## Call for Input: The Nexus between Forced Displacement and Contemporary Forms of Slavery

### Different & Equal

### Key questions and types of input sought

**Displaced persons**

* Is information/evidence available regarding displaced persons such as asylum seekers, refugees, internally displaced persons (IDPs) and stateless persons being subjected to contemporary forms of slavery in your country?

The Organization Different and Equal (D&E) is an Albanian nonprofit organization dedicated to providing high quality reintegration services for victims of trafficking, exploitation and abuse, and to improving the legal, institutional and social context to prevent and counter these violations of human rights. D&E provide a full package of reintegration assistance to women, girls and males victims of trafficking through three phases 1) initial crisis intervention in Shelter, 2) stabilization and transition and 3) social inclusion and reintegration. D&E offered a full package of reintegration services at each of these three stages to VoT, including shelter and community services.

The information provided by the Organization “Different and Equal” to the questions below, as a response to the call for input for the Special Rapporteur’s report, contains data related to the assistance given for victims of trafficking and other activities of the organisation that deals with the phenomenon of trafficking of human being, including all the contemporary forms of slavery. The majority of the beneficiaries of D&E, especially victims of trafficking become more vulnerable after leaving their home. In this context displaced persons are considered at risk of being trafficked or exploited. In order to offer an updated overview of the situation the responses have been referred to the activities and cases assisted during 2020, including information for the impact of the COVID-19.

* + If so, what is the country of origin of the affected persons?

Based on the cases (victims of trafficking VoT and potential victim of trafficking PVoT) assisted by D&E, during 2020, the places where they have been trafficked to are Albania, Italy, Greece, Montenegro, Serbia, Croatia and Switzerland. 88% of the cases have been exploited internally in Albania; 9% of the cases have been trafficked /exploited internally (in Albania) and in other countries and 3% (1 case) has been trafficked in Switzerland.

Referring to the data 88% of the cases internally exploited, their history of exploitation begins with their displacement.

* + What is their migration status, if any?

The majority of the victims identified and assisted at D&E were Albanians, trafficked within Albania or abroad. During 2020 were assisted five foreign cases from different countries such as Philippines, Romania, Nigeria and Gambia. 2 of them were new cases referred during 2020. Two of the beneficiaries were turned back to their country of origin. Foreign victims of trafficking have been supported with the same services as Albanian victims.

D&E has faced difficulties in providing temporary residence permit for foreign VoT, which is considered by the law[[1]](#footnote-1) as a recovery period for reflection. During 2020 D&E has provided temporary resident permit for 3 foreign victims (identified as PVoT). The request for the beneficiary from Gambia has been refused and the procedure was closed with an obligatory deportation order.

There are also difficulties in the procedures followed by Embassies for request procedures for receiving passport and identity cards.

* + Which contemporary forms of slavery are they subjected to (e.g. bonded labour, forced labour, forced marriage, sexual slavery, domestic servitude or other forms of exploitation)?

During 2020, majority of the new cases, 54% of them identified, referred and assisted at Different & Equal organization were trafficked for sexual exploitation, 3% of them for forced labor and 6% for forced criminal activities. 32% of the cases have had more than one form of exploitation (sexual exploitation & begging; sexual exploitation & forced labor; sexual exploitation & forced criminal activities; begging and forced criminal activities). 20% of the cases have been exploited for begging and criminal activities at the same time.

The criminal activities that the victims have been forced to do were drug distribution and stealing.

* + Are particular industries more likely to be involved in the exploitation of displaced persons?

Referring to the cases who are part of the D&E reintegration program, sexual exploitation remain the main form of exploration, but there is also identified a tendency for risk for exploitation in some other such as:

* Cultivation and trafficking of drugs and narcotics;
* Involving children in illegal acts and criminal offences;
* Begging activities (in this type of activities are involved as recruiters or tutors the relatives of the victims).
	+ Are displaced persons housed in settlements/camps/refugee centers/detention centers or similar settings? Does the exploitation happen in the same setting or in a different context? Please provide any available details, including (disaggregated) data.

The displaced persons are accommodated in different centers depend on the groups, in which they belong. If they are refugees they are treated in refugee residencial center. If they are identified as VoT or PVoT they are referred to the shelters licensed for the accommodation and service provision for VoT.

* + What measures are in place to prevent slavery/exploitation in camp/refugee centre settings?

Albania has an organized Institutional framework and set of laws that are related to action against human trafficking. The Ministry of Interior, through the Deputy Minister of Interior, since 2005 lead the process and played the most important role, at the position of National Coordinator of Anti-Trafficking. Efforts to coordinate work between state institutions and civil society organizations have also been materialized with the Cooperation Agreement on the functioning of the National Referral Mechanism (NRM) for victims and potential victims of trafficking. Part pf NRM are also the shelters for victims of trafficking managed by NGOs such as “Different & Equal” in Tirana, “Vatra” in Vlora and “Other Vision” in Elbasan, and some other organization that offer services for victims of trafficking. The agreement clearly stipulates the duties of each party according to the field of responsibility for intervening to identify and protect victims of trafficking. In policy level is “The State Committee for the Fight against Trafficking in Human Beings” that coordinates anti-trafficking policy. Office of the NationalAnti-Trafficking Coordinator is the main structure, national coordinating body focused on action and policies against trafficking in persons, including the implementation of the National Action Plan. The Responsible Authority is an important structure on managing the cases of the victims of trafficking, and members of responsible authorities are representatives of the main Institutions that have direct responsibilities on action against THB. In local level in the 12 districts are the Regional anti-trafficking Committee, which coordinates the action against THB in local level. There are also specialized units for investigating cases of human trafficking within the Criminal Police Department in Central and local level, as well as the Special Prosecution Office against Corruption and Organized Crime.

Besides the improvement of the legal framework, Justice system in Albanian remains essentially a discretionary system, oriented towards the criminalization and punishment of offenders. In our justice system are missing or there are insufficient laws and legal instruments to protect the victims of crime or displaced persons. The more serious the crimes, the most vulnerable are their victims, and of course victims of trafficking, displaced persons and their children are the persons who suffer the most severe consequences in the absence of a system that ensures their protection. The legal framework is still fragmented and sometimes confused for the protection of victims of crimes. Criminal Code with 2013 amendments[[2]](#footnote-2) has made significant interventions in relation to the protection of the victim from criminal offenses of trafficking in human beings, and other related crimes. Criminal and procedural laws have changed in terms of adopting “victimology” as a concept.

The new amendments of Criminal Procedure Code (approved by the new law no 35/201 predict some new legal tools that improve the position of victims in the court, but speaking to victims of trafficking the situation it is not the same. The changes of article 75/a narrows the meaning of organized crime by excluding from competences of special court (Court against corruption and organized crime) all the cases of trafficking in human beings when the offender is one person. This amendment creates confusion and a crash of competences between Courts and Prosecution Offices in First Instance and Court against corruption and organized crime.

For the identification, referral and protection of victims of trafficking, there are into force Standard Operating Procedures for protection of VoTs (SOPs) which were approved with CMD no 499, date 29.08.2018. According to SOPs “Initial identification and response” is the set of actions undertaken by state and non-state institutions, local and central, responsible for the protection of trafficked persons at b orders, inland and outside the territory of the Republic of Albania, which make it possible to determine that a child or adult person is a potential victim of trafficking in human beings.

* + How does the exploitation of displaced persons differ (in prevalence or extent) from the exploitation of nationals in the country?
* Is there a gender dimension to exploitation and if so, in what way?

77% of the new cases assisted during 2020 were females and 23% were males. Females were trafficked mostly for sexual exploitation. Males were exploited mostly for forced criminal activities (drug distribution and stealing, sale of stolen items) and begging.

* Are other sub-groups within displaced persons (e.g. stateless persons, LGBT, disabled persons, younger/older persons, affected by different forms of slavery and if yes, in what way?

There are factors that directly linked to the vulnerability of the victim such as: age, Roma Community, mental health problems, family situation etc.:

* Approximately 80% of the new cases assisted in the program during 2020 were **minors** at the time they were exploited. 60% of the new cases entered in the program of D&E during 2020 were minors of age 11 – 17 years old; 20% were cases of age 18 – 25 years old; 20% were cases of age over 26 years old.
* 14% of the new cases referred at D&E organization were from **Roma community**. They have been exploited mostly for sexual purpose, begging and committing criminal acts.
* There were some cases with **mental health problems** who have been exploited mostly for sexual purpose. Women and girls with mental health problems have been target by the traffickers because it is easier to manipulate them because of their mental state. 17% of the cases referred during 2020 were with mental health problems.
* 14% of the cases were **accompanied by their children** when they have entered in the program.
* Is there any indication/evidence that domestic rules and/or legislation related to the regulation of displaced persons contribute to an increased vulnerability of displaced persons to exploitation?

During 2020 there was a new situation in Albania created as a result of the earthquake of November 2019. Thousands of people were homeless and they were accommodated in tents as immediate solution and or in hotels or in rent houses. These categories were at risk of exploitation.

Another situation that finds the Institution unprepared was the Pandemic of COVID-19. Besides the health problems this situation had a direct impact on the economy. Many people remain unemployed. This situation affected the vulnerable groups by making them more vulnerable.

* Are the same labour standards applicable to all categories of displaced persons, including IDPs? Are these standards the same as those applicable to (other) nationals of the country?
* For States which are parties to the Convention Relating to the Status of Refugees 1951 and the Convention Relating to the Status of Stateless Persons 1954, are refugees and Stateless persons granted the same treatment in relation to, for example, remuneration, hours of work, overtime arrangements, annual leave, collective bargaining and social security benefits in accordance with common Article 24?  If not, why not?
* What arrangements (in law, policy and practice) are there for protection of the labour rights of displaced persons for States not parties to these instruments?

Speaking to foreign victims of trafficking, regardless from where they come from, if they want to work and have the right qualification, they can apply for a work permit and this process is supported by Institutions. It is the same situation for other foreign displaced persons.

* Are there mechanisms for ensuring that displaced persons victimised in contemporary forms of slavery can report such treatment without endangering their status or stay in the country?

With the amendments in the Criminal Code (Law no. 144/2013) in Article 52/a of the CC, the term “victim” is included for the first time with the non-punishment provision, providing for the exemption or reduction of the sentence for victims of trafficking under which persons injured by the offense related to trafficking in persons may benefit from the sentence for committing offenses during the period of trafficking and to the extent that they have been forced to commit those unlawful actions or inactions.

Recently, (In 2019) Office of National Coordinator against Human Trafficking in collaboration with National Coalition of Anti- trafficking shelters has established the Advisory Board of Victims of Trafficking.

* Do displaced persons victimised by contemporary forms of slavery have effective access to justice, remedies and compensation? What barriers are encountered in practice?  Are such remedies available even if/after the individual has returned to their country of origin?

Access to justice associated to free legal aid is one of the basic rights and of special importance for the protection of victims of trafficking. In recent years, as part of justice reform, there have been improvements in the domestic legal framework that regulates the right to free legal aid for vulnerable categories, including victims of trafficking. The most important legal acts that serve to guarantee free legal aid from the state for victims of trafficking are the Criminal Procedure Code (amendments to law no. 35/2017) and the new law no. 111/2017 "On legal aid guaranteed by the state".In the article 11 of Law 111/2017“For the Legal Aid Guaranteed by the State”, it is foreseen that victims of trafficking and children are provided with free legal aid in all the stages of criminal proceedings. The law is in place, but in practice there are delays in functioning of news institutions that have the responsibility by the laws to guarantee free legal aid.

The national legislation for the right of compensation of victims of trafficking of humans is regulated the same as for other victims of criminal offences. There is no special regulation for the legal aid available to help victims claim for compensation and execution of the compensation orders. In that situation the law bases remains the general provision that regulates the right for compensation for victims of criminal offences. The article 61 of CPC provides the right of all victims of criminal offences to seek for civil lawsuits in criminal proceedings. The law *nr.10192[[3]](#footnote-3)*foresees in article 37 to setup of a Special Fund on preventing organized crime. Article 37/2ç is foreseen the use of this special fund for the compensation of victims of organized crimes and victims trafficking at the value decided by the Court decision. On article 32 of this law, concerning the “use of moveable property and monetary means” confiscated is foreseen as first destination the compensation of victims of organized crimes and victims trafficking.

Besides the written laws in practice there are no cases that have concluded with an effective payment of compensation. There are only two cases with a decision Court in favor of the victim: The first decision has been taken in Tirana district Court Nr. 1202, date 19.02.2010. According to that decision the victim on the quality of the civil suit has won the right to compensation on the value of 40.000 Euro, as a result of the non-property damage subjected. There is also a recent case assisted in Court by Different & Equal in collabortaion with Center for Civic Iniciatives, which concluded with a decision in favour of the victim, decision no. 4432 date 16.05.2018 of Tirana District Court. According to the decision the victim has the right to be compensated on value of 44.000 Euro. Actually, the case is in the Appeal Court send by the lawyer of perpetrator. All the two decisions remain on paper and there is no any effective payment ensured until now.

* What mechanisms are in place to hold businesses, employers and criminals who engage in exploitation of displaced persons accountable in your country?
* Are mechanisms in place to protect exploited workers from prosecution for violations of labour/immigration laws in the country?
* What are wider challenges in preventing contemporary forms of slavery among displaced persons and in protecting victims?

The latest amendments to the Criminal Procedure Code (CPC) (law no. 35/2017) have improved the position of victims of trafficking by better complementing the framework of their rights. Despite legal improvements, providing legal aid for victims of trafficking in practice remains an unresolved challenge. The system established by the new law 111/2017 "On legal aid guaranteed by the state", although it is an important development, from a practical point of view, does not guarantee effective legal aid and protection for victims of trafficking. There are some difficulties and challenges encountered referring to the current situation and concrete cases handled:

* Victims of trafficking are considered as a special category for receiving legal aid even though they do not meet the economic requirement but still the law requires the completion of a procedure with some requirements for documents, which cannot be provided by victims of trafficking[[4]](#footnote-4).
* NGOs authorized to provide legal aid will benefit from the state scheme only for providing primary legal aid and not for secondary legal aid that a trafficking victim needs the most. In September 2020, 11 NGOs, including the Organization “Different & Equal” have received the authorizations for providing primary legal aid, but the procurement process for financial support will be functional during 2021;
* The list of lawyers engaged in providing secondary legal aid does not include a group of lawyers specialized in representing and protecting the interests of the victims;
* The procedure for obtaining the status of victims of trafficking remains unclear and was flawed. This procedure is partially regulated by DCM no. 499, dated 29.8.2018 "On the approval of standard operating procedures for the protection of victims and potential victims of trafficking", which lacks the appeal procedure in case of refusal of status after the formal interview. The Institution that issues the certificate for granting the status of a victim of trafficking is not clearly defined either;
* Recent amendments to the Criminal Procedure Code (law no. 35/2017) regarding the competence to handle trafficking cases, which has been transferred to the Prosecutions and District Courts, have made it difficult to provide legal assistance because there is a lack of specialized structures at the district level to guarantee the right application of the law.

D&E assist in the program victims of trafficking with mental health problems. The challenge continues to be the alternatives for long term accommodation and care for the VoT with serious mental health problems due to the gaps in the system.

Concerning the **situation of COVID-19**, the D&E organization has continued to provide services based on the needs of victims / potential victims of trafficking and their children. All cases in the D&E reintegration program have been continuously monitored and followed up by D&E staff. D&E has continued to provide services in the shelter 24 hours in 7 days for the cases accommodated there by strictly implementing the COVID-19 prevention plan. The beneficiaries in the shelter are focused more in organizing indoor activities during the lockdown. For all  of the cases are provided services focused mainly on: psychological counseling provided by D&E psychologist through phone calls, online counseling on health issues and information provided by D&E doctor. Most of the beneficiaries in the second stage of reintegration lost their jobs due to the closure of many business companies. D&E supported with food packages for those who have had financial difficulties as a result of work interruption, payment for phone cards in order to be able to report concerns or various situations they may have, payment for medications, they are supported to use the mail services to get payment of social assistance and pension of disability, payment of the rent of apartment, cash assistance to reimburse their monthly salary, etc.

Due to the Covid-19 situation, is an increasing tendency of minors to be at risk of abuse, exploitation and trafficking:

* Involvement in criminal activities with justification that their parents are unemployed and have no incomes;
* Reduction of teaching hours and the school functioning on shifts have brought confusion and spending many hours outside of school and family, more children are forced onto streets heightening their risk of infection and exploitation;
* A tendency of exploitation in workplace by working long-hours due to Covid-19 situation and reduction of salary.

**Worst Forms of Child Labour as affecting displaced children**

* Please indicate if displaced children in your country are affected by any of the following practices stipulated in the Worst Forms of Child Labour Convention, 1999 (No. 182):

(a) forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
If so, please provide details on the context (e-g. humanitarian/camp setting or not) and disaggregated data to the extent available.
Is there any further information that you would like to share with the Special Rapporteur on contemporary forms of slavery?

Recommendation for drafting a special law for the protection of victims of trafficking:

* The arguments for of a specific law against TIP are explained in detail in the Study Report of D&E[[5]](#footnote-5) but D&E ask for the support of all Institutions and International Organization, for the formalization of this initiative.
* Organization “Different & Equal” has identified some of the advantages of a special law for the protection of victims of trafficking such as:
* It serves as a framework law integrating and complementing all actions to protect victims of trafficking, prevent and fight trafficking in human beings, giving better solution to the lack of reference to various acts regulating specific aspects of the Anti-Trafficking field;
* It serves as an instrument to guarantee effective protection with a pro-victim approach;
* It clearly defines the responsible structures and mechanisms for the protection of victims of trafficking and highlights the many efforts and actions taken in this regard;
* It improves coordination of efforts, structures and mechanisms in protecting victims of trafficking, preventing and fighting trafficking in human beings;
* It serves to create a state compensation scheme for victims of trafficking and fills legal gaps in compensation through litigation;
* It provides better protection for victims of trafficking, by promoting and enhancing their cooperation with law enforcement agencies, which directly affects the progress of investigating and adjudicating cases related to trafficking in human beings;
* It improves the process of formal identification of victims of trafficking, as it promotes pro-active identification and self-identification of victims themselves;
* It also resolves the situation of determining the status of victims of trafficking, providing for an administrative and judicial appeal mechanism that is missing and is not even resolved in standard operating procedures.
* It is the right instrument to determine the position of the “National Rapporteur” for trafficking in human beings.
1. Article 53 and 54 of the Law no. 108/2013 “For Foreigners” amended. [↑](#footnote-ref-1)
2. Law no. 144/2013 “On some amendments to the law no. 7895, dated 27.01.1995, “Criminal Code of the Republic of Albania”. [↑](#footnote-ref-2)
3. Law nr.10192, date 3.12.2009 “On the Prevention and Fight against Organized Crime and Trafficking through preventive measures against assets”, amended [↑](#footnote-ref-3)
4. See procedure application for primary and secondary legal aid – law 111/2017 "On legal aid guaranteed by the state" [↑](#footnote-ref-4)
5. STUDY REPORT ON THE NEED OF DRAFTING A SPECIAL LAW FOR THE PROTECTION OF VICTIMS OF TRAFFICKING IN ALBANIA - <http://differentandequal.org/en/raport-studimor-mbi-nevojen-e-hartimit-te-nje-ligji-te-vecante-per-mbrojtjen-e-viktimave-te-trafikimit-ne-shqiperi/> [↑](#footnote-ref-5)