

Skopje 2008

Publisher: Civil initiative for equal opportunities "EQUAL ACCESS" - Skopje

Contact:

++ 389 (0) 2 3 126 044

++ 389 (0) 70 498 113

Adress:

"Stale Popov" No. 9/2/20

1000 Skopje

The Republic of Macedonia

CIP – Каталогизација во публикација

Национална и универзитетска библиотека „Св. Климент Охридски“, Скопје

341.431-058.6:351.7561:340.13(497.7)

АНАЛИЗА на законската регулатива за добивање на дозвола за привремен престој и вработување странски државјани – жртви на трговија со луѓе во Република Македонија. – Скопје: Граѓанска иницијатива за еднакви можности Еднаков пристап, 2008. – 37, 31 стр. ; 24 см

Насл. стр. на препечатениот текст: Analysis of regulatory framework for issuing a temporary stay permission and employment of foreign citizens – victims of trafficking in human beings in the Republic of Macedonia. – Обата текста меѓусебно печатени во спротивни насоки.

Библиографија: стр. 36 – 37, 31

ISBN 978-9989-2885-0-0

1. Analysis of regulatory framework for issuing a temporary stay permission and employment of foreign citizens – victims of trafficking in human beings in the Republic of Macedonia.

а) Жртви на трговија со луѓе – Привремен престој и вработување – Законодавство – Македонија.

COBISS.MK-ID 73039882

SUMMARY

1. INTRODUCTION -----	4
2. INTERNATIONAL DOCUMENTS FOR THE RIGHT OF A STAY OF THE VICTIMS OF TRAFFICKING IN HUMAN BEINGS -----	5
2.1. European Union Documents -----	5
2.2. United Nations Documents -----	9
2.3. Documents of the Council of Europe -----	10
3. REGULATORY FRAMEWORK IN THE REPUBLIC OF MACEDONIA FOR ISSUING A TEMPORARY STAY PERMISSION AND EMPLOYMENT OF FOREIGN CITIZENS – VICTIMS OF TRAFFICKING IN HUMAN BEINGS--	12
3.1. Law for foreigners -----	12
3.2. Book of rules of the house order in the Shelter Centre for Foreigners----	18
3.3. Law of employment and work of foreigners -----	18
3.4. Law of alyssum and temporary stay -----	20
3.5. Book of rules for foreigners -----	21
3.6. Regulation on travel and other documents for foreigners -----	23
4. PRACTICES IN OTHER COUNTRIES IN THE REGION DUE TO A TEMPORARY STAY PERMISSION FOR FOREIGN CITIZENS – VICTIMS OF TRAFFICKING IN HUMAN BEINGS -----	25
5. PRACTICES IN THE REPUBLIC OF MACEDONIA DUE TO A TEMPORARY STAY PERMISSION FOR FOREIGN CITIZENS – VICTIMS OF TRAFFICKING IN HUMAN BEINGS -----	26
6. CONCLUSIONS AND RECOMMENDATIONS -----	30

ACRONYMS AND ABBREVIATIONS

PCB	Public Security Bureau
EU	European Union
IOM	International Organization for Migration
MLSP	Ministry of Labour and Social Policy
MIA	Ministry of Internal Affairs
NFM	National Referral Mechanism
NGO	Non-governmental organization
SECI	South-East Cooperation Initiative Regional Centre for fight against cross-border crime
SIPC	Sector for international police cooperation
SIC	Social Issues Centre

1. INTRODUCTION

According to the report of the State Department in 2007, it is estimated that approximately 800,000 people were victims of trafficking in human beings, of which 80% were women. According to recent world surveys, trafficking in human beings is the third biggest illegal business, second only to the trade in weapons and drugs.

In the 21st century, in which freedom and democracy are spreading worldwide, it is a devastating and unacceptable moral failure that hundreds of children, women and men are being exploited, misused and trafficked in the chain of trafficking in human beings. Therefore, the trafficking in human beings is one of the worst violations of human dignity.

As a global phenomenon that concerns all countries, the trafficking in human beings does not even elude the Republic of Macedonia.

Combating this organized crime and most brutal violation of human rights of the victims, there are undertaken measures by the governmental and non-governmental institutions and organizations.

Measures that are undertaken are not related only with the pursuit of the perpetrators of this crime act, as well as with providing help and protection of the victims of trafficking in human beings.

Within the scope of measures foreseen by the international legislation related with the help and protection of the victims of trafficking in human beings, it is the right for temporary stay of the victim in the country where it is identified as a victim of trafficking in human beings.

This analysis is first of all a contribution for respecting the human rights of victims of trafficking in human beings in relation to upgrading the measures for accomplishment of their right for temporary stay. Meanwhile, it is a real observation why the Republic of Macedonia has not issued any temporary stay permission to the victim of trafficking in human beings.

This is the first analysis prepared upon monitoring of the cases, as well as analysis of the existing regulatory framework, gives precise recommendations with an aim for improvement of the regulatory framework and opportunities for using the right for temporary stay of the victims.

Preparing the analysis and its publication is provided by the International Organization for Migration (IOM) from Belgrade and the same one is a part of the regional project implemented in several countries in the region, including the Republic of Macedonia.

2. INTERNATIONAL DOCUMENTS FOR THE RIGHT OF A STAY FOR THE VICTIMS OF TRAFFICKING IN HUMAN BEINGS

The measures for help and protection of the victims of trafficking in human beings are an integral part of the international and domestic instruments in a fight against trafficking in human beings.

The stay permission of the victims of trafficking in human beings is appertained within the scope of these measures and it has multi-task importance:

- Protection of the right of a victim – providing psycho-social, medical, legal and other help;

- Cooperation of the victim with authorized bodies in the investigation and criminal procedure; and

- Increasing the efficiency of the authorized bodies in disclosure and pursuit of the perpetrators of the actions of trafficking in human beings.

In the following text is given a review of the relevant international documents in the European Union, United Nations and Council of Europe which regulate the right of a stay of the victims of trafficking in human beings.

2.1. European Union Documents

2001/220/JNA: Framework Decision of the Council about the victims' status in criminal procedure from 15th March 2001

In accordance with the conclusions from the European Council in Tampere from 1999, general goal of the Framework Decision is to establish and guarantee relatively high level of the victims' protection in the EU independently from the member' state they are found.

The member' states need to adjust the laws related to accomplishing this goal, especially in assumption of the victims' right for:

- treating them with the respect of their dignity;

- to be interrogated;

- protection in different stages of the procedure;

- to receive information from the first contact with the authorized bodies about the service types or organizations that they can call for a support;

- (free-of-charge) legal help;

- to be informed about the result of the procedure, for acquittal/releasing of the accused or convicted person;

- reimbursement of a deprimant etc.

Framework Decision of the Council for a fight against trafficking in human beings from 19th July 2002

In this decision are regulated the following criminal and legal aspects of the fight against trafficking in human beings:

defining the actions for accomplishing the acts of trafficking in human beings in purposes for labour and sexual exploitation;

determining maximum penalty for these acts which is not smaller than 8 years;

responsibility of legal persons for these acts and sanctions;

authorization and persecution; and

protection and help of the victims of trafficking in human beings.

Brusel's Declaration for prevention and fight against trafficking in human beings, adopted at the European Conference for prevention and fight against trafficking in human beings "Global changes for 21st Century" from 18th – 20th September 2002

The declaration has for a goal further development of the European and international cooperation, concrete measures, standards, best practices and mechanisms for prevention and fight against trafficking in human beings.

In special part of the Declaration are summarized provisions for help and protection of the victims of trafficking in human beings. Therefore, in the **Article 14: the victims as a witness**, is determined "*the victims who agree to cooperate with the criminal justice system have to have an access to short-term stay permissions. The execution of this stay permission has to be carefully watched on and assessed in order preventing cases of "bartering" which erode the accommodation capacities and support of real victims with fake victims. As well, the victim has to have a right for an appeal against decisions made by the administrative and legal authorities in relation with the short-term stay decisions*".

Hague Programme – Strengthening the freedom, security and justice in the EU, adopted by the European Council in 2004

In Part 1.7.1 of the Programme, the European Council invites the Commission and Council to cooperate in preparation of a development plan for joint standards, best practices and mechanisms for prevention and fight against trafficking in human beings.

EU Council Directive 2004/81/EC from 29th April 2004, for a stay permission issued on citizens of third countries who are victims of trafficking in human beings or who were a subject of an action for providing an illegal migration in cooperation with responsible authorities

The goal of the Directive is to be defined the conditions for issuing permissions with limited duration for citizens from third countries who cooperate in the fight

against trafficking in human beings or are against the activities for helping the illegal migration.

In addition, “**a citizen of third country**” is considered every person who is not a European Union citizen in a sense of the importance of an Article 17 (1) of the Agreement. Also, the EU member’ states will apply this Directive for citizens from third countries who were or are victims of acts related with trafficking in human beings even if they entered illegally in the territory of the EU member’s state and who are an adults according the Law of the member’ state. The Directive can be also applied for citizens from third countries who were exposed to an action for helping the illegal migration.

In Part II is regulated **the procedure for issuing the stay permission**.

Thus, **the right for informing the citizens from third countries** from Article 5 requests from the member’ states to inform the person about the opportunities that are given by this Directive, after they will determine that this can be encompassed with this Directive.

In purpose for reconciliation and avoidance of the influence towards the victims from the perpetrator of the criminal act, as well because of decision-making in providing cooperation with the authorized bodies, the Directive requests from the member’ states to provide **a period of renovation** for the citizens from third countries. Duration and starting of this period will be regulated with the national laws of the member’ states. As well, this period does not give a right for stay in accordance with this Directive.

During the **period of renovation** and while it is waited the decision from the authorized bodies, the member’ state will provide for the citizens of third countries who do not have enough assets, accommodation, providing the basic needs and access to medical treatment. If it is foreseen with the domestic legislation, the member’ state will secure providing psycho-social support of the most vulnerable groups. As well, the Directive requests from the member’ states in accordance with their national legislation, to take care for the security needs and protection of the citizens from third countries. The member’ states will provide for the citizens from third countries where it is necessary translation and interpretation. Also, under conditions of domestic legislation, the member’ states can provide complimentary legal help for the citizens from third countries.

The member’ state can **cancel** the period of renovation if the authorized bodies determine that the person has renewed actively, voluntarily and self-initiatively contacts with the perpetrators of the acts related with the trafficking in human beings or from reasons related with public interest and protection of the public security.

After completing the period of renovation or earlier, if the authorized bodies have a statement that the citizens from third countries have fulfilled the criteria from Paragraph (B), the member’ states will consider:

- a) opportunity for prolongation of their stay on its territory for the investigation or court procedures;
- b) if she/he expresses clear intention to collaborate; and

c) if she/he has canceled all relations with the accused persons of actions that can include acts related with the trafficking in human beings.

The Directive requests fulfilling these 3 conditions for issuing **stay permission** for a period of at least 6 months: as well considering the reasons related with the public policy and protection of the public security. If these conditions are further on fulfilled, the same can be renewed.

The stay permission is not going to be renewed if these conditions are not already fulfilled or if the relevant procedure has finished with decision made by the authorized bodies. When it will be finished the validation of the stay permission issued according this Directive, it will be applied the Law of foreigners.

Especially, **the stay permission can be withdrew** in the following cases: if the holder has renewed actively, voluntarily and on her/his initiative the contacts with the accused persons for the actions related with the trafficking in human beings or if the authorized body believes that the collaboration of the victim is falsehood or if her/his request is fiddle or untrue or from reasons related with public interest and protection of the national security or if the victim refuses to collaborate or when the authorized bodies decided to terminate the procedures.

The holders of a stay permission according the provisions from the Directive have a right of: accommodation and providing the basic needs, access to medical treatment for those who have insufficient assets or special needs such as pregnant women, incapable persons or victims of sexual violence or other forms of violence and children.

The Directive requests from the member' states to adopt laws for the conditions and procedures under which the holders of stay permissions have an access to the labour market, education and vocational training. This approach will be limited for the duration period of the stay permission.

Also, the citizens of third countries will receive a right for approach to the existing programs prepared by the state institutions or non-governmental organizations that have agreements with the countries aimed for their returning in normal life, including where it is sufficiently, courses designed for advancement of their professional skills or preparation for assistent repatriation in their countries of origin. When the state institutions will decide to introduce and conduct these programs that it will contribute for ensuring stay permission and its renovation on the participation basis in these programs.

The member' states will take care for **the best interest of the children** when they will apply the Directive. They will ensure that the procedure is appropriate at the age and maturity of the child. Especially, although they consider that it is in best interest for the child, they can continue the renovation period. As well, it will be ensured the children to have an approach to the educational system under same conditions as the residential children, except for the public educational system for which it can be enacted limitations in the access.

In case when the children who are citizens of third countires are not accompanied, the member' states will undertake the necessary measures for determining their identity, nationality and fact that they are unaccompanied. They will make efforts

for location of their families as far as it can be and it will undertake steps for providing legal advocacy including advocating in criminal procedures if it is necessary in accordance with the domestic legislation.

Council's Plan for best practices, standards and procedures in a fight and prevention from trafficking in human beings of the European Union from 2005 – 2005/C 311/01

The Plan is finalized in 2005 and foresees an integrated human rights approach, as well is focused especially on protection and support of the victims of trafficking in human beings with request from the EU member' states fastly to transpose the 2004/81/EC Directive for stay permission issued for citizens from third countries who are victims of trafficking in human beings or were a subject of an action for providing illegal migration, persons who cooperate with the responsible authorities in domestic legislations and strategies.

2.2. United Nations Documents

Protocol for prevention, eradication and punishment of trafficking in human beings, especially women and children which it is amended the United Nations Convention against trans-national organized crime

The Protocol for prevention, eradication and punishment of trafficking in human beings, especially women and children **is adopted** with the Resolution No. A/PEC/55/25 at the 55th Session of the United Nations General Assembly on 15th November 2000. **It was opened** for signing the Conference held in Palermo, Italy from 12th – 15th December 2000. The Protocol **enters in power** on 25th December 2003.

The objectives of the Protocol are: prevention and fight against trafficking in human beings with special attention on women and children, protection and helping the victims of trafficking in human beings with complete respect of their human rights and improvement of the cooperation among member' states in order to accomplish these objectives. The Protocol is supplemented and interpreted together with the Convention against trans-national organized crime.

The member' state of the Protocol is obliged only if it is a part of the Convention. The provisions of the Convention have an equal importance as once of the Protocol, except if it is not foreseen differently.

The Protocol has set for the first time the bases of international fight against trafficking in human beings and encompasses first international obligatory definition of the term trafficking in human beings.

Simultaneously, it is regulated **“the protection of the victims of trafficking in human beings”** in the Articles 6, 7 and 8 from Part II. Thus, it is regulated the status of the victims of trafficking in human beings in the states of acceptance in the Article 7, determining the following:

- “1. Besides undertaking measures in accordance with the Article 6 of this Protocol, each state foresees adoption of legal or other appropriate measures which provide for the victims of trafficking in human beings to stay on its territory, temporarily or permanently, depending from certain cases.*
- 2. Through the application of the provision from paragraph 1 of this Article, each state puts appropriately special attention for the facts of humanity and empathy”.*

Although, this provision of the Protocol refers directly on a stay permission for the victims of trafficking in human beings, the conditions under which it will be also issued its duration, this provision directs implicitly that each member' state has to adopt legislation with which it will be regulated the temporary or permanent stay of the victims of trafficking in human beings.

The Republic of Macedonia in 2004 has ratified the United Nations Convention against trans-national organized crime with the Protocol for prevention, eradication and punishment of the trafficking in human beings, especially with women and children and the Protocol against illegal smuggling migrants by land, water and air transport.

2.3. Documents of the Council of Europe

Recommendation No. R (2000) 11 of the Ministerial Committee for an action against trafficking in human beings for purpose of sexual exploitation

The right of the victims for receiving temporary stay status in the destination country is encompassed in **Part V: Assistance and protection of victims – legal action**.

If it is necessary the temporary stay in accordance with the domestic legislation, it has for an aim providing an opportunity for the victims to appear as witnesses in the court procedure against perpetrators. During the temporary stay, it is basic for the victims to be provided an access to social and medical help. As well, it is recommended to be considered an opportunity if it is necessary issuing the temporary stay status from humanitarian reasons.

Convention of the Council of Europe for an action against trafficking in human beings

The Convention for an action against trafficking in human beings was **opened** for signing at the Summit of Presidents of States and Governments held in Warsaw on 16th – 17th May 2005. It has entered on power on 1st February 2008.

The Republic of Macedonia has signed the Convention for fight against trafficking in human beings of the Council of Europe on **17th November 2005**.

The objectives of the Convention are: prevention and fight with trafficking in human beings with ensuring gender equality; protection of the victims of the trafficking in human beings through designing the legal framework for protection and assistance of the victims and witnesses with guaranting the gender equality,

as well providing effective pursuance and investigation; and promotion of the international cooperation in the fight against trafficking in human beings.

Main **additional value** of the Convention due to other international instruments is firstly its human based approach and temperance towards protection of the victims. Thereupon, the paragraph 5 from the Preamble determines that *“respecting the rights and protection of the victims and the fight against trafficking in human beings have to have primary importance”*. As well, the Convention encompasses all forms of trafficking in human beings (national, trans-national, related or not with the organized crime, as well because of exploitation), especially due to the measures for protection of the victims and international cooperation.

The renewable stay permission is a part of the scope of measures for protection and advancement of the rights of victims and it is regulated in the Article 14 from the Chapter III from the Convention for fight against trafficking in human beings of the Council of Europe:

- “1. Each party issues a renewable stay permission for the victims, or in one of the following two assumptions, or in the both:*
- a. The authorized body considers that their stay is necessary because of their personal condition;*
 - b. The authorized body considers that their stay is necessary because of their cooperation with the relevant institutions for conducting the investigation or in the criminal procedure.*
- 2. When it is legal necessity, the stay permission for the children’ victims is issued in accordance with their interest and in a certain case, it is renewed under the same conditions.*
- 3. Unrenewing or depriving the stay permission is done according the conditions foreseen with the internal legislation of the state.*
- 4. If a victim submits request for issuing the stay permission in other category, the relevant party takes care for the fact that the victim has used or is using some stay permission in accordance with the paragraph 1.*
- 5. Related with the obligations of the parties mentioned in the Article 40 of this Convention, each party is ensured that issuing the stay permission in accordance with this provision it does not tackle the right to be requested an alyssum and same one to be used”.*

This provision fulfills also the victims’ needs and requests for a fight against trafficking in human beings. It provides for the member’ states to decide to issue a stay permission or on the basis of the victim’ need or in exchange for cooperation with the jurisdiction bodies or when the both are fulfilled simultaneously. The member’ states have an opportunity from the Convention to issue stay permission in both situations.

The condition related with the personal situation needs to be observed from case to case depending from the security of the victim, health situation, family situation or other facts that have to be considered.

Therefore, when it is issued stay permission at the victim and depending from the approach selected by the member' state, or personal conditions of the victim have to be complete in order to be unreasonably to enforce to leave the national territory or it has to be done an investigation or criminal procedure in which the victims collaborate with the authorized bodies.

When it is related with a child the best child's interests have an advantage upon the above mentioned conditions: the Convention precibes that the stay permissions for children' victims are issued in accordance with the best child's interests and in a concrete case is renewed under the same conditions (Article 14, paragraph 2).

Although, the Convention leaves to the agreed member' states to determine the duration of the stay permission (Councils' Directive 2004/81/EC from 29th April 2004 for a stay permission issued on the citizens from third countires who are victims of trafficking in human beings or who were a subject of an action for providing illegal migration who collabotate with the authorized bodies, it foresees minimum period of 6 months), as well it regulates that it has to be an opportunity for renovation of the permission. The paragraph 3 regulates unrenovation or expropriation of the stay permission to be done under the conditions regulated with a law of the member' state.

The aim of the Article 14 paragraph 4 is to ensure that when a member' state issues stay permission from the paragraph 1 of this Article; it has to be considered when the victim requests other kind of stay permission. But, it is not imposed an obligation by the member' state to enable other kind of stay permission for persons who have received stay permission according paragraph 1 of this Article.

3. REGULATORY FRAMEWORK IN THE REPUBLIC OF MACEDONIA FOR ISSUING A TEMPORARY STAY PERMISSION AND EMPLOYMENT OF FOREIGN CITIZENS WHO ARE VICTIMS OF TRAFFICKING IN HUMAN BEINGS

Issuing the temporary stay permission for foreign citizens who are victims of trafficking in human beings is regulated with the new Law for foreigners started to be applied on 1st January 2008.

With its application, it was canceled application of the Guidelines for demeanour with foreigners who are victims of trafficking in human beings¹ adopted by the Ministry of Internal Affairs.

3.1. Law for foreigners²

Under foreigner according this law is considered every person who is not a citizen of the Republic of Macedonia.

¹ Official Gazzeta of the Republic of Macedonia No. 58/2000 and 44/2002

² Official Gazzeta of the Republic of Macedonia No. 35/2006

A foreigner is also a person without citizenship, i.e. a person who is not considered as a citizen in every country under its law.

The foreigners during the legal stay in the Republic of Macedonia have the same rights and obligations as the citizens of the Republic of Macedonia, although it is not determined differently by law.

During the stay in the Republic of Macedonia, the foreigners are obliged to observe to the Constitution of the Republic of Macedonia, laws, other provisions and acts of the bodies of the state authorities, as well in accordance with the obligations determined with the international agreements ratified.

The issues due to control, movement and stay of the foreigners in the Republic of Macedonia is done by the Ministry of Internal Affairs, although it is not determined a competence to other body by the law.

According this law it is considered that the foreigner enters unapproved in the Republic of Macedonia if she or he tries:

- to encroach or try to encroach the state border outside from the place, time or way determined for encroaching the state border;
- to avoid or try to avoid the border control;
- at the entrance to use counterfeit, others or unvalid travel or other documents;
- to enter or try to enter without valid and approved travel or other document;
- to present untrue data at the Ministry of Internal Affairs.

The foreigners in the Republic of Macedonia receive a stay:

- for three months;
- stay on the basis of temporary stay permission; and
- stay on the basis of permanent stay permission.

The temporary stay permission can be issued for a foreigner who has for an intention to stay from humanitarian aid reasons in the Republic of Macedonia.

The request for issuing temporary stay permission can be also submitted to the Ministry of Internal Affairs. After the request from foreigner for issuing temporary stay permission in the Republic of Macedonia decides the Ministry of Internal Affairs, as well makes a decision.

Temporary stay permission because of humanitarian reasons

According the Article 80 from the Law of foreigners, temporary stay permission because of humanitarian reasons can be issued in exception for a foreigner who does not fulfill the conditions for issuing temporary stay permission determined by this law, in the following cases:

- if there are bases for suspecting that the person is a victim of a criminal act such as trafficking in human beings determined by the Criminal Code;

for a foreigner aged under 18 years, and who is without accompany of a parent or tutor;

for persons without citizenship; or

other reasons justified from a human character.

The permission is issued for a period of a year and it can be renewed although it is determined that there are human reasons further on.

Temporary stay permission for victims of trafficking in human beings

Decision-making period³

For a foreigner for whom there are bases for a suspect that is a victim of a criminal act such as trafficking in human beings determined with the Criminal Code, it is provided a decision-making period in duration of two months aimed for providing protection and support in convalescence and avoiding the influence by the perpetrators of the criminal act such as trafficking in human beings.

During the decision-making period, the foreigner who is a victim of trafficking in human beings needs to make a decision if it will collaborate with the authorized state bodies in revelation of the criminal acts and perpetrators or it will return in the state which citizen is or in a state in which it has a legal stay.

In a case when victims of trafficking in human beings are juvenile persons aged under 18, leading from the best interests of juveniles, the decision-making period can be extended.

During the period of two months the foreigner cannot be expatriated from the Republic of Macedonia.

The period of two months can be terminated if:

the foreigner has renewed voluntarily, actively or self-initiatively the contacts with persons for whom there is a based suspicion that they are involved in conducting the criminal act such as trafficking in human beings; or

it is imposed by the reasons for protection of public order and national security of the Republic of Macedonia.

For termination of the the decision-making period, the Ministry of Internal Affairs makes a decision against which the foreigner has a right for an appeal in duration of 8 days from the day of receiving the decision from the authorized committee by the Government of the Republic of Macedonia.

The decision of the authorized committee by the Government will be made in duration of 30 days from the day of submitting the appeal.

³ Article 81

Against the authorized committee by the Government can be undertaken an administrative dispute in front of the authorized court according the Law of administrative disputes.

After finishing the decision-making period or previously if the authorized bodies assess that the foreigner shows clear intention for collaboration, the foreigner who is a victim of trafficking in human beings can be given temporary stay permission if:

- its stay in the Republic of Macedonia is necessary because of conducting the court procedure;

- it shows clear intention for collaboration with the authorized bodies in the elucidation of the criminal acts and perpetrators; and

- it has canceled the relations with persons for whom there is a based suspicion that they are involved in conducting the criminal act such as trafficking in human beings.

The temporary stay permission will be issued for a period of 6 months and the same one will be continued if the conditions are fulfilled.

The right for temporary stay of the victims of trafficking in human beings will be abrogated, if the conditions for issuing temporary stay according this law are no longer fulfilled, as well especially if:

- the foreigner has renewed voluntarily, actively or self-initiatively the contacts with persons for whom there is a based suspicion that they are involved in conducting the criminal act such as trafficking in human beings;

- it is determined that the collaboration of foreigner with the state bodies is untrue or is a fraud;

- it is imposed by the reasons for protection of the public order and national security in the Republic of Macedonia;

- the foreigner stops to collaborate with the authorized state bodies in in the elucidation of the criminal acts and perpetrators; or

- the authorized state bodies cancel the procedure.

Illegal stay

The foreigner stays illegally in the Republic of Macedonia if:

- entered illegally in the Republic of Macedonia;

- does not have valid and approved travel document with a visa or stay permission;

- the issued visa is abrogated, recalled or shorten its validity;

- after the valid period determined with the visa;

- the right of stay is abrogated;

stays longer than 3 months in duration of 6 months, considering from the first entrance day of the foreigner in the Republic of Macedonia, as well for an entrance in the Republic of Macedonia is not needed a visa; or

is refused finally in the procedure upon a request submitted for acknowledgment of an asylum right and is not leaving the territory of the Republic of Macedonia in the determined period.

For a foreigner for whom there are bases for a suspicion that is a victim of a criminal act such as trafficking in human beings, it is not considered that stays illegally although the illegal entrance in the Republic of Macedonia is done as a consequence of the criminal act such as trafficking in human beings.

Boarding the foreign citizens – victims of trafficking in human beings

The victims of trafficking in human beings – foreign citizens are boarded in the Schelter Centre for foreigners⁴ in the Ministry of Internal Affairs who is first in the region and functions from April 2001.

With its establishment are created basic preconditions for standardized procedure of the victims of trafficking in human beings.

In the Schelter Centre for foreigners, the presumed victims and real victims are accommodated after indentifying by the Ministry of Internal Affairs (MIA) and they stay till their voluntarily returning in the native countries with intermediation and assistance by the International Organization for Migration (IOM).

Although a victim of trafficking in human beings is not accompanied juvenile citizen, it is accommodated in a special department for juveniles with the Schelter Centre and is informed the Ministry of Labour and Social Policy (MLSP) – National Referral Mechanism (NRM) for victims of trafficking in human beings and authorized Social Issues Centre.

It is appointed a special tutor for the juvenile person according the Family Law, who will take care for its rights, as well receiving the social, medical and psychological help and support, right of education in the educational institutions in the Republic of Macedonia etc.

The juvenile victim-foreigner must not return in the native country as long as there are not ensured appropriate conditions for its acceptance.

The juvenile must not also be returned in third country where its returning can be against the Convention for the rights of a child, the Convention for torture and inhuman or humiliating conduct or punishment or the Convention for protection of the human rights and basic freedoms.

For the foreigner who is a victim of trafficking in human beings (regardless of the age) who does not understand the language, it will be provided an interpreter in the procedure, and the expenses will be paid by the Ministry of Internal Affairs.

⁴ The transit centre for foreigners from 1st January 2008 in accordance with the enforced Law for foreigners becomes a Shelter Centre for foreigners.

Within the Schelter Centre for victims of trafficking in human beings, the IOM provides directly or in cooperation with partners legal, medical and psycho-social help and support, help in returning which encompasses providing travel documents, accompany if it is necessary, buying travel ticket etc.

In the Schelter Centre for victims is also provided psycho-social support by a civil organization that implements its activities through conducting individual and group workshops, capacity building of labour skills of the victims etc.

Criminal acts⁵

Helping a foreigner through its illegal stay

The person who will help illegally to a foreigner to enter in the Republic of Macedonia or to cross through the territory of the Republic of Macedonia against the provisions determined by this law will be punished for a criminal act for helping a foreigner in illegal entrance and transit with a prison sentence of one year or with a financial penalty.

The person who will do the criminal act in self-intention or for other person to receive illegal property benefit; it will be punished with a prison sentence of at least 3 years.

If during performance of the act, it is endangered a life of the foreigner or the act is done with a group, gang or other association composed for realization for such act, the perpetrator will be punished with a prison of at least 8 years.

The attempt for criminal act from the paragraphs 1 and 2 from this Article is punishable.

If the criminal act from paragraphs 1, 2, 3 and 4 is done by legal entity it will be punished with financial penalty, and for a criminal act from paragraphs 2 and 3 from this Article at the legal entity besides the financial penalty it will be handed down temporary prohibition for performing certain activity or permanent prohibition for performing certain activity.

The transport vehicles used for performance of the act are expropriated.

Helping a foreigner through illegal stay⁶

The person who has for a self-intention or for other person to receive illegal property benefit, it will help a foreigner to stay against the provisions of this law in the Republic of Macedonia, it will be punished for a criminal act for helping a foreigner through illegal stay with prison sentence of at least 3 years.

The attempt for a criminal act from paragraph 2 of this Article is punishable.

If the criminal act from paragraph 1 of this Article is done by legal entity, it will be punished with financial penalty and it will be also handed down temporary

⁵ Article 148

⁶ Article 149

prohibition for performing certain activity or permanent prohibition for performing certain activity.

The transport vehicles used for performance of the act are expropriated.

3.2. Guidelines of house order in the Shelter Centre for Foreigners⁷

In the Schelter Cebtre are boarded the following categories of foreigners:

foreigner who by different reasons it is not possible by enforcement to be dislodged from the territory of the Republic of Macedonia, as well for whom the Ministry has made a decision for temporary detention in the Schelter Centre;

foreigner for whom it is made a decision for expulsion and it does not hold valid and approved travel document, as well from whom the Ministry has made a decision for temporary detention in the Schelter Centre;

foreigner who's identity cannot be determined, as well to whom with the court decision is handed down a detention measure for foreigner in the Schelter Centre;

juvenile foreigner who under any objective reasons cannot be immediately surrendered at the state body who's citizen is.

After accepting a foregnier in the Schelter Centre and during its stay, the police officer informs the foreigner at the language understandable for the reasons of its boarding, its rights and responsibilities, duration of the lodging in the Schelter Centre, announces the house order and informs about the procedure for its enforced dislodgement or voluntarily returning in the country who's citizen is.

If the police officer in the Schelter Centre does not have an opportunity at the language understandable for the foreinger to give necessary information, than it is provided a translator.

The police officer from the Schelter Centre in accordance with the Article 132 from the Law of foreigners can conduct a procedure for determining the foreigner's identity.

During the boarding of a foreigner in the Schelter Centre is taken care about its gender, aga and citizenship.

Foreigners from same sex are accommodated in same room. In special department are accommodated juvenile citizens without accompany.

3.3. Employment law and labour of foreigners⁸

With the Employment Law and labour of foreigners it is determined the procedure

⁷ Official Gazette No. 35/2006

⁸ Official Gazzete of the Republic of Macedonia No. 70/07

under which foreigner can be employed in the Republic of Macedonia, except it is not regulated with the international agreement differently.

A foreigner is considered as employed person (employee) in the Republic of Macedonia when on the basis of an employment contract will be established labour relation which location or living place is in the Republic of Macedonia or when it will be obtained a status of self-employed person by this law.

The foreigners who according the provisions of this law can be employed, self-employed or to work in the Republic of Macedonia, it must hold obligatory a labour permission and regulated stay in the state, and the person (employer) must register obligatory their work as work of a foreigner.

In the Republic of Macedonia, the foreigners can only perform the work for which they hold a labour permission.

A labour permission is a document on which basis the domestic or foreign employer makes the employment contract or labour agreement, or performs other work with a foreigner according the provisions by this law.

The labour permission is issued as:

- personal labour permission;
- employment permission;
- working permission.

The labour permission of foreigner will be detracted from and abolished if:

1. The permission of foreigner for temporary or permanent stay finished in accordance with the law;
2. The foreigner stays outside of the Republic of Macedonia for a period longer than 6 months without interlude, except in a case when the foreigner is dislodged by an injunction of the employer in foreign country or if it is absent because of education, maternal leave or parental leave for a child's care; and
3. The foreigner performs other work except that one for which the labour permission is issued.

The request for issuing a labour permission of the foreigner is submitted to the diplomatic-consular office of the Republic of Macedonia in abroad in the state whos citizen is or in the state where the person stays on the basis of stay permission.

After receiving the temporary stay permission by the Ministry of Internal Affairs, the foreigner is obliged to verify the beginning and finishing the work in the Employment Agency –Employment Centre, in the place where the enterprise is registered.

In an exception, the request for issuing a labour permission, the foreigner can also submit to the Employment Agency although holds:

Temporary stay permission on the basis of family union;

Temporary stay permission of a member of closer family who are citizens of the Republic of Macedonia;

Temporary stay permission because of humanitarian reasons; and

Identity card for approved refugee, identity card for a person under humanitarian aid and identification document according the Law of alyssum and temporary protection.

The foreigner under humanitarian protection and foreigner under temporary protection can receive personal labour permission.

A personal labour permission is renewable or permanent form of a labour permission which during its validation it provides to the foreigner free access at the labour market.

Foreign victims of trafficking in human beings can receive labour permission on a basis of temporary stay because of humanitarian reasons

The control of implementation of this law is done by the Ministry of Labour and Social Policy.

The inspection control towards implementation of this law is done by the State Labour Inspection.

The inspection control can be performed towards legal entity and a person, by professional duty or upon a request by the Employment Agency.

The labour inspector is obliged to submit regular reports for the undertaken procedure and handed down penalty sanctions to the Employment Agency, who is responsible to do a registry of the done demeanuors and handed down penalty sanctions by the employer and foreigners.

3.4. Law of alyssum and temporary protection⁹

With the Law of alyssum is regulated the conditions and procedure for issuing and cancellation of a right of alyssum of foreinger or person without citizenship who requests acknowledging a right of alyssum in the Republic of Macedonia, as well the rights and responsibilities by the requestees and persons on whom it is acknowledged right of alyssum in the Republic of Macedonia.

A right of alussym is protection that Republic of Macedonia gives under conditions and procedure regulated with this law, for the following categories of persons:

- Acknowledged refugee (refugee by the Convention for the status of refugees from 1951 and the Protocal for the status of refugees from 1967);
- Person under humanitarian protection (according the Article 3 from the Convention for protection of human rights and basic freedoms from 1950

⁹ Official Gazette of the Republic of Macedonia No. 49/03

and Article 3 from the Convention against torture and other forms of brutal, unhuman and humiliating demeanour or punishment from 1984).

A person under humanitarian protection is a foreigner on whom in the Republic of Macedonia will be acknowledged a right of asylum from humanitarian reasons and it will be approved to stay within its territory because in the country whose citizen is or although is without citizenship in a state in which the usual stay location has, it will be imposed on torture, unhuman or humiliating punishment or punishment.

Although the person under humanitarian protection who requests a right of asylum is a foreigner for whom there are bases for suspicion that is a victim of criminal act such as trafficking in human beings determined by the Criminal Code, it can be applied the provisions from the Law for a stay of foreigners, i.e. Article 80 for receiving temporary stay permission because of humanitarian reasons.

With the day of submitting the decision for acknowledgement of the right of asylum because of humanitarian protection, the person under humanitarian protection obtains with the right of stay at the territory of the Republic of Macedonia in duration of a year and the same is continued although there are still present reasons, i.e. in the state whose citizen is or although is without a citizenship in which it has usual place of stay, it will be imposed on torture, unhuman or humiliating punishment or punishment.

On the person under humanitarian protection is provided accommodation/boarding, but at least for a year from the day of submitting the decision for acknowledgement of a status of person under humanitarian protection.

The person under humanitarian protection has a right for financial help and right of basic medical services.

If it is not regulated differently with this or other law the persons under humanitarian protection have same rights and responsibilities of foreigners with approved temporary stay at the territory of the Republic of Macedonia.

After the finishing the right of asylum in the Republic of Macedonia, the Ministry of Internal Affairs in cooperation with the High Commissioner for Refugees provides organized voluntarily returning of the persons in the country of origin.

3.5. Book of rules for foreigners¹⁰

With the book of rules for foreigners is regulated:

The way of approval and refusal of an entrance; issuing and continuation of the temporary and permanent stay permission; returning and banishment of a foreigner; registering and checking out of habitation and sojourn of a foreigner;

¹⁰ Official Gazette of the Republic of Macedonia No. 27/2008

The form and content of the template for refusing an entrance; temporary stay permission; decision for continuation of the temporary stay permission; stay statement in the Republic of Macedonia until decision-making for continuation of temporary stay permission; decision for banishment, seal of the decision for banishment; the decision for deduction of the right for temporary stay; decision for deduction of the right for permanent stay; seal of deduction of the right of temporary and permanent stay; as well the templates for request for their issuing;

The form and content of the template with which it is registered or checked out the habitation or sojourn of the foreigner, as well the template for registry of foreigners registered by legal entities and individuals who give accommodation services at the foreigners;

The way of managing and using data from the registry from Article 143 paragraph 1 from the Law of foreigners.

Way of issuing and continuation of the temporary and permanent stay permission

The temporary stay permission is issued on the basis of written request by foreigner who has an intention to stay in the Republic of Macedonia.

The request for issuing temporary stay permission can be submitted as well from:

Foreigner who stays legally in the Republic of Macedonia, although submits a request for issuing temporary stay permission of members of its closer family on the basis of family union, as well on the basis of the proxy verified;

Citizen of the Republic of Macedonia who in the Republic of Macedonia has registered habitation, although submits request for issuing temporary stay permission for the members of its closer family on the basis of the proxy verified;

Foreigner who stays legally in the Republic of Macedonia, although submits request for issuing stay permission of its child born in the Republic of Macedonia;

Authorized person from authorized organizational unit of the Ministry of Internal Affairs submits a request for issuing temporary stay permission because of humanitarian reasons to a foreigner for whom there are bases for suspicion that is a victim of performed criminal acts such as trafficking in human beings;

Tutor in a case when submitting a request for issuing temporary stay permission because of humanitarian reasons to a foreigner aged upto 18, as well who has stayed without accompany of a parent in the Republic of Macedonia.

After receive of the request for issuing temporary stay permission, the official person determines the foreigners' identity, i.e. of submitter of the request and

determines if the travel document is valid and acknowledged. When it will be approved by the Ministry of Internal Affairs that the conditions are fulfilled for issuing temporary stay permission, it is given to the foreigner a decision for allowing the temporary stay.

The decision will be submitted personally by the foreigner, ie. By the authorized person from the authorized organizational unit of the Ministry of Internal Affairs who has submitted a request for issuing temporary stay permission because of humanitarian reasons to a foreigner for whom there are bases for suspicion that is a victim of performed criminal act such as trafficking in human beings and on the basis of submitted request it is made a decision with which it is allowed temporary stay of the foreigner.

Way of returning the foreigner

If the foreigner to whom it is not allowed an entrance in the Republic of Macedonia refuses to leave its territory or gives resistance or when it can be assumed that it will give resistance through returning, it can be given police escort for which it is informed the person responsible of the transport vehicle.

In a case when a foreigner is returning by the airplane it is also informed the person who operates the air transport vehicle.

At the transporter who will bring a foreigner at the state border of the Republic of Macedonia on whom it is not allowed entrance at the territory of the Republic of Macedonia, it is issued a returning edict. In a case when the transporter cannot immediately return the foreigner, the same one is boarded in special offices in the Ministry of Internal Affairs at the border corridors aimed for accommodation of foreigners on whom it is refused an entrance in the Republic of Macedonia.

Because of determining the condition that the foreigner with applicable verdict is convicted with prison sentence in duration of at least a year as a reason for its banishment from the territory of the Republic of Macedonia according the law, the authorized organizational units of the Ministry of Internal Affairs cooperate with the penal mendable institutions (prisons) in the Republic of Macedonia.

3.6. Regulation on travel and other documents for foreigners

This Regulation prescribes the following:

Method for issuing of travel and other documents to a foreigner;

Application method for missing, lost, stolen or other ways of estrangement of travel and other documents property of a foreigner;

Norm and contents of the Form for travel and other document of a foreigner, as well as the Form for Application for their issuance, and

¹¹ Official Gazette of the Republic of Macedonia No. 37/2008

Method of record keeping and use of data from the Record on Issued Travel and Other Documents to Foreign Citizens.

Passport of a foreign citizen, Travel Document for a foreigner, Travel Document for a person without a citizenship, Diplomatic ID Card and Consular ID Card, are issued upon request filed by a foreign citizen. Official, in charge of the proceedings, checks the identity of a foreign citizen; applicant in this case, checks that a filed application is correctly and clearly filled out and that all additional required documents have been submitted. An Official has a right to ask the Applicant to justify his/hers request and in relation to it to also submit additional information.

Record for Issued Travel Documents to Foreign Citizens, and Travel Documents for Persons without Citizenship, Diplomatic and Consular ID Card, as well as the Record for Rejected Applications for Issuing Travel Documents to Foreign Citizens, and Travel Documents for Persons without Citizenship are filed in the form of folders.

State Body that has a legal interest in data from the Records files a Written Request for Their Use to the Ministry of Internal Affairs or to the Ministry of Foreign Affairs, which is a subject of approval by the Minister of Internal Affairs or Minister of Foreign Affairs, or by their authorized employee.

4. PRACTICES OF OTHER COUNTRIES IN THE REGION

- Temporary Stay Permit for Foreign Citizens, victims of trafficking in human beings

Croatia

A victim of a trafficking in human beings must contact the Ministry of Internal Affairs, Sector for Inspection and Managerial Issues in person, in order to receive a Temporary Stay Permit, and, in the presence of the Legal Counsellor, to receive help and protection (IOM, NGOs, and the Ministry of Health and Insurance). The Application must be signed personally by the Victim or the Legal Guardian, in case of a minor. Temporary Stay Permission is registered and stamped in the Passport of the foreign citizen. In case a foreign citizen is not in a possession of a Passport then, he/she is issued a special Certificate for temporary stay.

In the following Table are presented data on identified victims of trafficking in human beings that received help in Croatia²

	2000	2001	2002	2003	2004	2005	2006	2007	Total
Foreign THB	0	0	6	7	16	4	11	3	47
Domestic THB	0	0	1	1	6	3	3	6	20

Total of four issued permissions to victims of trafficking in human beings, in Croatia, of which two in 2004 and two in 2005.

Within the first 6 months of the 2007, a support has been given to a total of 9 victims of whom 6 were of Croatian, 2 of Bosnian, and 1 of Moldovian nationality. From them, 7 were women and 2 were men.

Romania

In the following Table are presented data on identified victims of trafficking in human beings who received support in Romania.

	2000	2001	2002	2003	2004	2005	2006	2007	Total
Foreign THB	2	0	3	8	18	3	3	0	37
Domestic THB	163	261	243	194	193	97	134	34	1319

¹² Data received via telephone from Mr. Marinovic IOM Zagreb, July 2007,

According to the Directorate for Foreign citizens and the IOM, in Romania no permission for stay has been issued to a foreign citizen-victim of trafficking in human beings. Explanation received was that the majority, if not all victims, originate from Moldova who are transferred through Romania to their countries (volunteer returns). Also, the implementation of the Right upon Temporary Stay is influenced by the fact that only 4% of cases are foreign citizens and the majority are citizens of Romania. Romania is one of the most known countries from which originate victims of the trafficking in human beings within the frames of the EU. Only three citizens of Romania have been approved for Stay within the EU of whom one in each of the following countries: United Kingdom, Italy, and Greece. Two of above mentioned were issued a stay only after they agreed to testify in court proceedings.

Serbia

In the following Table are presented data on identified victims of trafficking in human beings who received support – stay in Serbia.

	2001	2002	2003	2004	2005	2006	2007	Тотал
Foreign THB	36	53	37	43	22	16	6	213
Domestic THB	1	10	13	21	41	46	18	150

Until now, 20 Temporary Stay Permissions have been issued to foreign citizens in Serbia as follows: 2004-one, 2005-11, 2006-4, and in 2007-4 Temporary Stay Permits.

According to the table it can be noted that all foreign citizens, victims of trafficking in human beings, have been issued Temporary Stay Permissions. All 20 Temporary Stay Permissions have been issued to female persons of whom 85% were of an age.

5. PRACTICES IN THE REPUBLIC OF MACEDONIA DUE TO STAY PERMISSION OF FOREIGN CITIZENS VICTIMS OF TRAFFICKING IN HUMAN BEINGS

The methodology for collecting data about practices and situation in the Republic of Macedonia is done through an interview with the representatives from the STL, Border Police, Sector for foreigners, Protection of witnesses, as well with the persons employed in the Schelter Centre for Foreigners. The statistical data are received from: the Ministry of Labour and Social Policy, office of the National

Referral Mechanism for victims of trafficking in human beings (NFM)¹³, NGO Open Gate¹⁴ and International Organization for Migration (IOM) Skopje¹⁵.

In the following tables are given statistical data for the assisted victims of trafficking in human beings who are citizens of the Republic of Macedonia, as well for the foreign citizens.¹⁶

Data from NRM	2006	2007
Domestic THB	23	37

Data from Open Gate	2005	2006	2007
Domestic THB	6	9	26

Data from IOM	2001	2002	2003	2004	2005	2006	2007	Total
Foreign THB	257	220	135	15	3	14	13	657

In the Republic of Macedonia is noticed a trend of decreasing the number of foreign female citizens and increase of domestic victims of trafficking, as well an appearance of “internal trafficking in human beings”, i.e. often women and girls are trafficked from one part or to other in Macedonia or from one to other town.

In the period of monitoring implementation from 1st January 2008 till 1st May 2008, according the data from the Ministry of Internal Affairs, there had been accommodated 6 persons from whom 5 juveniles in the Schelter Centre.

From them, one is identified as a victim of trafficking in human beings.

¹³ The office of the National Referral Mechanism is coordinating office for support and protection of the victims of trafficking in human beings opened within the Ministry of Labour and Social Policy in 2005.

¹⁴ The NGO Open Gate has a schelter centre for women' victims of trafficking in human beings who are citizens of the Republic of Macedonia in accommodation capacity for 10 persons.

¹⁵ The foreign victims of trafficking in human beings are assisted in returning by the IOM and psycho-social support receive from the NGO “Happy childhood” in the Schelter Centre for Foreigners.

¹⁶ In 2001/2002 in the Republic of Macedonia there is not any legal provision due to the act of trafficking in human beings in the Republic of Macedonia.

Three Chinese female citizens were victims of smuggling migrants and 2 children who are not identified as victims of trafficking in human beings, but they have entered illegally in the Republic of Macedonia and unaccompanied in purpose for bagging.

According the data received from the Ministry of Internal Affairs, the Macedonian female citizens identified as victims of trafficking in human beings in other countries only one has received temporary stay permission in the Republic of Germany on the parental basis.

Others have still returned in the Republic of Macedonia in the decision-making phase.

Till now, there is not submitted any request for temporary stay permission in the Republic of Macedonia.

According the provisions of the old Law for foreigners¹⁷, the victims of trafficking in human beings were accommodated in the Transit Centre for foreigners¹⁸. During the decision-making period that lasts 60 days, the persons leave ofently regardless if they participate or not in court procedure till this period. The persons accommodated in the Schelter Centre for foreigners are kept more than 2 months.

According the view of officials in the Schelter Centre, as well the authorized persons within the MIA, the reasons for not submitting the request are the following ones:

Insufficient information of the victims of trafficking in human beings about the opportunity and procedure for receiving a right for temporary stay in the Republic of Macedonia. As well, it does not exist any written information, brochures on more languages that will be accessible in the Schelter Centre for the victims.

As well, it is considered that the Republic of Macedonia is not interesting country as a country for stay and living, and therefore is only transit, but final destination are the EU' countries where they consider that there are bigger opportunities and living conditions.

The victims had given voluntarily a statement to return in their country and with help and support of the IOM and MIA are repatriated in the native countries.

Macedonia is a small country, and the victims had considered that it is impossible to be protected enough from the traffickers by the reason that in smaller communities can be recognized and found from the traffickers.

If the persons have appeared as witnesses within the investigation procedure in the period from 2 months, although for the main trail very often the victims do not appear or can be found in the SECI Centre.

¹⁷ The old Law of foreigners is enforceable till 31st December 2007.

¹⁸ Now, Schelter Centre for Foreigners

The small number of identified victims of trafficking in human beings is a reason for unsubmitting a request, as well receiving temporary stay permission in the Republic of Macedonia.

Reason for unsubmitting a request for temporary stay in the Republic of Macedonia is that victims were testified and through a video – conference connection after they are returned in their country.

The Law for foreigners is new, the process is complicated and till now, there has not been a basis for using this right according the old law.

In that relation, it was realized for the first time in the region and in the Republic of Macedonia in 2005 through a video-conference connection a testimony in court procedure in the Primary Court in Tetovo of a witness from the Republic of Moldova against accused persons for a criminal act from the area of trafficking in human beings. The organization and ensuring necessary technical pre-conditions, as well the supply of all necessary documents in the Republic of Moldova, according the Convention for international legal help and Protocols of this Convention, it was performed by the Sector for international police cooperation, i.e. SECI Centre. For the mentioned testimony was used video-conference equipment from the Federal Bureau for Investigations of USA.

As a result of this successful cooperation with the SECI Centre, and due to bigger number of requests for ensuring witnesses in the Republic of Macedonia in 2004 and 2005, i.e. the Public Prosecution Office of the Republic of Macedonia by the SECI Centre was granted technical equipment for realizing the video-conference testimonies.

As well, according the Article 8 from the Agreement for cooperation and equipping the national offices of the SECI, on the SECI National Office located in the SMPS in the Department for organized crime, it was granted equipment for video-conference communication in September 2006. For this purpose, it is signed a Donation Agreement by the SECI Centre Manager and PSB Manager of the MIA.

6. CONCLUSIONS AND RECOMMENDATIONS

Legislation in the Republic of Macedonia corresponds with the international standards that guarantee the right for stay of the victims of trafficking in human beings;

Law for foreigners and Standard Operative Procedures regulate the right for temporary stay of the victims for trafficking in human beings.

It is recommended:

Obligatory and promptness information for the victims of trafficking in human beings for using the right for temporary stay;

Education of employees in the authorized bodies for practical application for regulatory framework and obligatory information of the victims for using the right for temporary stay;

Preparation of educational leaflets with informative contents about the rights of the victims for submission of request for temporary stay, as well for all other rights;

Amending the Law for foreigners and the Book of rules for accommodation of foreigners in the Shelter Centre for foreigners with the provision for victims of trafficking in human beings to be boarded in the Shelter Centre;

Transparent procedure in the legal decision-making, involving persons who have to implement in the practice the same one, as well the civil sector within their process, multi-disciplinary approach and continuity of the members in working groups;

Monitoring and evaluation of implementation of the laws in practice; and

Involving the non-governmental organizations in the Draft Law for complimentary legal help, with the provisions related with the previous legal help.

BIBLIOGRAPHY:

- 2001/220/JNA: Framework Decision of the Council about the victims' status in criminal procedure from 15th March 2001;
- Framework Decision of the Council for a fight against trafficking in human beings from 19th July 2002;
- Brusel's Declaration for prevention and fight against trafficking in human beings, adopted at the European Conference for prevention and fight against trafficking in human beings "Global changes for 21st Century" from 18th – 20th September 2002;
- Hague Programme – Strengthening the freedom, security and justice in the EU, adopted by the European Council in 2004;
- Council's Plan for best practices, standards and procedures in a fight and prevention from trafficking in human beings of the European Union from 2005 – 2005/C 311/01;
- EU Council Directive 2004/81/EC from 29th April 2004, for a stay permission issued on citizens of third countries who are victims of trafficking in human beings or who were a subject of an action for providing an illegal migration in cooperation with responsible authorities;
- Protocol for prevention, eradication and punishment of trafficking in human beings, especially women and children which it is amended the United Nations Convention against trans-national organized crime;
- Recommendation No. R (2000) 11 of the Ministerial Committee for an action against trafficking in human beings for purpose of sexual exploitation;
- Convention of the Council of Europe for an action against trafficking in human beings;
- Explanation (explanatory report) towards Convention of the Council of Europe for action against trafficking in human beings;
- Law for foreigners – Official Gazette of the Republic of Macedonia No. 35/2006;
- Book of rules for house order in the Schelter Centre for foreigners - Official Gazette of the Republic of Macedonia No. 35/2006;
- Law for employment and work of foreigners - Official Gazette of the Republic of Macedonia No. 70/07;
- Law of alijazba and temporary protection - Official Gazette of the Republic of Macedonia No. 49/03;
- Book of rules for foreigners - Official Gazette of the Republic of Macedonia No. 27/2008.