization because the defense can use data from the past of the witness⁹ in order to discredit the testimony.

⁸ Taking into account the legal basis from point 4 and point 5 –protection of privacy of the participants in the proceeding and protection of other justified interests in a democratic society.

⁹ It is particularly indicated by the provisions of Article 68 and Article 69 of the Law on Ratification of the Rome Statute of the International Criminal Court, *Official Journal of the FRY – International Agreements*, No. 5/2001.



In order to be able to provide adequate protection to the victim, the victim needs to be properly identified. The Public Prosecutor entrusts the identification of a victim of trafficking in human beings to authorized specialized professional services, given that it is one of the tasks within their competence, namely the Center for the Protection of Victims of Trafficking in Human Beings in Belgrade. After identifying the victim of trafficking, this service may propose obtaining the status of a particularly sensitive witness for the victim¹⁰. This is supported by the standard operating procedures for dealing with victims of trafficking, which underline that “identified victim of human trafficking” is a natural person who has been identified as a victim of trafficking within the identification process run by the Center for Protection of Victims of Trafficking (Ministry of the Interior of the Republic of Serbia, 2018). Given the assigned competence – to provide a specialized opinion and identify whether a person is a victim of a certain crime, the opinion of the Center should be respected. However, there are situations when that is not the case¹¹.

Apparently, during the procedure, sometimes there is no distinction made between a victim of human trafficking and a victim of mediation in prostitution, and the most common problem is the existence of the victim's consent to exploitation. To make a difference, it must be also pointed out that “as potential victims of human trafficking also recognized are the girls who agreed to be hired as prostitutes, but were deceived in terms of the conditions under which they would work (inability to choose clients, large number of clients, unprotected sexual intercourses, billing control, impossibility to quit, etc.). In relation to the mentioned fact, it should be borne in mind that the eventual consent of the victim to exploitation does not release the perpetrator from responsibility.” (Žarković, 2009: 80). Accordingly, a victim of human trafficking can willingly consent to exploitation by providing sexual services in exchange for money for various reasons (for example, difficult financial situation and difficult living conditions in which they find themselves). Exploitation of such conditions, exploitation by prostitution and enslavement is a feature of the criminal offense of trafficking in human beings (Article 388, paragraph 1 of the Criminal Code). It is very clear that majority of these victims are forced to participate in the provision of sexual services. Their vulnerability is enhanced by the presence of “push” factors which, due to the existence of misconceptions created by false promises, put them under the control of traffickers who exploit them (Simeunović-Patić, Kesić: 2016: 77-78). The abuse of the potential victim's vulnerability is evident when their sensitivity is deliberately used to be controlled and exploited for personal gain. A special problem poses the additional, secondary victimization that occurs due to omissions in the work of authorities of formal social control¹². However, some proceedings have

10 In addition, this service may: prepare a witness for court proceedings and for a psychiatric assessment of the psychophysical condition by court experts, attend the trial, request that the public be excluded from the trial and support the witness in all of the mentioned activities.

11 Files of court case number K. br.37/18 of the High Court in Valjevo. At the request of the public prosecutor, one of the victims was subject of the assessment and identified as a “victim of human trafficking for the purpose of sexual exploitation, owing to misuse of material circumstances and misleading, and use of force and threats, and therefore is recommended that they be granted the status of a particularly sensitive witness.” The public prosecutor reclassified the crime after a certain period of time, and the court finally convicted the defendant of the crime of mediation in prostitution (Article 184, paragraph 1 of the CC) in relation to the victim, and not of the crime of trafficking in human beings as it was originally qualified. The procedure was conducted in the period from 2016 to 2019 and the perpetrator was convicted of committing three criminal offenses of trafficking in human beings under Article 388 paragraph 1 of the CC and one criminal offense of mediation in prostitution under Article 184 para. 1 of the CC to a single sentence of imprisonment of 9 years and 2 months and a fine in the amount of RSD 30,000.00.

12 This witness of the High Court in Valjevo was only partially protected as a particularly sensitive witness because, as a victim, during the main trial she did not face the defendant, nor did she meet other participants in the proceedings, because she stayed in a special room equipped with audio-video system in the presence of a

shown that there is a difference between these two crimes¹³ and the fact is that in the case of trafficking in human beings, causing or inducing another person to prostitution is done for the purpose of sexual exploitation of the injured party. In addition, in Article 388 para. 10. of the CC the legislator tried to eliminate what in judicial practice we perceive as a problem in terms of changing the qualification of the crime, although there were features of the crime of trafficking in human beings. Accordingly, a positive practice that should be used is the rationale of the Constitutional Court of Serbia pertaining to the complaint of a victim of trafficking in human beings in case of violation of the ban on trafficking in human beings and incorrect prequalification of the criminal offence into a minor crime, referring to Article 26 paragraph 1–3 of the Constitution of the Republic of Serbia. It is very clearly pointed out in what way the authorities in charge of the procedure violated the rights of victims and failed to abide by the obligations of the state in terms of the application of the protective measures and provision of assistance to the victims of trafficking in human beings (Constitutional Court of the Republic of Serbia, No. UŽ-1526/2017). From the aspect of this analysis, the authors of this paper believe that the importance of proper qualification of a crime should be observed with aim to ensure the status of a particularly sensitive witness and proper identification of the victim of a particular crime who gives testimony so as not to be denied possibility to receive special protection.

Re-traumatization and secondary victimization should be eliminated by applying the institute of a particularly sensitive witness and all available mechanisms of protection. However, despite the existing positive legal solutions, judges in Serbia haven't granted the status of a particularly sensitive witness to victims of human trafficking, nor have they adequately protected the rights of victims during court proceedings. In 2020, 28 judgements were pronounced for the criminal offenses of mediation in prostitution, trafficking in human beings and trafficking in minors for the purpose of adoption. In the analyzed procedures, the public was excluded only in a certain number of cases when it came to adult victims, and always when it was a question of a plea agreement. In over 50% of the cases was applied a plea agreement while the number of pronounced suspended sentences or prison sentences was at the level of the legal minimum (in addition to fines) (NGO Astra, 2020).

CONCLUSION

By determining the status of a particularly sensitive witness in situations prescribed by law and special attention is drawn to the attitude toward a particular witness, emphasizing their sensitivity and the need for judicial protection. The witness is provided with a higher degree of protection of rights, personal security, and prevention of secondary victimization, which contributes to building trust in the judicial system and ensures the psychological gain that is necessary during the recovery process from traumatic experiences. However, decades after the international definition of the problem of human trafficking and the ways of protecting victims, and fourteen years after the introduction of the institution of a particularly sensitive witness in domestic legislation, it can be said that the quality of protection of these witnesses is still questionable in relation to minimum international standards. It appears that the lowest level of protection is available in psychological, social and medical assistance to victims/witnesses of human trafficking both during and after criminal proceedings. The authors of this paper are of the opinion that during the criminal proceedings it is necessary to ensure more adequate functioning of the *service for providing information and support to witnesses and injured parties* psychologist. However, she experienced *secondary victimization* because she **repeated** her testimony **five times** before various officers for the purposes of the proceedings, over and over again, all within a period of one year after the commission of the crime.

13 Decision of the Court of Appeals in Novi Sad, Kž1 2386/2012 of 29 January 2014.



in all higher public prosecutor's offices (Republic Public Prosecutor's Office, No. 2/16) or to ensure functioning of such service within higher courts. It is necessary to strengthen professional capacities and further improve application of the protection measures for the particularly sensitive witnesses in accordance with the mentioned Directive 2012/29 and the National Strategy for Exercising the Rights of Victims and Witnesses of Crimes in the Republic of Serbia for 2020–2025 (Government of the Republic of Serbia, 2020). This strategy prescribes the measures that have to be applied in order to improve the situation, but even now it can be asked which, from the list of planned activities, can be done by the end of its validity in 2025.

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