

ALLIANCE AGAINST TRAFFICKING IN PERSONS

Ending Impunity

Delivering Justice through Prosecuting Trafficking in Human Beings
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Good afternoon Ladies and Gentlemen,

My presentation will mainly focus on the prosecution of the criminal act of trafficking from the perspective of trafficked persons.

During the last 20 years ASTRA has supported 534 victims of trafficking and we have received 43.330 calls through ASTRA SOS hotline and provided more than 45.000 different services: medical, legal, psychological, economic empowerment and support during reintegration process.

It is well known that all around the world victims of trafficking need a great **courage** to report trafficking case and to participate in the criminal procedure. Most of them are afraid to meet their **trafficker face to face**. They are afraid they could jeopardize their families, children, parents and friends. Because trafficker, he knows where they live. They worry that the trial will last forever and they will not have the strength till the end. They are afraid their name and photo will end up in the local newspaper. They are scared of being exposed to public condemnation. They are afraid no one will believe to their side of the story. Some of them deeply believe that police officer, prosecutor and the judge have close connections to the trafficker. They believe so, because trafficker told them so. Or because they saw local police officer having a drink with the trafficker a while ago. Their fear is that they will stand alone in the court room with no one by their side. They are afraid they will not understand what judge is asking. They are terrified that defend lawyers will tear them apart by the questions. Their worst nightmare is that trafficker will be found not guilty and free again. Their biggest fear is there will be no justice at last.

And this is not the end of the list. Out of court room there is real life for them. To try to find and keep a job, smile to their children, be a good daughter or a son, pretend life is normal again. But we shouldn't underestimate their strength. And all they need from you, prosecutors, is the trust and the justice.

Every year my organization collect judgments on trafficking in human beings monitor the court trials and our legal team provides information to trafficked persons on their rights and represents them before the court. Thanks to the privilege being in every day in contact with trafficked persons, **as the major bottlenecks to prosecute traffickers and deliver justice to victims, we defined several reasons:**

1. **Lack of full implementation of the possibilities already provided by law.** In most countries in the region, laws are more or less in line with International conventions and European directives, but in spite of this, the provisions are not fully applied in practice. Serbian law for example allows granting a victim the status of **the especially vulnerable witness**, but the recent legal analysis of trafficking judgments shows that only one third (35%) of victims are getting this status in practice. Second example would be the well-known fact that victims repeat their stories at least 7 times from the moment of identification to the final reintegration which cause tremendous secondary victimization, but still the use of **video link** is not a common practice in this Region even now there are technical possibilities to do so.
2. **Lack of proactive investigation and collecting evidence** other than victims' testimonies - The Serbian Criminal Code prescribes criminal act of trafficking under the chapter 34 called *Criminal offenses against humanity and other goods protected by international law* together with war crimes, terrorism and other severe criminal offences, which show that Serbia recognize how serious this criminal act is. However the court practice shows that in many cases due to the lack of evidence prosecutors decide to do re-qualification of trafficking in human beings offence to mediation in prostitution which again leads to minor punishments. **Only last year 50% of all trafficking cases in the court ended up as settlement with traffickers, in 9 out of 10 cases prequalification was done to criminal offence mediation in prostitution and in all these 87% of cases traffickers got suspended sentences.** You can imagine how hard is for trafficked person to receive that information. Not to mention that compensation claim is almost never part of the settlement. Last year in 75% of judgments traffickers in Serbia were convicted from 3-5 years of jail. In recent years more cases of **labor exploitation** have been discovered, but still not one prosecution happened till now. In all these cases we have lack of **financial investigations and the assets confiscations.**
3. The last but for us the most important is the Lack of **full implementation victim centered approach and victims' rights** and this means full respect of **data and privacy**

protection, implementation of non-punishment provision and obligatory legal representation. Last year in Serbia, only 32% of victims of trafficking had legal representation during the trials). Last but not least, granting a **compensation** for trafficked persons is not a privilege but their right. In 2019 by half of the judgments (46%) victims were referred to civil court procedure to demand compensation. As we know from experience, this procedure lasts long, it is expensive and in practice it means that victim needs to face her trafficker again. Together with our colleagues from La strada network for years now we advocate for introducing **compensation fund** for victims of trafficking as the most efficient compensation model in some countries.

Regarding improvements in the past 5 years in relation to victims' access to justice it's important to mention that **permanent education** of professionals resulted of better treatment of victims especially in investigation phase of the process. The essence is to have governments with the **political determination** to fight the human trafficking and to **build the system** that is effective and works in practice. Again, it's important to remember that system is based on dedicated **individuals. The positive example I have is from** the crises caused by Covid19 pandemic, ASTRA had 71% increased number of calls at the SOS hotline and 44% increased number of field action. Our clients were disturbed like all other citizens, but some of them who were in need couldn't reach the state services during the pandemic, so they called us more often. However, during that time one Serbian prosecutor coordinated the action of saving 5 victims who were in literally enslaved in the field of agriculture, one of them for 18 years in total. In spite of all obstacles and the state of emergency, the prosecutor even manage to organize the hearing through the video link and conduct proactive investigation to collect enough evidence to file an indictment against trafficker.

Instead of conclusion allowed me to make several concrete tips to prosecutors and law enforcement that could be done to tackle prosecution bottlenecks:

- Be aware that low prosecution leads to law conviction rates which lead into widespread impunity which again leads to law trust in the criminal justice system i.e. Trafficked persons lose hope that the criminal justice system is in fact designed to help them.
- Proactively investigate - Permanent education, proactive investigations and exchange of good practices with colleagues transnationally are the essence of success. Covid 19 pandemic crisis brought new challenges in assisting victims but also prosecuting this criminal act. Economic crisis that follows will put many people in risk of being trafficked.

Be trained and well prepared to larger number of potentially identified victims which will need **the strong prosecution response**.

- Be aware of the power you have to trafficked persons lives. Without early assistance, sustainable long term support and inclusion into society of trafficked persons there is no successful prosecution. Prosecutors and law enforcement representatives could play a great role not only in bringing the justice but in victims' recovery as well. This is best described in the statement of one of our clients after she heard that her trafficker who exploited her for 4 years was convicted. She said to the prosecutor in charge:

“Only now I can breathe and live again. I trust to people again. I am free again to continue with my life.”

