

Trafficking in Human Beings in Kosovo Legal Instruments, Statistics and Trends

Background

- **Trafficking /Prostitution Investigation Unit** - started its operations in 2001 under the leadership of **the UNMIK Police**
- **The Human Trafficking Investigation Sector (HTIS)** is the name after the organizational restructure of KP on 01.11.2005
- **The centralization of 6 regional units under the command of this** was done on 29/01/2010 with the decision of KP Director General
- **Promotion from Sector to Directorate for the Trafficking in Human Beings Investigations (HTIS)** was done with the approval of the KP structure on 28/05/2010.
- **Appointment of Anti-Trafficking Coordinator** - Government Decision No. 029, dated 10.04.2008
- **Approval of the first Strategy against Trafficking in Human Beings and Action Plan 2008-2012**



Organization for Security and
Co-operation in Europe
Mission in Kosovo

International Legal Instruments

- Approval of an international agreement on the prohibition of white slave trade 1904
- International Convention on the prohibition of white slave trade 1910
- Convention of punishing the trade with women and children of 1921
- European Convention on the Protection of Human Rights and Fundamental Freedoms and its Protocols, 1950.
- The Palermo Protocol of 2000
- Directive 2011/36/EU).

International Legal Instruments

Other international references to the protection of human rights:

- Universal Declaration of Human Rights
- Convention for the Protection of Human Rights and Fundamental Freedoms.
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979
- Convention on the Rights of the Child
- Supplementary Convention of the UN on the abolition of slavery, the Slave-Trade, and Institutions and Practices similar to Slavery:
- Convention of the Council of Europe on Actions against Trafficking in Human Beings

Legal basis

The legal basis for the prevention and combating of trafficking in human beings in Kosovo is based on the following legal, sub-legal acts and documents:

- Criminal Procedure Code;
- The Criminal Code;
- Law on Preventing and Combating Trafficking in Human Beings and protecting Victims of Trafficking
- Law on Foreigners
- Strategies against Trafficking in Human Beings and Organized Crime and Action Plans
- Standard Action Procedures for Trafficked Persons in Kosovo
- Minimum standards for the care for victims of trafficking

Trafficking in Human Beings according to the Criminal Code

The Criminal Code sanctions Trafficking in Human Beings and the incrimination of this offense is in line with the International Convention on Combating Organized Crime and the Palermo Protocol on Trafficking in Human Beings, 2000.

As per Article 171 of the Criminal Code :

The term “trafficking in human beings” means the recruitment, transportation, transfer, harboring or receipt of persons, by threat or the use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or the abuse of a position of vulnerability or the giving or receiving of

payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Whereas “exploitation” includes, but is not limited to:

1. exploitation of the prostitution of others,
2. pornography or other forms of sexual exploitation,
3. solicitation,
4. forced labor or services,
5. slavery or practices similar to slavery,
6. servitude or removal of organs and cells .

- The consent of a victim of trafficking in persons to the intended exploitation shall be **irrelevant** where any of the **means** set forth above in this paragraph have been used against such victim.
- Recruitment, transportation, transfer, harboring or receipt of the **child** for the purpose of exploitation is considered “human trafficking”, even if it does not include any of the means set out above.

Criminal offenses to THB Criminal Code

- Establishment Slavery, slavery-like conditions and forced labour, Article 169 of CCK
- Smuggling of migrants - Article 170 of the CCK
- Withholding identity papers of victims of slavery or trafficking in persons, as defined by Article 172 of CCK
- Sexual services of a victim of trafficking, Article 231 of CCK
- Facilitating or compelling prostitution, Article 241 of CCK
- Abuse of children in pornography, Article 238 of CCK
- Forced marriage, Article 246 of CCK
- Unlawful transplantation and trafficking of human organs and tissues, Article of CCK

Mission and Objective of the Directorate for Investigation of Trafficking in Human Beings

The mission of DITHB is to undertake activities and actions to prevent trafficking in human beings, effectively investigate all cases of trafficking in human beings, arrest individuals or organized crime groups involved in trafficking in human beings and which extend their criminal activities within and outside Kosovo, as well as identifying victims of trafficking, assisting and protecting them in co-operation with governmental partners (national authority) and non-governmental partners (local and international NGOs) on issues of sheltering, rehabilitation and reintegration into the family and society, and voluntary repatriation of foreign victims of trafficking in the country of origin or a third country.

The main objectives of the Directorate for Investigation of Trafficking in Human Beings are:

- Preventing the phenomenon of trafficking in human beings,
- Investigating, arresting and prosecution of perpetrators of human trafficking
- Protection and assistance of victims of trafficking as well as creation of conditions of safety for their reintegration and re-socialization in the society and family, as well as voluntary repatriation of foreign victims of trafficking in the country of origin
- International co-operation in combating human trafficking

Criminal Offences Investigated by Directorate for Investigation of Trafficking in Human Beings

Based on the SOP-Processing of Cases and Material Competences, the scope of DITHB is the investigation of such offenses of the Criminal Code as follows:

- Trafficking in Human Beings, Article 171;
- Withholding identity papers of victims of slavery or trafficking in persons, as Article 172
- Establishment Slavery, slavery-like conditions and forced labour, Article 169
- Unlawful Transplantation and Trafficking of Human Organs and Tissues,

- Organized crime, Article 283
- Sexual services of Victims of Trafficking, Article 231
- Facilitating or compelling prostitution, Article 241
- Providing Premises for Prostitution, Article 242
- Abuse of children in pornography, Article 238
- Forced Marriage, Article 246
- Also, six (6) DITHB units operating at the local level also investigate the offense from the Law No: 03/L-142 on Public Peace and Order.
- Engaging in Prostitution, Article 7;

Types of investigation in THB cases

There are two main forms / types of investigations conducted by the Police in investigating cases of trafficking in human beings:

- **Reactive investigations**
- **Proactive investigations**

Re-active investigations - are investigations that are led by the victim, i.e the investigation begins based on statements and testimonies given by the victim, without any prior police investigation. Evidence by the victim is essential, since it is only the trafficked person who is in the best position to provide testimony/evidence or confirm relevant data in the process, such as misuse, abuse of extreme poverty conditions, form of exploitation, existence of coercion through debt, etc.

Proactive Investigations - Investigation is based on securing evidence and testimonies from the use of covert investigative measures (special measures) and standard investigative techniques, i.e investigating traffickers without having to rely (fully) on the co-operation and testimony of the victims. Proactive Investigations cannot be easily applied in all jurisdictions, as in some jurisdictions law enforcement agencies (police and prosecution) have no right to investigate and start pro-active prosecution of offenders without an initial declaration and testimony of the victim.

Referral and identification of victims of trafficking

Pursuant to the Law on prevention and combating trafficking in human beings, and standard operating procedures for trafficked persons:

Referral of victims may be undertaken by:

- Various governmental institutions and different law enforcement units, or other institutions.
- Various NGOs, citizens in general.

Identification of victims of trafficking is done by:

- Police/police investigator of the DITHB
- Victims' Advocate (Government Prosecution Office)
- Social worker of the CSW
- Prosecutor and judge

What are some of the methods of recruiting victims used by traffickers MODUS OPERANDI

- Job offers - (waitresses, dancers, bartenders with promises of good monthly salaries).
- Offers for modeling / fashion / beauty competitions, etc
- Promises of studies or work abroad
- Deception/ false promises for marriage or cohabitation, and then the traffickers understanding and knowing their position and status, through threat and other forms of pressure force victims to provide sexual services.
- Contacts via social networks (Facebook, Twitter, gmail, etc)
- They force victims to make agreements themselves and receive the money from the clients, not to be noticed by the police and also in case they are discovered, the case does not qualify as Trafficking in Persons but rather Prostitution or Engaging in Prostitution.

Service and protection of victims of trafficking in Kosovo

Governmental Shelter - operates under the Department of Social Welfare, the Ministry of Labor and Social Welfare, and houses high and medium risk victims of trafficking and protected witnesses, as victim of trafficking. The building has a total of 1675 m², 12 rooms, 25 beds, the men's sector has 5 beds and two suites for single mothers. It also has an annex for the social life of beneficiaries.

Non - governmental shelters - there are 8 non-governmental shelters for victims of trafficking with low risk,

Law on Health 04 / L-125- is provides significant health protection and of health services free of charge needed for victims of trafficking. Victims of trafficking are listed as a category that has free health services under **Article 61 Citizens and residents exempted from copayments**

Co-operation agreement between the Ministry of Health and the Shelter Coalition - signed on 12.04.2013 with the Ministry of Health aims to provide free health services for certain categories of crime victims (human trafficking, domestic violence, sexual crimes etc.).

Law on Witness Protection - the program also covers the protection of victims of trafficking.

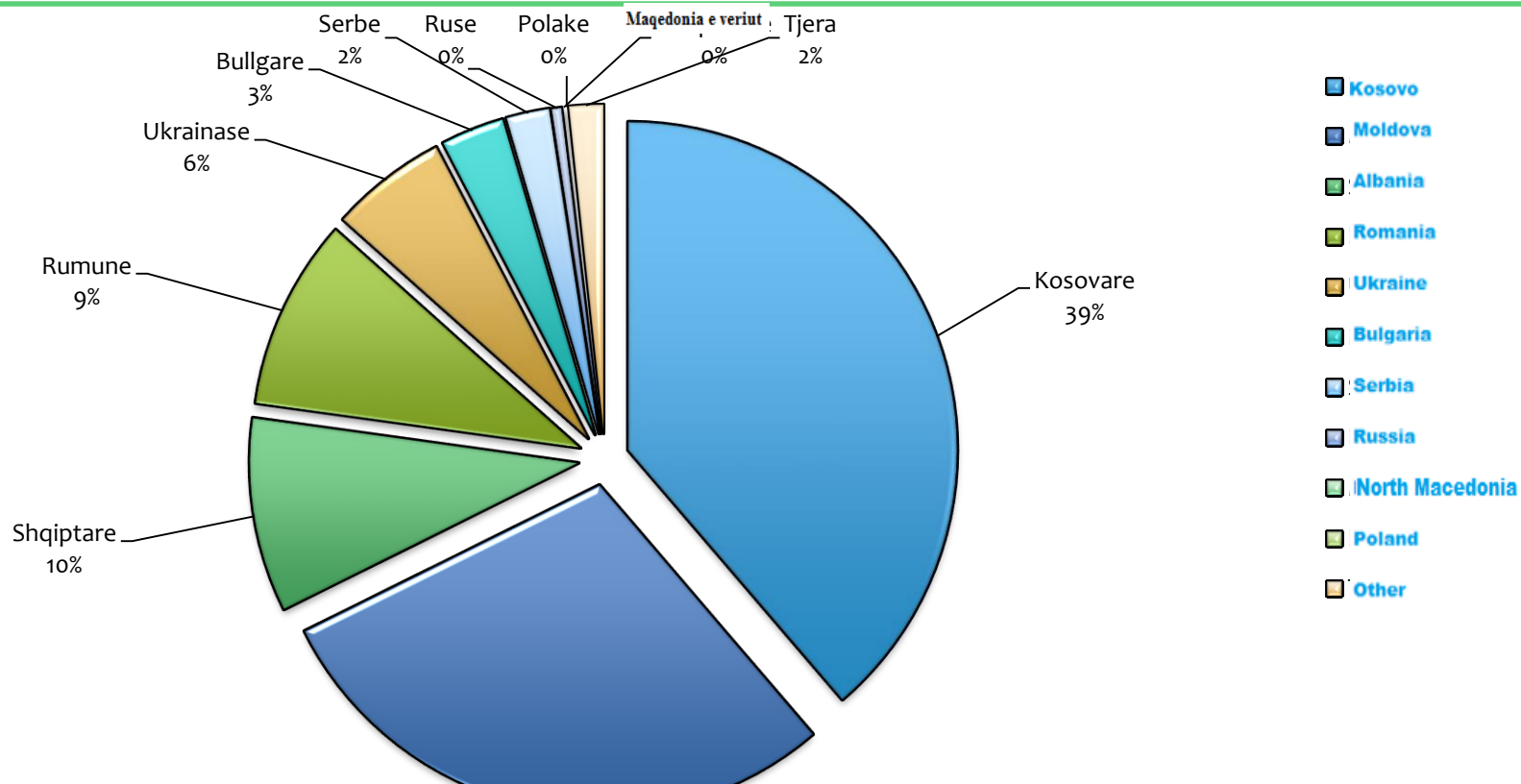
Law on Foreigners - the law guarantees residence permits for victims as they are identified as victims of trafficking, and also provides for and covers the costs of voluntary return / repatriation of victims to their countries of origin.

National help line 0800 11 112 - is a toll free line, where citizens, potential victims or victims of trafficking can report cases of trafficking.

Victims of trafficking in Kosovo 2001-2014

			Albanian	Romanian	Ukrainian	Bulgarian	Serb	Russian	North Macedonia	Polish	Other	Total
			3	46	18	4	/	2	/		/	172
2002	3	32	9	19	20	6	/	/	/		/	89
2003	15	13	4	5	5	3	4	/	/		1	50
2004	11	17	13	4	/	2	/	/	/		1	48
2005	24	6	6	/	/	6	2	/	/		5	49
2006	20	30	6	/	3	2	/	2	/		3	66
2007	18	3	9	/	/	/	1	/	1		1	33
2008	25	4	3	/	/	1	2	/	/		1	36
2009	16	8	3	/	/	1	1	/	/		/	29
2010	28	1	7				2			1		39
2011	35		1				3					39
2012	29	23	1								1	54
2013	44		7				1					52
2014	36		4	1			1					42
Total	309	231	76	75	46	25	17	4	1	1	13	798

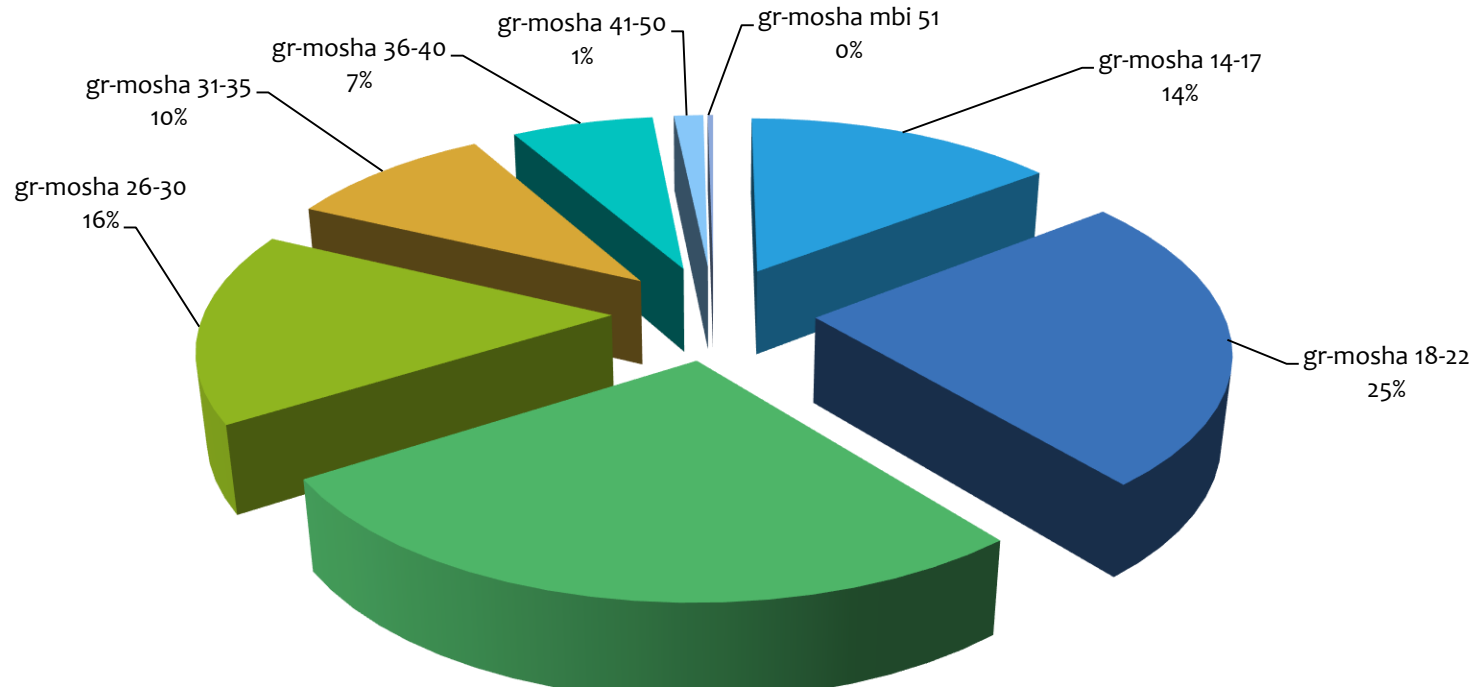
Victims of trafficking identified in Kosovo 2001-2014 by percentage



Victims of trafficking by age 2001-2014

Age	14--17	18--22	23-25	26--30	31--35	36--40	41--50	over 51	Total
No. victims	116	196	215	128	77	53	11	2	798

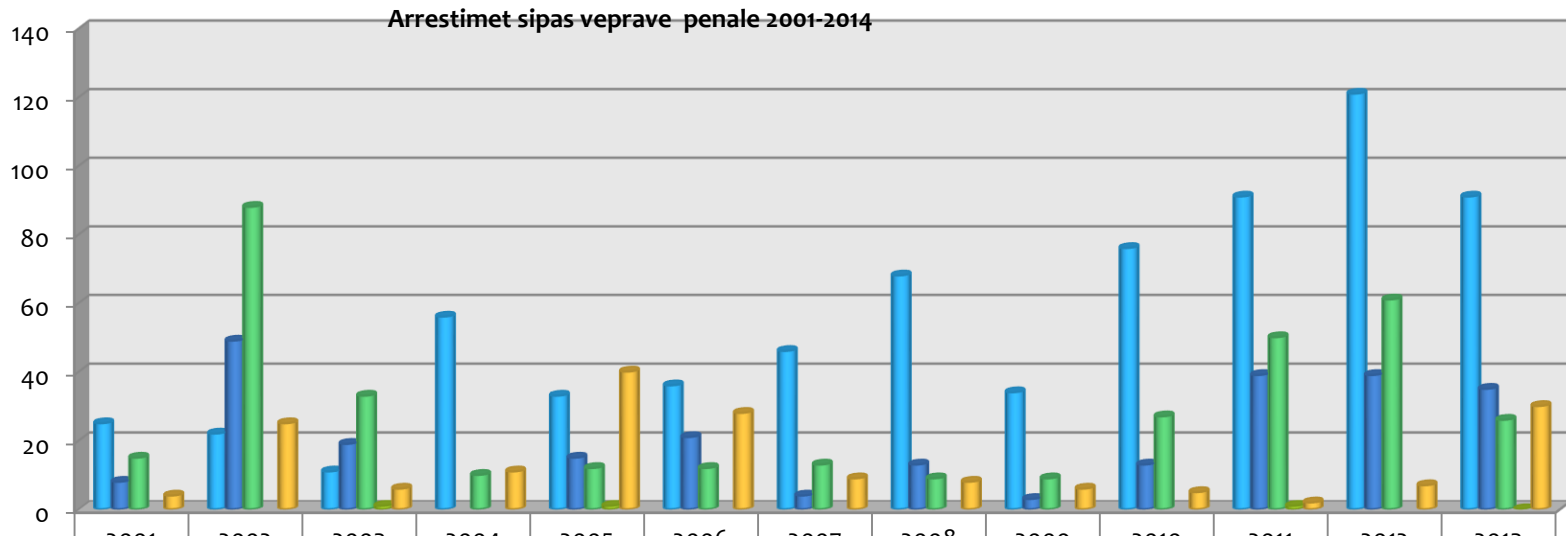
Numri i viktimave sipas grup-moshave 2001-2014





Arrests by criminal offences 2001-2014

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Trafficking in human beings	25	22	11	56	33	36	46	68	34	76	91	121	91	66	776
Enabling prostitution	8	49	19		15	21	4	13	3	13	39	39	35	35	293
Prostitution	15	88	33	10	12	12	13	9	9	27	50	61	26	49	414
Establishment of slavery			1		1						1		0		3
Other offences	4	25	6	11	40	28	9	8	6	5	2	7	30	11	192
Total arrests	52	184	70	77	101	97	72	98	52	121	183	228	182	161	1678



International co-operation in cases of trafficking in human beings

- Criminal Procedure Code
- Law on International Legal Cooperation in Criminal Matters
- Bilateral and Multilateral Contracts/Agreements
- International Conventions
- International police organizations: Interpol, Europol, etc
- Different projects of international organizations, etc.

International co-operation in cases of trafficking

- International Law Enforcement Cooperation Unit. (ILECU)
- All communications / exchanges of information with other states in the law enforcement aspect are done through this Unit.

International co-operation

(Information exchange-Statistics 2009-2014)

	2009	2010	2011	2012	2013	2014
Albania	2	3	4	4	5	9
North Macedonia	1	1	3	2	4	
Serbia	2	4	3	1	2	2
Montenegro		1	2	1	1	1
Croatia				1		
Belgium			3	6	1	2
Switzerland			2	1	2	2
Netherlands		1	1	1		1
Ukraine			1	1		1
Poland			1			
Germany	1	1	1	3		1
Moldavia		1	1	2		1
Slovakia				1		
Romania						1
Italy			1	1	1	1



Organization for Security and
Co-operation in Europe

Mission in Kosovo

Begging-as a form of crime

- **Begging** - is a minor offense in Kosovo under the Law on Public Order and Peace - Article 10
- **Abuse or abandonment of children** - is a special criminal offense when children are forced to beg by parents or persons with parental authority. Article 250 of the Criminal Code
- **Exploitation for begging** - under Article 171 it is considered a form of trafficking in human beings.

Begging in Kosovo



Trends of Crime

Trends of Trafficking in Kosovo - currently the trends of this criminal phenomenon are moving towards the organization of individual crime networks (small groups, without proper organization).

A rise in internal trafficking - since 2008 we have seen an increased number of domestic victims of trafficking, and especially the category of 15-17 year olds who are most vulnerable.

Two types of factors affected the current trends in Kosovo

- **Internal factors** - the issuance of new laws: the Law on Prevention and Fight against Trafficking in Human Beings, and the Law on Foreigners, implementation of visa regime from Kosovo to 87 countries of the world. All of these laws led to traffickers having it more difficult to recruit victims from other countries and transport and bring them in Kosovo, thus the traffickers are focused in local victims.
- **External factors** - enlargement of the European Union with the eastern countries, visa liberalization for the countries of the region and other factors influenced Kosovo to no longer be the preferred country for traffickers and victims because they are now oriented towards Western countries.

Identification/Form of victim exploitation

Locations and Victim Identification - Most of the victims of trafficking are found and identified in night bars with live music, restaurant, bars, etc., but there are also some cases where victims are identified in private homes /apartments. Some of the victims of trafficking work as waitresses, bartenders or dancers in places where they are exposed to clients and pimps or owners of buildings agree, with or without their consent, to offer sexual services.

Form of exploitation of victims of trafficking in Kosovo - statistics show that exploitation for the provision of sexual services (forced prostitution) is the main form, while other forms of exploitation, forced begging and forced labor are fewer.

Approach and handling of cases - DITHB police investigations must have a very professional and prudent approach to victims at the identification stage and especially in their treatment, in order to gain their trust, as this makes it easier to detect and arrest the perpetrators.

Without the cooperation of victims there can be no successful criminal proceeding.

Difficulties and obstacles

- Unstable emotional state of victims / changes of testimonies
- Few referrals to potential trafficking cases from other institutions (mostly almost all cases of trafficking are detected by police intelligence / proactive investigations)
- The inability of long-term rehabilitation of victims of trafficking.
- Lack of membership of Kosovo Police in international organizations such as: Interpol, Europol, etc.
- Non-profiling of Prosecutors and Social Workers to deal with cases of trafficking in human beings.

Thank you for your attention!