**TRAFFICKING OF WOMEN AND GIRLS IN THE CONTEXT OF GLOBAL MIGRATIONS[[1]](#footnote-1)**

**Contribution of Atina, Citizens Association to combat human trafficking and all forms of gender-based violence Belgrade, Republic of Serbia**

**The Relevant Background for the Contribution**

The Republic of Serbia has been in the epicentre of the European refugee crisis which erupted in mid-2015, after which hundreds of thousands of people from different Asian and African countries, but primarily from Syria, Iraq and Afghanistan transited through Western Balkan on their way to central and western European countries. Since Turkey and EU made a political deal in March 2016 which caused the closure of the Western Balkan`s migratory route, the refugee wave dwindled down, but it however did not end. People continued coming to Serbia, only to a smaller extent, but now staying for longer on its territory. Most of refugees and migrants enter the country from the south, from Macedonia, but also from the east, from Bulgaria, and head towards its northern (to Hungary) and western borders (to Croatia and later on to Bosnia and Herzegovina). The refugee situation in 2015 and early 2016 was marked by a large daily influx of people and their fast move through Serbia (vast majority of them stayed in Serbia for one or two days). The approach of the state-run institutions as well as the local and international CSOs present in the field was largely humanitarian, as refugees and migrants[[2]](#footnote-2) were in need for urgent help and support. However, the refugee situation in 2017 and 2018 changed and from then on has been characterized by so-called long stay, which means that most of refugees and migrants are residing in Serbia for several months or years, as due to closed borders, cannot continue their journeys. According to UNHCR, in late December 2018, there were 4468 refugees, migrants and asylum seekers in Serbia, thus 94% of them resided in one of the state-run asylum and reception centres.[[3]](#footnote-3) Majority of refugees and migrants who are currently residing in Serbia originate from Afghanistan, and then from Iraq, Pakistan, Iran and some other countries; around 55% of them are men, and 45% women and children, out of which many are unaccompanied minors. The situation of long stay affected the changes in the approach of service providers, as they now design and deliver longer-term programs of support.

Human trafficking is in overall understood as a criminal practice and grave violation of human rights by various conventions of the United Nations (such as CEDAW) and the Council of Europe (such as the Convention on Action against Trafficking in Human Beings), ratified and enforced in the Republic of Serbia. Based on these international acts, on the Constitution of the Republic of Serbia, and on the practice itself, human trafficking was specifically defined and criminalized by Article 388 of the national Criminal Code, while certain peculiar forms of exploitation are additionally explained by some other articles of the same law, such as Article 389 (trafficking in children for adoption). . Furthermore, the specific position of refugee and migrant women in respect of the implementation of the CEDAW convention, does not undermine their right to protection, which has been determined and ensured by numerous national laws[[4]](#footnote-4). It has been stated in the national acts that refugees, migrants and asylum seekers shall enjoy the same protection as Serbian citizens, in other words that their refugee, asylum or any other status, shall not prevent their access to protection and necessary services. Furthermore, in August 2017[[5]](#footnote-5) Serbia adopted the Strategy for the Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children 2017-2022, and therefore defined specific objectives to be met in this period, also referring to refugee and migrant population. Given Serbia`s aspiration to become a full member of the European Union, the implementation of the respective Strategy represents an important part of the accession process, and has been monitored by the European Commission within the negotiation Chapter 24 – Justice, Freedom and Security. In order to execute the Strategy, but also to fight against human trafficking in general, Serbia also established several institutional mechanisms in this field. All stated clearly indicates a strong intention of the Republic of Serbia to comprehensively regulate fight against human trafficking and fully sanction this criminal activity.

NGO Atina, the contributor of this report, from its foundation in 2003 has been dedicated to combating human trafficking all forms of gender based violence and improving the gender equality. This is directly in line with Article 6 of the CEDAW convention, which says: „States Parties [Serbia] shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women“. Atina maintains shelters for victims and persons in risk of human trafficking, thus provides psychological support and conducts activities aimed at socio-economic recovery and economic empowerment of victims. After the refugee crisis erupted, NGO „Atina“ widened the scope of its work, established mobile teams and referred them to the field, to places where the presence of refugees and migrants was considerable. Throughout the crisis and afterwards, Atina assisted thousands of refugees and migrants, mostly women and children, thus paid particular attention to violence survivors, human trafficking victims and persons at risk among this population. It has to be noted that NGO Atina addressed the position of refugee and migrant women in two joint shadow reports on the implementation of CEDAW convention in Serbia, prepared and sent to this respective committee by two coalitions of NGOs. The first report is coordinated by the SOS Vojvodina Network, while the other one by the Platform of Organizations for Cooperation with UN Human Rights Mechanisms. Both reports refer to the state of implementation of the CEDAW convention in Serbia, thus describe the position of specific vulnerable groups, including refugee and migrant women. Given the expertise and experience of NGO Atina in the respective filed, as well as the findings present in the joint reports, this contribution addresses the challenges and risks in combating human trafficking in the context of refugee situation and migrations, thus provides general recommendations for improvements.

**Combating Human Trafficking in the Context of Migrations in Serbia**

One may assume that during crises, such as armed conflicts or natural disasters, the risk of violence, exploitation and abuse, forced and early marriages, and harmful practices has been particularly heightened towards women and girls. At the same time, social protection systems and support in these circumstances usually remain weak. Gender-based violence is increasingly occurring in such circumstances, and it is taking the following forms: survival sex (for food, shelter and protection), forced prostitution, forced marriage, sexual assault, forced pornography, nude touching, punching, kidnapping, and various physical attacks. Trafficking in human beings, as a form of gender based violence, can, on one hand, be the main reason why a person became a refugee trafficking triggers flighthow the trafficked person is becoming migrant/refugee then, trafficking can happen particularly because the person is on the move (*en route*) and vulnerable; finally, it may occur in transit, being instigated by the refugee and migrant environment.[[6]](#footnote-6) The refugee situation which emerged in 2015 and spanned the Western Balkan countries, pave the way for the occurrence of various forms of exploitation and most notably to forced labour, removal of human organs, forcible execution of criminal offenses, forced marriage and sexual and labour exploitation.

Based on different national and international reports[[7]](#footnote-7), in the past years Serbia has been identified as a country of origin, of transit and of the final destination of victims of human trafficking. The majority of victims identified in Serbia are local women who are trafficked for the purpose of sexual exploitation, thus the large proportion of identified victims are children. According to the annual statistics of the Centre for the Protection of the Victims of Human Trafficking, which is the state-run institution of social protection in charge for carrying out the identification of victims, most dominant forms of exploitation are sexual exploitation, exploitation for pornographic purposes, labour exploitation and forced marriage, the latest also being dominant form of exploitation for transnational trafficking. The Centre reported that in 2017, 93% of identified victims (out of 43 persons in total) were Serbian nationals, while only one victim of human trafficking was identified among migrants (suspects on human trafficking were however received in cases of 14 refugees and migrants). In the first quartile of 2018 the Centre reported of 14 victims of human trafficking, out of which one was identified among migrants.

However, despite the low official figures of the identified victims of human trafficking among refugees and migrants, the refugee situation itself, as well as the Atina’s field work, proved that women and girls were exposed to multiple risks of exploitation and violence and therefore represent one of the most vulnerable groups. In 2017, NGO “Atina” conducted a research on the violence against refugee and migrant women, accommodated in state-run asylum and reception centres[[8]](#footnote-8). It was found that almost 70% of refugee and migrant women experienced some form of violence and exploitation and thereof that the gender based violence against this vulnerable group was not sporadic or incidental, but a wide-spread phenomenon. Furthermore, it was noted that refugee women have suffered violence both in the country of origin and in the country of transit and / or accept, often several times, of a different character and from various perpetrators. The abusers were partners or other members of (wider) family, other refugees, traffickers, but also persons with the mandate to facilitate and improve their position: members of the police, employees in shelters and accommodation centres, social and health care. In many of the cases perpetrators remained unpunished, which increase the possibility the acts of violence to be repeated. The findings of the research call for more substantial attention towards revealing the violence, understanding its rooted existence and finding the ways to cope with its wider social consequences.

The provision of support and of specific services for human trafficking survivors, and particularly those among refugee and migrant population, in Serbia face certain deficiencies. NGO „Atina“ has for years being the sole provider of a specialized shelter for the victims of human trafficking in the country. Moreover, due to the refugee situation and to the increase need to accommodate victims and persons at risk among refugees and migrants, Atina had to open additional shelters in the previous years. The adequate accommodation of refugee and migrant women and girls who suffered gender based violence appear particularly problematic, as the state-run shelters are practically accommodating only Serbian nationals.

**Challenges and risks**

In the situation of (massive) migrations, it appears difficult to “formally” distinguish acts of violence and exploitation, as well as the human trafficking from smuggling of people. The later activity particularly increased after the official closure of the Western Balkan transit route in 2016, when many of the refugees and migrants found themselves “trapped” in transit countries, and with low perspective in gaining the refugee status. It has to be noted that smuggling of people is a transnational criminal activity and as such prohibited by the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (supplemented by the Convention Against Transnational Crime), as well as by national legislations in many countries.[[9]](#footnote-9) However, smuggling of people is a very lucrative business for the smugglers themselves, and it is especially flourishing in a situation where a large number of people want to cross from one country to another, and they are disabled.

This transnational dimension (an illegal transit or border crossing) is an essential element for defining smuggling of people, and therefore for distinguishing it from human trafficking. Yet, even though it can be voluntary, it does not necessarily exclude trafficking in human beings. In this respect, it is questionable how much the consent to smuggling is actually voluntary in the refugee situation, and especially in the case of children. From various reports and testimonies of refugees, it can be seen that smuggling implied some kind of exploitation. Refugee women who were in contact with smugglers, or used their "services", told field workers that they were sexually assaulted by smugglers, that they heard that other women were sexually harassed and exploited, that they were under pressure and extortion, and that some individuals were forced to carry out criminal activities, including recruiting other refugees, in order to provide money to smugglers, and therefore ensure to be brought to the desired destination. Finally, it is estimated that every seventh irregular migrant who came to Europe is a victim of some form of human trafficking.[[10]](#footnote-10)

Dealing with the risks to human trafficking, appear to be of crucial importance in order to timely detect and efficiently prosecute this criminal activity in the context of refugee and migration situation. The basic risks to which refugees and migrants are exposed during their refugee journey and which lead to smuggling or trafficking in human beings, identified by NGO „Atina“ in its field work, but also by some other actors,[[11]](#footnote-11) can be classified as follows:

- unregulated legal status;

- lack of regular and safe travel pathways;

- linguistic and cultural barriers;

- lack of knowledge of available rights and assistance;

- lack of resources;

- the lack of (adequate) humanitarian aid for particular (and vulnerable) refugee categories;

- exposure to threats, violence and abuse;

Given the particularly vulnerable position of refugee and migrant women and girls in transit, this list is extended to additional and more specific challenges and protection risks, and includes family separation, psychosocial stress and trauma, health complications (particularly for pregnant women), physical harm and injury and risks of exploitation and other forms of gender-based violence.[[12]](#footnote-12) All of these risks and challenges are immanent for any humanitarian crisis, but they become even greater in the circumstances of large influx of people and their rapid movement through transit countries, which was the case with the refugee situation throughout the Balkans in 2015 and 2016. In such circumstances, competent institutions and organizations dealing with (potential) victims of human trafficking have a narrow space in which they can act, that is to identify traffickers and victims in time, and need to step up their efforts to react in a timely manner and in accordance with their mandate.[[13]](#footnote-13) Consequently, in the situation when the competent authorities are unable to provide elementary conditions for the reception and registration of refugees, it is clear that traffickers and smugglers can virtually act unimpededly. However, once the refugee wave dwindled down in 2016, the capacities of the protection system as well as of the service providers dissipated which means that they could tackle human trafficking in a more effective way.

Nonetheless, the increased risks of human trafficking identified in the situation of (massive) migrations, as well as the presumption of the increased number of human trafficking cases, do not necessary lead to increased number of convictions for human trafficking. Despite numerous suspicions on human trafficking among refugee population as well as the formally identified victims among refugees and migrants, according to available information Serbian authorities in 2017 and 2018 did not initiate any judicial proceeding in regard to human trafficking where the victims were refugees and migrants. Yet, there were several proceedings for gender based violence committed against refugee and migrant women. However, according to the research conducted by NGO “Atina” as well as in line with the field practice, access to justice of human trafficking and gender based violence survivors among refugees and migrants, remains challenging. There are various reasons for this, to mention only few: the number of cases of violence is underreported (due to unclear reporting procedure); the prosecution process is often interrupted by the victim’s refusal to participate in it, or her/his later withdrawal of the charge – which usually prevents the continuation of the process, despite the legal obligation of prosecutor to carry out the investigation ex officio; in cases of presumed human trafficking, the court decided on requalifying the charges and not pursuing the human trafficking, etc. In respect to the later, it has to be concluded that either there were no appropriate evidences collected for proving the human trafficking or that the judicial system was not sufficiently interested to treat the acts of violence and exploitation against refugees and migrants as human trafficking. Having in mind all previously stated, it can be in overall concluded that the fight against human trafficking in the refugee and migration situations is much more complex and therefore seeks more comprehensive response.

**General Recommendations**

Given the necessity to strengthen the efforts in order to efficiently combat human trafficking in the context of (massive) migrations, and based on the experience NGO „Atina“ gained throughout migration and refugee situation in Serbia from 2015 on, the following general recommendations can be drafted.

* First of all, it has to be underlined that the appearance of the very risks to human trafficking represents a signal for all competent authorities and service providers to pay special attention to the people in need, as in this way the human trafficking might be prevented. In other words, **the risks of human trafficking in the situation of migrations and refugee waves, must be regarded as the human trafficking itself, which means that the persons at risk must have access to all services and protection mechanisms intended for human trafficking survivors**. This need is even greater in regards to women and girls, and particularly to women traveling alone, women who have suffered gender based violence and unaccompanied girls. The experience says that these, as well as other vulnerable categories among refugees, in transit environment (in reception centres, in other places with significant presence of refugees) can become susceptible to human trafficking, as there were cases where traffickers, or smugglers, recruited or blackmailed refugees in such places to perform various criminal offenses for their account.
* **Refugee women and girls who have suffered gender based violence are at higher risks of human trafficking and therefore must be provided assistance** **in terms of safe accommodation, health and social care and psychological, social and economic empowerment,** **as long as they do not reach full recovery and reintegration**. The experience says that these women are often exposed to community condemnation because they have reported violence, and are also at risk of repeated violence: displacement of the perpetrator or the victim itself has not always proved to be effective (after a while, the offender is again in contact with the victim). Women who are victims of violence often choose to continue to live with the perpetrator and potentially experience violence again, because they fear that in an unknown country they organize their own life for themselves and their children and take full responsibility for it (some refugee women have said that they are worse and more terrible to live alone in an unknown place and country than to suffer a beat from their husband/family member. In working with these women, an individual and participatory approach must always be applied in order to provide effective support, and to reduce the risks of re-violence or exploitation to the minimum.
* In order for women and girls to overcome the consequences of the endured violence, and its repetition warned, **a** **permanent mutual (peer) support and "networking" of women who have experienced violence must be ensured and strengthened within the system of protection**. Experience has shown that this kind of support has short-term but also long-term positive effects on the empowerment of women victims of violence, because they are more willing to talk about it, but also to suggest others to oppose it, and therefore decreasing the risks of its reappearance or of exploitation. On the other hand, it is necessary to find an adequate way to bring the themes of gender-based violence closer to these women; based on NGO “Atina’s” direct work with these women, they often do not want to talk about the violence they have suffered, nor do they even hear about the violence they have survived or who can survive. Therefore, sensitive issues need to be brought closer to women by refugees and displayed in a way that will not cause additional traumatization, withdrawal and imprisonment, that is, women should not feel exposed and embarrassed, since, at the moment, they do not want to openly speak about violence.
* Finally, and this is not least important**, the state parties to CEDAW convention as well as the member states of the United Nations in general, should find the ways to introduce the legal possibility of granting the asylum in their countries on the basis of gender based violence and human trafficking survived**. It has to be underlined that many refugee women were forced to leave their countries of origin because of the violence they were exposed to and suffered, and this should be regarded as sufficient ground for granting refugee status or asylum in the countries on the refugee or migration route. Serbia can serve as a good example in this respect, as it amended its asylum law in 2018 by enabling the refugee and migrant women apply for asylum on the grounds of gender based violence (including human trafficking) survived and consequently enabling the full protection of victims. Regardless of the fact that this legislative move was inspired by the Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which is a regional instrument, such a provision should have a universal character and therefore should be recommended by the CEDAW committee as well.

1. This Report includes cases of gender based violence as well, in addition to human trafficking cases. [↑](#footnote-ref-1)
2. Despite different legal and political implications the terms refugee, migrant and asylum seeker might have, there will be no such implications deployed in this report, as these terms are used to designate the very same population which in a refugee wave stated coming to Serbia from Middle Eastern, other Asian and African countries from 2015 onwards. [↑](#footnote-ref-2)
3. https://reliefweb.int/sites/reliefweb.int/files/resources/67469.pdf [↑](#footnote-ref-3)
4. This protection is guaranteed by the Law on Asylum and Temporary Protection, the Law on Foreigners, Law on Migration Management, Law on Social Welfare, Law on Health Protection, Criminal Code, etc. [↑](#footnote-ref-4)
5. After five years waiting for that to happen. [↑](#footnote-ref-5)
6. <https://nexushumantrafficking.files.wordpress.com/2017/02/vulnerability-exploitation-along-the-balkan-route-tip-in-serbia-2017.pdf>, p. 14. [↑](#footnote-ref-6)
7. Trafficking in Persons annual reports of the US Department of State, Council of Europe GRETA`s report on Serbia, NGO Atina`s 2018 report to Council of Europe`s GREVIO, etc. [↑](#footnote-ref-7)
8. <http://www.atina.org.rs/sites/default/files/Vilence%20against%20women%20and%20girls%20among%20refugee%20and%20migrant%20population%20in%20Serbia.pdf> [↑](#footnote-ref-8)
9. In the Republic of Serbia, the smuggling of people is prohibited according to Article 350 of the Criminal Code, which says that anyone "who intends to benefits from allowing others to illegally stay or transit through Serbia”, shall be punished. [↑](#footnote-ref-9)
10. WHO, Report SEXUAL VIOLENCE AGAINST REFUGEE WOMEN ON THE MOVE TO AND WITHIN EUROPE, No. 84, 2016. [↑](#footnote-ref-10)
11. <https://nexushumantrafficking.files.wordpress.com/2017/02/vulnerability-exploitation-along-the-balkan-route-tip-in-serbia-2017.pdf>, p. 14. [↑](#footnote-ref-11)
12. Irregular Migration, Trafficking and Smuggling of Human Beings Policy Dilemmas in the EU, Centre for European Policy Studies (CEPS) Brussels, 2016. [↑](#footnote-ref-12)
13. It must not be forgotten that in the course of the refugee crisis, several thousand people were daily entering Serbia, putting pressure to transition centres close to borders to register all newcomers. It remains unclear if in such circumstances, the present staff succeeded in doing so. [↑](#footnote-ref-13)