

COMBATING HUMAN TRAFFICKING

Problems and Prospects

Edited by



HUMAN RIGHTS DEFENCE CENTRE
Coordinator of the Network

ANT. N. SAKKOULAS PUBLISHERS
ATHENS-KOMOTINI

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of the publisher.

COVER: Statue of **Ariadne**

Hellenistic from Alexandria, 2nd Century B.C.

Athens, March 2007

ISBN 978-960-15-1794-0

© The NGO/members of ARIADNE Network (listed in p.VIII)
for their respective national reports

@ Ant. N. Sakkoulas Publishers,
69, Solonos str. – 106 79 Athens
Tel. 210 3618.198 – 210 3615.440 · 210 3610425
88, N.Zoidou – 619 00 Komotini
Tel. 25310/26323 – 33245
Email: info@ant-sakkoulas.gr
www.ant-sakkoulas.gr

**ARIADNE NETWORK
AGAINST
TRAFFICKING IN HUMAN BEINGS
IN SE AND E. EUROPE**

**Joint Project
REGISTRATION OF THE ACTUAL SITUATION
OF HUMAN TRAFFICKING**

in the following countries:

Albania, Bosnia and Herzegovina, Bulgaria, Croatia,
Former Yugoslav Republic of Macedonia, Greece,
Moldova, Montenegro, Romania, Serbia (and Kosovo),
Turkey, and the Ukraine

Sponsors

Ministry of Foreign Affairs of Greece /HELLENIC AID
Ministry of Foreign Affairs of Norway
Canadian Embassy in Greece

Coordinator

Human Rights Defence Centre (KEPAD)
3, Lempessi Street, Makrygianni, 117 42
Athens, Greece
Tel. No. (+30) 210 92 10 977 • Fax (+30) 210 92 46 056
Website: www.kepad.gr • email: info@kepad.gr

NGO/members of ARIADNE Network

Albania

- Albanian Rehabilitation Centre for Trauma and Torture Victims - ARCT
- Useful to Albanian Women Association

Bosnia & Herzegovina

- Association "Zena B&H" Mostar

Bulgaria

- Assistance Centre for Torture Survivors - ACET
- Bulgarian Gender Research Foundation - BGRF

Croatia

- Croatian Law Centre - CLC

FYROM

- Association for Support and Protection of Families and Children at Risk - "For Happy Childhood"
- Helsinki Committee for Human Rights of the Republic of Macedonia - MHC

Greece

- Human Rights Defence Centre - KEPAD
- Association for the Social Support of Youth - ARSIS

Moldova

- International Women's Rights Protection and Promotion Centre "La Strada"

Montenegro

- Montenegrin Women's Lobby

Romania

- Romanian Forum for Refugees and Migrants- ARCA

Serbia

- Lawyers Committee for Human Rights - YUCOM

Kosovo

- Centre for Protection of Women and Children-CPWC

Turkey

- Human Resources Development Foundation- HRDF

Ukraine

- International Women's Rights Centre "La Strada Ukraine"

EDITING***Human Rights Defence Centre (KEPAD)***

Maria Vassiliou
 Tenia Kyriazi
 Theofania Antoniou
 Maria Vogiatzi
 Olga Fylaktaki
 Efi Simiakaki
 Danai Azaria
 Stavroula Pouloupati

RESEARCH**Albania**

ARCT, Useful to Albanian Women
 Valmira Skendi
 Sevim Arbana

Bosnia & Herzegovina

Zena BiH
 Mostar Team

Bulgaria

ACET, BGRF
 Genoveva Tisheva
 Iliana Stoycheva

Croatia

CLC
 Lovorka Marinović

FYROM

For Happy Childhood, MHC
 Verica Stamenkova Trajkova
 Bobi Badarevski
 Zarko Trajanoski

Greece

KEPAD, ARSIS
 Tenia Kyriazi
 Sophia Liakou
 Olga Fylaktaki

Moldova

"La Strada" Moldova
 Tatiana Fomina
 Ana Revenco

Montenegro

Montenegrin Women's Lobby
 Mirjana Vlahovic

Romania

ARCA
 Stoian Gina Maria

Serbia

YUCOM
 Zorka Kovacevic

Kosovo

CPWC
 Naime Sherifi
 Kaltrina Kelmendi
 Valdete Qahili

Turkey

HRDF
 Tuba Dundar

Ukraine

"La Strada" Ukraine
 Kateryna Levchenko
 Olga Kalashnyk
 Ludmila Kovalchuk
 Tetyana Doroshok
 Mariana Evsyukova
 Kateryna Cherepakha

TABLE OF CONTENTS

Introduction	1
National reports of the NGO/members of the ARIADNE Network	
Albania	3
Bosnia and Herzegovina.....	19
Bulgaria.....	37
Croatia	59
Former Yugoslav Republic of Macedonia.....	79
Greece.....	99
Moldova.....	121
Montenegro.....	153
Romania	167
Serbia	187
Kosovo	207
Turkey.....	225
Ukraine.....	245
Annex	271

INTRODUCTION

On the initiative of the Human Rights Centre (KEPAD) the **ARIADNE Network against Trafficking in Human Beings in Southeast and Eastern Europe** was established in June 2005, with its seat in Athens, Greece. The founding members of the Network are 17 NGOs from 12 countries of the region of SE and E. Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia¹, Greece, Moldova, Montenegro, Romania, Serbia (and Kosovo), Turkey and the Ukraine). KEPAD was designated as the Coordinator of the Network.

The primary objective of the Network is to combat the bane of human trafficking by developing close and coordinated cooperation among countries of origin, transit and destination of the trafficking victims, for the promotion of joint action to provide support to the victims and to prevent the phenomenon.

The present publication is the product of the first joint project of the Network, which is the **Registration of the Actual Situation of Human Trafficking** in the 12 countries represented in the Network. The national reports contained in this volume were drafted following a thorough research, which was conducted by the NGO/partners in cooperation with state agents, international organizations and other local NGOs dealing with this issue in their respective countries.

The objective of this joint project is to define the deficiencies, gaps or neglected areas in human trafficking, in each one of the participating countries, and to make recommendations for the improvement of the situation.

On the basis of the evaluation of the situation and the needs assessment, the members of the Network will proceed with the adoption of a **plan of action** for further joint projects to address the priorities defined by the NGO/partners for their respective country in the field of human trafficking.

The English publication is translated into each one of the local languages of the countries engaged in the project. The publications will be distributed to state agents, international organi-

¹ The authors of the report (p.81) use the constitutional name of their country and not the one used officially by the United Nations, the Council of Europe and the European Union, which is "The Former Yugoslav Republic of Macedonia".

zations and other interested parties dealing with human trafficking.

The **target groups** of this project are:

- The victims and potential victims of human trafficking (direct beneficiaries), women, children and men, who are usually victims of social phenomena, such as poverty, unemployment, lack of education, training, etc.
- The state agents and institutions active in the prevention of human trafficking, as they will be aware of the actual situation in this field in their own country, as well as in the neighbouring countries.
- The general public, which will gain a greater awareness of the problems encountered in human trafficking, and thus will be able to contribute to the collective effort for the improvement of the situation.
- The NGOs (indirect beneficiaries) which will enrich their knowledge and ability in counter-trafficking activities.

The national reports are to be updated annually so as to include possible changes in the human trafficking law and its implementation, as well as in practices aiming at improving the situation in this field.

The joint project is co-sponsored by the Greek Ministry of Foreign Affairs (HELLENIC AID), the Ministry of Foreign Affairs of Norway and the Canadian Embassy in Greece.

KEPAD has cooperated with the International Organization of Migration (IOM), Mission in Greece, and with the Thessaloniki Office of the Stability Pact for SE Europe.

The Human Rights Defence Centre, on behalf of all the partners of the Network, wishes to express its appreciation and thanks to all the state agents, international organizations and other NGOs, for their valuable contribution in the research and the overall implementation of this project.

Finally, we wish to emphasise that the views expressed in each one of the national reports are strictly those of the individual NGOs, that are the authors, and not necessarily those of the editors, or those who have contributed to make this publication possible.

Maria Vassiliou
President
Human Rights Defence Centre

ALBANIA

Authors

- Albanian Rehabilitation Centre for Trauma and Torture Victims - ARCT
- Useful to Albanian Women Association

ALBANIA

I. Introduction

Albania, with a population of 3.2 million people, located southwest of the Balkan Peninsula, was one of the least known countries in Europe. Being under the totalitarian communist regime from 1944 until 1991, the country was isolated from the rest of the world. Since the fall of the communist government, Albania is in social, political and economic transition. The geographic position of Albania, as a gateway to eastern countries, transformed it to a transit country to the west, for foreign citizens such as Kurds, Chinese, Romanians, Moldavians, etc. In that context, Albania is not only a country of origin, but also a transit country for women from Moldova, Russia, Romania, Bulgaria, etc., trafficked to western countries. Because of the complex nature of the human trafficking phenomenon, the secrecy of the activity and the lack of information, it is difficult to track its development through time and define with accuracy the real number of trafficked women for prostitution purposes. According to the U.S. State Department *Annual Trafficking in Persons Report*, released on 05.06.2006, Albania maintained a Tier 2 placement, having moved up from Tier 3 in 2002.

A sensitive part of the human trafficking phenomenon is the trafficking of children for criminal purposes, e.g. begging and stealing. Trafficking in children for the sale of organs is another disconcerting form of human trafficking. In this report Albania is primarily defined as a country of origin for trafficked women and children for the purposes of sexual exploitation and forced labour. Victims are trafficked to Greece and Italy, with many of them being trafficked onwards to the United Kingdom, France, Belgium, Norway, Germany, and the Netherlands. Internal trafficking within Albania and re-trafficking of Albanian victims to other countries remained a problem in 2005. Reports of Roma and Egyptian children trafficked for forced labour or begging persist.

II. National Legal Framework

A. National law

Albania has adopted anti-trafficking legislation in order to deal with human trafficking. Law 8733 of 24.01.2001 specifies that 'trafficking in human beings, trafficking in women for prostitution, trafficking in children with the purpose of material pro-

fit or any other profit is punished by **five to twenty years of imprisonment or life imprisonment**'. Article 110/a deals with human trafficking; article 114/b with trafficking in women for prostitution purposes and article 128/b with trafficking in children. According to this law, the **punishment** for trafficking is increased and a new **definition** of trafficking, in line with the Palermo Protocol definition, is also introduced.

'Trafficking in Persons' shall mean the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or the giving and receiving of payments or benefits to achieve the consent of persons having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery servitude or the removal of organs.

Since June 2001, under Albanian legislation all trafficked men, women and children, are considered victims of trafficking and are not punished, even in case they have committed a criminal act linked to being victims of trafficking, such as prostitution, illegal border crossing, etc. Since then, a number of female prostitutes and trafficked children have been helped to escape and none of them has been criminally prosecuted.

Among the legislative changes introduced, aiming at enhancing the prevention of and the fight against trafficking in human beings, the Council of Ministers approved the **amendment** of article 298 of the **Penal Code**, in order to effectively deal with trafficking in human beings. It also approved the **Moratorium for Navigation Means**² which has the purpose to organise the operation '**Calm Sea**'.

B. Bilateral/regional agreements

- The Republic of Albania has signed Agreements on the re-admission of persons at the border and permission of transit passage, with the following countries: the Republic of Italy (11.09.1997); the Swiss Federal Council (02.02.2000); the Republic of Hungary (20.03.2001), the Kingdom of Belgium (17.04.2002), the Republic of Bulgaria (07.06.2002), the

² This is a three year Moratorium for Navigation Means with the purpose to prevent the trafficking by sea.

-
- Republic of Romania (07.06.2002), the United Kingdom of Great Britain and Northern Ireland (15.10.2003, entered into force on 16.08.2005), the Republic of Croatia (28.01.2003, entered into force on 15.06.2005) and the European Council (14.04.2005).
- An Agreement was signed on 27.02.2006, between the Government of the Republic of Albania and the Government of the Republic of Greece, on the repatriation of unaccompanied minors, victims of trafficking, and on their further protection.
 - The Implementation Protocol of the Agreement with the EU and Benelux States (Belgium, Luxemburg, Netherlands), was signed on 09.06.2005.
 - An Agreement between the Council of Ministers of the Republic of Albania and the Swiss Federal Council on police cooperation in the fight against crime, was signed on 21.09.2005.

C. National Action Plan

The **Strategic Frame** and the **National Action Plan for the fight against Trafficking in Human Beings 2005-2007** were based on the experiences and lessons learned from all national institutions responsible for the implementation of the **National Strategy for Anti-Trafficking 2001-2004** and from the final governmental draft of the **Action National Plan** covering the period from 2003 to 2004. The aim of this final Plan, as well as the National Action Plan of 2003-2004, is to consolidate the progress made from the drafting period of the Albanian Anti-Trafficking National Strategy 2000-2001, and at the same time to develop new legal and institutional methods, adapted to the changing character of the phenomenon of trafficking, and to develop systematic, accurate and verifiable statistical methods to assess the results.

The **Action Plan of 2005-2007** addresses Albanian needs in the following **main fields**:

- Enquiry and penal investigation of crimes of trafficking;
- Support and protection of victims and witnesses;
- Prevention of trafficking and re-trafficking;
- Establishing a coordinative framework.

III. General Framework

A. Capacity building

In acknowledgement of the key-role of the Police, **special curricula** regarding human trafficking are included in the educational programme of the Police Academy. **Training courses** have been carried out in Albania and abroad and also **regional meetings** have been organised to discuss anti-trafficking issues, with the participation of the police, the prosecutor and other court representatives.

Training courses are organised for all police employees throughout the country, aiming at offering legal and psychological assistance to children, witnesses and victims of trafficking, both current and potential ones. General training courses on the human rights of victims of trafficking take place for all employees of the Prosecutor's Office and the Courts. Special training courses are organised for female police staff and female employees of the Prosecutor's Office and the Courts discharging special duties relating to victims of trafficking.

At the local level, Prime-ministerial Order 139 of 19 June 2006, foresees, the set-up of **Regional Committees Against Trafficking in Human Beings**. These committees, chaired by respective Prefects, are composed by representatives of Regional Police Departments, educational departments, representatives from the local government and social services, the Prosecutor's Office, regional offices of State Information Services, etc. Training courses and workshops have been organised, in respect of the functioning of Anti-trafficking Committees at the local level, playing an important role in the prevention and fight against this phenomenon.

The Albanian Ministry of Foreign Affairs, with the aim of expanding its role in the fight against the human trafficking phenomenon and enhancing its cooperation with respective authorities in the main destination countries, undertakes measures aimed at the **training and instruction** of its **consular employees** both at Tirana and at its various missions abroad. The training focuses on providing assistance to victims of trafficking. The Ministry, for the organization of these training modules, cooperates closely with the Academy of Diplomacy, but also seeks the assistance of other governmental and non-governmental institutions.

IOM is working to enhance the **state structure capacities**, represented by National Employment Offices, to provide information on legal ways of emigration, on various activities against trafficking and on return and re-integration services for returned emigrants (trafficked victims included). It has also organised **training sessions** for the personnel of the employment offices in six selected regions in Albania.

B. Analysis, research and monitoring mechanisms

Political and technical level structures play an important role in the monitoring of strategy implementation. In this context, the **State Committee of the Fight against Trafficking in Human Beings** has been established. It is chaired by the Minister of Interior and is composed by representatives of central institutions, of a high political level, responsible for the prevention and fight against human trafficking in their respective areas. A **National Coordinator**, the Vice Minister of Interior Office for Anti-Trafficking, was appointed as a key actor for the smooth coordination of anti-trafficking efforts at the national and international level. With the Prime-ministerial Order 203 of 19.12.2005, an **Anti-Trafficking Unit** was also set up, with the aim to support the existing structures for the prevention and the fight against human trafficking. Its main duties are:

- **Monitoring** the activities of the institutions charged with the implementation of the National Strategy;
- **Coordinating the duties** of these institutions;
- **Collecting Information and Data** for every individual case of trafficking.

The Government established a Responsible Authority as a **National Referral Mechanism** (RNM) for cases of trafficked victims at the national level in order to ensure their protection. It signs agreements with Responsible Authorities on RNM in neighbouring countries, such as the Former Yugoslav Republic of Macedonia, Kosovo and Montenegro, as well as with RNM authorities in destination countries, like Italy, Germany and England.

Moreover, the Ministries of Interior, Foreign Affairs and Labour, as well as the various Centres for the Protection of Trafficked Victims have established a database where staff registers cases of deported, referred and protected victims in Albania.

C. Cooperation and networking at the regional and national levels

Close cooperation has been established between the **National Reception Centre of Victims of Trafficking** (NRCVT), previously known as the *Linza Centre*, the **Ministry of Interior**, the **State Police** (Anti-Trafficking Offices and Border Police), and the **Prosecutor's Office** for case referral, penal process initiation and victims' protection. In this framework, a special registration procedure was created for Victims of Trafficking and for providing assistance to them. The Ministry of Labour, Social Affairs and Equal Opportunities will cooperate closely with the authority responsible for keeping this special register.

The cooperation between the Ministry of Labour Social Affairs and Equal Opportunities (MoLSAEO) and civil society in combating trafficking of human beings has improved in the field of support, protection and rehabilitation of victims of trafficking and their families. MoLSAEO is cooperating with NGOs which offer preventive, supportive, rehabilitating and reintegrating services. Cooperation agreements between local and international NGOs, involved in the fight against human trafficking will soon be drafted, defining the obligations and responsibilities of such partnerships, especially in the sharing of information and their role in reporting such violations.

D. Mobilization of resources

Funds for anti-trafficking activities are provided by the State and obtained also from other sources through NGO fundraising efforts.

The primary international organization active in the region is the OSCE. Specifically, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) is at the forefront of international efforts to combat and prevent trafficking in persons. OSCE field missions play a vital role in carrying out anti-trafficking activities in host countries.

The Council of Europe and International Organization for Migration (IOM) are active in the areas of prevention, assistance, and protection. UN agencies include the United Nations Office of the High Commissioner for Human Rights, United Nations Children's Fund (UNICEF), United Nations Population Fund, United Nations High Commissioner for Refugees, United Nations Development Fund for Women, United Nations Development Pro-

gramme, United Nations Interregional Crime and Justice Research Institute, and United Nations Office on Drugs and Crime. Other organizations are the International Labour Organization, International Centre for Migration Policy Development, and Europol.

USAID with its programmes and foreign governments like Norway, Greece, Netherlands, Germany, Sweden, etc., also support the overall efforts for effective prevention, assistance and protection of victims of trafficking.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

Important **preventive measures** and **educational programmes** are being carried out in Albania with the financial support of the Government. Media and other information methods are used in order to efficiently inform the population, especially women, children and other vulnerable target groups. In order to enhance a good inter-institutional cooperation, working meetings are organised with the participation of NGOs, CAAHT, ICPMD, USAID, IOM, Religious Communities, the Coalition 'Union against Children Trafficking'. Within the above framework the following activities have been organised:

- Documentaries on trafficking broadcasted on national and local TV channels;
- Periodical publications in the 'Mësuesi' newspaper and daily press;
- Awareness and prevention campaigns throughout rural areas of different regions.

The *Linza Centre* with the support of IOM has prepared and delivered **bilingual leaflets** (in Albanian and in English). Similar activities have been undertaken by other NGOs with the support of donors. The MFA contributes in the preparation of anti-trafficking leaflets and their distribution to destination/transit countries. These leaflets are published by NGOs in two languages. Within the framework of the prevention of trafficking, especially the trafficking of vulnerable groups, the Ministry of Education and Sciences issued on 29.03.2006 **Guideline no 6 for the registration in schools of Roma students not provided with birth certificates.**

All State institutions and NGOs working with children organise seminars, deliver information materials to families with social problems, low education level and to the Roma community.

It should be stressed that so far nearly 600 students and 200 women of vulnerable communities have been informed on the phenomenon and the dangers it presents. Activities against trafficking are included into **school annual plans** and the education plans of each class. Additionally, in cooperation with UNICEF, **training of teachers** working with immobilised students will be organised. To support these activities, visits and meetings are organised between regional officials of the Ministries of Education and Science. An **evaluation mechanism** is created to measure the effectiveness and the impact of such activities. This mechanism is expected to contribute to the consolidation of successful models of trafficking prevention in regional schools.

Order 34 of 08.12.2004, for the **implementation of the project 'Second Chance'**, actively promotes the education of students who have dropped out of school. Similarly, free of charge courses in public professional education centres are provided to trafficked married and unmarried women following Order 394 of 23.02.2004 for **fees on professional education system**, issued by the Ministry of Labour, Social Affairs and Equal Opportunities.

Study tours and **mutual experience exchanges** are organised among representatives of the Ministry of Education and Science, and IOM Missions in Albania, the Former Yugoslav Republic of Macedonia and Kosovo. National Employment Services and Regional Employment Offices offer **labour information** and direction towards registered unemployed jobseekers. NGOs offer training courses and social businesses cooperate closely with the above offices. There are three **Employment Encouragement Programmes** implemented, through which, approximately 500 women with social problems were employed, (of whom 217 from poor families, 86 Roma women, 54 single mothers, 100 mothers of many children etc).

The second phase of the regional project 'ILO-Migrant': **Employment possibility, professional education and migration politics measures for the prevention and decreasing of women trafficking in Albania, Moldova and the Ukraine** has begun. The project aims, among others, at allocating micro-credits for private enterprises of former victims of trafficking in

order to assist their re-integration, and at preventing and protecting potential victims of trafficking.

In order to decrease the danger of trafficking, the Government aims at raising public awareness on the **regular ways of migration**. The new draft law on migration regarding the provision of information on the risks involved in irregular migration includes some special provisions for the prevention of trafficking.

Comment

Several activities are organised by NGOs working in the field of human trafficking. However, better coordination of these activities is needed.

B. Protection and assistance

The **Reintegration Centre** opened in mid-February 2002 with the aim of providing temporary protection, medical and psychosocial counselling, return and reintegration assistance to Albanian victims of trafficking. Its activities focus mainly on referral and screening of beneficiaries, short and medium term accommodation in preparation of family reunification or independent living and reintegration assistance to victims, including education and training, as well as employment placement assistance, and capacity building of the local organizations working in the field.

In July 2003, the Government initiated the operation of the **National Reception Centre of Victims of Trafficking** (NRCVT) for adult and child victims, previously known as the *Linza Centre*. The National Reception Centre is established in the framework of the National Strategies against Trafficking of Human Beings and Children and is an institution operating under the State Social Services and (MoLSAEO), in close cooperation with the Ministry of Interior and the IOM.

The implementation of a comprehensive method for the protection of victims is another important priority. *The National Accommodation Centre for Victims of Trafficking (NACVT)* paid special attention to the improvement of the quality of rehabilitation and continues to offer good services toward three target groups:

- Trafficked women (married or single), or in danger of being trafficked;

- Unsociable children and in danger of being trafficked;
- Irregular migrants.

NACVT staff cooperates closely with various institutions involved in victims' referral, e.g. border checkpoints and the police commissariats, in order to provide accommodation to victims. In all cases the Centre's staff conducts interviews, based on a questionnaire drafted with the help of international donors. Additionally it also conducts a needs assessment.

The Centre established good cooperation practices among the police and prosecution employees. For instance, at all border checkpoints the border police officers interview returning deportees in order to identify and protect potential trafficking victims.

NACVT is also working on raising awareness of victims of trafficking in order to help them denounce their traffickers and on providing information on their rights. According to the law on the protection of witnesses and collaborators of Justice, the Centre continues to assist trafficked victims who have denounced their traffickers and may need protection, even after the conclusion of the trial.

During 2005, 127 persons were accommodated and assisted (116 new cases and 11 carried over from 2004). 15 of them have denounced their traffickers. In six cases the trial concluded in favour of the victims and three cases are still pending. A database is established in NRCVT, Social State Services and in the MoLSAEO, which is being continuously updated. The police made ad hoc referrals to the NGO shelter *Vatra* in Vlora. In most cases, police screened victims at police stations before referring them to shelters.

Under the auspices of the pertinent authorities and in cooperation with all the parties involved a free of charge nationwide **helpline** was established. It assists victims to denounce cases of trafficking and provides support to persons needing help and to persons possessing trafficking related information.

The Council of Ministers Decision 564 of 12.08.2005 on *licensing social services providers* authorises NGOs to provide social services to target groups in need. Until now, there are nearly 30 licensed NGOs, offering preventive and supportive rehabilitation and re-integration services. **NGOs** with the most important impact in the field of preventive, supportive, rehabilitating and reintegrating services are: *Vatra Centre, Another Vi-*

sion, Different and Equal, International Social Service, Terre des Hommes, Help for Children, Ballsh Communitare Centre, International Catholic Commission for Emigration, Save the Children, Legal Clinic for Infants, International Social Service, Useful to Albanian Women, Strehëza International Organization for Migration, Consultation line for women, Albanian Centre for the Protection of Children Rights, Coalition of the NGOs 'Together Against Children Trafficking'.

C. Prosecution

One of the main anti-trafficking objectives is to increase the **penal investigation** of cases and the **convictions** of traffickers. This has been achieved by enhancing cooperation between the Police Authorities and the Prosecution Office. The implementation of a comprehensive method for the protection of victims, testifying against their traffickers has also been a priority.

The new Law on **Witnesses Protection** aims at ensuring the legal, physical and personal identity protection, for all the victims/witnesses in criminal proceedings, regardless of their participation in the Witnesses Protection Programme. The Ministry of Justice, in cooperation with the General Prosecutor's Office, the Ministry of Interior and the Ministry of Finance has drafted the bylaws of the law on witness protection. In this framework, a witness protection sector has been established within the Organised Crime Directorate at the Ministry of Interior.

In the field of judicial enforcement, an important step is the initiation of the process aimed at providing the Court of Serious Crimes with necessary technical information for the protection and security of victims of trafficking. With that in mind, victims can give evidence as witnesses, through 'video conference'. Following this process, important steps are undertaken to protect the identities of all victims/witnesses during the judicial procedure and to revise the compensation scheme for such victims from the confiscated assets.

With reference to the statistics regarding the programme of witness protection, it can be said that:

- During 2005, 11 witnesses have been provided with special protection measures, including relocation. In addition, temporary protection measures, lasting one month, have been applied in relation to 15 witnesses. In respect of human traf-

ficking there has been one case of witness protection relocation.

- During 2005, nine witnesses victims of trafficking have cooperated with Police Departments and have denounced their traffickers, opening the way for criminal prosecution.

The adoption of the Law *on foreigners* is under process. This law will include provisions for *temporary residence permits* of victims of trafficking, in accordance with international standards. The Emigration Sector in collaboration with the border police enables the distribution of these permissions.

V. BEST PRACTICES

All organizations working on the issue of child trafficking, together with representatives of the government and international organizations formed an Albanian inter-NGO coalition against trafficking in persons called *All Together against Child Trafficking*. BKTF-Albania runs the *Operational Network and Advocacy against Child Trafficking-ONACT* aimed at reducing the vulnerability of children in Albania to trafficking by promoting effective services, networks, and research.

VI. DEFICIENCIES

- The witness protection legislation is not being fully implemented.
- There are many difficulties in the process of the identification of the trafficked persons.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. Institutional, structural, and organizational changes should be made in the field of combating human trafficking.
2. Social conditions need to be improved, especially in order to decrease poverty rates, aiming at countering the exposure of vulnerable social groups to human trafficking.
3. Assistance to victims of trafficking should be increased, mainly by developing integration programmes.

4. Public awareness efforts should be organised and intensified.
5. Anti-trafficking capacities should be improved and increased.
6. Collaboration between all active actors in the field, both in the country and abroad, should be strengthened. Coordination between NGO's and international organizations should also improve.

LIST OF ABBREVIATIONS

BKTF	Albanian Coalition against Child Trafficking
CAAHT	Coordinated Action against Human Trafficking
ILO	International Labour Organization
IOM	International Organization for Migration
ICPMD	International Centre for Migration Policy Development
MFA	Ministry of Foreign Affairs
MoLSAEO	Ministry of Labour, Social Affairs and Equal Opportunities
NACVT	National Accommodation Centre for Victims of Trafficking
NRCVT	National Reception Centre of Victims of Trafficking
RNM	Referring National Mechanism
USAID	United States Agency for International Development
UNICEF	United Nations Children's Fund

BOSNIA and HERZEGOVINA

Author

- Association "Zena B&H" Mostar

BOSNIA AND HERZEGOVINA

I. Introduction

Bosnia and Herzegovina (B&H) is located in SE Europe, more specifically, in the western Balkans. Its neighbouring countries are Croatia to the north, northwest and south, and Serbia and Montenegro to the east. At the far south there is a 32 km long coastline to the Adriatic Sea. The borders of B&H are mainly rivers and mountains.

B&H became an independent state in 1992. The country, while facing the challenges of its recently gained independence, was also burdened with the need for recovery from long-term consequences of war, lasting almost four years, as well as with political transition from socialism and a socialist economy to democracy and a market economy. Considering the historical background and geographical position of B&H, trafficking in human beings has found the perfect conditions to blossom.

B&H is a poor country, in transition, where women, children and men are easy targets for trafficking by organised crime networks. It is impossible to determine precisely when the first cases of trafficking in human beings were registered in B&H, because the law enforcement agencies have classified this phenomenon into the category of prostitution. Taking this into account, we can clearly conclude that when trafficking first appeared in B&H there was minimal awareness regarding this kind of crime and its victims. The increase in the number of cases led to the recognition of the complexity of this phenomenon, as well as of the need to take the necessary steps towards its prevention and suppression.

Research reveals that the main reasons for people finding themselves in the chain of trafficking are general poverty, low socio-economic status, domestic violence, peer group influence and lack of information.³ Persons directly affected by these circumstances are those who wish to migrate to rich countries in order to pursue better living conditions. In this context, they become easy prey for traffickers. NGOs were the first to trace the problem of human trafficking and to provide assistance and support to the victims. During 1999, *Zena B&H* jointly with the

³ See research carried out by UNICEF and *Save the Children-Norway* in 2003. Also research by Barbara Limanowska 'Trafficking in human beings in Southeast Europe', UNICEF/UNOHCHR/OSCE-ODIHR.

NGO LARA from Bijeljina carried out a survey for the United Nations Voluntary Trust Fund for Contemporary Forms of Slavery. The findings demonstrate that the problem of trafficking in women is most prevalent.⁴ Although anti-trafficking activities in that period posed certain risks, those who could contribute to the cause joined their efforts. State institutions have also joined efforts with various NGOs. In early 2003, the State started dealing with this problem by using NGO research findings and experience.

The current situation concerning trafficking in human beings in B&H is satisfactory and there is good cooperation between the government and local, international and nongovernmental organizations. Various anti-trafficking instruments and bodies are currently being developed. NGOs which run shelters for victims have provided temporary accommodation, assistance and protection to 66 potential victims of trafficking during 2005 (44 foreign citizens and 22 B&H citizens). Foreign citizens originate from Serbia, Montenegro, Moldova, Romania, the Ukraine, Russian Federation, Former Yugoslav Republic of Macedonia, China, Belarus and Croatia. 13 victims (30% of victims) were minors.⁵ Compared to previous years, particularly to 2002, when 225 victims were accommodated in shelters, there is a decrease in the number of foreign victims, while the number of domestic victims has increased.

II. National Legal Framework

A. National law

In accordance with international conventions, B&H has adopted and implemented certain reforms of its relevant legislation. Such reforms can be found in:

- B&H Criminal Code
- B&H Criminal Procedure Law
- Law on B&H Court
- Law on B&H Prosecutor's Office
- *Law on protection of witnesses under threat, and vulnerable witnesses*

⁴ Researches carried out by *Zena B&H Mostar* and *LARA Bjeljina* in 1999 supported by the United Nations Voluntary Trust Fund for Contemporary Forms of Slavery.

⁵ Report on human trafficking and illegal immigration in B&H for 2005.

-
- *Law on programme of witness protection*
 - *Law on state investigation and protection agency*
 - *Law on state border service*
 - *Law on control and supervision of state border*
 - *Law on movement and stay of aliens and asylum*
 - *Law on gender equality and*
 - *Law on prevention of domestic violence*

In addition, institutional mechanisms for the implementation of the aforementioned laws in B&H have also been developed.

Trafficking in human beings is a criminal offence only under the B&H Criminal Code. The Federal Criminal Code, the Criminal Code of the Republic of Srpska and of the Brcko District deal only with soliciting. Only the Court of B&H has jurisdiction to hear and judge trafficking related cases.

B. Bilateral agreements

B&H has concluded ***Agreements on Readmission*** with ***Sweden, Norway, Denmark*** and ***Romania***, and has initiated negotiations to conclude similar agreements with countries in the wider region, notably Moldova, Former Yugoslav Republic of Macedonia, Albania, Bulgaria and Turkey.

C. State Action Plan

In November 2001, a Group, the ***State Group for combating trafficking in human beings***, was established to prepare the State Action Plan (NAP). The Group is comprised of the representatives of the Ministries of Human Rights, of Justice, of Safety, of Foreign Affairs, the State Prosecutor's Office and representatives of the State Border Service. The NAP for combating trafficking in human beings was enacted by the Council of Ministers on 06.12.2001.

A new NAP for combating trafficking in human beings for 2005-2007 was adopted in 2005. This Action Plan comprises the following chapters:

- Framework for support;
- Prevention;
- Protection of victims and witnesses;
- Criminal prosecution and international cooperation.

The Ministry of Safety nominates a person for the position of **State Coordinator** for combating trafficking in human beings, who is appointed by the Council of Ministers. The State Coordinator together with the 'State Group' follows up and coordinates the implementation of measures and activities foreseen in the Action Plan. Bearing in mind the need to focus on the prevention of trafficking in children, a **Subgroup for children** was formed in March 2004.

Even though the responsibilities of the State Coordinator are not yet formalised, he/she cooperates closely with the Liaison Officers and the Strike Force for Combating Violence. The latter's purpose is to enhance anti-trafficking activities at the highest level and it consists of representatives from the Prosecutor's Office, the State Border Service, the State Investigation and Protection Agency (SIPA) and the police division against financial crime.

Comments

- The revised State Action Plan for combating trafficking in human beings 2005–2007 does not include any chapter on victims' repatriation. However, apart from provisions on accommodation and assistance during their stay in Safe Houses, assistance with repatriation-socialization-reintegration procedures is also needed in order for victims to regain their self-confidence and to become active members of society. Inadequate and non-comprehensive assistance to victims entails the possibility for them to be caught in the trafficking chain again and to completely lose their self-confidence.
- Even though there are only a few victims from B&H who have been repatriated so far, a relevant chapter should be included in the State Action Plan providing for repatriation/reintegration measures and activities, as well as assigning persons charged with their implementation.

III. General Framework

A. Capacity building

According to the NAP, state institutions and NGOs regularly implement training courses for capacity building and education of state officials. In cooperation with the Centre for Education of Judges and Prosecutors and the Brcko District Judiciary Com-

mission, **police officers**, members of Centres for public security from the Republic of Srpska and cantonal Ministries of Interior, **judges and prosecutors** from the entire country have participated in seminars on combating trafficking in human beings. In the course of the seminars, relevant international and national legal frameworks and the work carried out by the police, the Prosecutor's Office and the State border service in the field, were presented.

Seminars were also held on the **procedure for dealing with potential victims of trafficking** and on the **Rulebook on the protection of foreign victims of trafficking, data managing, monitoring, evaluation and revision** (under the auspices of the regional CARDS EU-funded programme). In addition, the Centre for Education of Judges and Prosecutors conducted seminars for SIPA and police members, judges and prosecutors, as well as other public information seminars. Various **study trips** were organised for the State Group members. Occasionally, NGO representatives have also participated in these study trips.

B. Analysis, research and monitoring mechanisms

In order to promote better coordination among the State Coordinator's Office, non-governmental and international organizations, **regular referral meetings** have been organised every three months. These referral meetings have provided a platform for exchange of information on implemented and planned activities, as well as coordination and harmonization of such activities, aiming at avoiding duplications of actions and at regulating the parallel expenditure of funds.

In order to combat effectively human trafficking, it is necessary to analyse, on a regular basis, trends that contribute to the phenomenon. Therefore, the State Coordinator has, in cooperation with UNICEF, appointed a **regional expert** to prepare a **report**, carrying out research and analysis of the situation in this field, focusing on indicators of increased numbers of domestic victims of trafficking. This report is important because it is the first analytical review of this new trend and presents the available structures for assisting domestic victims of trafficking. It is also important to point out the significance of the **Initial Report on Violence against Children**, prepared by the Council for Children, especially its conclusions on the problem of trafficking in children.

C. Cooperation and networking at regional and national levels

NGOs and state institutions are, individually or collectively, members of numerous regional networks for the prevention of trafficking (INTERPOL, EUROPOL, SECI, RING etc). They have achieved to promote regional cooperation on different issues. It is worth mentioning that close cooperation has developed among the Ministry of Safety and INTERPOL, EUROPOL and the Southeast European Cooperative Initiative Centre (SECI Centre) as well as the engagement of the same Ministry in the preparation of the Convention on Police Cooperation for SE Europe.

The Association *Zena B&H* has established good cooperation practices with NGO-members of the Croatian anti-trafficking network *PETRA*. It is also a member of the *ARIADNE* network, against trafficking in human beings in SE and E. Europe.

D. Mobilization of resources

Funds from the Council of Ministers, UNICEF and the Permanent Delegation of Iceland to OSCE, ensure implementation of activities. In addition to USAID, IOM, *Star Network of World Learning* and *Catholic Relief Services* (CRS) have also contributed by co-funding counter-trafficking activities.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness raising

Local and international NGOs, as well as State authorities, have conducted several ***awareness raising campaigns*** in the past few years. Their target groups are:

- Institutions responsible for law implementation in B&H (police officers, immigration offices, State Border Service);
- Elementary and secondary school pupils;
- Indirectly the entire population of B&H.

These stakeholders have conducted several campaigns during 2005. The following target groups have been included in these campaigns: parents and teachers; men as potential clients (this preventive campaign, the first one in the country to deal with this target-group, as well as relevant work with men is a pilot project of the Association *Zena B&H-Mostar*).

The ***Group for Prevention and Economic Empowerment*** is working within the ***State Group for combating trafficking***

in human beings and illegal migration. This Group has planned activities, which will be carried out in cooperation with other groups, authorities, local and international organizations. In addition, other similar activities are being carried out, such as the development of a **school curriculum**, including the recognition of the danger of human trafficking, the promotion of gender equality, the fighting against gender-based violence, the HIV/AIDS threat and the tracing of the connection between drug addiction and the recruitment to forced prostitution by criminal networks.

An interesting example of a preventive campaign is the publication by the Association *Zena B&H*-Mostar, in 20.000 copies, of a **book on true stories** written by victims of trafficking. It was sold under the symbolic price of 2 KM (1 EURO). The funds raised were donated to the shelter for victims of human trafficking.

It should be noted that for a long period, B&H was both a transit and destination country for victims of human trafficking. Even though NGOs had warned about the possibility of the country becoming a country of origin, State institutions showed no willingness to deal with this problem.

Research carried out by various local and international organizations in B&H showed that the main reasons why people are caught in the chain of trafficking are:⁶

- General poverty;
- Low socio-economic status;
- Domestic violence;
- Lack of information;
- Peer group influence.

In addition, research on the level of information on issues of human trafficking showed that awareness increased in city centres compared to rural areas.⁷ Yet, the victims, in the majority of the cases, come from rural areas.

For the time being, the projects and activities for the economic development of B&H, are not aimed at improving the situation on general poverty and low socio-economic status. The number of people registered with the employment *bureau* and

⁶ Research carried out by UNICEF and *Save The Children Norway* in 2002 and 2003

⁷ Research carried out by *Zena B&H* supported by *BHRN* in 2006.

the low purchasing power can only serve as an argument in favour of this statement.

However, the 2005–2007 State Action Plan's chapter on prevention sets as a programme goal the **improvement of social and economic conditions of vulnerable social groups**. To meet this objective, it provides support for the implementation of national programmes addressing the economic empowerment of women. It remains to be seen to what extent this goal will be achieved.

B. Protection and assistance

Since 1999, the **International Organization for Migration** (IOM) has a leading role in providing accommodation for victims of trafficking. This is linked to the fact that IOM was the only organization to undertake repatriation activities.

The accommodation of victims in various Reception Centres depends on the granting of 'victim of trafficking' status and on their repatriation in the country of origin. Taking into consideration that the repatriation process, led so far by international organizations was not self-sustainable, the Ministry for Human Rights and Refugees (MHRR), according to article 3 of the State Action Plan, developed a project for the **establishment of Reception Centres**. The goal was to provide a better, 'victims rights-oriented' approach, a longer rehabilitation period, and to facilitate the dissemination of information. There is no state-run **SOS telephone line**. Only NGOs provide this kind of service.

During that time, some NGOs had already developed structures for the provision of direct assistance to victims. Their participation in the establishment of Reception Centres was limited due to lack of funds, even though three members of the *RING* coalition had been able to provide direct assistance to 100 women during the period of 1999–2002. These NGOs provided health care services, counselling, legal aid and other forms of support. **Provisional instructions** for dealing with victims of trafficking have also been issued. These instructions have set the rules and code of conduct for all state authorities and other entities fighting against trafficking in human beings.

MHRR has signed a **Protocol of Cooperation** with a number of NGOs, members of the *RING* Network. This Protocol provides some additions to the provisional instructions for the treatment of victims of trafficking. These provisional instructions

are still in force, even though there exists now a more detailed draft version.

Due to the lack of State facilities for the accommodation of victims, the Ministry of Safety, in March 2005, signed **Agreements of Cooperation** with the following NGOs: *Lara Bijeljina*, *Medica Zenica*, *Medjenarodni Forum Sildarnosti* (International Solidarity Forum), *Group EMMAUS International Tuzla*, *La Strada-Mostar* and *Zena B&H-Mostar*. These Agreements establish the rights and obligations of signatories concerning the provision of closed type shelters for foreign victims of human trafficking. Accordingly, NGOs have the obligation to transport the victims to shelters and provide them with accommodation, food and health care. The required funds are to be raised by donors and by other means. The Ministry of Safety supervises the work of NGOs in this field.

In July 2005 in Vlasic, the **Procedure for treating victims of trafficking in B&H** was signed by the following State and independent institutions: the State Coordinator for combating trafficking in human beings and illegal migration, the Federation of the B&H Prosecutor's Offices, the Prosecutor's Office of Brcko District, the State Border Service, the Ministry of Safety – Sector for Asylum and for Migration, the Republic of Srpska Ministry of Interior, the B&H Prosecutor's Office, the State Investigation and Protection Agency, the Federation of B&H Ministry of Safety and the Brcko District Police Department.

In July 2004, in accordance with the *Law on the movement and stay of aliens and asylum seekers*, adopted under the jurisdiction of the Ministry of Safety, the latter and the NGO *Vasa Prava* ('Your Rights') signed an Agreement on the provision of **free legal assistance** to potential victims of trafficking. Free legal assistance includes, *inter alia*, the provision of legal advice, the drafting of different deeds and documents, and the representation in all administrative cases before courts and state bodies.

Due to the fact that the State Action Plan does not recognise the existence of domestic victims of trafficking, it does not include provisions on the **repatriation** of victims, with related activities being carried out by NGOs. The first case of repatriation in B&H is a good example. The girl was sent back from Italy. IOM Italy provided *Zena B&H-Mostar*, where the girl was received, with small but significant financial assets for the repatriation and the reintegration of the victim.

A **Theme Group** for **the protection of victims and witnesses** from violence was also formed. It focuses on identifying the existing legal framework, conducting relevant analysis, comparing the above to international standards and identifying the practical aspects of the problem. In this context, an **Instruction Manual for the Protection of Domestic Victims of Trafficking** is being prepared, underlining that the protection of victims of trafficking, especially those who testify as witnesses, given the overall situation in B&H, is of the outmost importance. This is a very complex and demanding task. It is also important to mention that foreign victims and witnesses of trafficking have also rights to accommodation, legal aid, health care, humanitarian stay and repatriation.

C. Prosecution

The legal framework was developed with the aim to provide effective criminal prosecution of traffickers. However, it is necessary to further develop the technical and professional resources and to promote the cooperation between various agencies and the Prosecutor's Office for effective law implementation.

The **B&H Prosecutor's Office** is the competent authority for the prosecution of traffickers. The **Court of B&H** has already prosecuted successfully cases related to trafficking in human beings.

According to the Law on **State Investigation and Protection Agency** (SIPA), the latter is responsible for the prevention and investigation of criminal offences under the B&H Court's jurisdiction, including criminal offences related to human trafficking. The **Team for Suppression of Trafficking and Sexual Offences** is part of the SIPA's Criminal and Investigation Department and its primary task is to prevent, investigate and suppress criminal offences within the jurisdiction of the Court of B&H (Article 185 – Abolishment of Slavery and Transport of Slaves, Article 186 – Trafficking in Human Beings, Article 187 – International Recruitment for the Purpose of Prostitution, Article 188 – Unlawful Withhold of Identification Documents, Article 189 – Smuggling of Persons, according to the Criminal Code of B&H). Furthermore, other Teams have been formed within the SIPA headquarters, in regional offices in Sarajevo, in Banja Luka and in Mostar. There are also plans to establish regional offices in Brcko District and in Tuzla.

The State Parliament has adopted two Laws in 2004: the *Law on the State Border Agency* and the *Law on control and supervision of the state border*, which determine the jurisdiction of the State Border Service and the control and supervision of state border. These Laws form an effective legal framework for the suppression of illegal migration and human trafficking.

The Parliament has adopted the *Law on the programme for witness protection*, which provides the legal framework for a more efficient witness protection programme, including for cases of trafficking in human beings. The Law provides also protection of witness identity and confidentiality of statements. At the end of 2004, a Department for witness protection was established within the SIPA. Victims, who have already testified before the Courts of B&H, have been provided with safe shelter according to their status of witness under protection. For a more efficient implementation, SIPA structures, particularly the capacities of this department, need to be developed and the international cooperation in the field of witness protection needs to be promoted.

In 2005, competent Departments for the implementation of the Laws in B&H submitted to the Prosecutor's Office 36 reports against 59 individuals relating to criminal offences of trafficking. The Prosecutor's Office investigated 68 cases of trafficking in human beings and other related criminal offences in total. 37 investigations were initiated in 2005, while 312 investigations commenced in 2004 and continued in 2005. Various Prosecutors' Offices brought 24 charges against traffickers and perpetrators of other related criminal acts, while the courts confirmed 26 charges. By the end of 2005, there were 39 unsolved investigations, which continued in 2006. During 2005, 17 individuals were indicted and sentenced by the Courts in B&H.⁸

Comments

- Officers of State Institutions are not fully trained to implement the laws. They lack sensitivity when working directly with victims, especially with children. The percentage of women working against trafficking in State Institutions is extremely low (especially in State border services);
- There is a lack of human and material resources in the Institutions that deal with the problem of human trafficking;

⁸ The report on trafficking in human beings and illegal immigration in B&H for 2005.

- There is a lack of cooperation among field officers;
- There is no database about the real number of victims of trafficking in B&H;
- The problem of fictitious marriages: traffickers marry girls-potential victims of trafficking in their country of origin and then bring them, lawfully, to B&H. Once they come to B&H, they force those girls to prostitution.
- Lack of funds in both state institutions and NGOs.

V. BEST PRACTICES

- **Good cooperation** among local NGOs, international organizations and state institutions has contributed to the process of solving a great number of problems. The first results show that measures adopted are constructive and applicable in practice.
- Actions carried out with the cooperation of the NGOs and the public sector including the signing of the above-mentioned agreements, the implementation of the legal framework, the organization of joint study trips abroad and the organization of seminars and workshops in the country. The cooperation between NGOs and the government is satisfactory and State institutions are keen to follow the guidelines provided by NGOs.
- In addition to UMCOR and USAID, **great support** to the efforts of NGOs has been provided by the UN OHCHR-B&H office, the Prosecutor's Office of the B&H Federation, the Constitutional Court of the B&H Federation and the Office of the State Coordinator for Combating Human Trafficking.
- An example of good practice, is the **publication** of the book 'MARGUERITE can be your sister, daughter, a friend...'. This forms part of the campaign of the Association *Zena B&H* which was implemented in 2004. It is a collection of true shocking stories written by victims of trafficking, (emphasis has been given to the fact that the stories were written by victims from B&H and other European countries). Women victims, who agreed to publish their stories, significantly contributed to raising public awareness.
- Notably, NGOs from all over the world, including particularly B&H, France, Serbia and the Former Yugoslav Republic of Macedonia, publish in the **bi-weekly magazine** *START BiH*.

VI. DEFICIENCIES

- The first and most important problem of victims of trafficking is their **reintegration process**. All projects, implemented by NGOs and State agencies, focus on the provision of assistance measures, such as accommodation in Safe Houses. However, they have not been dealing sufficiently with victims' reintegration, in other words their socialization. There is no follow up of victims' cases after they leave the shelters. There is a lack of monitoring of the effects of the social exclusion of the victims and their difficulty in entering the labour market. Victims may therefore run the risk of falling back into the trafficking cycle.
- **Lack of good cooperation and coordination** among countries of origin, transit and destination, in order to follow up effectively the cases of victims.
- NGOs which are actually dealing with trafficking encounter the problem of **limited financial resources**.
- Despite the importance of **awareness raising campaigns** on human trafficking, it is evident that they are not sufficient for the prevention of the phenomenon. The central urban areas are already fully covered, in terms of campaign, while the rural areas remain rather neglected.
- Although the State Action Plan provides for the economic empowerment of vulnerable groups, the **socio-economic fundamental causes** of trafficking have not been sufficiently addressed yet.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. A more serious approach to **reintegration of repatriated** trafficking victims is needed.
2. Better **cooperation and coordination among regional governments and NGOs**.
3. **Risk reduction strategies** should be based on research findings. Considering that research findings reveal the root causes of trafficking in human beings, more attention should

be paid to developing and implementing strategies addressing these socio-economic root causes (general poverty, low socio-economic status, domestic violence, etc).

4. Additional **financial and material support** should be provided **to NGOs**, especially those in the countries of origin, with long-standing experience, as well as human and material resources for prevention, assistance and reintegration. It is extremely important to focus on the protection of victims originating from B&H and to provide them with education, re-training, additional qualifications, and access to the labour market, accommodation and systematic counselling.
5. With regards to **awareness raising activities**, it is necessary to focus on small towns/rural areas, from where the victims come in the majority of cases. Printed material should be distributed across villages and workshops should be held with the participation of men interested to learn more about this problem. In addition, participants should be provided with modest remuneration when workshops or focus groups are organised. This will motivate the public's participation, assuming that participants will later become interested in the discussion.

LIST OF ABBREVIATIONS

ARIADNE	NGO Network against Human Trafficking in SE and E. Europe
B&H	Bosnia and Herzegovina
CARDS	EU funded Programme: Community Assistance for Reconstruction, Development and Stabilization
CRS	Catholic Relief Services
EMMAUS	International movement against extreme poverty
EU	European Union
EUROPOL	European Police Office
LARA	NGO in B&H
INTERPOL	International Police
IOM	International Organization for Migration
MHRR	Ministry for Human Rights and Refugees
NAP	National Action Plan (State Action Plan)
OSCE	Organization for Security and Cooperation in Europe
ODIHR	OSCE's Office for Democratic Institutions and Human Rights
PETRA	Anti-trafficking network
RING	Regional network for the prevention of trafficking
SECI	Southeast European Cooperative Initiative
SIPA	State Investigation and Protection Agency
UMCOR	United Methodist Committee on Relief
UNICEF	United Nations Children's Fund
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
USAID	United States Agency for International Development
ZENA	NGO in B&H.

BULGARIA

Authors

- Assistance Centre for Torture Survivors - ACET
- Bulgarian Gender Research Foundation - BGRF

BULGARIA

I. Introduction

The Republic of Bulgaria, located in SE Europe in the Balkan Peninsula, borders with the Black Sea to the East, with Romania to the north, with Serbia, Montenegro and the Former Yugoslav Republic of Macedonia to the west, with Greece to the south and with Turkey to the southeast.

Trafficking in human beings, especially in women, is a serious problem for Bulgaria, which is a country of origin, transit and destination. The problem was recognised as such in the European Commission 2005 *Progress Report towards Bulgaria's accession to the EU*, in the 2005 *Human Rights Report* of the US State Department and by the Bulgarian Government itself. The Report of the U.S. State Department on Trafficking in Persons, issued in June 2006, notes that Bulgaria is an origin, transit, and destination country for women and girls trafficked from Romania, Moldova, Russia, the Ukraine, Armenia, Lebanon, and Central Asia to and through Bulgaria to Germany, France, Italy, the Netherlands, Belgium, the Czech Republic, the Former Yugoslav Republic of Macedonia and the territory of Kosovo, mainly for the purpose of sexual exploitation. According to the *Bulgaria Country Report on Human Rights and on Trafficking in Persons 2005* of the US State Department, based on governmental and NGO sources, most victims are women and girls trafficked for the purposes of sexual exploitation. According to NGO and government sources, young women between the age of 18 and 24, with low level education, and problematic family relations are the most vulnerable group to trafficking. During the last years, despite decreasing percentages of unemployment, most women victims of trafficking did not have the opportunity to find work suitable to their education and skills.

Roma children are trafficked within Bulgaria and abroad for purposes of forced begging and petty theft. In 2005 Austrian authorities identified 700 Roma children trafficked from Bulgaria to Austria for forced begging and commercial sexual exploitation. The Ministry of Interior noted an increase in men and boys trafficked for purposes of labour exploitation.

A new tendency is the **baby-trafficking** industry: pregnant women crossing borders to give birth and sell their babies. In its most recent report, INTERPOL says that Bulgarians have become the ring-leaders of the European baby-trading circuit that

is being investigated in Greece, Italy, France and Portugal. It is noted that the main channels for this trade in human beings lead to Greece.

According to data provided by the Specialised Office for Fight against Organised Crime of the Ministry of Interior, there is a strong connection between human trafficking and organised crime. In 2002, the Office identified 42 organised criminal groups involved in the business of trafficking in women for sexual exploitation, 14 organised criminal groups involved in illegal migration, five criminal groups offering work abroad and two involved in false passports, credit cards, etc.

The Government of Bulgaria does not fully comply with the international minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. In 2004, the government adopted a more active stance for the prevention of the phenomenon and the protection of the victims. It stepped up its enforcement efforts and took important preliminary steps to implement its anti-trafficking legislation, including the adoption of a national strategy and comprehensive witness protection legislation.

II. National Legal Framework

A. National law

The *Law on combating trafficking in human beings*⁹, adopted in 2003, is the basic anti-trafficking legal document in the Bulgarian legislation, while the *Penal Code* was amended accordingly in 2002.¹⁰ Both texts followed the ratification of the Palermo Protocol.

The *Law on combating trafficking in human beings*, published in the State Gazette on 20.05.2003, entered into force on 01.01.2004 and was revised in October 2005. It regulates the following issues: (a) the powers and competencies of state institutions dealing with trafficking and their interaction; (b) the status and objectives of the shelters, centres and commissions that are established accordingly; (c) preventative measures; (d) measures to protect women and children in particular. One of the main principles of the law is the provision of special protection to victims who collaborate with the investigation authorities.

⁹ SG No. 46/2003

¹⁰ SG No. 92/2002

In 2004, two Regulations were issued, based on the new law: the Regulation on *the organization and activities of the National Commission for combating trafficking in human beings* and the *Regulation on the shelters and centres for the protection and support of victims of trafficking in persons*. The centres are created within the local commissions for combating trafficking in human beings. The shelters are established by the National Commission, upon suggestion of the local commissions, or, by individuals and legal entities that registered in the special Registry held by the National Commission. These Regulations have not yet entered into force.

In the *Penal Code*, in addition to the amended definition of what constitutes an *organised criminal group* (Art. 93, item 20), other amendments were introduced, in order to *criminalise* the different forms of trafficking and of acts facilitating trafficking. Such acts, punished with more severe sanctions, may include: rape with intention to inducement into subsequent acts of vice or prostitution (Art. 152 paragraph 3 new item 4); inducement to commit an act of prostitution (amended Art. 155 PC); and abduction with the purpose of subjecting a person to acts of vice or prostitution (Art. 156, not amended).

When the crime of *trafficking* is of transnational nature, the following new articles apply: 159a, 159b, and 159c. The main text of Art.159a encompasses all elements of trafficking included in the Palermo Protocol. Trafficking, notwithstanding the consent of the victim, is punishable by law. The means used to commit the crime are also mentioned: use of force, deceit, abduction, abuse of power, etc. The most severe sanction, that of five to fifteen years imprisonment, applies in cases of dangerous recidivism or when the crime is committed in the context of the operation of an organised criminal group.

A recent legislative development, adopted in response to the increasing incidence of one of the worst forms of trafficking, is the amendment of the Penal Code concerning trafficking in women for the purpose of *baby-trade*. The punishment proposed for this form of trafficking is more severe.

As far as the *Criminal Procedure* is concerned, victims are not enabled to fully present their views during the respective stages of the legal proceedings, as required by the Palermo Protocol. According to the Criminal Procedure Code, the victim is not a party in the investigation phase, and it cannot constitute a private accuser. Thus, it is only at the trial stage that it can bring a compensation claim. These limitations deprive the vic-

tim, (most often the woman) of his/her right to participate fully in the legal proceedings and to claim damages. Furthermore, there is no special protection for women victims. These two factors have a dissuasive effect. As a result, the majority of women refuse to appear in court. This situation benefits the defendant(s) and is the main reason why in many cases of trafficking in women, the punishment imposed does not correspond to the severity of the crime committed. Although victims that collaborate with the investigators are placed under special protection, it still remains difficult for victims to cooperate fully due to the conditions set by the criminal procedure regulations and the lack of effective protection of women's human rights. The witness protection legislation adopted in November 2004 has not been fully implemented yet because of insufficient funding.

Comments

- There is no special section referring to the **rights of the victims**.
- The Chapter *Protection and Support to Victims of Trafficking* focuses on administrative and protection measures. Protection and support are provided **only** to **victims who** decide to **collaborate** with the investigators, thus placing the majority of the victims in a less favourable position during the criminal proceedings. Protection of victims should not be provided under the condition of giving evidence to, or cooperating with, the criminal justice system and other state authorities.
- There is no separate right to **legal aid**, which would ensure the fair representation of the victim's interests during the criminal procedure.
- The **Employment Promotion Act** should explicitly provide that victims of trafficking belong to the category of vulnerable groups.
- The **one month reflection period**, within which the victim has to decide whether to collaborate with the authorities, is very short for women who suffer severe trauma after being trafficked.
- There is a lack of mechanisms guaranteeing the right to **compensation** of victims of trafficking. It should be regulated in collateral legislation.
- No **gender-mainstreaming approach** is identified in the law. There is no explicit provision on the protection of women victims of trafficking, neither in the very title of the

Law, nor in the *Prevention* chapter or in the chapter regulating the operation of shelters.

- The penalties provided for traffickers are not heavy enough to be discouraging or dissuasive for organised crime networks. They are rather lenient compared to the pain and harm suffered by the victims of trafficking.
- The solution adopted in relation to baby-trade, punishing the mothers who sell their babies, is debatable. If this is not combined with adequate measures for attacking the root causes of this trade, women will be victimised and as a result they will be much more reluctant to cooperate with the authorities to testify against their traffickers.
- The guarantees for **witness protection**, provided by Art. 97a of the Penal Procedure Code, are not sufficient for the protection of victims of trafficking.
- The amendments in the Penal Code and the adoption of the new Law clearly indicate that the Bulgarian government has changed its approach to trafficking: it does no longer regard this simply as a problem of organised crime, but also as a serious human rights violation. However, the legislation still leaves room for improvement, in order to meet the international standards for the protection of the human rights of the victims of trafficking.

B. National Action Plan

The *Law on combating trafficking in human beings* establishes a **National Commission**, which reports to the Council of Ministers. It is chaired by the Deputy Prime Minister and two vice-chairs. The National Commission is composed by representatives of Ministries and agencies which are engaged in anti-trafficking activities, such as the Ministries of Interior, Foreign Affairs, Labour and Social Policy, Justice etc. (art. 4 of the Law). Non-governmental organizations dealing with trafficking can also be invited to attend its meetings. The main task of the National Commission is to regulate, coordinate and control the implementation of the national policy on combating trafficking in persons and on victims' protection. Furthermore, according to the Law, **local commissions** should be established under the National Commission. Their mandate includes the implementation of the national policy on local level and the submission of **annual reports** to the National Commission. The National Commission prepares **annual programmes/reports** on the prevention and combat of trafficking in human beings and on

the protection of the victims. It submits them for approval to the Council of Ministers. No annual reports have been made available to the public so far, while there is no official website of the National Commission or any other source publicising its activities on monitoring, research and analysis.

In January 2005, the National Anti-trafficking Commission held its second meeting, formally adopting a **National Anti-trafficking Strategy**. Until the end of the year, however, the Commission had not held regular meetings, had not appointed a functioning secretariat and had not established the regional anti-trafficking commissions foreseen by the national strategy.

In 2005 and in 2006, the Government approved a **National Programme for combating and preventing trafficking in human beings and for protecting victims**. The Programme includes institutional measures, aiming at establishing administrative structures for the prevention and prosecution of human trafficking, as well as, for the protection of victims. Seventeen governmental institutions are responsible for the implementation of the Programme, including eight ministries. Other national and international agencies, such as IOM-Sofia, the Ministries of Labour and Social Policy, Justice and Education and Science, the State Agency for Child Protection, are scheduled to contribute to their work.

The **State Agency for Child Protection** (SACP) is the only institution that undertakes activities against the trafficking of children. The Agency adopted a **National Action Plan against commercial sexual exploitation of children**. Its main objectives include raising awareness of children regarding sexual exploitation and developing prevention mechanisms, raising the qualification of professionals, working directly with children and media policy institutions and alerting the public to the phenomenon of sexual exploitation of children. In the area of protection, the National Action Plan of SACP focuses on the harmonization of domestic legislation with international standards and the better protection of the rights of the child-victim. These objectives are pursued through:

- Amendment of the *Criminal Procedure Code* (CPC);
- Ensuring the confidentiality of witnesses' testimony (records);
- Respecting children's right for housing in a safe place, while interviewed for the investigation;

- Creating mechanisms, including financial ones, for the repatriation of unattended children.

The Plan has special chapters on **information** and **international cooperation** for the establishment of a national information exchange mechanism between responsible institutions and organizations. It also creates the post of a **National Coordinator**, whose activities are implemented jointly by the Minister of Interior and the Chairperson of the SACP.

Comments

- The **National Commission** has a broad range of competencies, but it is not functioning properly. More specifically, no special budget was allocated for the establishment of shelters, centres and commissions. No support was provided during 2005 for such centres created by NGOs and for the prevention of trafficking. In practice, more than two years after its entry into force, the Law has not yet been implemented, while the National Commission is still an institution on paper.
- The problem of effective coordination, cooperation and sharing of information between all institutions and organizations involved in the **implementation** of the **National Programme** is not yet solved.

III. General Framework

A. Capacity building

Official documents provide a list of measures. **The National Programme** envisages the establishment of **anti-trafficking commissions** at the **local level** within the frame of municipalities. The mayor is responsible for the establishment and operation of the municipality commission. According to the Programme, there are no special funds for municipality commissions and financial resources for local commissions should be raised from projects.

The second Chapter of the Programme aims at prevention and raising public awareness on trafficking in persons. It includes measures, such as special **education** in schools, **training** for **police officers** and **jurists** working in the field of trafficking, as well as for **consular officers** posted at Bulgarian embassies abroad. Dissemination of material and public information campaigns are also envisaged. The third and fourth Chapters of the Programme regulate, respectively, **education**

and **training of personnel** and **protection, rehabilitation and reintegration** of victims of trafficking.

The most successful initiatives for capacity building in the last three years have been carried out by organizations such as IOM, within the framework of a large USAID funded project, NGOs like *Nadya Foundation*, the *Foundation Association Animus*, *Care-Bulgaria*, *Demetra Association-Burgas*, and other local organizations, with the aim of **training** the **police**, the **judiciary** and **local authorities**.

Programmes in **schools** for both **teachers** and **students**, as well as lectures and discussions among young people have been also organised by the above mentioned organizations and by *Face to Face* and the *Women's Alliance for Development*. During these events, particular emphasis was put on the need for capacity building for the prevention of trafficking in children.

International cooperation is one of the main tools for capacity building. **Study visits** and **training seminars** have been organised by USA agencies and organizations, Dutch agencies and NGOs, the Balkan Initiative against Trafficking and Corruption ACTA etc. A variety of **prevention and information material** has been produced by IOM, *Animus*, and other NGOs mentioned above.

Comments

- Due to lack of effective coordination and cooperation between all institutions involved in the implementation of the National Programme, effective and full implementation has not yet been achieved.
- The government should take concrete measures to promote the protection of victims by ensuring that anti-trafficking commissions are established and supported.
- A cardinal concern is the lack of financial resources, since all the aforementioned activities are mostly supported by NGO resources.

B. Analysis, research and monitoring mechanisms

There is no specific mechanism in place for research, monitoring, analysis and reporting on trafficking in persons yet. The **National Commission for combating trafficking** coordinates and controls the implementation of the national anti-trafficking policy, while local commissions operate at the local level. Both

national and local commissions are required by the Law to submit annual reports.

Reports, prepared by the Ministry of the Interior have mainly focused on combating organised crime. These Reports are not official and have not been made available to the public. Only NGOs, mostly the ones mentioned above, have conducted research, analysis and monitoring, which appear in their reports. A recent research was carried out by the *Bulgarian Gender Research Foundation* and *MBMD polling Agency*. It aimed at identifying the current problems in the prevention of trafficking for sexual exploitation and prostitution by addressing the demand for sexual services. It concluded that the implementation of the law at the prevention level is poor and ineffective. The activities of the state institutions in the field of trafficking were assessed as very unsatisfactory by the respondents.

Comments

- The government should ensure the consolidation of comprehensive trafficking data to **segregate alien smuggling and human trafficking statistics**.
- **No annual reports** have been made available to the public so far, while there is no official website of the National Commission or any other source publicising activities on monitoring, research and analysis.

C. Cooperation and networking at the national and regional levels

Governmental initiatives for regional cooperation in the EU framework mainly focus on combating organised crime and illegal immigration, rather than on protecting victims of trafficking.

In contrast, NGO networks like *La Strada*, with the Bulgarian focal point Association *Animus*, place strong emphasis on the protection of victims. The NGO-Networks **Coalition against Trafficking in Women** (CATW), and the **European Women's Lobby** (EWL) implement a prevention project, funded by the US and Swedish governments. The Bulgarian Platform of the EWL is coordinated by the Bulgarian Gender Research Foundation.

The **Balkan Human Rights Network** (BHRN), under the coordination of BGRF, is also active in developing and implementing prevention programmes.

The **ARIADNE Network**, a recently established network, coordinated by Human Rights Defence Centre, Greece, develops

activities aimed at enhancing close cooperation, not only among NGOs in the region, but also among NGOs, governments and inter-governmental organizations in the field of prevention and combating trafficking in persons.

D. Mobilization of resources

There is **no special budget** allocated to NGOs from the Bulgarian government. However, governmental institutions rely on NGO activities, especially in the field of awareness raising and prevention, as well as on the services NGOs offer to victims. For the most part Bulgarian NGOs are supported financially by foreign donors, such as USAID, the Global Fund for Women, foreign embassies located in Bulgaria and by other small grants.

The **Organization for Security and Cooperation in Europe** (OSCE) and in particular its Office for Democratic Institutions and Human Rights (ODIHR) is at the forefront of international efforts to combat and prevent trafficking in persons. OSCE field missions play a vital role in carrying out anti-trafficking efforts in host countries.

Other active players are the **Council of Europe** and **UN agencies**, including the United Nations Office of the High Commissioner for Human Rights, UNICEF, the United Nations Population Fund, the United Nations High Commissioner for Refugees, the United Nations Development Fund for Women, the United Nations Development Programme, the United Nations Interregional Crime and Justice Research Institute, and the United Nations Office on Drugs and Crime. Other organizations are the International Labour Organization (ILO), the International Centre for Migration Policy Development and Europol. Their role is not so much financial but their influence on policy against trafficking in Bulgaria is very important. The major sponsor for the past 3-4 years has been USAID which also supports IOM-Sofia.

Another financial source is the **Danish Programme against Human Trafficking**, working primarily through international organizations and NGO, mainly in Belarus, Moldova and the Ukraine. The Programme's regional component also includes Bulgaria and Romania. The programme objective is to support national authorities, international organizations and NGOs to combat trafficking through appropriate prevention measures, law enforcement and protection/assistance measures. In addition, for the period 2005-2006, Bulgaria is among the twelve countries which receive assistance in the fight against human

trafficking under a joint US-Swedish initiative. The **US** and the **Swedish** governments contributed financially to a prevention project, led by the Coalition against Trafficking in Women (CATW) and the European Women's Lobby (EWL).

Comment

There is a risk that if the government does not provide adequate support from the national budget for NGO activities, the above-mentioned initiatives and good practices will be discontinued and the expertise acquired so far will be lost. The victims of trafficking, who strongly rely on NGO services, will also be disadvantaged.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

As mentioned earlier, the Bulgarian government adopted in 2005 and 2006 two **National Anti-Trafficking Programmes**. These programmes overlap with each other and the activities envisaged, but not yet implemented, in the 2005 programme were transferred to the 2006 programme. Most activities included in the 2006 Programme are scheduled for December 2006, which will probably allow the government to postpone them (once more) for 2007. Moreover, the government has declared that its prevention initiatives target vulnerable groups. These initiatives include educational and psychological services to street children and placing them in protective custody. However, there is no special strategy for supporting and empowering women in the field of education and economic life.

A number of prevention and awareness raising programmes have been implemented by NGOs. Projects carried out by the **Coalition Against Trafficking in Women** (CATW), and the **European Women's Lobby** (EWL) aim at countering trafficking for sexual exploitation by addressing the problem of violence against women, the demand for services to victims and focusing on the links between prostitution and trafficking. Surveys and special information campaigns were organised in each country from SE Europe involved in the Project. Violations of women's and young girls' basic socio-economic rights emerged as a main reason for trafficking and prostitution.

Another initiative aimed at preventing trafficking in human beings was implemented by the **Balkan Human Rights Network** (BHRN). The representatives of BHRN members in six

Balkan countries, under the coordination of the BGRF, conducted a survey for the identification of the causes of trafficking of the most vulnerable groups, of the links between trafficking and paid sexual services and the possible ways for strengthening cooperation between NGO and governmental institutions. The Bulgarian survey shows that young Bulgarian women, aged 18 to 24, are motivated to cross the borders by offers for good jobs as waitresses, au-pairs and dancers in Central and Western European countries. Instead, they are forced to perform sexual services for customers. The trend shows that an increasing number of very young girls provide sexual services in Bulgaria. Most cases are related to internal and external trafficking.

Comments

- The *National Commission* is not effective and cannot coordinate the implementation of the said programmes.
- *Effective cooperation*, between governmental institutions and NGOs in the field of prevention, education and raising awareness activities has not been established so far.
- The government has to direct its efforts to *improve the economic situation*, especially of vulnerable groups, and to take measures guaranteeing security in the labour market and adequate social protection.
- *Prevention strategies* should be long-term and should aim at reducing poverty, developing social structures, and providing economic opportunities to women and girls.

B. Protection and assistance

IOM-Sofia is the main **referral agency** that assists Bulgarian victims of trafficking returning to Bulgaria and foreign nationals repatriated from Bulgaria. **The organization supports only victims who agree to participate in its repatriation programme.** The Bulgarian government has adopted a special provision providing trafficking victims with residency and employment permits, while they participate in criminal proceedings.

Bulgaria has one **crisis-centre** in Sofia, run by the NGO *Animus Association*, with a limited capacity of accommodation for up to eight days, for victims of domestic violence and trafficking. In the countryside, three more shelters, with very limited capacity and sustainability, are also run by NGOs. The only refuge exclusively for trafficking victims is managed by the

IOM-Sofia office. In Sofia, the *Animus Association* runs a **24-hour helpline**. Other lines with limited capacity are also run by NGOs.

The **helpline** is the most popular and accessible programme for survivors of violence. The helpline offers the only opportunity for psychological support and understanding anonymously. This service is appropriate for women who live in a situation of violence, but are not ready yet to take steps to change this, women who have noticed/experienced the first signs of domestic violence and need counselling, and women-victims of violence who need assistance in making a decision. The helpline has a database of specialised assistance structures that women can use to get support. In a crisis situation, following a recent occurrence of violence, helpline consultants develop a security plan and refer the woman to the Crisis Unit or to another appropriate institution. *Animus Association*, *Demetra Association* and other NGOs specialise in capacity-building courses for potential providers of services to victims of trafficking.

C. Prosecution

According to the 2004 US Department of State Report, the government, during that year, reported seven convictions and 27 indictments for suspected trafficking cases under the new trafficking provisions of the Criminal Code. During the reporting period, the **National Investigation Service** developed a methodology manual for investigating trafficking cases that was also distributed to the police. Furthermore, the government reported almost 900 sentences in 2004 for trafficking related offences, including forced prostitution, inducement to prostitution, and people smuggling. 34 verdicts for trafficking in persons were announced for 2005.¹¹ There is no available data on special programmes developed to facilitate prosecution.

Although high-level government officials publicly spoke out against trafficking and there is no evidence of government involvement in trafficking, on an institutional level, law enforcement officials¹² have been reported to be involved in trafficking related corruption. Notably, in 2004 the **Prosecution Service** and the **Military Prosecution Service** made a number of anti-corruption indictments resulting in over 100 convictions for corruption. In the same year, the Government of Bulgaria com-

¹¹ 2006 Trafficking in Persons Report of the US Government.

¹² *Id.*

mendably expanded an anti-corruption campaign and heightened its focus on high-level corruption.

In November 2004, the Government of Bulgaria adopted **witness protection legislation** that also covers victims of trafficking. This legislation provides special protection measures for victims and their families who cooperate with the authorities on the investigation and the prosecution of traffickers. The government reported some cases where these protection measures were implemented. The Ministry of Interior reportedly identified and assisted 474 victims of trafficking in 2004.

Comments

- The government should demonstrate proactively the will to counter all trafficking related complicity through vigorous prosecutions and convictions.
- Clear signs of corruption have been identified. Some law enforcement officers or other government authorities, including local authorities and customs officials, allegedly facilitated human trafficking, although there was no evidence of a pattern of official complicity. Officials often accepted bribes to ignore trafficking, although some officers may have been more involved. Those involved in facilitating trafficking were, in their majority, low-level, low-paid officials in the rural and border regions.¹³

V. BEST PRACTICES

The initiatives, undertaken mainly by NGOs aim not only at organizing successful campaigns and activities, but also at establishing effective cooperation between national and local authorities for the development of common actions and common strategies. Among the most successful public awareness and prevention activities are:

- **Public-Private Cooperation in the Prevention of Trafficking and Sexual Exploitation of Minors in Travel and Tourism Industry.** The project is implemented as a common effort by *Animus Association Foundation*, the State Agency for Child Protection, the Austrian NGO *Respect-Institute for Integrative Tourism and Development* and the Organization for Security and Cooperation in Europe

¹³ *Ibid.* The representatives of the *BGRF* have serious doubts on the isolation of the low-level from the higher level corruption.

(OSCE)/Office of Economic and Environmental Activities (OCEEA). It aims at introducing a new approach in combating trafficking and sexual exploitation of children by introducing the **Code of Conduct** for Prevention of Trafficking and Sexual Exploitation of Children in Tourism, to the travel and tourism industry in Bulgaria. The Bulgarian Code is part of a worldwide effort. It has been based on the original Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, elaborated by *End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes* (ECPAT) International, which is supported by UNICEF and the World Tourism Organization. Representatives of the government, the non-governmental sector and the private sector took part in the process.

- The Minister of Internal Affairs and some MPs from the 40th National Assembly publicly proposed the **legalization of prostitution**. The Bulgarian Gender Research Foundation objected this idea and took the initiative to send an open letter to the Minister, disseminated by the media. In this letter, endorsed by the Bulgarian Platform of the European Women's Lobby, it exposed arguments against the legalization of prostitution. In 2006, an international conference and several meetings with MPs and representatives of institutions were also organised by NGOs aiming at motivating a public debate about the results from an eventual legalization of prostitution. The majority of Bulgarian women's NGOs noted that legalization of prostitution is a gift to pimps, traffickers and the sex industry, because their "business" under the regime of legalization will be transformed into legitimate commercial activity. Legalization of prostitution and the sex industry promotes trafficking for sexual purposes. In this context, the Bulgarian women's NGOs managed, for the first time, to provoke a **public debate** on the problem of **prostitution**, on the links between prostitution and trafficking, on the eventual consequences of the increase in trafficking as a result of the legalisation of prostitution etc. Consequently, public institutions were prevented from taking any decision on prostitution, while their attention focused on the need for real and effective implementation of the legislation on trafficking in persons.

VI. DEFICIENCIES

- **Lack of information.** Official information (data, trends, research and results from analyses) is not available to the public. The only public source is the Country Report on Human Rights and on Trafficking in Persons of the US State Department. Even IOM-Bulgaria does not provide statistics to the public. This situation further confuses the situation and hampers the work of NGOs.
- **Lack of sustainable governmental support** to the work of NGOs against trafficking in persons. Bulgarian institutions are beginning to work towards a sustainable cooperation with NGOs, acknowledging the fact that, without sustainable support no substantial results can be achieved; without long-term objectives and agreements, NGO work will only be fragmented and lacking long-term vision.
- **Absence of effective cooperation** between governmental and non-governmental institutions/organizations and lack of coordination between these governmental institutions and NGOs themselves.
- **Lack of education in schools** concerning trafficking in human beings.
- Lack of special **training** for journalists. Mass media are not efficiently used for combating trafficking.
- **Lack** of efficient **monitoring procedures** at the level of prevention, prosecution and protection.
- **Lack of a national network** of mass media, governmental and non-governmental organizations working against human trafficking.
- Lack of web sites and electronic *fora* for **exchanging professional expertise, information** and **advice** to victims.
- **Lack of opportunities** for young women and girls in the labour market.
- **Lack of reintegration** strategies and programmes.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. The **implementation of legislation**, in particular during 2005, can be assessed as **poor**, in spite of its formal compliance with international standards and the governmental mechanism for combating trafficking in human beings. The newly introduced structures provide broad opportunities to NGOs to participate in the prevention of trafficking and in the support and rehabilitation of victims. Thus, NGOs can develop a stronger human rights approach. In that context, consistent policy should be proposed by the government.
2. Joint and separate specialised **training sessions** for **police, prosecutors and NGOs** should be organised in order to implement effective common actions and promote strong cooperation. Specialised training on victims' rights for police officers is also of high importance. An **interdisciplinary** and **multi-stakeholder** approach has to be applied and NGOs have to assume an equal role along with governmental institutions.
3. It is important to **train members of military** and **peace missions** on issues human trafficking.
4. **Research** and **surveys** should be conducted, aiming at elaborating an effective preventive strategy against trafficking, as well as at analyzing mechanisms for trafficking and sexual exploitation used by organised criminal groups.
5. Special surveys should be conducted, focusing on aspects of **demand** and **supply**.
6. **Exchange of information and best practices** among NGOs, social workers and other organizations working with victims from countries of origin, of destination and transit should be developed.
7. The central **role** of **NGOs** needs to be recognised and supported, financially and otherwise, to help them in their awareness-raising efforts. Moreover, NGOs should be further mandated to undertake other activities related to trafficking.
8. **Financial support** for all organizations working in the area of trafficking should be ensured.
9. In the field of **prevention**, a comprehensive national strategy should be elaborated with emphasis on social-economic rights, education, employment, health, labour market and economic opportunities, poverty eradication, etc.

10. **Public awareness campaigns** must be a national ongoing activity, not activities organised from time to time in some areas.
11. Victims of trafficking need to be recognised as victims of serious crimes and gain **access** to a wide range of **services**, such as, shelters, health care and legal support. Specific needs of children and women need to be addressed.
12. More **helplines** should operate and used as an independent source of information, counselling and advice to victims of trafficking.

LIST OF ABBREVIATIONS

ACTA	Balkan Initiative against Trafficking and Corruption
ARIADNE	NGO network against Human Trafficking in SE and E. Europe
BHRN	Balkan Human Rights Network
BGRF	Bulgarian Research Development Foundation
Care-Bulgaria	International NGO
CATW	Coalition against Trafficking in Women
CPC	Criminal Procedure Code
ECPAT	End Child Prostitution, Child Pornography and International Trafficking of children for Sexual Purposes
EWL	European Women's Lobby
IOM	International Organization for Migration
MBMD	Polling agency
MP	Member of Parliament
OCEEA	OSCE's Office of Economic and Environmental Activities
ODIHR	OSCE's Office for Democratic Institutions and Human Rights
OSCE	Organization for the Security and Cooperation in Europe
PC	Penal Code
SACP	State Agency for Child Protection
SG	State Gazette
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development

CROATIA

Author

- Croatian Law Centre - CLC

CROATIA

I. Introduction

The Republic of Croatia is bordered by Slovenia to the north-west, Hungary to the northeast, Serbia and B&H to the south, Montenegro to the east and by the Adriatic Sea to the west. Croatia is on the crossroads of migration flow between East and West. The geographic position of Croatia favours migration. Like other countries in SE Europe, it is undergoing social, political and economic transition, while the war has contributed to its political instability and lack of social, legal and technical infrastructure. The above facilitated the creation of the so-called 'Balkans corridor', used by irregular migrants and traffickers, thus creating a 'favourable environment' for trafficking in human beings.

Until the mid-90s, the main migration route was through Hungary. In the late 90s new routes were used, leading to Croatia through Bosnia and Herzegovina and then through Croatia to Slovenia, or across the sea from the Croatian coast to Italy. Other common routes are from Montenegro to the region of Dubrovnik and from Serbia to Croatia/Slovenia.



During the first half of the 90s, it was the international and domestic military personnel and the local political and economic elite that benefited mainly from trafficking. In the second half of the 90s trafficking became more geographically dispersed throughout Croatia with businesses being set up in tourist towns and around military bases. At the end of the 90s, significant changes

occurred to both the organizational and the operational aspects of trafficking in Croatia.

In terms of trafficking patterns, Croatia is predominantly a transit country, but growing evidence today¹⁴ points to the fact that it is also becoming a country of destination. Out of 41 victims identified in Croatia from July 2002 till the end of 2005, 29 were foreign nationals and 12 Croatian nationals, clearly indicating that Croatia is also a country of origin for trafficking. Croatia is also a country which experiences increased trafficking in human beings within its own borders (internal trafficking).

Because of the insidious and dangerous nature of trafficking, it is difficult to ascertain the exact number of trafficked persons, especially women and minors trafficked for purposes of sexual exploitation. It is also difficult to follow the evolving patterns of trafficking.

Comments

Key elements and unpublished evidence collected by IOM Zagreb allow for the following observations:

- Trafficking schemes include 'rotational' trafficking whereby women are trafficked in and out of B&H and Croatia, most certainly as a ploy to evade police detection, but also as a 'supply' scheme meant to accommodate periodic 'demands';
- Trafficking is developing into a seasonal operation along the lines of international sex tourism;
- Trafficked women are increasingly exploited sexually in apartments under the watch of 'pimps' or so-called 'boy-friends';
- There is a growing number of young women coming to Croatia with tourist visas through agencies offering to 'help' them get married in Croatia;
- Faced with a lack of domestic dancers, owners of go-go clubs are bringing them mainly from Eastern European countries;
- The number of work permits issued to foreign workers coming to work and live has increased rapidly during the last years;
- The number of unaccompanied minors potential and/or victims of trafficking has also increased.

¹⁴ Yearly Report on Counter-trafficking in Croatia, based on official statistics.

II. National Legal Framework

A. National law

The Republic of Croatia has ratified the UN Convention against Transnational Organised Crime and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. Following the ratification, the national institutions started harmonizing the national legislative framework with the aforementioned UN Convention and Protocol. Although harmonisation is still in progress, the amendments of the Penal Code of July 2004 marked a significant progress towards a legislative framework for the protection of Victims of Trafficking (VoT) and the punishment of traffickers and co-organisers of the crime. More precisely, the Minister of Interior issued the ***Instruction on the procedure for regulating the residence of victims of trafficking***, thus improving the protection of VoT via regulating their status. However, since VoT are not mentioned as beneficiaries in any law (Aliens Act, Law on Health and Social Welfare), an adequate legal framework and specific provisions are still to be incorporated in the national legislation in order to improve the protection and assistance of victims. In addition to the above-mentioned Instruction, the following laws create an appropriate legislative framework for the protection of VoT: Witness Protection Act; Criminal Proceedings Act; Asylum Act; Legal Person Criminal Liability Act; Law on Juvenile Courts.

The Republic of Croatia has also signed and ratified the UN Convention on the Rights of the Child. Croatia's adherence to this Convention however, is not reflected in the Aliens Act, which does not regulate at all the problem of *children* who are victims of trafficking. While children in general are entitled to education, the right is currently not guaranteed to children, who are found in a situation of illegal migration, or to victims of trafficking. We believe that the particularly vulnerable position of trafficked children should be addressed by incorporating specific legal provisions protecting the best interest of minors and unaccompanied minors and by establishing a specialised institution for assistance and protection of foreign unaccompanied minors.¹⁵

¹⁵ The Republic of Croatia gained candidacy status for EU membership in June 2004 and opened the accession negotiations with the EU in October 2005. This means that national legislation has to be adapted to EU legislation (*acquis communautaire*).

B. National Action Plan

During the late 1990s and early 2000s counter-trafficking activities were initiated by international organizations and were predominantly carried out by the International Organization for Migration (IOM) and a few national NGOs. Findings of the NGO/IOM research *Trafficking in Women and Children for Sexual Exploitation, An Assessment Study: The Extent of the Problem and the Need for Counter-trafficking Measures in Croatia* served as the basis for the development of a national policy. Since its publication in 2002, the Croatian government has placed the fight against trafficking on its list of priorities. In July 2002 the National Committee for Suppression of Trafficking in Human Beings was established and in November of the same year the first **National Plan of Action on the Suppression of Trafficking in Human Beings** was enacted. In December 2004 the **National Strategy for the Suppression of Trafficking in Human Beings 2005–2008** was adopted by the Croatian Government. The Plan includes the following chapters: Legislative Framework; Assistance to and Protection of Victims; Prevention; Education; International Cooperation and Coordination of Activities. The Operational Yearly Plan is prepared and based on the National Strategy. Within the National Committee, a *Sub-group for Suppression of Trafficking in Children* has been established. A **two year National Plan for Suppression of Trafficking in Children** with the following components was also adopted in October 2005: Legislative Framework; Identification of Victims, Detection, Prosecution and Sanctioning of Perpetrators of Crimes Related to Trafficking in Persons; Assistance to and Protection of Victims; Prevention; Education; International Cooperation and Coordination of Activities.

C. Bilateral agreements

Croatia signed 23 Readmission Agreements with the following countries: Albania, Austria, Bosnia and Herzegovina, Bulgaria, Czech Republic, Estonia, France, Greece, Iceland, Italy, Latvia, Lithuania, Hungary, the Former Yugoslav Republic of Macedonia, Norway, Poland, Romania, Slovakia, Slovenia, Serbia and Montenegro, Sweden, and one Readmission Agreement covers the three Benelux countries: Belgium, the Netherlands and Luxembourg. Agreements with Spain, the Ukraine and Cyprus are pending signature, or are in the level of negotiations. The Republic of Croatia took the initiative and started negotiations with Moldova. Readmission agreements that were signed

and ratified before Croatia started using the EU specimen will be amended and adapted accordingly.

III. General Framework

A. Capacity building

Apart from IOM, no other international or non-governmental organizations worked systematically on combating trafficking in Croatia until 2002. Between 2000 and 2002, counter-trafficking activities in Croatia were initiated by international organizations in an attempt to target all relevant national partners. The goal of this approach was to secure the sustainability of national institutions through institutional capacity building, thus rendering the national partners capable to provide counter-trafficking services.

As of 2002 national institutions and NGOs have shown increased interest in trafficking as demonstrated by a number of round-tables, seminars, training sessions, study tours and international conferences, organised by the Ministry of Health and Social Welfare, the Ministry of Interior (MoI), the Government Office for Human Rights and NGOs. Regional conferences and 'train the trainers' workshops are regularly attended by Croatian officials resulting in the adoption of high-level policy statements. Journalists have also taken greater interest into covering this phenomenon. The above are also the result of training sessions and study tours organised for police officers, state prosecutors, judges, social workers, journalists and NGOs.

The IOM and the Organised Crime Department of the Ministry of Interior have developed and implemented a systematic multi-modular training programme for police officers specialising in organised crime, which will be used as a model for future training in counter-trafficking activities. IOM, in cooperation with the NGO *Croatian Law Centre for diplomatic and consular personnel* is also implementing similar training programmes for border police officers.

Training for judges and state prosecutors has been held as part of the Stability Pact programme 'Development of Anti-Trafficking Training Models for Judges and State Prosecutors'. Training in rural areas were organised by the Ministry of Justice and national NGOs.

National NGOs also took an active role in training programmes designed for social workers, physicians, students and NGO activists. Eleven non-governmental organizations have es-

established the anti-trafficking network *PETRA*. Several other NGOs are also very active in the implementation of counter-trafficking activities. NGO activists have also participated in international training, seminars and study trips.

B. Analyses, research and monitoring mechanisms

During 2001-2002 IOM-Zagreb, in partnership with the national non-governmental organization *Centre for Study of Transition and Civil society*, conducted the *first field research* in order to determine the pattern, scale and dimension of trafficking in Croatia. Until then, the problem was practically ignored, if not denied, by governmental and national institutions. Research findings served as the basis for the development of a national counter-trafficking policy. In 2004, the IOM conducted a study entitled *Trafficking in the Eyes of Young People in Croatia*, which served as a basis for developing a high school counter-trafficking, preventive education. Besides these two studies there does not exist yet any other systematic research in Croatia.

The **National Committee for Suppression of Trafficking in Human Beings** is the central national body responsible for the implementation and coordination of counter-trafficking activities, which are in accordance with the National Action Plan. The Government Office for Human Rights acts as the Secretariat of the National Committee prepares its sessions and ensures implementation of conclusions and activities. The head of the Office is also the national coordinator of the National Committee. The National Coordinator is appointed by the Government and his/her mandate is to coordinate and monitor the implementation of the NAP. At the end of each year the Government Office for Human Rights prepares an annual report which has to be adopted by the Government.

Comment

Currently, there is lack of independent monitoring mechanisms of counter-trafficking programmes and of continuous analyses of trends and patterns of trafficking in human beings.

C. Regional cooperation and networking

Strengthening international cooperation is an ongoing process. All national partners participate actively in a large number of international and regional counter-trafficking initiatives, such as seminars, training programmes, meetings, study tours and networks.

In 2003, the Croatian National Coordinator initiated regular meetings of national coordinators in order to exchange best practices and improve regional cooperation. Unfortunately this positive initiative failed.

The MoI maintains regular cooperation with law enforcement authorities in neighbouring and other countries of the region, as well as at the international level with INTERPOL, EUROPOL and SECI Regional Centre for Combating Trans-border Crime.

National NGOs also cooperate with NGOs in the region and are active participants in regional and international networks of NGOs dealing with counter-trafficking issues. NGOs in the region initiated a regional network **ACTA** in order to monitor and deal with corruption and trafficking in human beings.

D. Mobilization of resources

The National Committee for Suppression of Trafficking in Human Beings consists of representatives of all relevant government institutions, national NGOs and media, while IOM has signed a Memorandum of Understanding with the Government Office for Human Rights affording it a consultative status. The President of the National Committee is the Deputy Prime Minister and the National Coordinator is the Head of the Government Office for Human Rights. The Croatian Government Office for Human Rights acts as Secretariat of the National Committee and coordinates counter-trafficking activities among the competent institutions in Croatia. In order to be more efficient and to address problems linked to specific cases, an Operational Team was established, chaired by the National Coordinator. This **Operational Team** acts as a working group of the National Committee and has over 20 members. The Operational team holds meetings every month, exchanges information and tries to solve issues of assistance and protection of victims.

There are over 20 NGOs implementing various counter-trafficking activities. Eleven of them participate in the NGO network *PETRA*. Although more NGOs implement similar projects, it is only members of the *PETRA* network that are members of the National Committee.

Comments

- Although the Government of Croatia provides state funding, through governmental bodies (ministries and offices) for counter-trafficking activities, this is still not sufficient and programmes rely on funding from interna-

tional donors.

- The lack of useful and fruitful cooperation among NGOs results in poor impact on society, in poor relations among NGOs and in the absence of trust.

IV. Implementation of Anti-Trafficking Laws

Over the past five years, a number of counter-trafficking initiatives have been launched by IOM, the Government Office for Human Rights and a few national NGOs, in order to build a counter-trafficking framework and to render it operational through improved assistance, protection, referral mechanisms and raising awareness among the general public.

A. Prevention and awareness

Since 2003, the Government Office for Human Rights, the Ministry of the Interior, the Croatian Red Cross, national NGOs and the IOM have implemented several mass media and information campaigns, acknowledging that prevention and awareness raising activities are essential steps towards combating trafficking in human beings. In addition, a few smaller local campaigns were conducted by local NGOs in their communities, especially targeting adolescents.

A single national **SOS telephone number** (0800 77 99) for the entire territory of Croatia, was created in the framework of the first national awareness raising campaign by IOM and the Government Office for Human Rights. The SOS line is free to victims and is manned 24 hours a day by three NGOs located in Vukovar, Zagreb and Split.

The Ministry of Science, Education and Sports recognised the need to educate young people, via preventive action. In cooperation with IOM, the Ministry has developed and incorporated an educational counter-trafficking module into the Croatian high school curriculum. Within the specialised education of preventive programmes, priority was given to the counter-trafficking topic during the school years 2004/2005 and 2005/2006. During the school year 2005/2006, an educational counter-trafficking module was included in the curriculum of primary schools, in the framework of IOM's regional project on counter-trafficking education. Six national NGOs were authorised to carry out such training programmes in the framework of cooperation for the revision of school curricula.

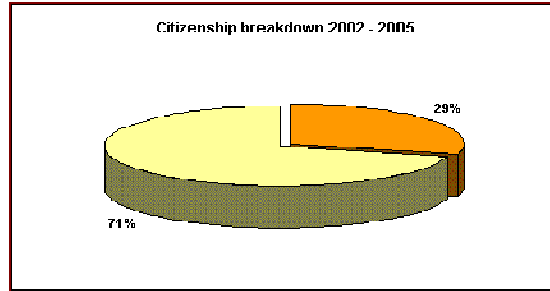
B. Protection and assistance

The protection and assistance of victims of trafficking has developed gradually through capacity building of government institutions and non-governmental organizations until the creation of a functional **National referral system**, aiming at the protection and identification of victims of trafficking. The Referral system provides for a police officer being on duty for 24 hours and, in addition, for 26 police officers, from different areas of the country, to conduct preliminary interviews. IOM, which coordinates the assistance programme, informs members of mobile teams for the need to conduct official identifications and organise accommodation and assistance to VoT. These mobile teams consist of members of the Croatian Red Cross and other NGO staff trained to act as a quick response team to protect and assist victims in four different regions of Croatia.

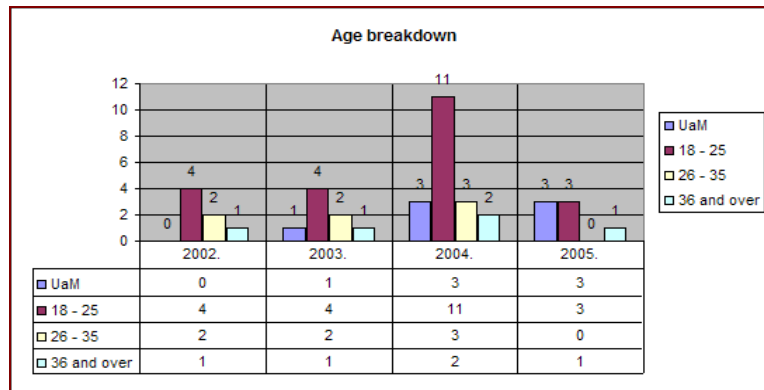
Once identified, victims are brought to a shelter (run by NGOs), or one of the three temporary reception centres (run by the Croatian Red Cross) located on secret addresses, where they receive the following types of **assistance**: medical, psychosocial, legal, pre-departure (travel documents, reinstallation grant) and security. Safe return is organised for those who wish to return voluntarily. The National Committee bases the identification, protection and assistance to VoT on a set of protocols which include: the *Protocol on Detection and Care for Victims of Trafficking in Persons*; *Instructions for Interviewing Illegal Migrants and Other Persons Who Are Suspected Victims of Trafficking in Persons*, as well as the *Rules of Procedure* in the shelter. Since the Aliens' Act already provides a temporary residence permit to anyone with a justified reason to remain in the country (Article 37), the Ministry of the Interior in December 2004 issued the *Instruction on the procedure for regulating the residence of victims of trafficking*. This Instruction outlines the conditions for granting to VoT specific temporary leave to remain, which includes a reflection period and a one-year residence permit, with the possibility of extension regardless of the collaboration of the victim with the prosecution authorities.

Over the past years, national NGOs and the CRC, in cooperation with IOM, have assisted 41 victims of trafficking through the establishment of shelters and reception centres. 29 of the 41 identified victims were foreign nationals (Bosnia and Herzegovina four; Cameroon one; Morocco one; Moldova six; Romania five; Russia one; Slovakia one; Serbia and Montenegro four;

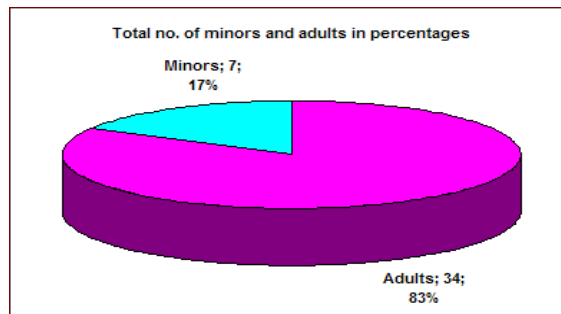
the Ukraine four; Bulgaria one; without citizenship one and 12 were Croatian nationals, i.e. 29%.



Most of the victims were adult females, between 18 and 25 years.

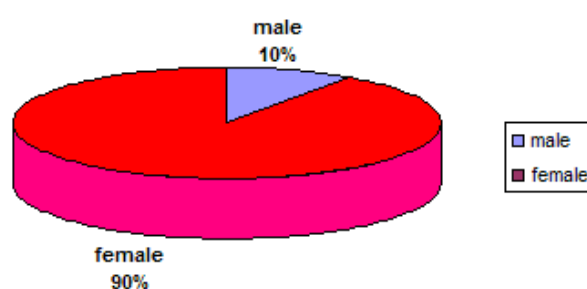
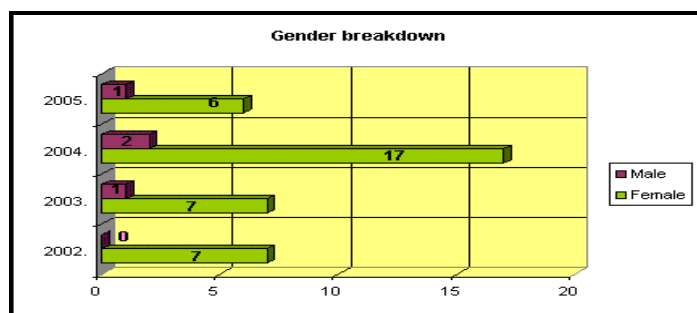


The above analysis has revealed a growing trend in the exploitation of young people under 18 years of age. Seven out of 41 assisted VoT, or 17%, were unaccompanied minors (UaM).

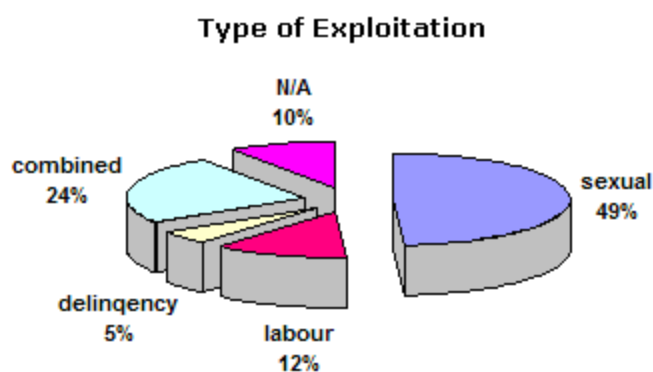


Four out of 41 identified VoT were males, of whom one was a handicapped old man forced in street begging and the three others were victims of labour exploitation.

Gender segregated yearly statistics are as follows:

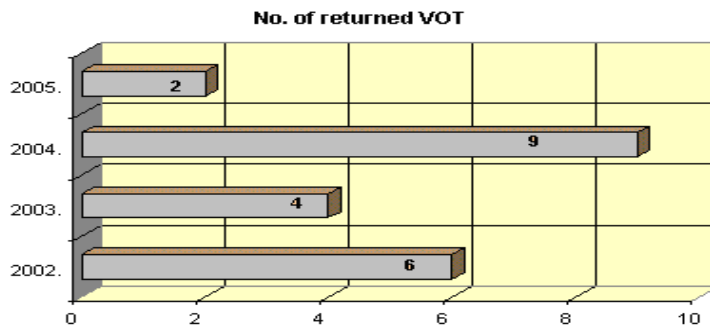


Regarding the type of exploitation, most of the victims, 49%, were sexually exploited. Some victims experienced both labour and sexual exploitation, and a few experienced only labour exploitation.



Type of exploitation	Victims
sexual	20
labour	5
delinquency	2
combined	10
N/A	4

Voluntary repatriation is organised for foreign victims of trafficking. The process includes the issuance of travel documents in coordination with embassies of their countries of origin, reinstallation grants (in cash), and organization of their safe voluntary repatriation by IOM. Minors and medical cases are escorted by an IOM escort, throughout the travel.



According to available data¹⁶, increasing numbers of Croatian women apply for jobs in Western European countries. In these schemes, women became victims by being forced into prostitution and other forms of exploitation (stealing, begging, forced labour). Only five out of 12 Croatian nationals VoT were referred to IOM and its NGO partners and subsequently joined the reintegration programme.

According to the NAP, the Croatian Ministry of Health and Social Welfare (MoHSW) is the institution responsible for the overall protection and assistance to VoT in Croatia, but unfortunately it lacks the capacity to manage the assigned counter-trafficking activities.

¹⁶ Official national statistics

Comment

The expertise of the MoHSW, as well as its technical and financial capacities, need to be reinforced.

C. Prosecution

The creation of appropriate legislation for the prosecution of traffickers is considered an essential element to counter-trafficking. This is recognised by the *EC Experts' Group on Trafficking in Human Beings* which states that 'an integrated approach to trafficking in human beings must comprise effective prosecution aiming at the punishment of perpetrators'. Undeniably, punishing traffickers not only sends a clear message to other perpetrators, that their criminal enterprise will be punished, but it also raises the confidence of victims in the judicial system and their willingness to testify against their traffickers.

The Republic of Croatia has adopted an appropriate legislative framework and according to the Penal Code, traffickers should be sentenced to imprisonment for a period between one and ten years, whereas when exploiting a child or a minor¹⁷, imprisonment will be for a minimum period of five years.

Comment

Besides the adoption of appropriate legislation it is always necessary to monitor the enforcement/implementation of the law and the final sentences handed by courts. When we compare the number of TiP victims with the number of indictments for the TiP crime, we can conclude that the number of indictments is much lower than the number of reported victims:

	2002	2003	2004	2005
Victims	7	8	19	7
Indictments	1	2	4	6

Unfortunately, to date, only one final verdict for TiP crime was reported and the perpetrator is serving a sentence of nine years imprisonment.

¹⁷ According to Croatian legislation, a child is up to 14 years old, a younger minor is between 14 and 16 years and older minor is between 16 and 18 years.

V. BEST PRACTICES

- The Ministry of the Interior (MoI) and IOM have implemented a 16-month educational project on counter-trafficking. The target group was 26 police officers, from different parts of Croatia specialising in the prevention of organised crime. The goal was to gain theoretical and practical knowledge and skills, in compliance with EU standards, as well as the necessary sensibility to apply this knowledge in their everyday duties and diffuse information at a local level. The trainers were national and international experts from Italy, Belgium, Germany, and Interpol. Representatives from other institutions were also invited to participate: state prosecutors, investigation judges, NGO activists and representatives of other ministries. Apart from presentations, the training methods included: teamwork, supervised guidance for beginners, 'role play' and simulations of real-life situations. The results of the project were: instruction of 26 new experts and trainers, establishing a network of police officers, better cooperation among different sectors and partners, production of promotional materials for MoI, continuous transfer of knowledge through specialised seminars for police officers. This educational model was also recognised at an international level and served as a model for developing training materials for investigators specialising in combating trafficking in the Western Balkan region within the CARDS/CARPO regional project.
- The first nationwide public awareness campaign was implemented during a four month period in 2002/03, under the slogan: **'Trafficking in human beings is our reality. Let's stop it!'**. The national SOS line was also established as part of the campaign. A direct contact with citizens was promoted, thus influencing people in all parts of the country, improving inter-sectarian relations and strengthening cooperation among partners working on combating trafficking in human beings. This campaign created new initiatives, encouraged young people to get involved and motivated people to speak in public about the phenomenon. According to two public opinion polls, the campaign contributed directly to the increase of knowledge about the means and forms of trafficking of 15% of the general public. The campaign was awarded the Golden Bell as the best innovative and comprehensive campaign/social action for the year 2003.

- It was recognised that the best way to prevent Trafficking in Croatia is through the educational system. The primary and high school curricula on counter-trafficking modules were developed accordingly by experts from IOM and the Ministry of Science, Education and Sports. In order to ensure the success of the project, a group of school professors was trained to transfer counter-trafficking knowledge to their colleagues. During the last two school years priority was given to the topic of trafficking. The Ministry adapted its educational objectives, content and pedagogical approach to the needs of students according to different age groups. Consequently, educational objectives focused primarily on the recognition of the dangers and risks, as well as on the strengthening of decision-making skills and appropriate behaviour in such situations. While working in schools, the educators have also increased the sensibility of parents, guardians and the local community on the issue. The importance of including NGOs in the educational process was well appreciated and the Ministry authorised six NGOs to carry out such training programmes using approved materials.
- A woman, identified as a victim of trafficking in September 2003 was, upon initial assistance, offered safe housing, psychosocial, medical and legal help. She then made the decision to testify at court. The Instruction for regulating the residence of victims of trafficking had not yet been issued by the Minister and the law in force at the time did not foresee the possibility of legalization of her status. Nevertheless, the Department for Inspection and Administrative Affairs of the MoI legalised her status in Croatia and granted her a one year residence permit.

VI. DEFICIENCIES

- There is lack of analysis, monitoring, reporting and information exchange mechanisms.
- There is lack of national legislation regarding the assistance and protection of VoT, since they are not mentioned as beneficiaries in any law (Aliens Act, Law on Health and Social Welfare)
- Despite the significant progress made in the Penal Code, little effort has been made in the area of prosecution, which is the essential component of the fight against trafficking. Judges and prosecutors are not yet fully aware or ade-

quately trained to implement relevant laws; this has a negative impact on the overall number of sentenced traffickers.

- Although questions of trafficking in human beings have moved higher up on the agenda of the government, practical measures in terms of creating and harmonizing inter-institutional coordination of counter-trafficking activities remains inadequate to fully cope with all the challenges.
- There is lack of inter- and intra-agency coordination, of effective institutional networking as well as cooperation and information exchange among NGOs themselves, as well as NGOs and government institutions.
- Quality of assistance and protection to VoT accommodated in alternative housing, run by government institutions, remains at a very poor level.
- Although the Ministry of Health and Social Welfare has issued the *Protocol for Determining the Health Conditions of Trafficking Victims* and their possible medical treatment, medical services to VoT are provided on an *ad hoc* basis.
- National laws do not regulate the problem of minors-VoT, nor that of unaccompanied foreign minors, thus their fundamental rights, i.e. education etc., are not guaranteed.
- There is no specialised safe housing for minors-VoT, either foreign or national. Currently, minors are accommodated in centres supervised by social workers. However, social workers in these centres are neither trained nor aware of the problem of human trafficking and do not coordinate their work with specialised NGO service providers working with VoT. It is difficult both for social workers and the VoT to interact, primarily due to differences in culture and language. There are no special measures to address social needs of foreign minors- VoT.
- There are no specific measures promoting the integration of foreigners, nor the reintegration of Croatian VoT returning to the country.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. The **Aliens Act** should be amended according to the EU *acquis communautaire* on migration and every effort should be made to fill the gaps already identified. Specific legal provisions on counter-trafficking should be introduced/ incorporated as follows: (1) procedure for regulating the residence permits for VoT (2) assistance to the victims regarding court representation (3) subsistence (4) medical care and social assistance (5) basic safety and security (6) integration programmes (vocational training, cultural and social orientation, language training) and (7) safe return.
2. Specific legal provisions reflecting the protection of the best interest of **minors** and unaccompanied minors should be incorporated in the Aliens Act.
3. An Independent monitoring mechanism has to be established in order to improve the implementation of counter-trafficking activities.
4. Harmonization of inter-sectoral cooperation should be strengthened among governmental organizations as well as governmental organizations and NGOs.
5. Capacity building of government institutions should be further strengthened in order to ensure more effective law enforcement.
6. Further **training** of all actors working on combating trafficking in human beings is needed (police officers, judges, state prosecutors, consular staff, social workers, NGOs).
7. Further **training** of NGOs is needed in order to develop and establish a sustainable, coordinated and efficient NGO network.
8. There is an urgent need for the establishment of specialised safe **accommodation/housing for minors** VoT in order to offer specialised assistance and protection (healthy home environment, education, medical and psychological care, adequate legal representation).
9. It is necessary that VoT have access to trained and specialised **medical services** throughout Croatia where mobile teams and reception centres are established.
10. Specialised **reintegration programmes** for national VoT are needed including alternative housing, family counselling,

vocational training, education, job placement and long-term assistance, as well as regular follow-up and monitoring.

LIST OF ABBREVIATIONS

ACTA	Balkan initiative against trafficking and corruption
CARDS	EU funded Programme: Community Assistance for Reconstruction, Development and Stabilization
CARPO	Cards Regional Police Project
CRC	Croatian Red Cross
CT	Counter-trafficking
IOM	International Organization for Migration
MoHSW	Ministry of Health and Social Welfare
MoI	Ministry of Interior
NAP	National Action Plan
SECI	Southeast European Cooperative Initiative
TiP	Trafficking in Persons
VoT	Victim(s) of Trafficking
UaM	Unaccompanied Minor

**FORMER YUGOSLAV REPUBLIC
OF MACEDONIA**

Authors

- Association for Support and Protection of Families and Children at Risk "For Happy Childhood"
- Helsinki Committee for Human Rights of the Republic of Macedonia

REPUBLIC OF MACEDONIA¹⁸

I. Introduction

The Republic of Macedonia is a small landlocked country, positioned in the heart of the Balkan Peninsula. The country has been going through a long period of transition, characterised by the impoverishment of a large segment of the population. The regional instability, due to the recent wars in the Balkans, and the transitional condition, which undermines the investment climate, has contributed to an increased social insecurity. The imposed strict visa regime, which resulted in the limitation of mobility of people and goods, added another negative element to the generally unfavourable conditions in the country. Corruption is another serious problem, which undermines the efforts to combat trafficking in human beings.

The Republic of Macedonia is currently considered to be a crossroad for trafficking in drugs, arms and human beings in the Balkans. In the last four years, trafficking in human beings became one of the leading criminal activities in the country. The perception of the Republic of Macedonia as a transit country and a country of destination for international trafficking in women is gradually changing. Nowadays, Macedonia is considered to be a source, transit, and, to a lesser extent, destination country for women and children trafficked for the purpose of sexual exploitation.¹⁹ In addition, 'internal trafficking' is recognised as part of the problem, although the Government denies such allegations.

High levels of poverty and unemployment are the main reasons why young people are striving for opportunities outside their homeland. Poor education and lack of information place them at a high risk of becoming victims of trafficking. According to data collected by the International Organization for Migration (IOM), 756 victims of trafficking were identified, assisted, and repatriated in their countries of origin in the last four years

¹⁸ The authors use the constitutional name of the country and not the one used officially by the United Nations, the Council of Europe and the European Union, which is "The Former Yugoslav Republic of Macedonia".

¹⁹ *Trafficking in Persons Report*, released by the Office to Monitor and Combat Trafficking in Persons, 05.06.2006, available at: <http://www.state.gov/g/tip/rls/tiprpt/2006/65989.htm>.

(12% of them were children).²⁰

According to the same statistics, most of the victims (an unexpectedly high percentage of 90%) were unaware of the fact that they would be providing sexual services and be subjected to sexual and other forms of abuse.

According to a survey of the Ministry of Interior, most victims have entered the country illegally or have been transferred therein through established networks of illegal movement of migrants. According to the sources of the Ministry of Interior, victims of trafficking come mainly from two recruitment centres: Chisinau (Moldova) and Odessa (the Ukraine). From there, they are transported to a 'collective' centre in Temisuara. Their destination is usually Greece, Turkey, the Middle East, Bosnia and Herzegovina, Kosovo and the western part of Macedonia.

The Republic of Macedonia is gradually building a comprehensive policy and a network of institutions for combating trafficking in human beings. However, relevant efforts have mainly focused on the problem of trafficking in women for the purpose of sexual exploitation.²¹ Recent reports, by UNICEF, OSCE, the United States Department of State, and other international organizations and NGOs, reveal that trafficking within and from Macedonia²² is an emerging problem that should not be overlooked by the Government.

²⁰ According to the IOM, the composition of assisted victims of human trafficking in the transit centre in Macedonia, by country of origin was formed as following: 47.99% (359) came from Moldova; 30.61% (229) from Romania; 10.96% (82) from the Ukraine; 3.88% (29) from Bulgaria; 0.26% (2) from Macedonia; other victims were coming from other Balkan countries and countries of the Former Soviet Union. Most of assisted victims - 60.96% were between 18–24 years old; 62.56% were single; 59.62% were without children; and 34.09% were parents. (One of the victims was male at the age between 14–17 years).

²¹ Especially on young girls originating from the countries of the former Soviet Union and those who used to belong to the socialistic block of states (Moldova, Romania, Russia, Belarus, the Ukraine, and Bulgaria).

²² Unfortunately, at present, no data exist concerning the scope, number, and characteristics of trafficked children, women and men within and from Macedonia. There is an ongoing research on internal trafficking conducted by the Association For Happy Childhood and supported by the Norwegian Ministry of Foreign Affairs. The final results will be published at the end of September 2006. So far, initial data showed that the phenomenon actually exists. Another ongoing survey is the 'Research on Trafficking in Children', conducted by the Institute for Social Work and Social Policy with the support of UNICEF.

II. National Legal Framework

A. National law

Illegal migration is regulated in the national legislation by the Law on Trespassing the State Border and Moving near the State Border²³, as well as, by the Law on Movement and Residence of Foreigners.²⁴

Trafficking in human beings as a separate **criminal act** was criminalised with the adoption of the *Law on changes and amendments to the Criminal Code of the Republic of Macedonia*.²⁵ The scope of the crime of trafficking in human beings (Article 418-a) has been redefined in 2004²⁶, encompassing recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation, either within or outside a country. The purpose of **exploitation** includes prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery and servitude or removal of organs. The revisions introduce stricter punishment for the perpetrators of the crime, as well as confiscation of the means used for committing the crime.

This Law introduced two new articles: Smuggling of migrants (Article 418-b)²⁷ and organising a group or encouraging the commitment of the offence of human trafficking and smuggling of migrants (Article 418-c).²⁸ A new Law for **witness protection** was also adopted in 2005. **Prostitution** is not a criminal act, but an **administrative offence**. *Mediation in conducting prostitution* (Article 191) provides sanctions against a person who recruits, instigates, stimulates or entices another to

²³ Official Gazette of the Republic of Macedonia, No. 36/92, 66/92, 26/93 and 45/02.

²⁴ Official Gazette of the Republic of Macedonia, No. 36/92, 66/92, 26/93 and 45/02.

²⁵ Official Gazette of the Republic of Macedonia, No. 04/02.

²⁶ *Id.*

²⁷ Article 418 (b) *Smuggling of migrants* prescribes sanctions against persons who, by using force or serious threat, attacking the life or the body, by kidnapping, fraud, abuse of his/her official position or taking advantage of the weakness of another person, illegally transfer migrants through the state border, as well as against those who produce, purchase or own fake passports with such intention. Also, the means and tools used in committing the crime shall be confiscated.

²⁸ Article 418 (c) penalizes the organization of 'a group, gang or other association with intention to commit crimes of trafficking in human beings and smuggling of migrants'. This article also mentions the possibility of a pardon, if a member of the group discloses the group before he/she commits a crime as its member or on its behalf.

prostitution, or a person who, in any kind of way, participates in turning over a person to another, for the purposes of prostitution.

B. Bilateral agreements

The Government of the Republic of Macedonia willing to contribute to the development of bilateral relations, has signed and ratified Agreements of Cooperation in the fight against terrorism, organised crime, illegal trafficking of narcotic drugs, psychotropic substances and precursors, illegal migration and other criminal acts with: Albania, Bulgaria, Serbia and Montenegro, Romania, Slovenia, France, the Ukraine, the Swiss Confederation, and the Kingdom of Norway.

The aim of these agreements is to enhance cooperation in the prevention and prosecution of organised crime. These agreements establish direct communication between the Ministers of Interior/Police of contracting parties.

On the basis of the above mentioned agreements, the following documents were also signed: Protocol on Defining Directions and Modes of Cooperation in the Field of Border Crossing Control and Prevention of Illegal Migration between the Ministry of Interior of the Republic of Macedonia and the relevant ministries of the Republic of Bulgaria, Albania and Greece. Cross-border cooperation with neighbouring countries is based on concluded bilateral/international agreements regulating specific areas of cooperation. Furthermore, joint bodies are established for cooperation in specific areas of interest.

Cooperation with neighbouring countries is also maintained through various regular, as well as *ad hoc meetings*, where discussions take place and solutions proposed for various kinds of problems that might appear in the border cooperation. In particular, cooperation with neighbouring countries can be outlined as follows:

A ***Stabilization and Association Agreement*** has been signed between the Republic of Macedonia and the European Union.²⁹ At the First Meeting of the Stabilization and Association Council, the issue was raised of signing a bilateral Readmission Agreement with the EC. It should also be noted that the Republic of Macedonia has signed ***Readmission Agreements*** with the following states: the Republic of Albania; the Republic of Bulgaria; the Italian Republic; the Swiss Confederation; the Re-

²⁹ Chapter VII – Justice and Home Affairs, Article 76.

public of Slovenia; the French Republic; the Slovak Republic; the Republic of Croatia; Romania; the Federal Republic of Germany and Hungary.

C. National Action Plan

The **National Programme** for combating trafficking in human beings and illegal migration is currently the basic anti-trafficking policy document. It expresses Macedonia's compliance with the principles of the Palermo Protocol, and its purpose is to develop and implement a national campaign.

The National Programme, adopted in 2002, is composed of **six parts**: legal activities³⁰; preventive actions³¹; assistance and support to victims of trafficking in human beings³²; repatriation and reintegration of victims³³; training of staff³⁴ and coordination of the activities by the **United for Combating Trafficking in Human Beings** (under the Department of criminal police of the Ministry of Internal Affairs)³⁵, as well as, the **Na-**

³⁰ In particular, changes and amendments of the Criminal Code, in order to improve the national legislation and create a legal framework for more effective action against trafficking in human beings.

³¹ For example, identification and reduction of economic and social factors that result in women and children becoming victims of trafficking; identification of the levels of home violence and its economic and social influence over women and children; initiation of a research project on the problems of trafficking in human beings and illegal migration; preparation and presentation of the statistical indicators in this area etc.

³² The aim is to improve the conditions for safe and humane repatriation through the adoption of protection and assistance measures for victims of trafficking. Establishment of transit (shelter) centres, where victims are provided with accommodation, food, translation services, information, social and health services and legal assistance.

³³ Providing victims with the right for repatriation and reintegration in accordance with international instruments, or through different mechanisms and instruments, i.e. concluding bilateral and multilateral agreements of cooperation for victims' repatriation; regulating financial costs for the right for repatriation; establishing cooperation between reception centres and non-governmental organizations; preparing programmes for settling in third countries.

³⁴ The programme proposes a series of specific educational activities aiming at: empowering institutional capacities in the Republic of Macedonia through comprehensive training and activities on collaboration and exchange; establishing practical collaboration of all governmental and non-governmental institutions in the Republic of Macedonia on national and regional level; education of operations staff of the Ministry of Interior directly responsible for police enquiries in cases of trafficking in human beings; training of judicial staff in penal institutions; education of lawyers for representing victims of trafficking in human beings.

³⁵ This department coordinates the operative activities for identification and prosecution of perpetrators of the criminal acts and will be in charge of the data collection system.

tional Commission and the **Secretariat for Combating Trafficking in Human Beings and Illegal Migration in the Republic of Macedonia**.³⁶ In this context, the **Strategy for Combating Trafficking in Human Beings and Illegal Migration**, as well as, the **National Action Plan**, have been adopted by the Government on 21.03.2006.

Comment

Both the Strategy and the National Action Plan did not take into account two main objections:

The actual anti-trafficking policy is neither **gender sensitive** nor **human rights based**.³⁷ For example, the *human rights based approach* is only mentioned in the context of 'Capacity building'³⁸, and there is no reference to 'human rights' in the Action Plan, where this strategic objective is further elaborated.

Women's human rights were not explicitly referred to in the Strategy and in the Action Plan.³⁹ However, a local NGO, in its Shadow Report on the implementation of CEDAW, revealed several issues concerning the violation of human rights of victims of trafficking.⁴⁰

³⁶ The National Commission is proposing an anti-trafficking programme to the Government of the Republic of Macedonia, and is responsible for the promotion and coordination of the programme, following its adoption by the Government.

³⁷ For further analysis see *Gender Perspective of Trafficking in Human Beings*, The Research Centre in Gender Studies, Euro-Balkan Institute, Skopje, 2004.

³⁸ Pertinent part of the policy states that: 'Building the capacities of state and non-state subjects for the combat of trafficking in human beings through human rights based approach'.

³⁹ Implicitly, in the context of education, there is mention of the need for curricula based on a multidisciplinary approach, founded on the principles of human rights, gender equality and non-discrimination. Also, in the context of 'Prevention', the Action Plan envisages for 2006 campaigns for gender equality and for the elimination of all forms of discrimination.

⁴⁰ See CEDAW, Shadow Report, ESSE, Skopje, 2005, p. 12: 'Observation by the OSCE field missions suggests that not all women are brought to the shelter. Moreover, as the shelter takes only those victims who are willing to return to their country of origin, trafficked women who do not want to take part in the IOM programme have no choice but to be deported. Internally trafficked women and children are not identified at all. Victims of trafficking often refuse the assistance available at the Shelter Centre or do not seek help at all, fearing repatriation, deportation and public condemnation in their countries of origin, facing again all problems that led in the first place to their having been trafficked: poverty, discrimination, little education and job opportunities.'

III. General Framework

A. Capacity building

The following list outlines the capacity building projects that have been implemented by various key agents:

Ministry of Interior:

- Community based policing strategy and implementation project, UK Department for International Development (DfID) implemented by Atos Consulting, Great Britain;
- Reform of the police (phase II and III), Community Assistance for Reconstruction, Development and Sustainability (CARDS) 2001 and 2004, European Agency for Reconstruction (EAR);
- Strengthening of the implementation capacity of the Ministry of Interior, United Nations High Commissioner for Refugees (UNHCR);
- Support to the Police Academy (Phase II), CARDS 2003, EAR.

Border Police:

- Vehicles for the border police, CARDS 2003 (national), implementing Agency, EAR;
- Construction of a facility for the National Border Management Coordination Centre and Border Police, CARDS 2004 (national), EAR;
- Provision of equipment for the needs of the border police "TETRA", CARDS 2004 (national), EAR;
- EXBS-Export control and border security, US Embassy in Skopje;
- Support and coordination of integrated border management strategies for Western Balkan countries, CARDS 2002 (regional), Ministry of Interior (MOI);
- Cross border cooperation programme in South Eastern Europe, (SEE) (OSCCP), Implementation and financing by OSCE, Vienna;
- Action plan for integrated border management, CARDS 2002, EAR;
- Development of IBM data processing systems, CARDS 2003 (national), EAR;

- Integrated Border Management Strategy and Action Plan, (Phase II), CARDS 2002, EAR;
- Border Crossing Points: Communication Networks (phase I), CARDS 2001, EAR.

Criminal Police:

- Development of reliable and functional policing systems, enhancement of combating main criminal activities and police cooperation (CARPO), CARDS 2002 (regional);
- Support of the development of police registry management and forensic analysis capacities, CARDS 2004, EAR

INTERPOL:

- Modernization of the National Central Bureau of Interpol in the 5 CARDS countries of the Balkan region, CARDS 2001 (regional), IOM;
- Aliens' and Immigration Issues;
- Technical assistance to develop and implement a National Action Plan for migration and asylum, CARDS 2002, EAR;
- Further development of immigration and asylum strategies, legislation and action plan, CARDS 2003, EAR;
- Establishment of a compatible EU legal, regulatory and institutional framework in the fields of asylum, migration and visa matters, CARDS 2002 (regional).

National Commission for the fight against trafficking in human beings and illegal migration:

- Enhancement of Implementation Strategies for National Anti-trafficking Action Plans in SE European countries, CARDS Regional programme: support to civil society to help reduce cross-border crime, including regional actions to help fight trafficking in human beings and anti-corruption initiatives;
- Counter-trafficking: Prevention and Capacity Building Activities in Kosovo and the Republic of Macedonia, Finland, IOM;
- Strengthening law enforcement capacities against human trafficking in SE Europe, the Netherlands and Switzerland, International Centre for Migration Policy Development/ United Nations Development Programme (ICMPD/UNDP) Romania;
- The fight against trafficking in human beings and illegal migration-strengthening capacities, IOM;

- Enhancement of the Implementation Strategies for National Anti-Trafficking Action Plans in SE European Countries, in conjunction with The Enhancement of the Implementation Strategies for National Anti-Trafficking Action Plans in Bulgaria, Moldova and Romania, in the framework of the CARDS regional programme. Support to civil society to help reduce cross border crime, including regional actions to help fight trafficking in human beings and anti-corruption initiatives, CARDS (regional), ICMPD;
- 'Residence 2005', OSCE/USAID, *Open Gate/La Strada*-Macedonia.

Court system reforms:

- 'Trafficking in human beings': two counselling meetings with a total number of 144 participants, out of which 75 judges and 35 participants from the prosecution;
- 'Trafficking in human beings: implementation of the regional manual for training of judges and public prosecutors', three seminars, with the financial assistance of the OSCE-ODIHR and Overseas Prosecutorial Development Assistance Training (OPDAT), with a total number of 89 participants, out of which 44 judges, two professional collaborators and 28 prosecutors.
- Development and training of prosecutors (OPDAT) –with the participation of eight judges (Organization of Counselling on Trafficking in Human Beings, in collaboration with the US Embassy in Skopje– Programme of the US Ministry of Justice for assistance, development and training of the prosecution).
- Manual for the training of judges and public prosecutors in the combat against trafficking in human beings for all deputy public prosecutors that had not had the opportunity to participate in one of the five seminars that took place on this topic.⁴¹

B. Analysis, research and monitoring mechanisms

Systematic governmental research on the various aspects of trafficking in human beings in society ***has not yet***

⁴¹ In the framework of the implementation of the regional project of the Stability Pact for Trafficking in Human Beings, in collaboration with the US Embassy in Skopje - (OPDAT), Centre for continuous education of the Union of judges in Republic of Macedonia.

started. However, several non-governmental research projects already exist.⁴²

Although research and analysis are not mentioned as separate titles in the **Strategy**, under the chapter on **Education**, there is a clear objective set out as one of the main priorities. It concerns the *initiation and realization of research projects related to the study of trafficking in human beings and related phenomena, in particular the study of causes (factors) of this especially complex social phenomenon, or type of crime.*⁴³

In the second part of the **Action Plan**, under the title **Prevention**, a separate objective is defined concerning *the identification of causes and consequences of trafficking in human beings and the study of the phenomenon in general and specifically in the Republic of Macedonia.* This goal is supposed to be achieved by *increasing research activities on the aspects of trafficking in human beings through analysis of conditions, data, and reports and through establishing cooperation with relevant research centres in the region.* According to the Action Plan, the National Commission should prepare a **public report in 2006**, and should assign a National Rapporteur.

C. Cooperation and networking at the regional and national levels

The bilateral and multilateral cooperation of the Republic of Macedonia was developed with the aim to combat trafficking in human beings and has usually been conducted by the Ministry of Interior. Cooperation specifically developed with neighbouring and other countries in the region, has been enhanced by ratifying several international agreements against organised crime.

A number of domestic NGOs, developing and implementing programmes in the area of trafficking are involved in the network **NGO Civil Association in combating human trafficking 'BORDER'**. This Network was formed a year and a half ago and consists of 12 NGOs from different cities in the Republic of Macedonia. These NGOs have experience in projects related to

⁴² For example, 'Gender Perspective of Trafficking in Human Beings', The Research Centre in Gender Studies, Euro-Balkan Institute, Skopje, 2004 (in Macedonian), 'Prevention of Trafficking in Human Beings (Perceptions of potential victims and potential clients)', Helsinki Committee for Human Rights of the Republic of Macedonia, 2006.

⁴³ 'Strategy for the combat against trafficking in human beings and illegal migration in Republic of Macedonia', Skopje, March 2006, p. 14.

the prevention of human trafficking.⁴⁴ They have also established cooperation with local Centres for social labour, police stations and local Employment Bureaus. The *Border Association* collaborates with other networks in the country, such as: ***Open gate–La Strada*** and ***Citizens Initiative–Antico***.⁴⁵ The NGO-members of the networks are also members of the Secretariat, within the National Commission for combating trafficking in human beings.

D. Mobilization of resources

During the last few years, funds were allocated for projects relating to trafficking in human beings, supported by intergovernmental, governmental, international and domestic organizations, while four ministries (Justice, Interior, Labour and Social Policy and Education) are strategically working on the problem of trafficking. There is also considerable mobilization of civil society in an attempt to prevent, combat and overcome the phenomenon.

Significant contributions have also been made by several international and/or intergovernmental organizations (UNICEF, Southeast Cooperative Initiative (SECI), INTERPOL, OSCE, USAID, ICMPD, *Kvinna till Kvinna*, Swedish International Development Cooperation Agency (SIDA), IOM, as well as by several governments, through their local embassies (especially the Embassies of Norway, USA, and Sweden).

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness raising

Several prevention and awareness raising projects have been implemented, mainly by non-governmental agents. For example, IOM in cooperation with various NGOs, realised four awareness campaigns and supported thirteen NGO campaigns, in the period 2001-2004. A significant number of public awareness campaigns realised by NGOs have been supported by the OSCE.

⁴⁴ Joint activities of the BORDER Network are: National campaign: 'Human trafficking exists' – supported by posters and education of multi-institutional teams for joint activities in combating human trafficking in the Republic of Macedonia; 'Cut the chain'; 'Stop the trafficking in human beings'; 'I am aware. I am not for sale – Street drama'.

⁴⁵ The Association 'For Happy Childhood' is also a member, having the longest experience in assisting and counseling victims of trafficking.

The Public Relations sector of the American Embassy supported a large **preventive NGO campaign**, which also included various activities, such as, the distribution of prevention leaflets and brochure and the provision of legal support and assistance to victims of trafficking. Parts of these activities have been supported by **other embassies** as well. Most preventive activities have been implemented by the *Association 'For Happy Childhood'* and *Open Gate-La Strada*, Macedonia, in cooperation with their NGO partners.

Throughout 2005, the government has conducted or supported **specialised training programmes** for judges, prosecutors, police, and social workers, many of which focused on the prevention of trafficking and the identification of actual or potential victims.

The Ministry of Labour and Social Policy organised a series of **training sessions for social workers** from all 27 social centres in the country. It also created a **National Referral Mechanism for victims of human trafficking**, as a means for identification of potential victims, as well as for raising awareness among the public and governmental institution on the problem.⁴⁶

Comment

Although the National Programme envisages a number of preventive activities, the majority of prevention and awareness projects were implemented by **NGOs**, while the government has been only providing non-pecuniary support.

B. Protection and assistance

The Republic of Macedonia, respecting and implementing the basic international principles for the protection of victims, provides them with appropriate protection in the **Transit Centre** for foreign victims of trafficking, as well as in the **Shelter** for victims (Macedonian citizens) trafficked outside or inside the country. Victims are entitled to protection from the moment they are identified as such and are liberated from the trafficker. Victims' protection lasts until their repatriation in their country of origin, in case they are foreign citizens. The **right to protection** exists for all victims of violence, **regardless of their de-**

⁴⁶ The National Referral Mechanism centre prepared leaflets and made direct contacts with local communities. Available prevention services focus mainly on vulnerable groups.

cision to collaborate with the authorities of criminal prosecution and their decision to testify or report the crime.

The **Transit Centre** for foreign victims is managed by three organizations: the Ministry of Internal Affairs, IOM and the *Association 'For Happy Childhood'*. Each of these organizations has a specific function in the care, protection, and assistance of victims. These institutions provide secure **accommodation, medical, psychosocial and legal assistance, education, counselling**, occupation and psychotherapy to the victims. These principles are applied since 2000 when trafficking was identified as a serious problem, and it was recognised that the Republic of Macedonia is both a transit and a destination country for extremely high numbers of trafficked foreign citizens.⁴⁷

The **IOM** conducted the interviews for the identification of the victims, provided the medical and legal support and organised their repatriation in their countries of origin. The *Association For Happy Childhood*, responsible for the day to day management, organises and provides psychosocial assistance, social activities, education, counselling and therapy to the victims.⁴⁸ The programme is implemented through individual group work by professional teams composed of psychologists and social workers.⁴⁹ The objective is to achieve the psychological stabilization of the victims, decrease the post traumatic reactions, help towards their rehabilitation and their initial re-socialisation and develop a personal project for their future by preparing their reintegration in the country of origin.⁵⁰ There is a special

⁴⁷ The problem with the foreign victims of trafficking was emphasised by IOM and was presented before the governmental institutions as a very serious one. It was estimated that during this period there were 2000 to 3000 victims of trafficking in women in Macedonia, who were foreign citizens. At the same time, the request of a safe shelter was raised. Identifying the need, the Ministry of Internal Affairs of the Republic of Macedonia opened in April 2001 a Transit Centre for foreign victims of trafficking.

⁴⁸ The activities of the Association are supported and managed by the IOM.

⁴⁹ The aim of the project 'Psychosocial intervention, education and rehabilitation of women victims of trafficking settled in the Transit Centre' is strengthening women's abilities for successful reintegration in the society through psychosocial and legal assistance, as well as vocational training.

⁵⁰ This process is implemented in the following way: after the placement of a victim in the Centre, a member of the psycho-social team is appointed as the victim's mentor while she/he also undertakes the monitoring of the victim's condition from the moment it arrives till the moments it leaves the Centre. The victim is given a period for adaptation to the new environment. The length of this period is prescribed by the psychologist and it is according to the psychological condition of the victim, the level of stress and trauma. During this period, the victim receives all the necessary information on her/his native language; a

rehabilitation and reintegration programme for **minor victims** of trafficking in human beings.

In a four-year period, 765 victims of human trafficking were assisted in the Transit Centre. Psychosocial assistance, counselling, education and therapy were provided to 322 women and children (12% of the total number were children under 18).⁵¹ Professional training was offered to approximately 80% of women and younger women (depending on the length of their stay).⁵² All women received health education for protection from sexually transmitted diseases and drug addiction.

All protected women were repatriated and transferred to their countries of origin. The **repatriation** of victims is organised by the Macedonian Information Agency (MIA) and IOM. Prior to repatriation, the services for combating organised crime and trafficking in human beings conduct an evaluation of the risks connected to the victim's condition and the victim's immediate family/social environment. For that purpose, they collaborate with the respective Ministry in the victim's country of origin.

In June 2005, after the first cases of Macedonian citizens as victims of human trafficking were reported, a **Shelter Centre** for domestic victims was opened by the **NGO 'Open Gate'**.⁵³ The Shelter Centre for victims of internal human trafficking was founded one year ago and provides **housing, private security** and **food** to victims, while it is also responsible for the daily management of the Centre. Until now, 13 victims of domestic

psychological assessment of the condition, needs and abilities of the victim is also conducted. Before the departure of each victim a personal record that contains all the information on the condition of the victim, the achieved results, and needs for assistance in the victim's rehabilitation and re-socialisation is prepared.

⁵¹ In the process of admission the psychological condition of the victims was measured with MMPI stress tests and in-depth clinical interviews. Before their repatriation, their psychological condition was re-measured and the team responsible for them prepared a recommendation for the IOM teams in the receiving countries. The results show that in the case of 75% of the assisted victims the manifested level of stress was low. Psychological problems such as insomnia, anxiety, depression and psychosomatic disturbances were decreased for 63% of the cases of women who spent sufficient amount of time in the transit centre. The results were not so encouraging in the cases of women staying for a shorter period of time in the Centre (from one week up to 22 days).

⁵² Approximately 60% of the victims that attended the trainings (sewing, hair-dressing, art, English, cosmetics and yoga) for a minimum of two months received diplomas.

⁵³ The Shelter Centre for victims of internal human trafficking is financially supported by USAID and OSCE.

human trafficking have been assisted in this Centre, and three victims are currently being supported.

Comment

The Republic of Macedonia has not yet adopted any laws, neither for the temporary stay of victims of trafficking in the country, nor for the protection of the human rights of the victims.

C. Prosecution

Since 2003 the Ministry of Justice and the Ministry of Interior, stopped publishing data on registered cases.⁵⁴ From the Public Prosecutor's Office, there is **no available data** on the prosecution of perpetrators in 2005. According to the 2006 Report of the US Department of State Report, '...the government and NGOs reported a downward trend in trafficking in 2005', while, at the same time, 'the government significantly increased the number of cases prosecuted'.⁵⁵

As regards the victim's rights in the **court procedure**, the analysis of the domestic courts practice confirms that there are serious deficiencies: the exercise of the right to compensation is problematic; the right of the injured party to suggest new evidence was limited in several cases; and finally regarding the rights of the victims to protection, special measures for the examination of witnesses have not been applied by the court.⁵⁶

In cases of **victims-witnesses**, most victims have not been advised of their right to refuse to answer certain questions and there are indications that witnesses have not been informed of

⁵⁴ According to unpublished data for 2004 (source: National Commission), the Ministry of Interior submitted 64 criminal charges and special reports against 92 offenders. There were 33 registered criminal acts of trafficking in human beings conducted by 56 offenders, leading to the prosecution of 25 offenders for 23 criminal acts of mediation and seduction to prostitution.

⁵⁵ U.S. Department of State, *2006 Trafficking in Persons Report on the Republic of Macedonia*: 'In 2005, the courts prosecuted 35 cases involving 80 defendants, compared to 22 cases in 2004. The government secured the convictions of 22 traffickers, with sentences ranging from three to nine years; eight prosecutions ended in acquittals, although the government appealed the acquittals in several of these cases'.

⁵⁶ There has been one case in which video-conferencing has been used to hear a witness. However, in none of the cases did the judicial council decide to order the indicted out of the court room. In one of the cases security officers of the victim have been even asked to leave the courtroom upon the request of the defence lawyer, although the hearing was public.

their right to conceal personal data.⁵⁷ Other **indicators** of the **inefficiency** of the **prosecution policy** of the Republic of Macedonia regarding human trafficking are: extended duration of criminal proceedings; excessive leniency of the courts on the punishment of traffickers; rare use of the provisions on the confiscation of property in criminal proceedings and non-publication of verdicts.

Comment

Despite the fact that in 2005, in 73% of the court cases (out of which 15 completed cases were cases of mediation in prostitution and trafficking), the victim was not only a witness, but also a damaged party that had applied for legal claim; none of the claims for non-material damage was successful.

V. BEST PRACTICES

- The establishment of the **Secretariat for combating trafficking in human beings** as well as the **Sub-commission for combating children trafficking** within National Commission.
- The adoption of a comprehensive **National Strategy** and the **National Action Plan** for combating trafficking in human beings.
- The multi-institutional way of protection of foreign victims in the **Transit Centre**, which is managed by three different organizations (Ministry of Internal Affairs, IOM and the *Association 'For Happy Childhood'*), with different missions and activities.
- Significant efforts in **capacity building** and **mobilization of resources**.
- The use of **video-conferencing**, in order to hear a witness during the trial.

VI. DEFICIENCIES

- **Lack of transparency** in the work of the National Commission and the work of its member-Ministries.

⁵⁷ Observed by the Fair Trial Coalition, see 'Suppression of Trafficking in Human Beings through the practice of domestic courts', Skopje, November 2005.

-
- **Lack of an official national data-base** for victims of human trafficking.
 - **Lack of a human rights based approach** in the overall counter-trafficking policy of the Republic of Macedonia. In particular, lack of effective mechanisms for the protection of the human rights of the victims.
 - **Lack of gender sensitivity** in the overall counter-trafficking policy of the Republic of Macedonia, taking into account that human trafficking is a gender-sensitive phenomenon.
 - The **anti-trafficking policy** is not sufficiently differentiated from the **policy to combat mediation in conducting prostitution** and the **policy against illegal migration**. In this context, the state often undertakes activities against prostitution, rather than against the *exploitation* of prostitution.
 - **Lack of state-supported research** and analysis of the various aspects of the phenomenon.
 - **Lack of provisions** regulating the **temporary stay** of victims of trafficking.
 - There are evident difficulties in the exercise of the victim's right to **compensation**.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. An **all-inclusive data-base** of **existing activities** should be established within the National Commission and a person should be assigned for public relations.
2. An **all-inclusive data-base for victims** of human trafficking (domestic and foreign) should be established.
3. The phenomenon of trafficking in human beings should be **approached** as a flagrant violation of human rights and as a gender discrimination issue rather than solely a national security issue.
4. **Legal regulations** should be adopted on: (a) the status of victims of trafficking; (b) the guarantee of effective protec-

tion of victims' human rights, including the right of the victim to be compensated and (c) the temporary stay of victims, introducing a minimum of 30 day reflection period.

5. Clear **protocols for identifying victims** of human trafficking and **distinguishing** them from victims of exploitation of prostitution and sex workers, should be drafted.
6. A **centre for research, analysis and documentation** should be established as a state-sponsored body.

LIST OF ABBREVIATIONS

CARDS	EU funded Programme: Community Assistance for Reconstruction, Development and Stabilization
CEDAW	United Nations Convention for the Elimination of Discrimination against Women
EAR	European Agency for Reconstruction
ICMPD	International Centre for Migration Policy Development/United Nations Development Programme
INTERPOL	International Police
IOM	International Organization for Migration
MOI	Ministry of Interior
OSCE	Organization for Security and Cooperation in Europe
ODIHR	OSCE's Office for Democratic Institutions and Human Rights
UMCEF	United Nations International Children's Emergency Fund
UNHCR	United Nations High Commissioner for Refugees
SIDA	Swedish International Development Cooperation Agency

GREECE

Authors

- Human Rights Defence Centre - KEPAD
- Association for the Social Support of Youth -ARSIS

GREECE

I. Introduction

Greece is situated at the southern tip of the Balkan Peninsula. It borders with Albania, the former Yugoslav Republic of Macedonia and Bulgaria to the north, and Turkey to the north-east and east. It is surrounded by the Adriatic Sea to the west and the Mediterranean Sea to the south and south-east.

Traditionally, Greece has been a country of origin of migrants. This role was reversed in the early 90s when it became a country of destination for migrants (regular and irregular). Regrettably it has also become a country of destination for victims of human trafficking coming from countries of SE and E. Europe, as well as from Africa and to a lesser extent from Asia. The trafficking trade has flourished in Greece primarily because of its geographic position, its economic prosperity and its status as a member state of the European Union. Other factors contributing to the development of trafficking were the social, economic and political upheavals in neighbouring countries following the fall of the Berlin Wall. According to official data provided by the Greek Ministry of Public Order⁵⁸, the majority of the victims of trafficking come from Albania, Bulgaria, Romania, Russia, Moldova and the Ukraine.

Even though this data does not differentiate between the various kinds of victims, NGOs providing assistance and support to victims claim that the majority of identified victims are women and children trafficked for the purpose of sexual exploitation.⁵⁹

⁵⁸ Official statistics provided by the Ministry of Public Order: in 2003, among the 93 identified victims of human trafficking, 31 were from Russia, 14 from the Ukraine, 10 from Moldova and 10 from Romania; in 2004, among the 181 identified victims, 50 were from Russia, 41 from Romania, 21 from the Ukraine, 10 from Bulgaria, 10 from Moldova and 9 from Albania; in 2005, of the 137 identified victims, 53 were from Romania, 28 Russia, 12 from the Ukraine and 9 from Bulgaria; of those 137 victims, 104 were women, 29 men and 4 minors. Relevant data available at: www.ydt.gr

⁵⁹ Interviews with representatives of the following NGOs: *KLIMAKA* (Dafni Kapetanaki) on 15.02.2006, *EKKYTHKA* (Anda Koublommati) on 03.04.2006, *KATHV* (Fani Galatsopoulou) on 02.05.2006 and *SOLIDARITY* (Katerina Trakaniari) on 25.05.2006. All these NGOs are running shelters for victims of trafficking in human beings.

According to the Greek Ministry of Public Order⁶⁰ and the International Organization for Migration (IOM)⁶¹, a new phenomenon so-called "*happy trafficking*" is on the rise, where victims enjoy a degree of limited freedom and a small financial reward for their services. As a result, as the level of the victims' consent increases, the possibility of testifying against their traffickers diminishes.

II. National Legal Framework

A. National law

Until 2002 the legal framework to combat trafficking in human beings in Greece was particularly weak and ineffective. Since 2002, however, three basic legal documents have been adopted, aiming at reforming counter-trafficking legislation: Law 3064/2002 amending the relevant articles of the Criminal Code; the Presidential Decree 233/2003 providing for assistance and support structures for victims of trafficking; and Law 3386/2005 providing for residence permits.

The most significant points of the reformed legal framework are the following:

- The Greek legislation is now aligned with international and European Union standards. **All forms of trafficking in human beings** are addressed, including trafficking for labour and sexual exploitation, trafficking for the removal of organs and trafficking for military purposes.
- Trafficking in human beings is a **felony**. Offenders are punished with imprisonment up to ten years, in addition to a fine. In cases of further aggravating circumstances (juvenile victim, abuse of authority, heavy bodily harm or death of the victim, trafficking exercised as profession), trafficking is punished with at least ten years of imprisonment and a fine up to 100.000 euro. The new legislation also provides for the punishment (imprisonment for at least six months) of those who intentionally use services provided by victims (*clients*).

⁶⁰ Interview with Tonia Andreakou, representative of the Central Anti-trafficking Police Unit of Athens, operating under the Greek Ministry of Public Order, on 11.05.2006

⁶¹ Presentation by the Head of IOM-Mission in Greece, Daniel Esdras, in the IOM 'Conference on Repatriations of Victims of Trafficking', held in Athens on 15.05.2006.

- According to the Law, the Prosecutor is the competent organ for the identification of the victims. Once victims of human trafficking are identified as such, the Greek Law provides for their **protection**, in particular, shelter, as well as medical, social, psychological and legal **assistance**. A list of social and psychological support and assistance services is included in the Annex of the Presidential Decree 233/2003.
- Special protective provisions have been adopted for **children victims**.
- Potential victims of trafficking are entitled to **one month reflection period**, which is provided by the competent prosecutor, in order for the victims to decide whether they will cooperate with the Authorities for the prosecution of the traffickers. During this period they cannot be deported and they enjoy all privileges provided to identified victims, with the exception of the issuance of residence permits. This provision has been proven useful to avoid deportation of victims of trafficking before they have been identified as such.
- Identified victims who *cooperate* with the Authorities for the prosecution of their traffickers are entitled, under Greek legislation, to a one-year, renewable, **residence permit**, without obligation to pay the required fee; this permit is also valid as a work permit providing victims with access to the labour market. Victims are entitled to renewal of their residence permits until the penal procedure has been completed. Thereafter, they can apply for a residence permit under a different status (marriage, work, etc).
- Greek legislation does not provide explicitly for a **formal referral mechanism**. The **Inter-ministerial Committee**, established to monitor the implementation of anti-trafficking legislation has set up an informal referral system coordinated by the National Centre for Social Solidarity-EKKA (see p. 110).

Comments

- There is no legal provision in Greek legislation providing explicitly for the suspension of prosecution of identified victims of trafficking. As a result, victims may be prosecuted together with their traffickers for violating immigration law provisions.
- NGO representatives, who deal with trafficking victims, have criticised the one month reflection period as being inadequate to allow victims to fully escape from their

traffickers' influence.⁶²

- Limiting the issuance of residence permits only to victims that cooperate with the authorities for the prosecution of their traffickers has been criticised for failing to provide full human rights protection to all victims.
- Although the law provides for the punishment of the user of the victim's services (client), it is difficult to provide solid evidence of the defendant's knowledge and intention. Therefore, usually the client is not punished.
- The referral system is weak, while effective coordination among NGOs, State and international actors has not yet been achieved.

B. Bilateral agreements

Greece has concluded the following Bilateral Agreements with neighbouring countries:

- ***Bilateral Agreement with Albania*** on the repatriation of unaccompanied minors, addressing the particularities of trafficking of children from Albania to Greece, as well as the increased need for the protection of children victims. The Agreement aims at ensuring appropriate reception of repatriated children victims in Albania.
- ***Memorandum of Understanding*** for the operation of the *Centre Against Human Trafficking* in Avlona, Albania (Law 3298/2004). The purpose of the Centre is to function as a point of collecting and distributing information on cases of trafficking, as well as promoting and managing at the same time police cooperation between the countries involved. The Memorandum was signed by ***Greece, Albania, Germany and Italy***.

Comments

- The Bilateral Agreement with Albania is an important tool for the protection of children victims. However, its conclusion was excessively delayed.
- Similar Agreements should be concluded between Greece and other neighbouring countries in order to strengthen cooperation in SE and E. Europe.

⁶² Discussion regarding the issuance of residence permits to victims of human trafficking, *Diplomatic Forum Third Meeting*, organised by IOM and the Ministry of Foreign Affairs of Greece, 21.02.2006.

C. National Action Plan

A comprehensive **National Action Plan** (NAP) to combat trafficking, addressing prevention and prosecution of traffickers as well as the protection of victims, was adopted in August 2004. It was drafted by the **Inter-ministerial Committee** (see p. 107), composed by the Secretaries-General of nine competent Ministries (Ministries of Justice, Finance, Foreign Affairs, Public Order, Education, Interior, Employment, Health and the General Secretariat for Equality operating under the Ministry of Interior). This Committee is charged with the implementation of the NAP, which covers a whole range of actions relating to trafficking (prevention, protection, and prosecution).

In the context of the work of the Inter-ministerial Committee and its cooperation with the NGO community, a **Memorandum of Cooperation** was signed in December 2005, establishing the framework of cooperation between state actors, IOM and NGOs in order to counter the various aspects of the phenomenon more effectively.

III. General Framework

A. Capacity building

1. Education of judges and public prosecutors

According to Greek anti-trafficking legislation, prosecutors and judges hold a key-role in prosecuting traffickers as well as in identifying and protecting the victims. To meet the need of raising awareness and training of prosecutors and judges, special courses have been included in the Curriculum of Studies of the **National School for Judges**.

Taking into account that the above courses are of a general nature and therefore not sufficient, educational seminars for judges in active service are organised annually in Komotini by the National School for Judges.

Greece participates in the implementation of **AGIS I** (2003-2005) and **AGIS II** (2005-2007), which are EU funded programmes, aiming at creating a cooperation network of NGO and State actors for the elaboration of a comprehensive anti-trafficking strategy. Training of judges and prosecutors in identifying, protecting and supporting the victims by using effectively the tools of criminal procedure, is a key element of the AGIS project at its present phase. Its methodology is based on the *train the trainers* approach via case studies, role-playing

presentations, exchange of good practices and the organization of round tables. In the framework of AGIS, apart from judges and prosecutors, other professionals who come in contact with victims of trafficking are also involved, such as psychologists, social workers, high-level police officials and lawyers. A comprehensive manual, as project output, will be issued for use by trained professionals to train their colleagues at the national level (train-chain).

2. Education of police personnel

The role of the Police, under Greek Law, is crucial in anti-trafficking policies, especially in the **identification** of victims of trafficking. The Prosecutor, who is the competent authority for the identification, decides on the basis of evidence obtained and provided by the police officers who investigate the case. Only in the case of identification of a person as a victim of human trafficking, protection and assistance are rendered under the Law. It is, therefore, imperative that special, interactive training aimed at safeguarding the human rights of the victims is provided to police officers.

In addition to the above, the presence of NGO representatives during the phase of preliminary investigation is considered necessary in order to avoid deportation of the victims, who often are fearful when dealing directly with the police.

In the academic years 2003-2004 and 2004-2005 the **Police Academy** included in its curriculum the issue of Trafficking in Human Beings (combating the phenomenon, identifying victims, providing assistance and protection to victims) and organised special seminars for police officers. Additionally, in 2005 the Greek Section of the International Police Association (IPA) organised **awareness raising seminars/lectures for police officers** in eight cities of Greece (Ioannina, Komotini, Rhodes, Trikala, Heraklion, Pireus, Thessaloniki, Tripoli). Furthermore, the Alternative Seat of the Stability Pact in Thessaloniki is coordinating local and regional initiatives, which aim at training police officials, at fostering cooperation with local NGOs, such as ARSIS, the Greek Section of the International Police Association, IOM, the National School of Judges etc.

Cross-border training programmes for police officers between Albania and Greece were also organised by IOM (December 2005).

Comments

- Practice shows that training of prosecutors and judges in identifying and protecting victims of trafficking has not been sufficient or effective.⁶³
- The initiatives aiming at training police personnel have also been criticised as rather insufficient and ineffective.⁶⁴
- Enhancing the role of NGOs and, in particular, the participation of NGO representatives in the procedure of victim identification is considered necessary.

B. Analysis, research and monitoring mechanisms

No official, thorough or systematic **research and evaluation system** exists in Greece for reporting on the situation of trafficking in the country.

The **Inter-ministerial Committee** (see p.105) meets twice a month and is presided by the Secretary-General of the Ministry of Justice. Its mandate is to coordinate the implementation of the various provisions of Law 3064/2002 and Presidential Decree 233/2003. The Committee is responsible for monitoring the implementation of anti-trafficking legislation, in close cooperation with IOM and 12 NGOs implementing anti-trafficking projects. The Committee also appoints the **National Coordinator** for counter-trafficking activities.

Since April 2001, under the auspices of the **Greek Ministry of Public Order, a Special Committee** has been established, as a coordinating institution, with the mandate to develop a comprehensive counter-trafficking policy and to monitor the effectiveness of anti-trafficking legislation, as well as of counter-trafficking operations that are being undertaken by the Greek State. This Committee (**People Trafficking Interdiction Unit-OKEA**) is composed of the Chief of the Greek Police (President of the Committee), an IOM representative, and representatives of the Ministries of Health, Employment and Interior, high-level police officials and social scientists.

⁶³ Interview with Maria Malouhou, appointed prosecutor to follow-up on trafficking related cases, on 12.05.2006.

⁶⁴ Interviews with representatives of the NGO *KLIMAKA* (Dafni Kapetanaki) on 15.02.2006, the NGO *EKKYTHKA* (Anda Koublommati) on 03.04.2006, the NGO *KATHV* (Fani Galatsopoulou) on 02.05.2006; interview with Maria Malouhou on 12.05.2006; interview with IOM representative responsible for the repatriation procedure, (Angela Courniachtou) on 18.05.2006.

Comment

At the beginning of its operation OKEA was effective, but this has not been the case in recent years.

C. Cooperation and networking at the regional and national levels

At the inter-State level, as mentioned above, the Greek government has concluded bilateral Agreements with countries of origin of the victims of trafficking. It participates in regional initiatives, such as **SECI** (Southeast European Cooperation Initiative) and **B-SEC** (Black Sea Economic Cooperation). Under these initiatives, awareness raising activities are taking place, aiming at combating trafficking as a form of organised crime. The Greek government has been also cooperating with the **Organization for the Security and Cooperation in Europe** and the **Stability Pact for South Eastern Europe** in combating trafficking in human beings, considered as a priority in their agendas.

At the regional level, the **ARIADNE Network against Human Trafficking in SE and E. Europe** was established in 2005, on the initiative of the Human Rights Defence Centre (KEPAD). Members of the Network are 17 NGOs from 12 countries of the region. Its objective is the development of close and coordinated activities for combating human trafficking by undertaking joint activities aiming at providing assistance and protection to the victims and preventing the phenomenon (see p. 114).

At the national level, on the initiative of IOM, a **diplomatic forum** was established in the end of 2005. The forum is composed of representatives of competent Ministries, International Organizations, diplomatic authorities of countries of origin and NGOs. Its mission is to establish close cooperation among all actors involved in combating trafficking, and to coordinate their activities. IOM organises the meetings of the forum on a systematic basis, focusing on contemporary challenging issues (see p. 114).

D. Mobilization of resources

The Ministry of Foreign Affairs of Greece (Hellenic Aid-YDAS) is the main source of funding of the anti-trafficking activities undertaken by International Organizations and NGOs. The funding is part of the Ministry's policy to provide financial support for

Development and Humanitarian Aid Projects. For the years 2004-2006, the total Ministerial budget for counter-trafficking activities reached approximately 5.000.000 euro.

USAID, the American humanitarian aid institution, has been very active in the Balkan region during the past decade. One of its policy priorities is to fund anti-trafficking activities. Several Greek NGOs have received funding from USAID for the implementation of anti-trafficking projects.

The EU has developed funding programmes (PHARE, STOP, DAPHNE, AGIS, EQUAL, etc.) to counter organised crime, as well as trafficking in human beings. These funds are not only awarded to EU Member States, but also to EU neighbouring countries (accession countries, candidate countries for accession, etc). International Organizations, State actors and NGOs based in Greece have benefited from this funding to develop anti-trafficking activities.

The Ministries of Foreign Affairs of **Norway**, the **Netherlands** and **Canada** also fund Greek NGO initiatives for counter-trafficking activities in the region of SE Europe.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

Awareness-raising campaigns, aiming at providing information on trafficking to the public, have been organised in Greece only during the last three years. The General Secretariat for Equality, under the Greek Ministry of Interior, has organised public information campaigns and has used TV spots to raise awareness. Its main implementation agency is the Research Centre for Gender Equality, which operates in five Greek cities. Awareness raising campaigns have also been organised by IOM and some NGOs (*STOP NOW*, *ARSIS* and *European Women's Lobby* etc.) using radio and TV spots.

Since 1998, the NGO *ACT-UP* has implemented an awareness raising/prevention project focusing on providing **information** to vulnerable social groups (migrants, victims of trafficking, prostitutes etc.) on **HIV/AIDS** and other sexually transmitted diseases. The innovative element of this project is that ACT UP members reach the persons belonging to the target-groups in the places where they usually gather/offer their services such as bars, brothels, etc. (*ad hoc* prevention).

Awareness raising activities are also being undertaken in the framework of the *ASPIDDA programme: **Combating exploitation–Creating perspective*** under the EQUAL Community Initiative carried out by IOM, the University of Athens, the NGOs *EKYTHKKA*, *KATHV*, *Solidarity* and *KEPAD*, the Institute of Migration Policy (IMEPO) and the European Profiles.

B. Protection and assistance

1. Shelters and telephone lines

According to the Memorandum of Cooperation signed by the competent Ministries, IOM and NGOs, the National Centre for Social Solidarity (EKKA) operates as the coordinator/main referral agency between state agencies and NGOs for the protection of victims of trafficking.

EKKA, supervised by the Greek Ministry of Health, runs a **telephone helpline (197)**, operating 24 hours a day, seven days a week, aiming at providing direct assistance to victims of abuse and trafficking. It also operates four shelters, one of which is for identified victims of trafficking and provides short-term accommodation, counselling and psychological support to women and children victims of abuse and/or trafficking. Identified victims of trafficking, after being accommodated and treated for a brief period, are directed to NGO-run shelters.

NGO-run shelters, accommodating victims of trafficking, are the following:

- **EKKYTHKA** (based in Ioannina) runs, since May 2004, a 13-bed shelter, for women and children victims of trafficking (identified or/and potential), as well as for victims of domestic violence. The shelter, which also provides medical and psychological support and legal counselling has already accommodated 41 victims. EKYTHKA also runs a telephone helpline (26510-78810) offering direct assistance to victims.
- **KATHV** (based in Thessaloniki) runs, since the end of 2004, a ten bed shelter, for women and children identified or potential victims of trafficking, and victims of domestic violence. The shelter, providing also psychological support and legal counselling, has already accommodated 13 victims.
- **KLIMAKA:** (based in Athens) runs, since 2005, a 12-bed shelter for non-Greek women victims of trafficking (potential or identified), victims of domestic violence and/or torture. The shelter also provides medical, psychological and legal support and counselling, as well as vocational training. It

has already provided accommodation to five victims of trafficking.

- **SOLIDARITY** (based in Athens) runs since January 2006, a 15-bed shelter (with the possibility of extension) for women and children victims of trafficking (potential and identified) and victims of family violence. The shelter also provides medical, psychological and legal support and counselling, as well as courses on the Greek language and computers. It has already accommodated seven victims of trafficking. Solidarity also runs a free telephone line (800-11-37-777) for direct assistance to victims of trafficking.

The following NGOs also run shelters that accommodate women victims of abuse, domestic violence and trafficking in human beings: *European Women's Lobby*, *Centre for the Support of Family (DESO-Shelter Mother)* and *Shelter of Abused Women and Children (Storgi)*. *Medecins du Monde* used to run a shelter for victims of trafficking, which was closed down in August 2005 due to lack of funds.

Comment

Municipal authorities have also been involved in the protection of abused women by providing shelter and social care (e.g. the Municipality of Athens). However, due to lack of trained personnel, they rarely handle cases of victims of trafficking.

2. Legal assistance

The *Greek Helsinki Monitor* and the *Greek Council for Refugees* are implementing projects providing free legal assistance to victims of trafficking. Free legal aid is also provided by numerous *Bar Associations* in Greece to all persons who claim and prove that they cannot afford legal representation.

3. Street work

The following NGOs implement street work projects aiming at providing protection and assistance to victims of trafficking:

- **ARSIS** - since 1998, it has implemented programmes aiming at combating child trafficking, in cooperation with *Terre des Hommes*, an international humanitarian organization, and other NGOs. Their methodology consists of: (a) **Street work** by teams of two specialised professionals aiming at tracing and providing support to children in danger or children victims of trafficking and exploitation. (b) **Support and**

protection by using all legal institutional tools for the provision of protection and support to children. (c) **Registration of cases and social research** by conducting background social research on a case-by-case basis. (d) **Voluntary repatriation** in cooperation with the police, the special prosecutor for juveniles and partner NGOs in countries of origin.

- **ACT UP** - reaches victims of trafficking in places where they are usually exploited (bars, brothels, etc.) and provides them with immediate free medical treatment for sexually transmitted diseases. Furthermore, *ACT UP* approaches in the same areas *clients* of the victims' services, raising awareness and providing information on trafficking in human beings.
- **NEA ZOI** - traces victims of trafficking in places of exploitation and provides them with information on support and assistance structures. It keeps contact with traced victims and offers psychological and social assistance.

4. Repatriation

Identified and potential victims of trafficking who declare that they wish to return to their countries of origin, are subject to the **repatriation procedure**, developed and implemented by IOM, in cooperation with the Embassies of the countries of origin of the victims. IOM provides the victims with valid travel documents (passports or *laisser-passer* documents, according to the national legislation) and tickets for their return. The means of transportation are chosen with a view to secure a safe and short return journey. The victims are received by IOM Missions in their country of origin and are assisted to reach their final destination. In the period 2003-2005, IOM assisted the repatriation of 55 women victims of trafficking.⁶⁵

C. Prosecution

As mentioned above in section II.A, according to Law 3064/2002, **prosecutors** are responsible for the identification of a person as victim of human trafficking. Once victims are identified, they are entitled to protection and assistance. With regard to unaccompanied children, the prosecutor of juveniles is appointed by law as their legal guardian.

⁶⁵ Interview with IOM representative Angela Courniachtou, responsible for the repatriation procedure, on 18.05.2006.

In 2004, **a prosecutor was appointed** by the Head of the Prosecution Office, in Athens (Maria Malouhou) to follow up on trafficking-related prosecutions and convictions. According to official data provided by the Secretary-General of the Greek Ministry of Justice⁶⁶, since the new anti-trafficking legislation entered into force, 412 prosecutions have been initiated and 216 trafficking cases have been brought before the Greek Courts; in 284 cases out of 327, defendants were found guilty.

In September 2002 the **Central Anti-trafficking Police Unit** was established in the General Police Directorate of Attica, under the Security Directorate. At present, **14 Anti-trafficking Police Units** are operating throughout Greece under the coordination of the above- mentioned Central Unit. In addition, two new **Departments on Combating Trafficking in Human Beings** are operating in the framework of the Organised Crime Department. These Units maintain a close cooperation with INTERPOL, EUROPOL, EUROJUST and various foreign Embassies and Consulates and their police links.

All police stations of the country are required to provide potential victims of trafficking with a special **manual for victims**, that is distributed by the Ministry of Public Order and contains information on the rights of victims of trafficking in 14 languages. Police stations have also the obligation to refer suspected trafficking cases to the nearest anti-trafficking units.

Comments

- Police actions to capture traffickers are criticised⁶⁷ for not being sophisticated enough or well organised. As these actions take place without the necessary research, they often result in the parallel prosecution of both traffickers and victims.
- Psychological intervention for the support of the victim is important at all stages of the prosecution in order to guarantee both the protection of victims and the effectiveness of the traffickers' prosecution. Such a procedure should be institutionalised.
- Although a witness protection system has been developed, it is not activated unless there is solid evidence that an or-

⁶⁶ Data provided by the Office of the Secretary-General of the Ministry of Justice in Document No. 36190/12.04.2006.

⁶⁷ Interview with Maria Malouhou, appointed prosecutor to follow-up on trafficking related cases, on 12.05.2006.

ganised crime network is involved. Since it is rather difficult to trace such cases, witnesses and victims are not always protected effectively.

V. BEST PRACTICES

- The **Memorandum of Cooperation**, signed in December 2005 between the competent Ministries, IOM and 12 NGOs, is an important step towards a more coordinated counter-trafficking policy. It formalises a framework of cooperation among anti-trafficking agents and strengthens their collaboration. It further facilitates their work by avoiding duplication and by establishing a referral system, that remains, however, unofficial. It is the first step towards a closer and more effective cooperation and coordination among all competent agents.
- The **ARIADNE Network against Human Trafficking in SE and E. Europe** was established in June 2005, on the initiative of the Human Rights Defence Centre (KEPAD), with its seat in Athens. Members of the Network are 17 NGOs from 12 countries of SE and E. Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Greece, Moldova, Montenegro, Serbia (and Kosovo), Turkey and the Ukraine). The objective of the Network is the development of close and coordinated cooperation among countries of origin, transit and destination of the trafficking victims for undertaking joint action to combat the bane of human trafficking in the region. The Network has become an important regional tool for joining forces with the aim of combating and preventing the phenomenon, providing assistance to victims in dealing with their problems and needs, and protecting their human rights. The Network holds regular sessions (workshops), twice a year, with the participation of all partners, who exchange their views and experiences and decide on the priorities for joint activities to be undertaken (www.ariadnet.net). The establishment and the activities of the Network are sponsored by the Ministry of Foreign Affairs of Greece (Hellenic Aid), the Ministry of Foreign Affairs of Norway and other agencies.
- The **Diplomatic Forum**, which was established by IOM, has been very useful for close cooperation among key representatives of state institutions, NGOs, International Organizations and foreign state agencies, which are actively engaged

in countering trafficking in human beings. The added value of the Forum is that it establishes a systematic dialogue among all actors involved, including, for the first time, representatives of governments of countries of origin, stressing the importance of cooperation between countries of origin, transit and destination. The Forum hosts discussions in order to elaborate and resolve challenging issues that may occur while protecting and supporting trafficking victims, such as cases of lost passports, repatriation procedures, problems relating to the issuance of residence permits etc.

- Participants in the **AGIS II** project have underlined the significance of this *train the trainers* programme for a holistic and effective counter-trafficking strategy.⁶⁸ The training sessions are interactive and have helped raise awareness among professionals who frequently come in contact with victims of trafficking. Furthermore, as the completion of the project requires further dissemination of acquired information and knowledge, comprehensive professional training is scheduled to take place in the near future.
- The **residence permits** issued for identified victims of trafficking provide them with access to the labour market. This element is very important for the effective and durable social reintegration of the victims who decide to remain in the country of destination.
- The **Manual for Victims of Trafficking**, distributed to all police stations across the country, is an exceptionally useful tool, provided it is systematically and accurately used. It can be helpful for the effective identification of victims of trafficking. Translated into 14 languages, it contains a list of the rights of the victims, as well as a list of characteristics that distinguish trafficking cases. The manual can be of use both to police officers and potential victims.
- National Operational Plan '**ILAEIRA**': It is an international, multi-sectoral, inter-ministerial large scale project, under the coordination of the Greek authorities and the auspices of the European Union. It aims at countering trafficking in human beings through comprehensive planning based on the coordination of all involved agencies in the countries of SE

⁶⁸ Interviews with Maria Malouhou, appointed prosecutor to follow-up on trafficking-related cases, on 26.06.2006, and with Angela Courniachtou, IOM representative, responsible for the repatriation procedure, on 04.07.2006.

Europe and the Balkans. The Operational Plan envisages the development of a two-fold common action in the countries involved: on the one hand, it focuses on prevention through operational actions against transnational organised crime and the liberation of victims and on the other hand, it aims at providing rehabilitation to the victims (assistance, sheltering, repatriation, medical support, asylum etc.). The overall aim is to address the phenomenon comprehensively.

VI. DEFICIENCIES

- Lack of effective coordination among the relevant actors.
- Lack of effective training of police and judicial authorities, as well as of other professionals, who come in contact with victims, such as doctors, social workers, psychologists.
- The legal framework and its implementation do not fully guarantee that victims will not be prosecuted alongside their traffickers and that deportation will be avoided.
- Police actions to capture traffickers are not preceded by thorough research; this results often in prosecuting victims together with their traffickers.
- The role of NGOs has not been adequately recognised and the competent Authorities have not sufficiently benefited from their valuable experience in dealing with victims, including in the identification process.
- The one month reflection period, which is provided to victims to decide whether they will cooperate with the authorities, is considered inadequate.
- Provision of residence permits only to victims who cooperate with the authorities leaves victims that are afraid to prosecute their traffickers unprotected.
- Weak referral system and lack of formal, analytical and systematically updated database.
- The witness protection system is only used to protect victims and witnesses testifying against traffickers in the rare cases that involve organised crime networks.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. The Greek government should **ratify** the **UN Trafficking Protocol** and the **Council of Europe Convention on Action against Trafficking in Human Beings** as soon as possible.
2. The law should explicitly provide for the **suspension of prosecution of victims** for as long as the criminal procedure against the traffickers lasts.
3. More **Bilateral Agreements** need to be concluded with neighbouring countries in order to strengthen the regional cooperation for the protection of victims at State level.
4. **Training of police officers** will be more effective if organised in an interactive form, rather than in the form of lectures or seminars. The methodology of the AGIS programme can be followed for achieving the desirable results (see p.105-106).
5. An **official system** should be established to provide evidence, register new trends and conduct needs assessments. This system could operate under the auspices of the Inter-ministerial Committee or OKEA (see p.107).
6. A **formal referral system**, replacing the existing weak informal mechanisms, should also be established.
7. **Police actions** to capture traffickers should be undertaken after thorough investigation in order to avoid prosecution of victims together with the traffickers. In this context, the Health Inspector could visit places where exploitation of victims is suspected to take place (see p.113).
8. A **Special Prosecutor's Seat**, with exclusive powers for dealing with trafficking cases and for coordinating the relevant work of other prosecutors, should be established. This can be achieved by following the example of the Anti-terrorism Prosecutor, who has exclusive powers in cases of terrorism.
9. The role of **NGOs** in the implementation of the anti-trafficking legal framework should be **further reinforced** and, more specifically, **it should be formal**. A useful step towards this end is the *institutionalisation* of their role in the identification process, in order to further guarantee the protection of the human rights of the victims and to help avoid their deportation (see p.106). The role of NGOs in raising awareness and in prevention should also be reinforced.

10. The **witness protection system** should be revised. Bearing in mind the difficulty to collect evidence for organised crime networks, witness protection should be extended to cases for which there is no solid evidence that are linked to organised crime (see p.114).
11. **Psychological intervention** for the support of the victims in all stages of the prosecution procedure should be institutionalised, strengthening the valuable contribution of NGO experts (psychologists, social scientists) in the criminal proceedings.
12. The role of **Municipal Authorities** in protecting victims should be enhanced, as by definition they have first hand knowledge of social problems and some of them already possess the necessary infrastructure (see p.111).
13. Introduction of **human rights education** courses at all levels of schooling, starting from the primary school, is imperative for Greece, as well as for all countries of origin and destination of trafficking victims, in order to enhance respect for human rights.

LIST OF ABBREVIATIONS

ACT-UP	Greek NGO
AGIS I, AGIS II	European Union funded programmes for law-enforcement cooperation
ARSIS	Greek NGO
ASPIDDA	Development Partnership for Combating Discrimination in the Labour Market
B-SEC	Black Sea Economic Cooperation
DESO	Centre for the Support of Families
EKKA	National Centre for Social Solidarity
EKYTHKKA	Greek Centre for Research and Support of Victims of Abuse and Social Exclusion
EUROJUST	European Union Judicial Cooperation Unit
EUROPOL	European Police Office
GCR	Greek Council for Refugees
IMEPO	Institute of Migration Policy
INTERPOL	International Police
IPA	International Police Association
IOM	International Organization for Migration
KATHV	Centre for Rehabilitation of Victims of Torture and Other Forms of Abuse
KEPAD	Human Rights Defence Centre
NAP	National Action Plan
OKEA	People Trafficking Interdiction Unit
OSCE	Organization for the Security and the Cooperation in Europe
SECI	Southeast European Cooperation Initiative
SPSE	Stability Pact for South Eastern Europe
USAID	United States Agency for International Development
YDAS	International Development Cooperation Department/Hellenic Aid

MOLDOVA

Author

- International Women's Rights Protection and Promotion Centre "La Strada"

REPUBLIC OF MOLDOVA

I. Introduction

The Republic of Moldova is a landlocked country in Eastern Europe, located between Romania to the west and the Ukraine to the north, east and south. According to the U.S. State Department *Annual Trafficking in Persons Report*, released on 05.06.2006, the Republic of Moldova is mainly a country of origin for trafficking in persons.⁶⁹ To a lesser extent Moldova is also a transit country for trafficking in persons from the former Soviet Union on their way to Europe. Most often, victims of trafficking are women and children transported mainly for sexual exploitation to Turkey, Russia, countries of the Near East (including the United Arab Emirates and Israel) and European countries. However, Moldovan men, also become victims of trafficking: they are sold in the Baltic States and other countries of the former Soviet Union for labour exploitation in construction and agriculture.

The above-mentioned information is also confirmed in the second annual report of the Regional Clearing Point (managed by the International Organization for Migration) published in 2005. According to the latter, Moldovan citizens in 2000-2004, were exploited in 32 world countries. Sexual exploitation remains the main form of exploitation for these years (ranging from 74% to 89% of reported cases of trafficking). This report, also mentions that there have been cases of labour exploitation and that more and more victims from Moldova are trafficked for begging and delinquency. Minors were particularly heavily represented among victims trafficked for begging and delinquency (39.1% of reported cases in 2004).⁷⁰ In the majority of cases victims of trafficking in human beings were individuals. At the same time, there were cases when families – mothers with children – were trafficked. There is also internal trafficking in persons in Moldova.

According to research conducted by the *International Centre for the Protection and Promotion of Women's Rights 'La Strada'*, poor young women from rural areas without professional qualifications or employment⁷¹ constitute the main social group of

⁶⁹ Available from: www.state.gov/g/tip/rls/tiprpt/2006

⁷⁰ Second Annual Report on Victims of Trafficking in SE Europe, 2005. Country Report, the Republic of Moldova. Geneva, 2005, p. 4.

⁷¹ 'Trafficking in Persons in Moldova. Comments, Tendencies, Recommendations'. International Centre for Women's Rights Protection and Promotion 'La Strada', Chisinau, 2005, p. 49.

victims of human trafficking in Moldova. Poverty and unemployment, as well as lack of job opportunities in the Moldovan labour market are the determinants that 'push' young people abroad and make them accept the dubious offers of traffickers. Domestic violence is also one of these factors. Various NGOs have carried out studies showing that more than 80% of victims of trafficking have been previously exposed to domestic violence. Offers of slave-traders are in great demand because along with unemployment in Moldova there are very few possibilities of legal employment abroad, obliging the majority of Moldovan migrants to work illegally. The age groups of trafficked people extent every year. If several years ago victims were mostly people between 18-25, today people above 25 and children (under 18 years old) also become victims. The ways of recruiting and transporting victims abroad, as well as the exploitation forms become more and more varied. The number of cases of recruiting people by Internet, as well as false marriage proposals is growing. There have also been cases of trafficking in persons in Moldova intended to extract organs and tissues.

Despite the fact that it is well known that trafficking in persons is widespread in Moldova, it is not possible to estimate accurately the exact dimensions of this phenomenon, first of all, because it is latent. Moreover, the data collection system in Moldova is not uniform. Each participant in the counteraction of trafficking in persons accumulates data according to an independently developed algorithm, and consequently, the data cannot be compared at a national level. However, taking into account the danger of this phenomenon, in the last years the Government has adopted a number of legislative, organizational, administrative and other measures against trafficking in human beings.

Comment

According to a survey carried out among specialists in combating trafficking in Moldova in 2005 by the *International Centre 'La Strada'*, the situation was stabilised in the two preceding years. Despite the fact that the main factors (poverty and unemployment) that generate the supply of human trafficking in the country continue to exist, the measures taken by the Government during the period 2001 – 2005, with the support of the civil society and the international community, made it possible to prevent the further spreading of the phenomenon of trafficking and the deterioration of the situation.

II. National Legal Framework

A. National law

Among the measures taken to improve the legislative and other normative and legal base for the counteraction to trafficking in human beings in the Republic of Moldova, it is worth mentioning the following:

a. Adoption of special legislative acts of the Republic of Moldova on the counteraction to trafficking in human beings

The Parliament of the Republic of Moldova has adopted a number of national laws against trafficking in human beings:

On 20.10.2005, the Parliament adopted the ***Law on Preventing and Combating Trafficking in Human Beings***.⁷² This law was drafted over a period of two years with the active participation of civil society and the support of the international community. International experts from the Council of Europe assisted in the drafting of the legal provisions in order to ensure their compliance with international standards. The law determined the institutional structure of the anti-trafficking policy of the country, the obligations of the agents involved, the rights of victims etc.

The Parliament of Moldova has also established strict penalties for trafficking in human beings. Article 165 of the ***Criminal Code*** of Moldova, stipulates imprisonment for up to 25 years for this crime.⁷³ It also includes a number of provisions that stipulate punishment for similar crimes, such as forced labour (Art. 168), slavery and practices similar to slavery (Art. 167), illegal transport of children out of the country (Art. 207) etc.

b. Court practice generalization

Taking into consideration the particular dangers of trafficking in human beings and the necessity to ensure correct and uniform application of the anti-trafficking legislation, the Supreme Court of Justice of the Republic of Moldova decided in November 2004 that all courts must apply the relevant legislation, according to Articles 165 and 206 of the Criminal Code and

⁷² Law of the Republic of Moldova on Preventing and Combating Trafficking in Human Beings No. 241-XVI of 20.10.2005 (Official Monitor of the Republic of Moldova, 2005, No. 164 -167, Art. 812).

⁷³ Criminal Code of the Republic of Moldova No. 985-XV of 18.04.2002 (Official Monitor of the Republic of Moldova, 2002, No. 128-129, art. 1012).

adopted the Decision *on Application of Legislative Provisions in Cases of Trafficking in Human Beings and Trafficking in Children*, in accordance with the norms of international law.⁷⁴ The Supreme Court analysed separately the definitions of all the terms included in articles 165 and 206 of the Criminal Code, the combination of which constitutes the crime of trafficking in human beings (e.g. 'recruitment', 'harbouring', 'mental violence', 'taking advantage of vulnerability condition', 'commercial sexual exploitation' etc.).

B. Bilateral agreements

a. International cooperation of law enforcement bodies

The Republic of Moldova has signed a number of bilateral agreements on combating trafficking in human beings. It has signed the following agreements:

- in 1998 – with CIS countries;
- in 1999 – with Turkey, Romania, and the Ukraine;
- in 2000 – with Estonia;
- in 2001 – with Uzbekistan;
- in 2002 – with Italy and Belarus;
- in 2003 – with Czech Republic, Israel and Lithuania.

In 2006, negotiations started on the signature of a bilateral agreement with the Government of the United Arab Emirates on preventing, combating, and punishing trafficking in human beings. Despite the above agreements promoting international cooperation on the fight against human trafficking, the work of law enforcement officers in Moldova is compromised by their limited linguistic skills, in particular their lack of knowledge of English.

Comment

It is necessary to take measures to teach criminal prosecution officers of the Republic of Moldova to speak English in order to better promote international coordination.

⁷⁴ Decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova 'On Application of Legislative provisions in Cases of Trafficking in Human Beings and Trafficking in Children' No. 37 of 22.11.2004. Bulletin of the Supreme Court of Justice of the Republic of Moldova, 2005, No. 8, p. 4.

C. National Action Plan

The Government of the Republic of Moldova has adopted a number of normative acts in counteracting trafficking in human beings:

The Decision of the Government of the Republic of Moldova No. 1219, of 09.11.2001, **on Approval of Nominal Composition of the National Committee to Combat Trafficking in Human Beings** and the **National Plan to Prevent and Combat Trafficking in Human Beings** constitutes the first normative act of the Republic of Moldova in counteracting trafficking in human beings.⁷⁵ This Act launched the anti-trafficking strategy, determined the structure of the **National Anti-Trafficking Committee** and approved the first national anti-trafficking plan in the country. The Committee is an interdepartmental body that coordinates anti-trafficking activities.

In August 2005, the Government approved a new (the second) **National Plan to Prevent and Combat Trafficking in Human Beings**⁷⁶, developed in compliance with European standards against trafficking in human beings and by taking into account the best practices in this field. The Plan provided for the implementation of a great number of activities during the period 2005–2006.

In August 2005, the Government also approved the **Regulations of the National Anti-Trafficking Committee**⁷⁷, which determined the nominal structure, functions, and status of the Committee, the functions of the Chairman and the Secretary, the frequency of meetings etc. According to these Regulations, representatives of non-governmental and inter-governmental organizations, who actively participate in anti-trafficking activities, may participate in the meetings with a consultative vote. The latter is also evidence of the democratic reforms taking place in Moldova.

Comments

- At present, there is a normative and legal basis for counter-

⁷⁵ Official Monitor of the Republic of Moldova, 2001, No. 136-138, Art. 1274.

⁷⁶ Decision of the Government of the Republic of Moldova No. 903 from 25 August 2005 (Official Monitor of the Republic of Moldova, 2005, No. 119-122, Art. 987).

⁷⁷ Decision of the Government of the Republic of Moldova No. 775 from 01.01.2005 (Official Monitor of the Republic of Moldova, 2005, No. 107-109, Art. 865).

ing trafficking in human beings. Moldova has ratified the international conventions in this field and has adopted a special law regulating the relations between the agents involved in countering trafficking in human beings, provisions of the Criminal Code that stipulate strict punishments for traffickers, as well as normative acts of the Government ensuring the implementation of the above-mentioned legislative acts. However, there is still room for further development of the normative framework. This should be achieved by taking into account the experiences of law enforcement agents, carrying-out in-depth studies, as well as by adopting and implementing, when necessary, new approaches to overcome the problem of trafficking in human beings.

- A number of legal initiatives of the Government have been carried out with the direct participation of NGOs; this policy clearly shows that the Government increasingly recognises the role of NGOs in anti-trafficking efforts.

III. General Framework

A. Capacity building

Capacity building programmes are carried out on a permanent basis and include **training, seminars, exchange and study visits**, and **specialised methodological materials**. These programmes can be conditionally divided into three categories: those aimed at strengthening skills in the area of victims' assistance and protection, targeting police officers, prosecutors, judges, border guards, officers of diplomatic missions, child protection officers, social workers and psychologists; those aimed at strengthening knowledge and skills in the area of trafficking prevention and awareness, targeting teachers, peer educators, journalists, social staff, police officers, priests etc., and finally those aimed at strengthening skills in the area of prosecution and law enforcement.

These efforts were concluded with the inclusion of trafficking in the formal and/or recommended **training curricula** of some professional groups, such as police officers' and teachers' training courses. The programmes also included **training of trainees** (TOT) initiatives that allowed the formation of a **national group of experts**, able to further disseminate the knowledge and skills acquired.

These programmes are mainly carried out with the support and participation of intergovernmental organizations (IOM, OSCE, ILO, UNICEF) and non-governmental organizations of the Republic of Moldova.

Comments

- At present, the main groups of specialists, whose work is related to countering trafficking, have received minimum and/or standard training in this field. In addition to that, there are often changes/fluctuations/rotations in the personnel of competent/specialised agencies, generated by changes in the governmental structure, elections etc. This calls for further development of such programmes. This need is also emphasised by the rapidly changing nature of the trafficking phenomenon, the ever expanding legal framework and the large number of different institutions and actors involved.
- The standardization and institutionalization of training programmes for specialists should be further promoted.
- Capacity building programmes have developed from **awareness raising** to **professional education**, adjusting to new forms of trafficking (e.g. for the police, from general awareness to proactive investigation of trafficking cases; for social workers, from general trafficking awareness/profile and push factors to assistance to trafficked persons and referral mechanisms.) The quality of these programmes is improving, delivering deeper and more systematic knowledge.
- It is important to update the content of training programmes with the national legislation of Moldova and avoid focusing exclusively on international law and practice.
- There is a need to develop comprehensive training programmes for specialists who come into contact with potential victims of trafficking.

B. Analysis, research and monitoring mechanisms

The majority of research regarding the phenomenon of trafficking in Moldova has been carried out primarily with the support and participation of international organizations and to a lesser extent by local NGOs that possess first-hand information as a result of their field work.

These studies reveal that the situation in trafficking in human beings evolves quickly. Traffickers react promptly to anti-trafficking measures by altering their ways of recruitment, their target groups, transit routes and countries of destination, as well as the ways of manipulating their victims and methods of exploitation.

In February 2006, the National Anti-Trafficking Committee decided to establish a single **system to monitor the implementation of the National Plan** on prevention and suppression of trafficking in persons. The National Committee has approved a report model on monitoring anti-trafficking activities, set the periodical submission of reports (twice a year – on 25 July and 30 January), and appointed the persons responsible for data collection and processing.

The measures taken are meant to ensure the collection of reliable information on trafficking in persons in the country, as well as the coordinated implementation of relevant anti-trafficking programmes.

Comments

Generally, the main problem in conducting research is the lack of a uniform system of data collection and management of information. Lack of such a system is a serious obstacle in conducting permanent in-depth analyses and in registering and responding to new trends.

It is absolutely necessary to continue such studies as they deliver data to help better understand the development of the phenomenon in the country, discover tendencies and ultimately develop proposals and recommendations on anti-trafficking strategy and tactics.

It is necessary to carry out an in-depth study on the various aspects of the trafficking phenomenon in Moldova, for example trafficking for labour exploitation. This, would help develop a system of indicators, on the basis of which it would be possible to identify similar cases of trafficking and ensure access of victims to assistance.

Available information on trafficking in human beings needs to be organised in a systematic way in order to facilitate analysis, and exchange among all relevant actors. The creation of a central body responsible for collecting and systematizing information would thus be vital. This body could also be responsible for disseminating the results of studies and other

important information to all stakeholders.

Regular monitoring and evaluation of applied measures allow the development of new proposals and adjustment of plans where necessary.

C. Cooperation and networking at the regional and national levels

The main measure against trafficking in human beings was the creation of a special advisory body to the Government of the Republic of Moldova in November 2001: the **National Anti-Trafficking Committee** (hereinafter referred to as the National Committee). The National Committee was created to coordinate anti-trafficking activities in Moldova.⁷⁸

a. The structure of the National Anti-Trafficking Committee

The National Committee is headed by its Chairman – the Deputy Prime Minister of the Republic of Moldova. Besides the Chairman, the National Committee comprises of the Deputy Chairman (Deputy Minister of Internal Affairs), the Secretary, and 14 members – chairmen of various ministries, departments, and other governmental agencies. Their work focuses on preventing trafficking in human beings, providing assistance and protection to victims, as well as prosecuting those accused of trafficking in human beings. The National Committee cooperates closely with the Ministries of Justice, Health and Social Protection, Foreign Affairs and European Integration, Internal Affairs, Education, Youth and Sports, Information Development, Culture and Tourism, Border Service, National Bureau for Migration, Licensing Chamber, the President’s Office of the Republic of Moldova, the General Prosecutor’s Office, the Information and Security Service, the Mayor’s Office of Chisinau Municipality.

The structure of the National Committee is approved by the Government.⁷⁹ Apart from representatives of governmental structures, the National Committee can also include representatives of non-governmental and intergovernmental organizations,

⁷⁸ The activities of the National Committee are regulated by the Law of the Republic of Moldova *on Prevention and Suppression of Trafficking in Human Beings* No. 241-XVI 20.11.2005, as well as the Regulations *on the National Anti-Trafficking Committee* approved by the Decision of the Government of the Republic of Moldova of 01.01.2005 No. 775.

⁷⁹ Art.8 of the Law of the Republic of Moldova *on Prevention and Suppression of Trafficking in Human Beings*.

who work actively on countering trafficking in human beings. Such representatives have only the right to a deliberative vote.

The Government has not yet approved the structure of the National Committee in terms of representatives of civil society and the international community. However, representatives of certain non-governmental and intergovernmental organizations, are usually invited to the meetings of the National Committee. Some of these organizations are:

b. International NGOs

- **International Centre for the Protection and Promotion of Women's Rights 'La Strada' (Moldova)** which manages a **National Helpline** and provides counselling on the risks of illegal migration and the dangers of trafficking, as well as counselling to trafficked persons. The Centre also carries out awareness and prevention campaigns, capacity building programmes for various professional groups, undertakes research, provides legal expertise to the Government, facilitates access of trafficked persons to assistance including rescue from places of exploitation and repatriation, and runs humanitarian and vocational training programmes.
- **CTPW (Moldova)** – the only NGO that provides legal assistance to victims of trafficking and represents them in court. It has 4 branches in Balti, Ungheni, Causeni and Cahul. CPTW also carries out awareness activities and offers opportunities to victims for starting small businesses.
- **Save the Children (Moldova)** (Salvati copii Moldov) – assists in the repatriation process, provides healthcare and psychological and humanitarian assistance to children-victims of trafficking, shelter and social escort, as well as assistance in vocational training.
- **Terre des Hommes** – French non-governmental organization which carries out activities on the assistance of trafficked minors including repatriation, social escort and humanitarian aid, healthcare and education; the programmes also support vulnerable children at risk of being trafficked.
- **Winrock International** -American NGO which implements programmes on preventing domestic violence and trafficking in women by carrying out awareness activities, counselling and offering business development opportunities.

- **Italian Consortium of Solidarity**—Italian non-governmental organization which implements programmes for victims of trafficking and for small business development.
- **IREX** —American NGOs which runs programmes aimed at reducing vulnerability of high risk groups, mainly women, through community development.
- **ABA-CEELI** -American NGO which carries out legal studies and provides expertise to the Government in the area of anti-trafficking.

c. Intergovernmental and other organizations

- **IOM Mission to Moldova** runs the only Shelter for trafficked persons, including minors, providing them with immediate and mid-term assistance. It also carries out capacity building programmes on law enforcement for professionals and develops and supports trafficking awareness programmes, as well as programmes on migration management.
- **OSCE Mission to Moldova** provides assistance to state bodies in developing the legal and institutional framework against trafficking in human beings. It supports the anti-trafficking efforts of NGOs, including those specialising on the protection and assistance of victims and on capacity building for law professionals. It hosts monthly meetings for all actors involved in anti-trafficking activities in Moldova with a view to coordinating their actions.
- **ILO-IPEC** (International Labour Organization–International Programme on the Elimination of Child Labour) conducts studies on child labour; supports the efforts of the government and civil society in preventing child labour and child trafficking and promoting the rehabilitation and reintegration of children-victims of trafficking.
- **ILO-Migrant** (International Labour Organization– International Migration Programme) provides assistance to the Government in developing an adequate migration policy and legislation; it takes measures for an efficient labour migration management and for the prevention of trafficking in persons. It supports programmes for the reduction of vulnerability and the development of small business opportunities for potential and actual victims of trafficking in persons.
- **United Nations Children’s Fund (UNICEF) and United Nations Development Programme (UNDP)** supports

educational programmes for children as well as child abuse prevention programmes; supports activities aimed at preventing unemployment and trafficking in children, as well as rehabilitation programmes for minors-victims of trafficking in persons.

- **US Embassy and USAID** also play an active role in the fight against trafficking in Moldova.

d. Functioning of the National Committee

The Regulations on the National Anti-Trafficking Committee⁸⁰ define the legal status of the Committee and authorise it to carry out its activities. According to the Regulations, the National Committee is a consultative body to the Government of Moldova and consequently its decisions are of a consultative nature. The decisions are taken by majority vote, with a 2/3 quorum. It has to be mentioned that article 17 of the Regulations stipulates that if the decision of the National Committee is signed by the Prime Minister it is compulsory for all public authorities and institutions. This norm has been criticised by many lawyers, and has not been applied in practice.

The National Committee aims to improve the efficiency of anti-trafficking efforts at the national level. Its main objective is to collect and analyse information on the situation of trafficking in persons in the country, as well as to develop proposals on counteracting this problem. The National Committee also monitors the implementation of the National Anti-Trafficking Plan and informs the Government and civil society institutions.

The National Committee does not have a permanent working group or secretariat to assist in its work.

Comments

- Among the deficiencies in the work of the National Committee is the lack of a permanent working group or secretariat. The duties of the Secretary of the Committee are currently performed by the **Chief Inspector of the Centre for Combating Trafficking in Human Beings**. This results in lack of coordination of activities and supervision of the enforcement of decisions.
- The exact status of the National Committee, as well as

⁸⁰ The Regulations are approved by the Decision of the Government of the Republic of Moldova No. 775 of 01.01.2005, Official Monitor of the Republic of Moldova, 2005, No. 107-109, p. 865.

that of other interdepartmental structures is not clearly defined. In practice, the decisions of the National Committee are not taken collectively, but by one person. Generally, the authority of the National Committee is determined by the high rank of its Chairman – Deputy Prime Minister of the Republic of Moldova.

- The exact structure of the National Committee –in particular the representatives of the civil society and of the international community- has not been defined yet. Moreover, there is no mechanism that would stipulate the action that local NGOs need to take in order to become members of the National Committee.
- It is not clear why non-governmental organizations–members of the National Committee have the right only to a deliberative vote in the decision-making process, since the National Committee itself is just a consultative body and its decisions are non-binding.

e. Regional coordination of activities

At the regional level, according to Article 10 of the Law of the Republic of Moldova on Prevention and Suppression of Trafficking in Human Beings, the organization and coordination of counteraction to trafficking in persons is carried out by ***regional-local commissions***. Local anti-trafficking commissions are responsible for the implementation of measures stipulated by the National Plan. They monitor the activities for preventing and suppressing trafficking in persons in their area and provide assistance to the organizations that deal with the issue.

However, in practice, the members of these commissions have only basic knowledge about the issues of trafficking and the possible ways of counteracting this phenomenon. In order to support the work of local commissions, the National Committee organises guest meetings in regional centres.

Comment

At the regional level, no attention is paid to the issue of trafficking in human beings in the Republic of Moldova. It is necessary to organise training for members of territorial commissions both on the issue of trafficking in persons and on anti-trafficking activities.

D. Mobilization of resources

Currently, the expenses necessary to implement action plans for countering trafficking in human beings are not included in the state budget. Generally speaking, anti-trafficking activities are financed through **international assistance**. State support is limited to the participation of state representatives in various anti-trafficking programmes.

The various Ministries of the Republic of Moldova, as well as the local public administration do not have the necessary resources to give grants to NGOs to implement anti-trafficking programmes.

Comment

The lack of state funding for anti-trafficking activities creates serious questions regarding the ability of NGOs to carry out their anti-trafficking activities once international assistance and support cease to exist.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

Prevention of trafficking in persons is a top priority of anti-trafficking efforts in Moldova. Measures taken towards this direction can be divided into two groups:

- Awareness raising measures for trafficking in persons;
- Risk-reducing measures for socially-vulnerable groups.

a. Awareness raising

At present, it is mostly NGOs that undertake awareness raising activities, aimed at vulnerable groups and the general public. Educational activities aimed at high risk groups (schoolchildren, graduates of boarding schools, students, unemployed persons, single mothers, etc.) focus on understanding and recognising the dangers of trafficking. These activities also target mass media representatives, local public authority representatives, priests and teachers and use the training the trainers approach.

The Ministry of Education, Youth and Sports of the Republic of Moldova supports the activities of certain NGOs. The **Prevention of Trafficking in Women Methodological Guide** for high school teachers, developed in 2002 by the *International*

Centre for the Protection and Promotion of Women's Rights 'La Strada', was approved by the Ministry of Education⁸¹ and was recommended as a supplementary learning tool for the courses 'We and the Law' and 'Family Education'. Training courses for groups at risk are also taught by NGO activists and peer educators trained by NGOs. Documentaries and films on the issue of trafficking are used as a training tool.

Throughout 2001-2005, organizations like IOM, the *International Centre for the Protection and Promotion of Women's Rights 'La Strada'* and *CPTW*, have developed **annual national awareness campaigns** including 'You Are Not a Merchandise', 'Stop Trafficking in Women', 'Lilia Forever-anti-trafficking campaign' among others. Multiple communication tools have been used including free screenings in national cinemas, educational training sessions and seminars, TV and radio talk-shows, posters, distribution of educational materials, mobile information groups of peer educators, etc. Various innovative techniques are also used and include drawing contests, essay contests, anti-trafficking discos and music caravans. These campaigns were also used to promote the Hot-Line as a source of information on trafficking and migration.

The **Moldovan National Toll Free Helpline -0800 77777-** is managed by the *International Centre for the Protection and Promotion of Women's Rights 'La Strada'*. The helpline is a special non-stop multi-channel telephone line providing confidential advice or other assistance on various issues associated with migration and the prevention of trafficking. Calls made to the helpline are free of charge within the borders of the Republic of Moldova. This helpline is also accessible from abroad at any time (0037322) 23 33 09. In the beginning of 2006, IOM and *La Strada* supported the opening of a **Helpline in Transnistria region** on the left side of the Nistru River managed by the *Interaction NGO*.

In Moldova, a number of other NGOs, including: *Save the Children*, *International Research and Exchanges Board (IREX)* and *Winrock International*, have also undertaken trafficking **awareness and informational campaigns** in selected regions of the country. *Winrock International* has set up regional information lines and carries out empowerment training sessions for rural women. *Save the Children* has carried out campaigns

⁸¹ Resolution of the National Council for Curriculum and Assessment No. 04-12-3387 of 06.11.2002.

aimed at preventing trafficking in children. A number of (rural) NGOs are disseminating informational posters and booklets for high risk groups, publish magazines on the issue of trafficking and use their websites for publicising information on the issue.

Comments

- Generally, it can be concluded that these awareness raising efforts have achieved to a large extent their objective and the danger of trafficking is now well known in Moldova. According to a recent study⁸², 77.5% of young people aged 18-29 years and 80.6% of persons aged 30-39 years are aware of the human trafficking phenomenon and recognise that it as a very serious problem for Moldova.
- One of the most important sources of information is the mass media and particularly the television. A number of agencies screen national and international movies and documentaries on trafficking issues. However, due to the high costs, NGOs face problems in placing social advertisements in the mass media. At present, access to social advertising is problematic. It is necessary to develop state measures to support social advertising.

b. Vulnerability reduction

Vulnerability reduction work aimed at risk groups, especially girls and women from rural areas coming from 'problematic', disadvantaged and poor families is a priority. Programmes in this field should focus on providing access to vocational training and assistance in finding employment.

It should be mentioned that such programmes have started in Moldova only in the last two years. Examples of such programmes include: free access to vocational training, labour market orientation, assistance in finding employment, consultations and provision of grants for setting up small businesses, access to the general education system, technical and humanitarian aid. These programmes are mainly implemented by IOM, ILO-IPEC via its partners *International Centre for the Protection and Promotion of Women's Rights 'La Strada'*, *Centre for Busi-*

⁸² Research carried out by the Community Sociology and Gender Study Centre of Moldova on the impact of the Social Campaign 'I Care About', aimed at breaking the stigma towards trafficked persons and extending access of trafficked persons to assistance developed by the *International Centre for the Protection and Promotion of Women's Rights 'La Strada'* during November 2005-May 2006. Report released in August 2006.

ness Consulting, Winrock International, Terre des Homes and UNDP.

The efforts of NGOs and the international community are supplemented by measures taken by the state and include *inter alia*, broadening the access of youth to free professional training and employment. The former system of free secondary professional education in Moldova has fallen into decay in the last years. Recently however, the Government has started to allocate budget resources to cover for free school meals and for providing a certain number of state funded places for professional training. However, the number of such places is still limited and these measures are obviously not adequate.

Comments

- There is a strong need for economic empowerment programmes aimed at graduates of boarding schools and orphanages since these persons are most vulnerable to trafficking.
- One of the obstacles in implementing such programmes is the lack of an adequate vocational training system in rural areas. Travelling to urban areas for the duration of a course causes various inconveniences to the participants, including additional costs; another obstacle is the lack of employment opportunities in rural areas, both in terms of limited number of jobs and low remuneration.
- It is necessary to take measures with a view of providing free access to professional training and developing the labour market in rural areas.
- In order to prevent trafficking in persons it is also necessary to fight domestic violence.

B. Protection and assistance

a. Identification of trafficking cases

At present, Moldovan victims of trafficking in persons are mainly identified by:

- The Police of foreign states, on the territory of which citizens of Moldova become victims of trafficking. In this case, victims of human trafficking are usually repatriated to the Republic of Moldova.

- The Police of the Republic of Moldova when processing the incoming information about crimes committed in the country.
- NGOs or organizations working directly with victims of trafficking or acting on information received by relatives of victims.

The study carried out by the *International Centre for the Protection and Promotion of Women's Rights 'La Strada'* in 2005⁸³ revealed a number of problems in the field of identification of victims of trafficked persons including lack of an official definition of the notion of 'identification', of the procedure and the criteria for the identification of a victim. The study has also revealed that the system of identification of victims of trafficking is not adequately developed in Moldova. Many channels of information on possible cases of trafficking are not used effectively (border service, foreign diplomatic representative bodies of the Republic of Moldova, social service, etc.).

Comments

It is necessary:

- To elaborate a clear conception of identification of victims of trafficking based on the national legal regulations and adapted to the specific problems of Moldova;
- To develop a system for the identification of victims of trafficking based on the definition of trafficking in persons, available data on cases of human trafficking, psychological and sociological studies on the issue etc.
- To develop recommendations for the identification of victims of human trafficking for law enforcement bodies and NGOs based on national legislation.
- To further develop cooperation between police and NGOs in the area of identification of victims of trafficking because victims are often more willing to talk to representatives of NGOs.

It has to be mentioned that cooperation between state bodies and NGOs in identifying victims of human trafficking and their further referral for assistance and protection is the main

⁸³ 'Identification of Victims of Trafficking in Persons' in *Thematic issue La Strada Express*, No.2., 2006, edited by *International Centre for the Protection and Promotion of Women's Rights 'La Strada'*.

element of the **National Referral Mechanism** (NRM)⁸⁴, a new European strategy to counteract trafficking in persons. NRM helps to solve the problems of identification and assistance to victims of human trafficking, as well as to improve the whole system of counteraction of the crime in the country.

Comment

It is necessary to create a cooperation system within NRM to refer victims of trafficking to places where they will receive the necessary assistance.

b. Repatriation assistance and risks assessment

Currently, the two major bodies involved in the repatriation of trafficked persons in Moldova are the diplomatic representations of Moldova and IOM. Usually, victims do not possess identification documents so the Moldovan consulate authorities proceed with the identification of the victims and issue them with travel documents.

According to Article 19 of the Law of Moldova *on Prevention and Suppression of Trafficking in Human Beings*, the Ministry of Foreign Affairs and European Integration, in collaboration with the Ministry of Internal Affairs and the Ministry of Information Development, shall elaborate and approve the Regulations **on the repatriation procedure of victims of trafficking in human beings**. At present, this document is in its final stage of drafting.

Repatriation of victims of trafficking often presents certain problems. Victims face the same problems they had before they left, i.e. lack of permanent source of living, debts, family problems, etc. They also have to deal with additional problems, such as health problems, psychological trauma and fear of social discrimination if their past is known. If a victim testifies to the police in the country of destination, she/he also fears for reprisals from its traffickers.

The **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**, supplementing the United Nations Organization Convention against Transnational Organised Crime stipulates in Article 18 (1):

⁸⁴ 'Mechanisms of referring the victims of trafficking in human beings at the national level. Uniting the forces to protect rights of victims of trafficking in persons.' Practical Manual. OSCE/BDIHR, Warsaw, 2004.

When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.⁸⁵

In reality, the risk of repatriation is not always assessed. Some of the victims, after being returned to Moldova, continue facing problems and start searching for new employment opportunities abroad. IOM statistics show that in 2001-2004 on average 8 % of victims (from 12% in 2001 to 4.3% in 2004) were repeatedly trafficked.⁸⁶ The representatives of official structures in countries of destination shall assess the risk of repatriation of victims of trafficking and, if necessary, search for alternatives to such repatriation.

Comment

The Republic of Moldova has the obligation to protect the interests of its citizens who have become victims of trafficking. It is, thus, necessary to sign bilateral agreements with countries of destination, providing for the obligation of these countries to assess the risk of repatriation of victims of trafficking and search for alternatives to such repatriation.

c. Shelters, healthcare, psychological and humanitarian assistance

Since 2001, a ***specialised shelter*** for victims of trafficking is carrying out its activity in the Republic of Moldova under the management of the IOM Mission to Moldova. It is situated in Chisinau, the capital of the Republic of Moldova. In 2004 UNICEF assisted in opening and equipping a separate wing for children-victims of trafficking. The shelter which is funded by the international community instead of the government, offers free immediate and mid-term rehabilitation assistance on a vol-

⁸⁵ The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Organization Convention against Transnational Organised Crime, 2000. Available from : <http://www.un.org/russian/documen/convents/orgcrime.pdf>

⁸⁶ Second Annual Report on Victims of Trafficking in Human Beings in SE Europe, 2005. Country Report: Republic of Moldova. IOM, Geneva, 2005, p. 24.

untary basis. Victims of trafficking receive the necessary **healthcare assistance** directly in the shelter where they are usually referred immediately after their return to Moldova. Problems in providing healthcare assistance appear when there is a need for serious intervention, such as surgery. Moldova has introduced a state health insurance system and free healthcare assistance is provided only to those who have health insurance policy.

Generally, the specialised shelter of IOM gives the beneficiaries an opportunity to remain there for up to three months which, normally, is enough to recover. However, in practice, there are cases when a victim requires a longer rehabilitation period –one year or more. Sometimes, provisional stay for a longer period is crucial for those who have no relatives, have been marginalised by their families, are single mothers or receive professional training in a location different from their place of residence. In these cases there is a problem of providing long-term assistance.

Recently there have been efforts to develop a network of services that would assist victims at their place of residence. UNDP has already helped to open three shelters in different districts of Moldova. There is a plan for the opening of five more shelters. Very often victims of trafficking need humanitarian aid, such as clothing, hygiene remedies etc. The *International Centre for the Protection and Promotion of Women's Rights 'La Strada'* (Moldova) provides such assistance.

Comment

It is necessary to establish long-term assistance shelters/services where victims of trafficking could stay and receive the necessary assistance for at least a year.

d. Access to professional education- employment and small business development-social reintegration of victims

According to international standards, victims of trafficking in human beings have the right to professional education. At present, mainly the IOM Mission in Moldova, the *International Centre for the Protection and Promotion of Women's Rights 'La Strada'* and *CPTW* provide such assistance under agreements with the National Employment Agency of the Ministry of Economy and Trade. Victims who do not have a profession or have a profession for which there is lack of demand in the labour mar-

ket, are generally trained in hairdressing, cooking, tailoring or other professions in demand in the local labour market. Former students of Higher Educational Institutions are assisted in their reintegration and their tuition fees are covered. This programme has been implemented since 2002 by the *International Centre for the Protection and Promotion of Women's Rights 'La Strada'* Moldova with the help of the OSCE Mission in Moldova.

Victims are also assisted in finding employment through local departments of the National Employment Agency, the Ministry of Economy and Trade. This however proves difficult due to high level of unemployment and the low remuneration provided. IOM Mission in Moldova and *CPTW* offer the possibility to victims to start small businesses. Persons selected for funding are assisted in elaborating a business plan and are given small grants to buy the necessary equipment, materials etc.

The main goal of the above-mentioned activities is to ensure the social reintegration of victims and to prevent them from falling victims of trafficking in the future. Notably, social reintegration of victims of trafficking, exploited for one year or more, is a slow and difficult process. Very often their psychological state does not allow them to concentrate on a certain activity for a long period of time and work effectively. For this reason, NGOs providing assistance to victims undertake long-term monitoring of their progress and assist them in overcoming psychological problems.

Comment

It is necessary to carry out long-term monitoring of the progress of victims of trafficking in human beings in order to deter them from any potential involvement in similar situations.

e. Legal assistance

Victims of trafficking in human beings are assisted in re-issuing lost documents and are provided with legal advice on family, housing, and other issues. Assistance is provided by a specialised NGO *Centre for Prevention of Trafficking in Women (CPTW)*.

f. Access to civil legal proceedings and compensation

Victims of trafficking have the right to reparation for the damage caused to them.⁸⁷ Compensation for damages is very important for trafficking victims, as an expression of justice. Compensation may *have a restorative, as well as preventive effect, as it gives victims the opportunity to start a new life when returning to their country of origin and prevents them from falling in the hands of traffickers in human beings again.*⁸⁸

Victims of trafficking may demand compensation for moral and/or material loss by bringing a civil suit against its traffickers.⁸⁹

Comments

- *CPTW* is the only NGO rendering legal assistance to victims of trafficking in persons and representing their interests in court. The employees of this organization help the victims to obtain compensation. According to them it is practically impossible to obtain compensation for victims of trafficking in human beings. Although judicial authorities decide on the compensation to be paid to the victim, unfortunately the criminals manage to escape from their obligation by not registering any property in their names.
- It is important that victims are informed promptly about their right to compensation and that they are legally assisted in bringing a civil suit against the perpetrators of the crime.

D. Prosecution

a. Criminal prosecution and conviction of criminals

According to Article 56 of the Criminal Procedure Code of Moldova⁹⁰, there are the following criminal prosecution bodies:

- Ministry of Internal Affairs;
- Information and Security Service of the Republic of Moldova;

⁸⁷ According to part (2) of Article 23 of the Law of the Republic of Moldova *on Prevention and Suppression of Trafficking in Human Beings*.

⁸⁸ 'National Trafficking Victim Referral Mechanisms. Uniting Forces to Protect the Rights of Victims of Trafficking in Persons'. Practical Guide. OSCE/ODIHR, Warsaw, 2004, p. 97.

⁸⁹ The rules of bringing such suits are regulated by Chapter I of section VII of the Criminal Procedure Code of the Republic of Moldova.

⁹⁰ No. 122-XV.

- Customs Department;
- Centre for Combating Economic Crimes and Corruption.

Under the Ministry of Internal Affairs of the Republic of Moldova there is a special anti-trafficking sub-division, the **Centre for Combating Trafficking in Human Beings**. This is the only specialised subdivision of internal affairs bodies to combat trafficking in the CIS countries. Creation of such specialised body was decided upon the fact that trafficking in human beings increased significantly in the last years. In 2005, 344 cases of trafficking in human being were registered including 240 criminal cases under Art. 165 of the Criminal Code (Trafficking in Human Beings) and 104 criminal cases under Art. 206 (Trafficking in Children).

However, criminal prosecution officers do not always manage to gather enough evidence for a case to be heard in court. According to information from the General Prosecutor's Office, in 2005 222 criminal cases of trafficking were transferred to courts (192 under Art. 165 of the Criminal Code and 30 under Art. 206 of the Criminal Code). Moreover, the analysis of court practice shows that the majority of the above-mentioned cases were re-prosecuted on the basis of Art. 220 of the Criminal Code (Pimping). Despite the significant number of criminal cases brought to court, only 36 persons were convicted under Art. 165 of the Criminal Code and 19 persons under Art. 206 of the Criminal Code.

The Supreme Court of Justice of Moldova analysed the criminal cases of trafficking in human beings, (including illegal transfer of children out of the country and pimping), examined by courts in 2004 and the first nine months of 2005.⁹¹ This analysis revealed a number of shortcomings and violations. The data of the Supreme Court of Justice confirmed that in more than 50% of the analysed cases the actions of convicts were re-prosecuted under Art. 220 and other articles of the Criminal Code instead under Art. 165.

The following violations were identified:

- Unfounded acquittals of defendants;

⁹¹ 'Information on Generalised Court Practice in Cases of Trafficking in Human Beings, Trafficking in Children, Illegal Taking of Children Out of the Country, and Pimping'. Bulletin of the Supreme Court of the Republic of Moldova 2006, No. 5, p. 34.

- Public hearing of cases despite the need to protect the privacy of the victims;
- Acquittal of defendants based on the voluntary agreement of victims to exploitation, which under international law, does not influence the criminal and legal assessment of trafficking in human beings;
- Mistaken re-prosecution of cases with further exemption from punishment due to amnesty;
- Mistaken perception of recruitment as an attempt of crime, despite the fact that recruitment constitutes a separate crime of trafficking in human beings.
- Interrogation of victims in the presence of their relatives and/or the defendants.

In the opinion of the Supreme Court *'these violations are caused by the fact that certain judges have insufficient knowledge of the relative legislation, court practice is not sufficiently developed and the application of anti-trafficking legislation is not fully justified'*.

Comments

- It is necessary to organise training sessions for judges and prosecutors.
- It is necessary to consolidate the material base of law enforcement bodies and to develop the normative basis for the criminal prosecution of trafficking in human beings and pimping in order to clearly differentiate these crimes.
- It is also necessary to develop special legal procedures for the prosecution of traffickers and the protection of victims.

b. Protection of witnesses

The Law of the Republic of Moldova ***on State Protection of Victims, Witnesses, and Other Persons Participating in Legal Proceedings***⁹² adopts measures for the protection of life, health, property, legal rights and interests of persons participating in legal proceedings, as well as of members of their families and other close relations. Depending on the specific circumstances, the law provides for two types of measures: ordi-

⁹² No. 71458-XIII, of 28.01.1998.

nary and extraordinary. Ordinary measures include the following:

- Bodyguard, house and property guard;
- Issue of special individual protection, communication, and danger notification means;
- Temporary placement in a safe place;
- Non-disclosure of information about the person under protection.
- Extraordinary measures:
- Change of place of work (service) or study;
- Change of residence and provision of new accommodation (house, flat);
- Issuance of identity card under a different name and change of appearance;
- Closed court hearings.

Comments

- In most instances, lack of means prohibits the implementation of this Law. Only in some occasions, the Ministry of Interior, in cooperation with IOM and CPTW, provided victims with some basic protection.
- It is necessary to develop a system of witness protection and apply the measures stipulated therein by legislation to protect witnesses.

In 2000, Moldova became a **member of the Southeast European Cooperative Initiative (SECI)** - a regional inter-governmental organization of 12 countries of SE Europe. This organization coordinates the actions of law enforcement bodies of states parties with a view to combating transnational crime. The main objective of the headquarters of this organization, located in Bucharest, is to ensure fast and effective exchange of information on different crimes, including trafficking in human beings. Such exchange is ensured by special communication officers – representatives of state parties, placed at the headquarters. Moreover, SECI provides assistance in releasing and repatriating victims of crimes on the territory of other states parties, in prosecuting criminals etc. In 2005, the first testimony in court given by video conference in another country was organised with the support of SECI. At that conference, a citizen of Moldova, victim of trafficking on the territory of the Former

Yugoslav Republic of Macedonia, testified by means of visual communication in that country. The support of SECI is of great value to the work of law enforcement bodies of Moldova, which often lack the necessary financial resources to combat transnational organised crime.

V. BEST PRACTICES

Best practices of the Moldovan counter-trafficking system can be found throughout this report, in the respective chapters.

VI. DEFICIENCIES

Deficiencies of the Moldovan counter-trafficking system can be found throughout this report, in the respective chapters.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below

RECOMMENDATIONS

In order to improve the anti-trafficking system in the country it is recommended to adopt the following measures:

1. **Capacity Building:** There is a need for well organised training programmes in order to train specialists, who come in contact with potential victims of trafficking.
2. **Research and Information Management:** It is necessary to systematise the collection of information on human trafficking, i.e. organise collection, analysis, and exchange of information among all the participants in counteraction trafficking in persons. There is a need for the establishment of a central body responsible for the collection and systematization of information, as well as for the dissemination of this information to all agents/institutions involved in the fight against trafficking. Prior to establishing the procedure of collecting, systematizing, and exchanging of information, it is necessary to determine what sort of information the participants need.
3. **Coordination of actions:**
 - The National Anti-Trafficking Committee does not have a permanent secretariat. It is also necessary to form a

special governmental sub-division (1-2 units) responsible for combating trafficking in persons.

- Representatives of civil society and intergovernmental structures are not officially approved by the Government. It is necessary to include representatives of NGOs actively working in this field in the official structure of the National Committee.
- The Republic of Moldova does not pay enough attention to the problem of trafficking in persons at a regional level. It is necessary to organise training sessions for members of regional commissions both on the issue of trafficking in persons and on its counteraction.

4. **Mobilization of Resources:** At present, activities on counteracting trafficking in persons in Moldova are financed mainly by international aid. The state should also allocate resources to support programmes and activities against trafficking.

5. **Prevention of Trafficking in Persons:**

- It is necessary to adopt measures to support public information campaigns by NGOs.
- In order to support vulnerable groups, it is necessary to take measures to ensure free access to professional training for the poorest.
- In order to combat trafficking in persons, it is necessary to fight domestic violence.

6. **Assistance and Protection of Victims of Trafficking in Persons:**

It is necessary:

- To develop a clear definition of victims of trafficking based on national legal regulations and oriented towards solving problems specific to the country.
- To develop a system for the identification of victims of crimes relating to trafficking, based on the definition of trafficking, collected data and psychological and social studies on this issue.
- To develop recommendations to law enforcement bodies and NGOs based on the national legislation for the identification of victims of trafficking in persons.

- To create a cooperation system within NRM to refer victims of trafficking to places where they will receive the necessary assistance.
- To sign bilateral agreements with countries of destination, stipulating the obligation of these countries to assess the risk of repatriation for victims of trafficking and look for alternatives to such repatriation.
- To open long-term shelters where victims could stay and receive the necessary assistance for at least one year.
- To carry out long-term monitoring of the reintegration of victims in order to offer support and prevent their involvement in similar situations.
- To develop the system of witness protection and apply the provisions stipulated by the legislation.
- To ensure that victims of trafficking are informed promptly about their right to compensation and are legally assisted in lodging civil suits against their traffickers.

7. ***Prosecution of people guilty of Trafficking of human beings:***

- It is necessary to organise training sessions for prosecutors and judges. It is necessary to consolidate the material base of law enforcement bodies.
- It is necessary to develop the normative basis of criminal prosecution for trafficking in persons and pimping in order to clearly differentiate these crimes.
- It is necessary to take measures to offer English courses to the officers of criminal prosecution bodies of the Republic of Moldova, in order to promote better communication and understanding.
- It is also necessary to develop special legal procedures for the prosecution of traffickers.

LIST OF ABBREVIATIONS

CIS	Commonwealth of Independent States
CPTW	Centre for Prevention of Trafficking in Women
ILO	International Labour Organization
IOM	International Organization for Migration
IPEC	International Programme for the Elimination of Child Labour
IREX	International Research and Exchanges Board
NRM	National Referral Mechanism
OSCE	Organization for Security and Cooperation in Europe
SECI	Southeast European Cooperative Initiative
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development

MONTENEGRO

Author

- Montenegrin Women's Lobby

MONTENEGRO

I. Introduction

Montenegro, situated in the Balkan Peninsula, was one of the constituent entities of the former Republic of Yugoslavia and then became part of a Federation with Serbia. In 2006, it became an independent country. It borders Bosnia and Herzegovina to the north-west, Serbia to the north-east, Albania to the south-east, and Croatia to the south-west. It also neighbours Italy across the Adriatic Sea.

Taking into account that the social crisis of the last decade caused many changes and break-downs in the country and in the whole of the Balkans and Eastern Europe, Montenegro is particularly concerned about trafficking in human beings. Rough and dramatic changes occurred in the area such as a marked decline of living conditions, the isolation of the country and an increase in unemployment. As a result, severe damage was inflicted on the development and structures of the family.

Officially, according to the Office of the National Coordinator, Montenegro is a transit country. However, according to the data provided by NGOs dealing with this problem⁹³, it is also a country of both destination and origin. Unfortunately, there is no data on Montenegrin victims who end up in foreign countries. These estimates are based on calls made to the SOS line for victims of trafficking. These calls were made by people searching for their missing relatives or having suspicions that they had become victims of trafficking.

According to the statistics of the NGO *Montenegrin Women's Lobby* (MWL)⁹⁴, most women victims of trafficking come from the Ukraine, Romania, Albania, Lithuania and Serbia. However, it is not only women that are victims of trafficking in Montenegro; four men from Bangladesh and four men from the Ukraine were also identified as victims, trafficked for forced labour during 2004 and 2005.

Moreover, it is important to note that a large percentage of victims of trafficking are children⁹⁵, who are the most vulnerable group to trafficking.

⁹³ The NGOs *Montenegrin Women's Lobby* and *Women's Safe House*.

⁹⁴ *Montenegrin Women's Lobby* runs a shelter for victims of trafficking.

⁹⁵ Persons under 18 are considered to be children.

II. National Legal Framework

A. National law

There is no precise definition for victims of trafficking in human beings in Montenegrin Law. An international instrument, usually used by prosecutors in order to deal with trafficking cases, is the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, adopted in 1985. The Declaration defines as victims persons who suffer from physical or mental pain or are subject to emotional suffering or economic loss, or are constantly deprived of their rights.

The ***Criminal Code of Montenegro*** (Art. 444) that defines trafficking in human beings as a crime, stipulates the following:

A person who recruits, transports, transfers, harbours or receives another person, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving payments or benefits to achieve the consent of a person, having control over another person, for the purpose of exploitation, prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs, or for use in military clashes, is sentenced to imprisonment from one to ten years.

- In cases of minor victims, the same penalties as above are imposed, even if the crime is committed without the use of force, threat or any other means.
- In cases of minor victims, the perpetrators are sentenced to at least three years of imprisonment.
- If serious physical injury is caused to the victim, the perpetrator is sentenced to one to twelve years of imprisonment.
- In case of the victim's death, the offenders are punished with ten years of imprisonment.
- If the crime is committed by organised groups, perpetrators are sentenced to at least five years of imprisonment.

Trafficking in children for adoption (article 445)

- A person who bereaves a child, younger than 14 years old, of its adoption, or who adopts such a person, negotiates its adoption, buys, sells, or delivers a person younger than 14, or gives him/her transport, accommodation, or hides him/her, is sentenced to imprisonment of one to five years.

- When the above crime is committed by a group of persons in an organised manner, offenders are sentenced to at least three years of imprisonment.

Slavery and situations similar to slavery (article 446)

- A person who puts or keeps another person in slavery or in a similar condition, and buys, sells, gives to another person, or negotiates for it or supports another person to sell its own freedom, is sentenced to imprisonment of one to ten years.
- A person transporting other persons, from one country to another, for the purpose of slavery or a similar condition, is sentenced to imprisonment of six months to five years.
- If the above crime is committed over a minor, offenders are sentenced to imprisonment of five to fifteen years.

B. Bilateral agreements

Since Montenegro became independent only recently, the process of ratification of international conventions has just started. For the same reason, no bilateral agreements or International Conventions have been ratified so far by Montenegro as an independent State.

National Action Plan

In 2005, the ***National Strategy*** of the Government of Montenegro for combating human trafficking was adopted. It consists of three parts: prosecution, protection of victims and prevention of trafficking.

III. General Framework

A. Capacity building

The following agencies are implementing capacity building activities in Montenegro:

Non-Governmental Organizations:

- *Montenegrin Women's Lobby (MWL);*
- *Women's Safe House.*

Governmental Organizations:

- National Coordinator for combating trafficking in human beings;
- Special Police Team for combating trafficking in human beings.

International Organizations:

- Organization for Security and Cooperation in Europe (OSCE);
- International Organization for Migration (IOM).

These two international organizations have played an extremely important role in combating trafficking in human beings in Montenegro, both as donors and as co-organisers of many significant projects of NGOs, such as **training sessions** for pupils, social workers, medical workers and police personnel. The mandate of IOM also includes repatriation of victims to their countries of origin.

Many NGOs in Montenegro, such as Montenegrin Women's Lobby, SOS telephone for domestic violence, *Save the children UK*, *New Horizons* and *Stella*, have organised training activities in the field of prevention of sex trafficking aimed at different target groups (pupils, students, police officers, teachers, local community, hospital managers) throughout Montenegro. These training sessions were organised in the form of four, three, two or one-day seminars, where participants were introduced to the problem of trafficking.

B. Analysis, research and monitoring mechanisms

The **Project Board**, a body composed of agencies at International, State and NGO level, dealing with human trafficking in Montenegro, was established in 2004. The Board convenes every three months and its main activities include the **assessment** of the situation and the **exchange of information**, while it also decides on future activities.

The moderator of the Project Board is the National Coordinator for the fight against trafficking in human beings.

C. Cooperation and networking at the regional and national levels

At the **national level**, a **Memorandum of Cooperation and Understanding** was signed in 2005 between the Ministry of Health, the Police, the Centres for Social Care and Labour and the Montenegrin Women's Lobby. This instrument aims at promoting a better perception of the phenomenon of trafficking through the collaboration of the aforementioned institutions and at enhancing close cooperation among them and consequently providing better protection to victims.

The function of the **National Coordinator** has been established in 2002. Since then, Montenegro has appointed three National Coordinators. The main duty of the National Coordinator is to synchronise the efforts of all the institutions in Montenegro, both governmental institutions and non-governmental ones, in combating trafficking in human beings.

Furthermore, the above-mentioned **Project Board**, composed by the Montenegrin Women's Lobby, the Women's Safe House, the Special Police Team, the Office for Gender Equality, the OSCE, the IOM, the Council of Europe, UNICEF, USAID and Save the Children, is a body established to enhance cooperation among the various anti-trafficking agents operating in Montenegro.

At the **inter-state** level, Balkan countries have established the **Petra Network** in order to exchange experiences and strengthen their cooperation in combating trafficking. Its activities include coordination in the operation of the SOS helpline services and Shelters for victims of trafficking.

At the **NGO** level, the **ARIADNE Network** is a further step in the effort towards the strengthening of regional cooperation against the phenomenon of trafficking. The Network was established in June 2005 and has a significant role in combating trafficking at a regional level. The coordinator of this network is the *Human Rights Defence Centre* (KEPAD), which seats in Athens, Greece. The members of this network are Southeast and Eastern European countries which are mostly affected by trafficking in human beings.

Another important tool for **regional cooperation** is the **UNODC Network**, coordinated by the UNODC Office in Vienna. In this Network, Balkan and Eastern European countries are represented by one NGO per country (Montenegro is represented by *MWL*). The UNODC Network organised an information campaign which included the production and distribution of posters, postcards and videos. Both the network and its campaign were successful and generated a lot of media interest.

D. Mobilization of resources

In Montenegro, no funds are allocated from the State budget for anti-trafficking activities, with the exception of the operation of Shelters and the functioning of the Special Police Team.

Financial resources are provided to NGOs only by foreign organizations, such as OSCE, Global Fund for Women and Care International.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

Awareness raising campaigns have been organised in Montenegro since 2001, aiming at providing the public with information concerning trafficking in human beings. In 2001-2002, IOM organised the *She can be your daughter, sister or wife* campaign and in 2003-2004, the *Help Her* campaign. In 2004, UNODC organised the campaign *Call for Help*. In 2005, two more campaigns were realised: *Trafficking in human beings-mine, your, our, social and global problem*, and *Let's stop the silence*, by CARE International and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) respectively.

These campaigns have raised the level of awareness regarding trafficking in Montenegro, mostly through the distribution of information material (posters, cards, videos, candies, coasters), or the organization of public sessions and round tables.

Moreover, **training courses on prevention** of human trafficking have taken place in elementary and high schools throughout Montenegro. These training courses were taught by *Save the Children*, the *Montenegrin Women's Lobby*, with the participation of all State institutions involved in combating trafficking in human beings, including the Police and the National Coordinator.

B. Protection and assistance

a. Shelters for victims of trafficking

A shelter for victims of trafficking has been established, in order to provide safe accommodation to victims until their safe repatriation or their return to a third country. The Shelter was established under the initiative of the Government of Montenegro and functions under the administration of the Montenegrin Women's Lobby. It mainly hosts **women** and **children** victims of trafficking, but in some cases it has also accommodated **men**. In such instances, women and children were hosted separately from men.

The shelter provides **contemporary accommodation**, from two weeks to several months, in order to help the victims over-

come their traumatic experiences. It also provides food, **medical care, psychological support, and legal advice**. The *MWL*'s activists accompany victims to the police, along with medical experts, lawyers or psychologists, and they support them during trial. In the shelter, a **database** is kept, containing information on the victims' profiles, the duration of their stay in the shelter, their experiences and their needs.

In 2004, ten victims were accommodated in the shelter; in 2005, 28; and in 2006 three.⁹⁶ In order to achieve its goal, and considering the fact that trafficking networks are powerful and well organised, the Shelter functions under the close cooperation of *MWL*, the Government of Montenegro, the National Coordinator, the Ministries of Internal Affairs, Justice, Health, Labour and Social Protection, Education, as well as the IOM and OSCE.

The main *objectives* of the shelter are summarised below:

- To provide a safe place to victims of trafficking during their stay in Montenegro, and also, after their return to their country of origin.
- To provide assistance to victims in terms of medical, legal and psychological support.
- To maintain a database of trafficking victims. The information is forwarded to the police.
- To assist IOM in issuing travel documents for the repatriated victims.
- To develop close cooperation with the National Coordinator, Governmental institutions, NGOs, and international organizations in order to create a common network for countering human trafficking.
- To enhance cooperation among the region's shelters through exchange of information and expertise, or by organizing common awareness raising campaigns.
- To develop mechanisms for the collection and exchange of information between governmental institutions, NGOs and international organizations.

⁹⁶ In 2004, ten victims were accommodated, of which four women, four men, one minor and one baby; in 2005 from 28 victims accommodated, 13 were women, four men and 11 minors.

The target groups of the shelter's activities are the following:

- Victims of trafficking, women and children involved in the sex industry, begging, and other forms of forced labour.
- The society at large.

Comment

Psychological assistance is also necessary for the activists working in the shelter. To meet this end, *MWL* is also working on providing psychological support to its personnel.

b. SOS-line for victims of trafficking in human beings (2001-2006)

One of the most important and necessary components of the Programme for the protection of victims of trafficking is the anti-trafficking SOS line, which plays a significant role in the field of education and awareness raising.

The SOS-line is run by the NGO *MWL*. The activities of the SOS line include the following:

- The SOS line is open 24 hours a day, in order to ensure permanent availability to potential victims and citizens who forward relevant information.
- Advice, information and possible alternatives are given to victims and potential victims of trafficking.
- Information on the phenomenon of trafficking is provided to citizens.
- Constant communication is promoted among the relevant institutions: the Special Police Team, NGOs and international organizations, in order to offer more help and support to the victims, and to be more efficient in combating trafficking.
- Activities are coordinated and experiences exchanged with other NGOs, in order to collect information on victims, traffickers, and routes/places where trafficking is taking place or suspicious locations where trafficking networks are spreading.
- The information collected by the SOS line, is being gathered in a database.
- The activists of the SOS line work on prevention and education of target groups, such as women, youth, citizens, representatives of institutions, through different activities and ini-

tiatives such as media campaigns, workshops, seminars, tribunes, questionnaires.

During 2005, the SOS line received 832 calls, in average two calls a day. The majority of these calls (33%) were received during September, October and November, after the realization of a **media campaign** -*Trafficking in human beings- mine, your, our, social and global problem*- which was part of the CARE International programme, organised by *MWL, Women's Group Stella, Women for better tomorrow, New Horizon* and other organizations. Calls received⁹⁷ were mostly made by young people and victims as well as former victims.⁹⁸

C. Prosecution

The **Special Police Team** was established in 2004, and has five members. At the national level, this team has sub-teams in all seven Security centres in Montenegro. Their mission is to control and steer activities in discovering, combating and repressing trafficking. After they receive a case from the SOS line for victims of trafficking, the Special Police Team undertakes appropriate action in order to resolve the case. When a victim in need of accommodation and protection is traced, the Special Police Team contacts the Shelter and brings the victim there, where she/he is provided with safety, support and protection. In the last few years many trials began in Montenegro, but only four of them reached a final decision.

V. BEST PRACTICES

- Three persons from Montenegro and one from the Ukraine were sentenced to fourteen years of imprisonment, for trafficking in human beings. In particular, they had trafficked

⁹⁷ Calls received are categorised as follows: 62% (514) calls from citizens, especially young people, who were interested in the phenomenon and the various forms of trafficking; 18% (149) calls from young people or their parents – checking on agencies and job offers through advertisements or the Internet; 11% (92) calls made from media and institutions; 9% (77) calls made from victims (usually their relatives) and former victims or citizens who reported suspicious locations.

⁹⁸ Former victims, i.e. persons who were protected and accommodated in the Shelter, and after recovery returned to their country of origin, usually inform the *MWL* through the SOS line about their current condition, while the *MWL* refers them to NGOs in their countries of origin that can help them in finding jobs or receiving additional education or training.

four men from the Ukraine for forced labour. This is the one of four concluded trafficking cases.

- Former victims, who were accommodated in the Shelter, once they are repatriated usually inform the *MWL* on their current condition. The *MWL* tries to establish contact with NGOs in the victims' countries in order to assist in their reintegration process (finding a job, receiving training etc).

VI. DEFICIENCIES

- There have been notable delays in the trials, which resulted in many witness-victims leaving Montenegro without receiving any compensation or before the conviction of the offenders.
- Lack of special prosecutor/s and judges for trafficking cases.
- Lack of funds for anti-trafficking activities.
- Lack of systematic and efficient monitoring mechanisms.
- There are additional factors, on the basis of which trafficking in human beings and smuggling of migrants are considered as two different phenomena; these are presence of deception and force or compulsion with the aim of exploitation. These distinguishing factors are often obvious, but hard to prove without active investigation.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. The social changes need to be analysed and new methods have to be developed in order for Montenegrin society to make progress, particularly towards the improvement of the level of social care, and the care of children.
2. The legal system should provide for special prosecutor/s and judges for trafficking cases in order to become more efficient.
3. Trafficked persons should be explicitly identified as victims of crimes. Assistance should be provided to them independently of their status or the status of the trafficker (arrested, prosecuted, or released).

4. Protection must also be provided to close relatives of the victims.
5. Factors that differentiate human trafficking from migrants' smuggling need to be clearly identified during the police investigation.

LIST OF ABBREVIATIONS

ARIADNE	NGO Network against Human Trafficking in SE and E. Europe
CARE International	International NGO
IOM	International Organization for Migration
MWL	NGO Montenegrin Women's Lobby
ODIHR	OSCE's Office for Democratic Institutions and Human Rights
OSCE	Organization for the Security and Cooperation in Europe
PETRA Network	Balkan Network at the State level
UNODC	United Nations Office for Drugs and Crime
UNICEF	United Nations Children Fund
USAID	United States Agency for International Development

ROMANIA

Author

- ARCA-Romanian Forum for Refugees and Migrants

ROMANIA

I. Introduction

Romania is located in Southeastern Europe and borders Hungary and Serbia to the west, Ukraine and Moldova to the north-east, and Bulgaria to the south. Romania has also a stretch of sea coast along the Black Sea.

The social and economic evolution in Romania since the 1990s, facilitated the emergence of social inequalities and indirectly the creation of vulnerable groups. By the end of the 1990s and the beginning of the next decade, geographic proximity to the conflict-torn former Yugoslav republics led to the increase of the human trafficking phenomenon in Romania.

At the regional level, the crisis in the Balkans during the past decade has led to a growth of the phenomenon. According to international statistics, Romania is a *country of origin and transit* for large numbers of women coming mostly from Asia, but also from neighbouring countries, such as the Ukraine, Moldova and Belarus. The countries of destination are the former Yugoslav Republics especially the territory of Kosovo, as well as Turkey and Greece or countries of Western Europe. The Romanian Police has identified over the years certain trafficking routes. These trafficking routes depend on the legislation of the country of destination and/or on the structure of traffickers' rings and their contacts and liaisons on a certain route. According to the experience of the Romanian Police⁹⁹, the first *trafficking route* starts in the Republic of Moldova, crosses Romania and through Hungary, reaches W. Europe, in particular France and Germany. The second *route* is via Belgrade, a renowned centre for trafficking in human beings, continuing to other former Yugoslav states, then Italy and Greece. The third *route* crosses Bulgaria and goes either towards Greece or Turkey, or towards Italy through the Former Yugoslav Republic of Macedonia and Albania.

During the past decade, trafficking in human beings became a major problem both at national and international levels, with profound social and economic implications affecting a large number of countries and individuals. In its most evident form, trafficking in human beings comprises the exploitation of women and children in the sex industry, in begging and forced labour. Formulating coherent policies to prevent and combat

⁹⁹ Statistics supplied by the Inspectorate General of the Romanian Police.

trafficking in human beings is hindered by a series of difficulties arising primarily from insufficient knowledge of the phenomenon's real dimensions due to increased cross border movement of people and goods. The fact that human trafficking usually arises in the context of activities which appear to be lawful, makes the identification of the phenomenon even more obscure. Intermediary work agencies for instance, promise legal jobs abroad, but in practice victims are exploited in illegal activities.

Romania is a country of origin and transit for women and children trafficked for sexual exploitation. Women from Moldova, the Ukraine and Russia are trafficked through Romania to Italy, Spain, Germany, Greece, France, Austria, and Canada. There were reports that Romanian boys and young men were also trafficked to other Eastern European countries for purposes of sexual exploitation. Romanian girls are also trafficked within the country for commercial sexual exploitation, and boys are trafficked from E. and N. Romania to cities for purposes of forced labour including forced petty theft¹⁰⁰.

It is expected that upon becoming a member of the European Union, Romania will also become a country of destination for trafficking in human beings, as it will attract people from less developed neighbouring countries. Hence, it is necessary to develop an effective system capable to deal with large numbers of foreign nationals, who will need assistance and repatriation.

Statistics by national law enforcement agencies or by the International Organization for Migration (IOM) are incomplete and reveal only part of the problem. Countries in the Southeastern European region including Romania, make efforts to improve their data collection systems, something that is necessary in order to provide better background information on anti-trafficking policies and facilitate understanding of the multiple socio-economic causes of the phenomenon.

II. National Legal Framework

A. National law

The national anti-trafficking legislation came into force between 2001 and 2003, enabling the law enforcement agencies to take action in order to limit trafficking and bring Romanian legislation in line with international standards.

¹⁰⁰ 'National Anti-Trafficking Strategy 2006 – 2010', UNICEF Romania.

Laws adopted to counter-trafficking in human beings are the following:

- Law 678/2001 on **prevention and countering human trafficking**;
- G.D. 1216/2001 on the approval of a **National Action Plan** for the prevention and countering of human trafficking;
- Law 682/2002 on **witness protection**;
- Law 565/2002 on the **ratification of the UN Convention against Transnational Organised Crime and its Supplementing Protocols**;
- Law 39/2003 on **preventing and countering organised crime**;
- G.D. 299/2003 on the approval of the Regulation for the implementation of Law 678/2001;
- Law 656/2002 against **money laundering**.

B. National Action Plan

The drafting of the **Plan for preventing and combating child trafficking** is the product of the **Inter-ministerial Group**, benefiting from the expertise of experienced organizations in the field of child trafficking, i.e. UNICEF, ILO, IOM, UNDP, and *Save the Children*. The Inter-ministerial Group, in cooperation with the Directorate General for Combating Organised Crime and Narcotic Drugs (DGCCOA) hosted in March 2004 a debate on the drafting of the Plan, with the participation of more than 50 specialists.

In spring 2001, following an initiative of the Ministries of Interior, Foreign Affairs and Justice, the experts from the Inter-ministerial Group drafted the **National Action Plan for combating trafficking in persons**. The Plan was a joint effort of the Ministries of Education, Labour, Youth and Culture. Joining an *ad hoc* framework, specialists from governmental, non-governmental and international organizations elaborated the final form of the Plan, which was then adopted by Government Decision in 2001 (G.D. 1216/2001). The Plan establishes practical objectives on three strategic directions: prevention, prosecution and protection of trafficked victims, in accordance with the recommendations adopted by the Stability Pact for South Eastern Europe, the organization responsible for the implementation of the UN Convention on Organised Crime and its Supplementing Protocols.

The development of an efficient system against human trafficking is one of the implicit requirements Romania has to meet in the process of its accession and integration in the European Union. In accordance with the international trend to prevent and combat trafficking in human beings, the Government of Romania has made this a top priority. In this context, the **National Anti-Trafficking Strategy** and the closely connected **National Action Plan** were adopted as instruments for Romania's EU integration process.

The **National Anti-Trafficking Strategy (NATS)** focuses on actions aiming to prevent and combat trafficking in human beings during the period 2006-2010. The Strategy will be implemented through a **National Action Plan (NAP)** for the prevention and combating of human trafficking, for the period of 2006-2007.¹⁰¹

Comments

Three years after the approval of the NAP the following advantages and drawbacks have been identified:

- Its elaboration demonstrates the **governmental commitment** to counter human trafficking;
- It enables the **development of cooperation** between national agencies and civil society;
- It creates the possibility to use the experience of law enforcement agencies in **prevention campaigns**;
- It allows the **improvement of cooperation** between Romania and its international partners;
- It sets up tasks for all competent governmental and non-governmental institutions;
- It does not provide a specific **budget**, neither at governmental nor at NGO level;
- It does not establish a **permanent framework for cooperation**;
- It does not develop an **effective coordination system** between the different actors involved;
- Some activities have been defined too broadly and as a consequence it is difficult to monitor their accomplishment;
- Activities aimed at prevention and victim protection are not clearly defined, but instead, emphasis is placed on **prosecution**.¹⁰²

¹⁰¹ 'National Anti-Trafficking Strategy 2006-2010', UNICEF- Romania.

III. General Framework

A. Capacity building

Romanian authorities have acknowledged the need for continuous national and regional training, as part of their strategy for preventing and combating human trafficking. **Regular training sessions** are organised for all law enforcement agents involved in this field. The training is based on **The Law Enforcement Best Practices Manual for Fighting Human Trafficking in the SEE**, drafted by UNDP Romania and widely recognised as a regional standard in the field. Two **national meetings** on law enforcement for officers working on human trafficking cases were organised with the financial support of the FBI, the SECI Regional Centre and UNDP Romania. Almost 200 participants, including police officers, border police, prosecutors and foreign liaison officers attended the meetings.

Comments

- The above mentioned meetings were a great opportunity to share experiences and best practices in the field, to harmonise the investigation practices in human trafficking cases and to establish national standards.
- All international organizations and NGOs, in cooperation with government agencies, developed programmes of training seminars for law enforcement agents, social services personnel, teachers, media etc.

B. Analysis, research and monitoring mechanisms

The existence of solid **statistic data** is essential for the analysis of the causes of human trafficking and the identification of groups at risk, as well as for the development of appropriate anti-trafficking policies. As all illegal activities, human trafficking has a considerable 'invisible' side, which cannot be reflected in any database or analysis. In addition to that, there is a serious deficit of data in Romania.

Institutional responsibilities in collecting and processing human trafficking data are incumbent upon:

- The Resource Centre of the **Department for Combating Organised Crime** (DOCC), in the field of prosecution;

¹⁰² Romanian Annual Report, 2003-2004.

- The **Inspectorate General of Border Police** (GIBP), as part of its duties, reports only human trafficking cases related to migration;
- The **National Office for the Prevention of Trafficking in Human Beings** (NOPT) of the Institute of Crime Research and Prevention (ICRP), which was reorganised, in January 2006, into **National Anti-Trafficking Agency** (NATA), in the fields of prevention and assistance;
- The **National Authority for the Protection of the Child** (NAPRC), which initiated the organization of a child trafficking database. NAPRC reports only cases of unaccompanied minors that were repatriated, without distinguishing the type of abuse or exploitation they had been subjected to;
- **IOM database** on victims which were assisted by the organization.

The existing data cover mainly sexual exploitation cases. Data regarding other forms of trafficking, such as for the purpose of labour or obtaining human organs, are precarious and insufficient for statistic analysis. Similarly, data on internal trafficking are not recorded or do not allow relevant analyses.

In its first year of activity, the Inter-ministerial Group has worked continuously on **monitoring** the activities of state agencies in accordance with the National Action Plan for Prevention and Countering Human Trafficking. Although the Inter-ministerial Group has no decision-making power over the governmental organizations set up by G.D. 1216/2001, its members have established a forum where significant issues of fighting human trafficking are freely discussed. The forum is also a valuable tool for monitoring the Plan's implementation as well as facilitating its work.

Comments

- The Government of Romania does not comply fully with the international minimum standards for the elimination of trafficking. However, it makes significant efforts to do so. Romania increased its anti-trafficking law enforcement efforts and took steps towards improving government coordination by creating the National Agency for the Prevention of Trafficking in late 2005 that will be funded from the national budget and will have authority to direct other agencies to take anti-trafficking initiatives.
- Most institutions in the field have only recently begun to col-

lect data. Consequently, the existing data does not allow for dynamic analyses of the phenomenon.

- The available data are not **measurable** and are not always **consistent**. The reason is that data are **not centralised** in a single database and made accessible to all competent organizations, both governmental or non-governmental. Although every institution should collect data separately in order to monitor its own activity, unification is absolutely necessary from the standpoint of entry methodology. This methodology should be in line with international definitions, permitting for comparative analyses at international level.¹⁰³
- For instance, regarding **child trafficking**, there are several institutional sources of data – GIBP, DOCC, NAPRC and NOPT –each using different data recording methods and report forms.
- Border Police collects and reports data on unaccompanied returned minors.
- NAPRC reports data on unaccompanied returned minors. Data are entered on record by the authorities following notifications.
- The Resource Centre, operating within DOCC, reports data that are on record with the police, on child victims.
- NOPT provides data regarding child victims, who have received some form of assistance.
- The DOCC Resource Centre initiated in 2004, the development of a database for victims of trafficking in human beings, including sexual, labour, begging, and other forms of trafficking. For a person to be *reported as a victim* he/she has to meet at least one of the following conditions: to have filed a statement or a complaint with a judicial body, where he/she claims to have been an injured party in a trafficking offence; to be ascertained, by investigative police authorities that he/she has been a victim of trafficking; to be found during a police raid.
- In the absence of an **integrated system of victim identification and referral**, the volume of data reported to the Resource Centre of DOCC depends ultimately on individual interpretations of the notion of victim.
- **Monitoring** is not sustainable in every sphere of anti-trafficking activities, especially with regard to victim assis-

¹⁰³ 'National Anti-Trafficking Strategy 2006 – 2010', UNICEF Romania.

tance. Victims of trafficking in human beings are registered as 'social cases' in order to have access to social reintegration programmes (education, employment), or to health care services. Under these circumstances it is not possible to determine the number/proportion of victims of trafficking in human beings who have received assistance.

- The absence of a unified system of victim identification and referral and the lack of clear procedures of inter-institutional cooperation regarding collection, exchange and access to data, reduces considerably the ability of the system to produce statistics and causal analyses that should guide anti-trafficking policies and actions.

C. Cooperation and networking at the regional and national levels

Various **networking initiatives** have been developed concerning diverse forms of trafficking, with the cooperation of different actors: international organizations, NGOs and governmental institutions with common activities in prevention, assistance of victims and prosecution. The IOM network is a good example of developing common activities for providing assistance to the victims.

D. Mobilization of resources

Funding for counter-trafficking activities is provided by the **budget of competent ministries**. At present, however, cost estimates for anti-trafficking activities are not yet made available by the ministries involved (Ministries of Administration and Internal Affairs, Public and Justice).

Prevention campaigns were developed in partnership with public institutions and civil society organizations, international organizations, and the media. No cost estimates are available either.

In the field of institutional development and victim assistance, most of the financial resources allocated to anti-trafficking activities come from **international organizations**. With regard to victim's assistance activities, the competent ministries –Ministries of Health, Labour, Social Solidarity and Family, and Education and Research – do not publish relevant costs. Only the General Departments of Social Assistance and Child

Protection have the ability to evaluate their financial resources directed towards the assistance of victims of trafficking.¹⁰⁴

Regarding the repatriation of Romanian nationals, who fall victims of international human trafficking, the Ministry of Foreign Affairs and the Romanian diplomatic missions do not receive funds from the state budget to provide assistance to victims. Currently, the system relies on local donors (in the countries of destination) or international organizations to fund the repatriation of victims, or provide other forms of assistance like funding for the reintegration of victims.

Comments

- It is not possible to make an analysis of the budget allocated to anti-trafficking activities, or of the financial resources included in the National Plan of Action 2006-2007.
- Once Romania joins the European Union, it is expected that international financial resources will diminish considerably. For this reason, it is vital to identify new sources of funding. For the period 2006-2007, it becomes a top priority for Romania to develop *at internal level*, an effective system of identification of victims, both Romanian and foreign, that will be eligible for assistance and repatriation.¹⁰⁵

IV. Implementation of the Anti-Trafficking Laws

A. Prevention and awareness

In the period of 2001-2005, **prevention campaigns** were carried out by state institutions in partnership with civil society organizations, international organizations and the mass media.

Representative surveys on the adult population of Romania, reveal that the large majority of the population (85%) has heard about the phenomenon of human trafficking. Under the coordination of the **Institute of Crime Research and Prevention** (ICRP), in association with the **National Office for the Prevention of Trafficking in Human Beings** (NOPT), 42 divisions for the prevention of human trafficking have been set up at the level of Country Police Inspectorates (CPI). These divisions carry out information and **awareness raising cam-**

¹⁰⁴ The budget of public centres for the assistance of victims is considered by their managers to be 'insufficient'.

¹⁰⁵ 'National Anti-Trafficking Strategy 2006 – 2010', UNICEF Romania.

paigns, in partnership with local police officers and NGO representatives. However, in the absence of own financial resources, the implementation of preventive anti-trafficking activities was subject to two conditions: the existence of NGOs active in the field and the funding priorities of sponsors.

More than 3,000 students participated in NGO and government-organised **awareness seminars** and **classes in public schools** in 2005. The Government funded a **nationwide programme** focusing on **child trafficking**. Anti-trafficking posters, banners, and materials were distributed in schools.

Comment

Public information campaigns have been efficient. However, in the absence of a national coordination system, these preventive activities covered the territory of the country unevenly. For instance, the Southern part of the country, which represents the main source of victims of trafficking, does not enjoy the resources, both human and financial, which are necessary for the implementation of preventive activities.

B. Protection and assistance

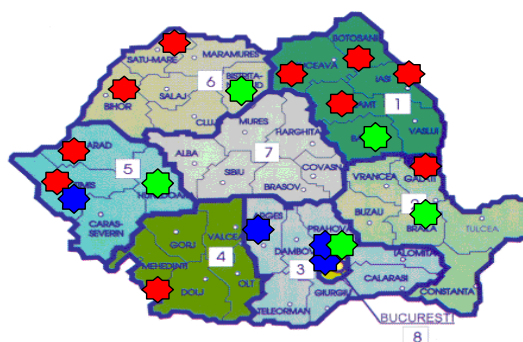
In January 2006, seven **assistance shelters** for adult victims of human trafficking were set up by Law 678/2001. Two more centres were at the process of becoming operational in the south part of Romania. Under the **Programme of National Interest**- Law 415/2004, twelve **Transit Centres** for children victims of human trafficking were opened.




In addition, since January 2006, there is also a **shelter** for **repatriated women** victims of trafficking, established on the basis of the Agreement between the Government of Romania and IOM (G.D. 1226/2001). Three more **centres** are run by the following NGOs: *ADPARE* in Bucharest, *'Reaching Out'* in Argeş and *Generație Tânără* in Timiș. These centres provide long-term assistance services.

Comment

Generally, NGOs provide long-term assistance services, while state-run centres are set up for emergency cases. Nevertheless, in cases of child victims some public centres provide long-term assistance services, as well as mid and short term services, on the basis of an individualised reintegration plan.

**Map of help centres for victims
of trafficking in Romania¹⁰⁶**



-  Public Centres established in accordance with Law 678/2001 and PNI 415
-  Long-term residential services (NGOs)
-  Day services (NGOs)

Comments

- Victims are provided with medical, legal, and social assistance, although the quality of care offered and the facilities vary in state-run shelters.
- Funding issues prompted the closure and reopening of several shelters.
- State-run centres are intended mainly for short-term use only; victims are permitted to stay in the centres for 10 days, although this may be easily extended for up to three months for adults and six months for minors and, in special circumstances, beyond three months based on a request by judicial officials.
- Police and prosecutors are required to inform victims of their right to visit a state-run shelter, but, in practice, most victims did not make use of this right because of the short period of assistance offered and the general lack of trust on state institutions and procedures.
- Only 29 of the 175 victims assisted by the government used the state shelters. The majority of victims preferred the NGO-run centres as the level of care and assistance

¹⁰⁶National Anti-Trafficking Strategy 2006-2010', UNICEF Romania.

offered there is much higher. NGOs received some funding for victim assistance from the local government.

- Overall support was inconsistent and largely inadequate.¹⁰⁷

C. Prosecution

In the field of **judicial prosecution**, the following institutions are involved:

- **MAIA** – Ministry of Administration and Internal Affairs;
- **DOCC** – Department for Combating Organised Crime, through its regional centres, but also through services subordinated to County Police Inspectorates (CPI);
- **Resource Centre**, a structure with the purpose to collect and process data received from all agencies and institutions involved in combating human trafficking;
- **GIBP** – Inspectorate General of the Border Police, through its territorial structures (services and offices) specialised in human trafficking;
- **MPA** – Ministry of Public Affairs;
- **DIOCT** – Department of Investigation of Offences of Organised Crime and Terrorism;
- **MJ** – Ministry of Justice;
- **National Network of Judges** (consisting of 56 judges), was established on 02.07.2004 and specialises in cases of human trafficking;
- Regional and cross-border cooperation organizations such as **SECI**;

Comment

The Government of Romania significantly improved its law enforcement efforts against crimes of trafficking over the last year. In 2005, the Romanian police conducted 231 investigations; 124 trafficking cases were prosecuted, resulting in the conviction of 235 traffickers. This demonstrates more than 100 percent increase in comparison to the previous year (103 traffickers convicted in 2004). Of the 235 traffickers convicted in 2005, 128 were sentenced to imprisonment, while 98 received no imprisonment sentence. 64 traffickers were sentenced to

¹⁰⁷ US State Department, *TIP Report 2006, Romania*.

one to five years imprisonment and another 64 traffickers were sentenced to five to ten years imprisonment.¹⁰⁸

V. BEST PRACTICES - EXAMPLES

Case Study

'Ana'

Pre-trafficking conditions

Ana grew up in a state institution and at the age of 14 she was back with her family. Her mother was seriously ill and her father alcoholic and aggressive. Her sister was mentally handicapped and her brother an alcoholic. At 16 Ana decided to get married. Her husband was alcoholic and very aggressive and shortly after their marriage, Ana became a victim of domestic violence. At the age of 20, without food, without emotional support from her family and after receiving repeated beatings, Ana ran from her husband's house to a neighbour.

Recruitment for trafficking

After two weeks in the neighbour's house (woman friend from state institution), one Romanian man came and proposed to Ana to go to Greece for 3 months to work as a cleaning lady in restaurants. The man promised that he will open a bank account in Romania for her so that she could send money to her daughter. She asked for one week to think about it; but he pushed her to give to him her Romanian ID for obtaining a passport for her.

Transport

After a week, the man offered to drive Ana to the Police Station in order for her to sign and collect her new passport. This however was not the case as they drove directly to the Serbian border which they crossed illegally.

In Serbia, Ana realised that she was in another country because the names on road signs were different. When she questioned the man she simply received the answer that she was sold.

¹⁰⁸ *Id.*

Exploitation

From a 'selling house' Ana was bought by the Serbian owner of a sex club. He told her that she had a big financial debt to repay and that she must work for him for six months. After that period she would be free to leave.

During her first night working in the club, Ana was raped by a client because she refused to offer sexual services to him.

Because she refused to cooperate, the owner of the club sold her to another owner of a sex club after a month.

From this point onwards, Ana was sold more than ten times in Serbia and the Former Yugoslav Republic of Macedonia. This lasted for a period of more than two years, during which Ana was forced to offer sexual services, clean the club, drink /entertain the clients and in some instances to perform strip-tease. During these two years she became an alcoholic and survived just because she wanted to get back to her daughter. She succeeded in escaping from a club in the Former Yugoslav Republic of Macedonia, but the border police beat her and re-sold her.

Escape

During a police raid, the owner of a club in the Former Yugoslav Republic of Macedonia hid the victims in a private house, but Ana succeeded in escaping with the help of a client. The client helped her to cross the border to Kosovo and informed her where the Romanian Consulate was. From there she was sent to the IOM shelter in Pristine where she received help and assistance for a month.

Repatriation assistance

Ana was escorted at the border and repatriated by the Romanian section of IOM and was then placed in an assistance programme on April 2003.

Assistance for reintegration**Crises assistance**

Once the victim was repatriated, the first action was to help her reunite with her daughter. When she visited her family she found that the situation was not good: the daughter was placed in a state institution and her family was under severe financial debt, including unpaid utility bills (as a consequence the house was without light, water, heating etc). Faced with

this situation, Ana asked to be accepted in the shelter.

Ana received residential assistance in the IOM shelter for eight months where she received medical care and education for developing independent life skills. In this period she was supported on every level from *ADPARE*, starting with assistance in issuing new identity documents, psychological support, legal assistance, medical care and education, qualification course etc.

Results:

During these eight months Ana divorced her husband, abstained from alcohol, finished a qualification course in hair-dressing and started working in a hair salon. This was a remarkable recovery given the fact that when Ana came to the centre she was suffering from posttraumatic stress disorder (socio-phobia, low self esteem and low trust in others, memory problems, recurrent nightmares).

Long term assistance

After this first period of assistance, Ana was placed in the long-term assistance programme of *ADPARE*. The method of assistance was Case-Management.

Ana benefited from sheltered, independent living in an apartment and was able to find another job with a better salary (in a chocolate factory). Ana learned to manage her money and gradually became more independent. She also got back custody of her daughter and now they live together. She continues to receive therapy and support for her full re-integration.

VI. DEFICIENCIES

- The Government of Romania does not comply fully with the international minimum standards for the elimination of trafficking.
- Existing statistics, provided by national law enforcement agencies or by IOM are incomplete.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below

RECOMMENDATIONS¹⁰⁹

1. In view of the accession of Romania to the EU, it is pertinent to develop an efficient system to deal with large numbers of foreign nationals trafficked to Romania from poorer neighbouring countries, who will need assistance and repatriation.
2. Romania should improve its victim identification methods and establish a functional victim referral system.
3. The government should work more closely with anti-trafficking NGOs and provide them with stable funding.
4. Police should be instructed to inform victims about services offered by NGOs. Since many victims of trafficking choose not to go to state-run shelters, the government should develop other strategies to offer the necessary assistance to victims.
5. The government should not fine or in any way penalise victims of trafficking.

¹⁰⁹ U.S. State Department *Annual Trafficking in Persons Report*, released on 05.06.2006.

LIST OF ABBREVIATIONS

CPI	Country Police Inspectorates
DGCCOA	Directorate General for Combating Organised Crime and Narcotic Drugs
DIOCT	Department of Investigation of Offences of Organised Crime and Terrorism
DOCC	Department for Combating Organised Crime
FBI	Federal Bureau of Investigations
GIBP	Inspectorate General of Border Police
ICRP	Institute of Crime Research and Prevention
ILO	International Labour Organization
IOM	International Organization for Migration
MAIA	Ministry of Administration and Internal Affairs
MJ	Ministry of Justice
MPA	Ministry of Public Affairs
NATA	National Anti-Trafficking Agency
NAP	National Action Plan
NAPRC	National Authority for the Protection of the Child
NATS	National Anti-Trafficking Strategy
NOPT	National Office for the Prevention of Trafficking in Human Beings
SECI	Southeast European Cooperative Initiative
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund

SERBIA

Authors

- Centre for Protection of Women and Children
- Lawyers Committee for Human Rights - YUCOM

SERBIA¹¹⁰**I. Introduction**

Serbia is located in SE Europe and borders Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, the Former Yugoslav Republic of Macedonia, Romania and Montenegro. Trafficking in human beings is a serious and complex problem in Serbia. It is difficult to delineate with accuracy its exact scope and characteristics due to the fact that it is only a very small number of victims that seek help from the police or other organizations specialising in victims' assistance. Since a unified system for monitoring and analysis does not exist, there are different numbers provided by a multitude of sources: governmental, non-governmental and international organizations. Additionally, the available data on trafficking concerns largely the trafficking of women, while data on children and men are sporadic and insufficient to provide any general conclusions.

Serbia is mainly a country of transit, but also a country of origin and temporary destination for victims of human trafficking, depending on whether the victims are women, men or children.

Regarding women victims, Serbia is a country of transit, origin and temporary or permanent destination, as well as a country with internal trafficking, mostly of Serbian women. Most women victims are foreign citizens and usually they come from Romania, Russia, the Ukraine, Moldova and Serbia. The most

¹¹⁰ When this research started, Serbia was one of the members of the State Union of Serbia and Montenegro (S&M). Provisions of the Constitutional Charter and the Charter on Human and Minority Rights and Civil Liberties (hereinafter, the HR Charter), which were adopted in 2003, applied in the Serbia and Montenegro State Union and provided a more comprehensive legal protection of human rights. However, the incompatibility of Serbia's and Montenegro's individual constitutions and laws with the S&M State Union's constitutional provisions (Constitutional Charter and HR Charter) continue to pose a major obstacle to the enjoyment of the rights guaranteed by the HR Charter. Although the HR Charter envisages its direct applicability, and thus partly addresses the above-mentioned incompatibility problem, the delays in the adoption of new Constitutions, especially in Serbia, have resulted in a slower and inefficient harmonisation of the member states' legislation with international and European standards. Currently, the Constitution, which was created and adopted during Milosevic's term, tailored to fit a totalitarian and dictatorial regime and not a democratic state, is still in force in Serbia. However, Serbia is in the process of drafting a new constitution that aspires to democratic standards and civil society principles. Hopefully, the new Constitution will provide the basis and mechanisms for full respect of human rights and freedoms.

common routes of women's trafficking start in countries of the former Soviet Union (the Ukraine and Moldova), lead across Romania, Bulgaria and occasionally Hungary and end up in S&M. Victims enter Serbia legally or illegally, either on foot or by various other means of transportation. Networks of trafficking extend, via Serbia, from north to south (to Kosovo and the Former Yugoslav Republic of Macedonia or to Montenegro and then to Italy or Albania), from east to west (to Republic Srpska and Croatia) or to the north (to Hungary). Belgrade is a common stop for victims of trafficking. Serbian women are victims both of internal and transnational trafficking, usually ending up in Bosnia, in the Former Yugoslav Republic of Macedonia and Italy. Notably, internal trafficking of women (both of Serbian and foreign nationals) is conducted through the same routes used for transnational trafficking. The main links in this chain are big cities, especially Belgrade and Novi Sad, as well as cities situated close to the borders, such as Novi Pazar that is considered a place of temporary, but also permanent destination, mostly for Serbian women.

Concerning men victims, Serbia is mostly a transit country for victims of human trafficking, although there are some indications that it is a country of origin as well. According to research conducted by the NGO *Victimology Society of Serbia*, Chinese citizens and men from Eastern European countries are often used as illegal labourers. However, available data do not provide sufficient information on whether these are also trafficking cases or not.

Regarding child trafficking, Serbia is both a country of origin (especially concerning Roma children), but also a country of transit and temporary destination for underage girls, who, together with adult women, are included in organised channels of trafficking for sexual exploitation. There is also internal child trafficking that mainly involves children of Serbian nationality. Victims usually come from small towns and the main destinations are Belgrade, Novi Pazar and Nis. Child trafficking in Serbia has assumed serious proportions and constitutes a dangerous form of organised crime. Victims are usually young girls of Serbian nationality, both of Roma and non-Roma origin. Victims are also foreign children involved in transnational trafficking.

According to recent data and reports of domestic and international organizations and agencies, trafficking of children in Serbia (and especially of Roma children) shows trends of increase. Internal trafficking is increasing as well. According to

the data of the NGO *ASTRA*, 70% of victims of human trafficking are Serbian nationals; and 44% of those are children. Also, the latest State Department report concludes that during the last year Serbia did not make progress in the fight against human trafficking.

Nevertheless, Serbia's legislation made some progress towards this direction in 2005. For example, new laws incorporating some of the fundamental international and European standards have been adopted. However, the implementation of the laws remains problematic in Serbia and lack of implementation impedes the enjoyment of the guaranteed rights. The courts and administration in Serbia apply international norms only sporadically, partly due to the fact that for years they applied only national legislation and partly because they are not acquainted with the international treaties that are binding on Serbia and Montenegro.

A serious point that has to be taken into account when reading this report is the adoption of new legislation in Serbia: the ***Criminal Code***, which came into force on 01.01.2006, the ***Law on the Programme of Protection of Participants in Criminal Process***, which came into force on 01.01.2006, and the new ***Criminal Procedure Code*** (CPC), that will enter into force on 01.06.2007. The recent adoption of this new legislative framework means that facts and figures presented in this report refer mainly to provisions and practices developed under the previous legislative framework. However, an analysis of the new provisions is also included. A final point to bear in mind is that after the 2006 referendum in Montenegro, the State Union of Serbia and Montenegro ceased to exist. This raises a multitude of questions relating to the rights guaranteed in the Constitutional Charter and the Charter on Human and Minority Rights and Civil Liberties.

NGOs active in the field of human trafficking consider that the main obstacle in the combat against this crime lies with the judiciary. Although in the past few years police made significant progress, the judiciary remains a weak point in the fight against trafficking because it fails to implement effectively the existing legislation.

Comments

- Presently, the existing legal framework, in spite of the inclusion of some new provisions, is not sufficient to provide full

and efficient protection to citizens' rights and freedoms. The Serbian system suffers from ongoing weaknesses, as in numerous instances institutions do not function properly and fail to enforce the law.

- While the police has made progress concerning trafficking cases, the judiciary still remains a weak point in the implementation of anti-trafficking legislation. The task of assisting victims of human trafficking and raising awareness is undertaken solely by NGOs.

II. National Legal Framework

a. The main characteristics of the national legal system

This section presents the main characteristics of national legislation, which impacts on the enjoyment of human rights in general, but also on the protection of victims of trafficking and the punishment of perpetrators.

In 2005, Serbia adopted new criminal, civil and enforcement procedure codes, but some of this new provisions came into force only in 2006. The Serbian Criminal Code is in conformity with international standards, although it deviates from them in provisions dealing with human trafficking, human smuggling and forced labour. It has also reduced the penalties and lowered the minimum sanctions for some serious crimes, including human trafficking, something that is all the more questionable in view of the burgeoning problem of modern slavery and the fact that Serbia has a high incidence of human trafficking and smuggling.

Furthermore, the Criminal Code lowers the criminal sanctions for some other crimes, notably illegal deprivation of liberty and extortion of a confession. This is of particular concern, given the practise of the courts to impose lighter or suspended sentences in criminal cases.

Comment

The overall characteristics of the national legislation is that it does not envisage effective legal remedies against unreasonably long trials¹¹¹ and that there is a rising mistrust towards the judiciary.¹¹²

¹¹¹ The Supervisory Board within the Supreme Court of Serbia is authorised to try cases not resolved within a reasonable period of time, but is not empowered to award compensation of damages.

b. Anti-trafficking legislation

Important steps have been taken over the previous years in order to change the penal policy with regard to the gravest criminal offences.

The criminal act of trafficking in human being was introduced in the Serbian legislation by the recent Criminal Law of the Republic of Serbia, in Article 111a. The definition of trafficking used in this article is largely based on the Palermo Protocol. Inclusion of this article in the Serbian Criminal Law, which set the basis for the development of anti-trafficking legislation, was a result of the joined efforts and the continuous cooperation between the Ministries of the Interior, Social Affairs and Justice, local NGOs (e.g. *Victimology Society of Serbia, ASTRA, Counseling Against Family Violence*) and the international community (OSCE, IOM and UNOHCHR).

The new Serbian Criminal Code (CC) comprises a slightly modified and amended definition of the crime of human trafficking (Article 388). It includes some new methods of committing the criminal offence (by withholding identity papers or giving or accepting money or other benefit), and some new reasons for committing the crime (to gain profit, forced labour, other forms of sexual exploitation, for slavery or a status akin to slavery).

If the said criminal offence has been committed, the perpetrator shall be punished by imprisonment from two to ten years; if the victim dies, the punishment shall be no less than ten years of imprisonment and if the crime has been committed within a criminal organization, the punishment shall be no less than five years of imprisonment. While the old Criminal Code prescribed that if the victim was under the age of 14, the perpetrator would be punished even if she/he did not use force, threat or any other of the stated means in perpetrating the of-

¹¹² The rising mistrust towards the judiciary creates serious concerns. According to research conducted by the *Belgrade Centre for Human Rights*, over half of the respondents thought that judges were ineffective and dependant on politicians and, if their rights were violated, they would turn for help to influential people or people in power rather than go to courts. Also, according to the latest survey of the *Centre for Free Election and Democracy (CeSID)*, citizens have more trust in NGOs than in the Government, the Parliament, the Judiciary or political parties. There is a growing impression that the executive branch often interferes in the work of the judiciary and that the legislative branch influences the decisions of courts. In addition, the public believes that the laws adopted are the result of a compromise between political parties and not part of a general strategy for reforming the legal and economic system.

fence, the relevant provision of the new Criminal Code extends this protection to all minors, which represents a noteworthy improvement. The new Serbian Criminal Code also proscribes, as a separate offence, trafficking in children for adoption purposes (Article 389). This act is punished with one to five years of imprisonment and if this crime is committed on a regular basis, as a profession or in an organised manner by more than one individuals, punishment will be no less than three years of imprisonment.¹¹³

Provisions on human trafficking include as purposes of committing the crime, *inter alia*, the removal of a body organ (Article 388 (1) of the Serbian CC) for transplantation. The separate provision on violent removal of human organs or body parts that existed in Serbian criminal legislation since April 2003 (Article 54a of the previous CC) is not included in the new Serbian CC, whereby the latter deviates from the international standards set out in Recommendation No. 1611 (2003) of the CoE Parliamentary Assembly on Trafficking in Organs. The Recommendation highlights the importance of amending the legislation and punishing of the traffickers of human organs as well as the medical personnel involved in transplantations of illegally obtained parts of the human body. Trafficking in human organs is, however, explicitly prohibited only by the former federal Act on Conditions for Removal and Transplantation of Human Body Parts (Sl. list SFRJ, 63/90, 22/91; Sl. list SRJ, 28/96).

The Movement and Residence of Aliens Act (Article 34, paragraph 4, Sl. list SRJ, 68/02) does not contain any provision allowing for the issue of temporary residence permits for victims of trafficking in human beings, although by-laws granting them residence were adopted in 2004. However, legislation on aliens and asylum needs to be modernised and conformed to relevant international standards to provide a higher degree of protection.¹¹⁴

¹¹³ Similar provisions exist for the crime of enslavement (Article 390 of the Serbian CC), where the minimum sentence of 3 year imprisonment was reduced to one to 10 years of imprisonment.

¹¹⁴ The provisions on illegal crossing of the state border (Article 350, paragraph 1 Serbian CC) prescribe a maximum of one year imprisonment for a person who attempted or succeeded in crossing the S&M border without possession of authentic travel documents and who was armed or resorted to violence. The new Serbian CC prohibits human smuggling (Article 350, paragraph 2), prescribing that anyone who for the purpose of gaining profit enables any person without S&M citizenship to illegally enter, transit or stay in S&M, shall be sentenced to imprisonment between 3 months and 6 years. Endangering the life or health of

Comments

- The HR Charter (Article 13) prohibits servitude and the Constitution of Serbia, which does not proscribe slavery, should be harmonised in this respect with the HR Charter. Prohibition of slavery will probably be incorporated in the new Constitution.
- Considering the increase in modern forms of slavery, it remains unclear why Serbian policy makers took the edge off the law by decreasing the sentences. In addition, the Serbian CC stipulates transport of enslaved persons 'from one country to another' as a precondition for committing this crime. This, by implication, means that the transport of slaves is not a crime if it is committed internally, within the borders of the country.
- Additionally, analyses of the practice of the Serbian police (in relation to Article 14 of the Law on Public Peace and Order and Articles 106 and 107 of the Law on the Movements and Residence of Foreigners) show that cases of prostitution and (il)legal migration may often hide cases of human trafficking

B. National Action Plan

A **National Action Plan (NAP)** against human trafficking does not exist yet in Serbia, nor (at this point) are there any plans for the development of a long-term comprehensive NAP.

Working groups have met several times to prepare plans for their areas, which when combined were supposed to form a NAP to combat human trafficking. The first draft of the NAP was presented to the Stability Pact Task Force in 2001. This draft NAP intended to provide a model for cooperation between various agencies and describe areas of action at a federal level. The Initial Board also developed and accepted a model referral system for victims of trafficking in the form of the so-called 'National Referral Mechanism and Mobile Team'. In April 2002, the FRY anti-trafficking agency introduced a **National Coordinator against Trafficking in Human Beings for the Republic of**

an illegal migrant is prescribed as an aggravating circumstance and is punishable by between 1 and 10 years imprisonment (Article 350 (3)). The new Serbian CC fails to exonerate illegal migrants of their criminal responsibility if they become the victims of the crime described in the paragraph 3 of Article 350, which represents a deviation from international standards.

Serbia, who was appointed within the Serbian Ministry of Interior, to be responsible for creating an anti-trafficking structure for Serbia. In May 2002, this new appointee called a meeting of the newly established **National Team against Trafficking in Human Beings**. The Team, which as of April 2003 has met 3 times, comprises representatives of government, NGOs and international organizations. With the new State Union of Serbia and Montenegro, the work on anti-trafficking was carried out by two teams, each with their own National Coordinator. The Serbian Team for combating trafficking in human beings adopted a programme of work which, *inter alia*, anticipated the aforementioned activities within the Serbian Ministry of the Interior. Following this programme, **Special Police Teams to combat trafficking** were formed within the Ministry of Interior in July 2002, comprising representatives from all departments of the Ministry. However, as already mentioned above, Serbia does not have a comprehensive NAP to combat trafficking.

III. General Framework

A. Capacity building

The Human Rights Committee of the United Nations in its concluding observations on the Initial Report of Serbia on the implementation of the ICCPR during the period 1992-2002, noted the apparent lack of awareness regarding trafficking in women and children on the part of law enforcement officials, prosecutors and judges. There is no state-organised training on human rights and human trafficking for law enforcement officials. Human rights are not part of the curriculum in schools and university faculties, and whether someone will receive this kind of education is a matter of personal choice. Lack of awareness was particularly pronounced regarding trafficking of children and men. Access to information and to educational courses was readily available to officials from Belgrade, but not those coming from other parts of Serbia. However, the situation in this respect has improved slightly, at least as far as police representatives are concerned.

During 2001 and 2002, about 350 members of the Serbian Ministry of Interior participated in training sessions on trafficking in human beings. These seminars were organised by international organizations (OSCE, IOM, UNFPA and the International Committee for Migration Policy Development), by domestic NGOs and the Serbian Ministry of Interior. The number of participants rose, by the end of 2005, to 800.

Training of law enforcement officials, on human rights in general and on human trafficking in particular, is conducted and organised mainly by NGOs and international organizations. In that respect, we can note that training of prosecutors and judges is carried out by the Judicial Training Centre (Belgrade), the OSCE Mission in S&M and the Association of Judges for Misdemeanour Offences; training of police personnel is offered mainly by the OSCE Mission in Serbia and Montenegro; training of other state officials (representatives of relevant ministries) is mostly done by NGOs. The leading NGO in that respect is *ASTRA* which conducted training sessions not only for state officials, but also for students and young people, other NGOs and journalists.

Comments

- In general, the government is taking a passive rather than a proactive approach in the area of capacity building and raising awareness regarding human trafficking.
- Recent surveys by the *Victimology Society of Serbia* show a significant misbalance in awareness on human trafficking among relevant government officials. Among those with particularly law knowledge on human trafficking, were employees in student residences and in welfare centres. Very low awareness and knowledge on human trafficking was also detected among members of the judiciary, the prosecution service and police at a local level.

B. Analysis, research and monitoring mechanisms

No accurate research and analysis on the implementation of anti-trafficking legislation and its compliance with existing international standards, has been conducted by the State with the exception of the *Survey on the practice of the misdemeanour authority in Belgrade with regard to prostitution and (ii) legal migrations as incidents which may hide human trafficking*. This Survey was conducted by the Association of Misdemeanour Magistrates of the Republic of Serbia. The survey was based on the final rulings of the Belgrade Misdemeanour Authority during 2002, pursuant to Article 14 of the Law on Public Order and Peace of the Republic of Serbia (regarding prostitution) and Articles 106 and 107 of the Law on Movement and Stay of Foreigners on the Territory of FRY (regarding illegal migration). It should be noted though, that the focus of such analyses in Ser-

bia is on trafficking of women, while aspects of trafficking of men and children are usually neglected. Even surveys relating to women's trafficking have a limited scope since they focus mostly on the factors which contribute to this phenomenon and on attitudes towards it. For that reason, it should be remembered that data from such surveys do not provide adequate and comprehensive information on the scope and characteristics of trafficking.¹¹⁵

C. Regional cooperation and networking

This section will focus on national and regional networks of cooperation between NGOs in the area of human trafficking. At the **national level** the following networks exist: *ASTRA Network* (it includes women's groups from Vojvodina, Central and South Serbia), *The Trust Network* (this network was formed several years ago at the initiative of the *Incest Trauma Centre* from Belgrade and includes NGOs working against violence, especially violence against women and children), *CHRIS Network* (includes 6 Committees for Human Rights around Serbia, active in providing *pro bono* legal aid and legal representation to victims of human rights violations).

At the **regional level**, there are two active networks. The first one is the *ACTA network* (Balkan initiative against trafficking and corruption), founded in June 2004. It is a regional, non-governmental organization advocating a society free from trafficking and corruption. It comprises eleven national NGOs from the region. The second one is the *ARIADNE network* against trafficking in human beings in Southeast and Eastern Europe. It was founded in 2005, uniting 17 NGOs and its aim is to combat

¹¹⁵ Main surveys in this area include: 'Human trafficking in Serbia' (conducted by the *Victimology Society of Serbia* with the support of the OSCE); 'Child trafficking' (in cooperation with the organization *Save the Children-Romania*. *ASTRA* conducted the first national survey and reported on the situation of trafficking in children in Serbia); 'Survey on attitudes of Belgrade students and high school pupils about sex trafficking' (conducted by *ASTRA* in 2002); 'Survey on the image of sex trafficking in mass media' (conducted by *ASTRA* and based on 240 articles published in daily newspapers in the period 1998-2002); *ASTRA's* 'Biannual Reports' 2002/03 and 2004/05; 'Alternative Report to the UN Human Rights Committee' (on the initiative of the international coalition *World Organization Against Torture*, *ASTRA*, the *Child Rights Centre-Belgrade* and the *Humanitarian Law Centre-Belgrade*); 'Alternative Report to the Committee for Economic, Social and Cultural Rights on the implementation of the International Convention on Economic, Social and Cultural Rights in Serbia and Montenegro', presented before the Committee on 13.05.2005 (*Child Rights Centre, Belgrade Centre for Human Rights, Group 484* and *ASTRA*).

human trafficking through cooperation between countries of origin, transit and destination.

D. Mobilization of resources

There are no government funds allocated for the fight against human trafficking and in Serbia the concept of private funding is still underdeveloped. NGOs are the key actors in the fight against human trafficking by initiating legislative changes and providing much needed services. However, NGOs are fully dependant on foreign aid from embassies and international agencies, and consequently their work depends on donor policies and priorities. The main donors that support activities of NGOs are: the OSCE, the Canadian International Development Agency, the Swiss Agency for Development and Cooperation, the European Commission, *Save the Children*, the British Embassy in Belgrade, the Geneva Global Inc. and the Catholic Relief Service.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

The Human Rights Committee of the United Nations, in its General Comment No. 28, paragraph 12 and 30, recommends to state-parties to undertake measures at the national and international levels to protect women and children, including foreign women and children, from violations of their rights, such as cross-border trafficking, forced prostitution and other hidden forms of forced labour disguised as personal services.

The most important awareness raising campaign that took place in the past few years was called '**Open your eyes**' running from 2002 to 2003. It was one of the first campaigns of its kind in Serbia and it was initiated and run by the NGO *ASTRA*. Its main goals were to make visible the problem of women's trafficking, to raise awareness among state officials and the general public and to inaugurate cooperation between NGOs and state institutions. A second campaign '**There is a way out**' was run from 2004 to 2005. It was organised and run by *ASTRA* in cooperation with the UN Office on Drugs and Crime. Its main goals, besides informing the general public on all aspects of human trafficking, were to encourage victims, potential victims and their relatives and social surroundings to look for help and information, as well as to motivate citizens to help victims of human trafficking. A third campaign '**Save the children from**

human trafficking' is running from 2005. It is initiated by the organization *Save the Children* with the support of the British Embassy in Belgrade. This campaign is also an invitation for joint action of all agencies and officials responsible for child protection. A fourth campaign is called '**Children trafficking – our reality**' and has been running since 2006. It is run by *ASTRA* with the support of *Save the Children*. This is a wide scale media campaign aimed at combating and preventing child trafficking.

Comment

The preventive approach is not part of state practice; it is, however, used widely in the work of NGOs which are generally very active in this area and have undertaken large scale activities in raising awareness and combating human trafficking in Serbia.

B. Protection and assistance

a. Witness/victim protection

The testimony of a victim-witness at the main hearing is of particular relevance in trials of human traffickers. Amendments to the once federal Criminal Procedure Code (Sl. list SRJ, 68/02) were adopted in 2002 and include the court's duty to protect the witness and the victim from insults, threats or from any other form of assault (Article 109). The public prosecutor is given powers of special relevance when prosecuting perpetrators of offences related to organised crime, i.e. the prosecutor can order special protection for a witness, a witness collaborator and members of his/her immediate family (Article 504 p). Amendments to the **Act on Organization and Jurisdiction of State Bodies in Suppressing Organised Crime** (Sl. glasnik RS, 67/03) prescribe that the court shall decide on the protection of personal data of a witness or an injured party at the request of the interested party (Article 15 m) and if it is impossible to ensure the presence of witnesses or the injured party, they may be questioned via a video conference link or utilise the mechanism of international criminal legal aid (Article 15l j). Provisions envisaging the protection of witnesses were thus incorporated in the legislation.

The **Human Trafficking Victim Protection Coordination Service** began operating in March 2004, and in July of the same year the Minister of Interior passed an Instruction on the

conditions for the approval of temporary residence to foreign citizens-victims of human trafficking.

On 29.09.2005, the Serbian Assembly adopted the **Act on the Protection of Participants in Criminal Proceedings** (Sl. glasnik RS, 85/05), which prescribes extraordinary protection measures to be applied only in the event of the most severe criminal offences, including organised crime cases. The Act prescribes four types of protection measures: physical protection of a person and property; change of residence or transfer to another prison facility, concealment of identity and ownership data and ultimately, change of identity. It envisages international cooperation in the implementation of the Programme, which is based on ratified international agreements or on reciprocity. The Act is being implemented as of 01.01.2006.

b. Assistance to victims

A victim is entitled to legal representation by an attorney throughout the proceedings. The attorney has the right to inspect trial documents, be involved in phases of the proceedings, present evidence, examine the defendants, witnesses, expert witnesses etc., file for damages and give the closing address. The attorney may also assume prosecution if the public prosecutor withdraws the indictment. For this reason, it is necessary to ensure the representation of the victim by experienced lawyers, who are prepared to fight against misogyny and xenophobia and take certain risks as they are often threatened. Since neither the victim nor his/her attorney has the status of a party in the criminal trial, but only the status of the participant in the proceedings, the court is not obliged to send them the indictment, forensic findings and even the final judgment. The victim does not have the right of appeal against the judgment, except against the part of the judgment concerning damages. For this reason, cooperation with the public prosecutor is vital for the protection of the rights of the victim. Legal assistance to victims of human trafficking, which are usually in a very vulnerable position and without the financial means to provide for their representation in court, is provided solely by NGOs dealing with trafficking or with human rights in general.

The Human Rights Committee of the United Nations in its concluding observations on the Initial Report of Serbia on the implementation of the ICCPR during the period 1992-2002, underlined that shelters and the SOS helpline are managed by non-governmental organizations, which have also organised

awareness campaigns, and regretted the lack of adequate involvement of state authorities in these initiatives. The Committee recommended to S&M to take decisive measures to prevent trafficking and impose sanctions on the perpetrators.

There are no state-run or state-supported shelters or SOS lines for victims of human trafficking. Direct assistance and support to victims of human trafficking in Serbia is provided by the NGO *ASTRA*, the IOM and the *Shelter for Victims of Human Trafficking*. A dedicated SOS line for victims of human trafficking, is operated only by the NGO *ASTRA*. Many other NGOs have SOS lines, but they are mostly for victims of domestic violence. An SOS line for citizens that have suffered some kind of human rights violation was established by the Ministry of Human and Minority Rights¹¹⁶, but its main activity was to refer citizen's complaints to other organizations, dominantly to NGOs providing pro bono legal aid. In 2005, many centres for social welfare opened their SOS lines, but those phone lines are either for supporting women who suffered violence or for children.

The *Shelter for Victims of Human Trafficking* coordinated by Vesna Stanojevic is unique in Serbia. This shelter played a crucial role in changing the practice of law enforcement officials regarding human trafficking and in providing direct assistance to victims, especially victims of foreign origin.

Comments

- It can be concluded that recently adopted amendments in the legislation provide adequate protection to victims of human trafficking during court proceedings and are favourable to their overall status in the trial.
- Shelters run by NGOs are not sustainable and are highly dependent on donations. The combination of lack of systematic state approach and inadequate law enforcement, threatens to jeopardise the already vulnerable position of victims of trafficking.

V. BEST PRACTICES

- Evidence for the crime of human trafficking can be provided without statement of the victim (lack of victims' testimony is

¹¹⁶ This Ministry used to exist in the former State Union of Serbia and Montenegro.

often the main obstacle to initiate proceedings or the main reason to stop already initiated proceedings.) For instance, a policeman who spotted in a bar that on the drinks menu figured a naked woman without price (implying that price should be negotiated) used this as evidence of mediation in prostitution. Another policeman noticed in a motel that room numbers started to shine on and off when a room became free/available. The same policeman remarked that the prosecutor's office and the police were not active enough since they could also investigate advertisements for sexual services placed in newspapers.

- The National Team against Human Trafficking as an example of cooperation between state bodies and NGOs. This example should be followed for further institutionalization of government and NGOs cooperation.
- Victim (girl) ran away from human trafficker, address police for help, police provided her adequate protection and victim testified in trial against the perpetrator.
- Judge protects the rights of the victim by providing her with a psychologist and doctor. He then takes statement from the victim on the request of another judge.

VI. DEFICIENCIES

- The judiciary is the weak point in the system because it does not implement the existing legislation. Assistance to victims of human trafficking and awareness raising is provided solely by NGOs.
- Public prosecutors fail to expose human rights violations and police investigations are long and often fail to yield satisfactory results. Court proceedings are unreasonably long, something that compromises the application of the law and exacerbates the mistrust to the Serbian legal system.
- Contrary to prior legislation, the new Serbian Criminal Code does not include a qualified form of the crime of trafficking when committed against several persons, by abduction or in a particularly brutal or degrading manner. Since victims are usually treated with brutality and as human trafficking usually involves more than one victim and as the First Protocol lists kidnapping as one of the methods of committing the crime (Art. 3 (a)), it remains unclear why the relevant provision was excluded from the new Criminal Code.

- Decreasing the minimum sentence from five to three years of imprisonment for trafficking of a minor constitutes the most serious flaw of the new Serbian Criminal Code.
- Local legislation does not criminalise the purchase of services provided by victims of human trafficking. In that respect, Recommendation 1545 (2002) of the CoE Parliamentary Assembly insists on punishing those who knowingly purchased sexual services from a woman, who is a victim of trafficking in human beings.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. Transport of enslaved persons should be prescribed as a crime notwithstanding whether the victims are transferred across borders or internally. Punishment should be directed not only against human traffickers, but against those availing themselves of those services as well.
2. The mandate of the Initial Board for Combating Trafficking in Human Beings, launched by the National Coordinator on Trafficking (appointed by the FRY Government in April 2001) for the 'Development of long-term coordinated and multi-disciplinary approach to trafficking', should cover the following areas: prevention, raising awareness, protection of the victims, law enforcement, and data collection.
3. A National Action Plan to combat human trafficking in order to provide comprehensive and systematic solutions in addressing this issue, should be adopted.
4. Development of preventive measures.
5. The government should adopt a pro-active approach in prevention, capacity building and related awareness raising activities in this area, with a view to:
 - Increase the number of services for assistance to victims of trafficking and develop services for witness protection;
 - Include all relevant officials in educational programmes related to human trafficking on a balanced geographic representation basis;

- Conduct further research and surveys on human trafficking in Serbia, especially regarding trafficking of children and men.
- Formalise the cooperation between the government and NGOs and adopt protocols which will clearly define their mutual obligations and duties.
- Monitor the implementation of laws and evaluate the performance of state mechanisms;
- Improve the efficiency of the judiciary in dealing with cases of human trafficking.

LIST OF ABBREVIATIONS

CC	Criminal Code
CeSID	Centre for Free Election and Democracy
CoE	Council of Europe
CPC	Criminal Procedure Code
FRY	Former Republic of Yugoslavia
ICCPR	International Covenant on Civil and Political Rights
IOM	International Organization for Migration
OSCE	Organization for Security and Cooperation in Europe
S&M	Serbia and Montenegro
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
UNFPA	United Nations Population Fund

NOTE

Currently, Serbia considers adopting a formal Act in order to confirm its succession to international human rights treaties, which the S&M State Union had ratified.

KOSOVO

Author

- Centre for Protection of Women and Children

KOSOVO¹¹⁷

I. Introduction

Kosovo, situated in the Balkan Peninsula, was one of the constituent entities of the former Republic of Yugoslavia. It borders with Albania, Montenegro, Serbia and the Former Yugoslav Republic of Macedonia. The population of Kosovo is over 2 million, of which about 90% are ethnic Albanians (Muslim or Roman Catholic) and the rest are Serbs, Egyptians, Roma, Ashkali, Turks and other minorities. Since June 1999, the United Nations Mission in Kosovo (UNMIK) plays the role of an interim civil administration according to UN Security Council Resolution 1244, adopted under Chapter VII of the UN Charter. UNMIK's responsibilities are presided over by a Special Representative of the Secretary-General (SRSG). A peacekeeping force (KFOR) operates within the framework of resolution 1244, reports directly to NATO and is responsible for maintaining security and for conducting peacekeeping operations in the region.

Kosovo has been identified as a region of destination and, to a lesser extent, as a region of origin and transit for trafficked women and girls. The main routes into Kosovo appear to be from the north across the Serbian border, and through the Former Yugoslav Republic of Macedonia. Some women are trafficked from Montenegro and Albania. There have also been instances of women being brought to Kosovo by air from Turkey, Austria and Switzerland.¹¹⁸

¹¹⁷ UNMIK was established on 10.06.1999, when the Security Council with Resolution 1244 authorised the Secretary-General to establish, in the war-ravaged province of Kosovo, an interim civil administration, led by the United Nations, under which its people could progressively enjoy substantial autonomy. In particular, Security Council resolution 1244 has called upon UNMIK to: perform basic civilian administrative functions; promote the establishment of substantial autonomy and self-government in Kosovo; facilitate a political process to determine Kosovo's future status; coordinate humanitarian and disaster relief of all international agencies; support the reconstruction of key infrastructure; maintain civil law and order; promote human rights, and assure the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo. Working closely with Kosovo's leaders and people, the mission performs the whole spectrum of essential administrative functions and services covering such areas as health and education, banking and finance, post and telecommunications, law and order. In January 2000, Joint Interim Administrative Departments were created; in October 2000, local elections took place in Kosovo's 30 Municipalities; in May 2001, the new Constitutional Framework of Kosovo was adopted. Province-wide elections took place in November 2001.

¹¹⁸ 'Trafficking in Human Beings in South Eastern Europe 2003', published by UNDP.

Trafficked girls and women are brought to Kosovo for sexual exploitation and forced prostitution, but also forced labour, including begging, and heavy manual labour. The majority of Kosovo victims are exploited within Kosovo, but a substantial percentage is sent abroad.

The **Trafficking and Prostitution Investigation Unit (TPIU)** keeps a database of all foreign women, who come into contact with the police, most often during raids in bars. In 2000, 340 women were registered in this database. During 2001, according to the same source, the number of foreign victims has increased. However, in 2002, there was a slight change in the pattern of trafficking, involving Kosovo victims.¹¹⁹ TPIU has noted that the trafficking business has transferred its activities from public places to private residences. At the same time, it noted that interviewed women appeared to receive good salaries and to have good living conditions and may, therefore, be working voluntarily in the sex industry (*happy trafficking*).

Reviewing the family background of the victims of trafficking, it is clear that they come from the most vulnerable social groups. In most cases, poverty, dysfunctional families, low education and traditional values that motivate discrimination against women and girls, form an environment, in the context of which, victims have usually already experienced domestic or sexual violence. Such backgrounds make women and girls more vulnerable to trafficking, and undermine their social reintegration, often exposing them to re-trafficking.

The general opinion in Kosovo, shared by many local NGOs, is that trafficking from Kosovo may escalate due to the decline of the economic situation and the increase in unemployment, especially among younger women. Although there is little evi-

¹¹⁹ TPIU identified 391 cases. According to the TPIU database, in 2001, there were five Kosovo victims and 167 foreign victims identified; in 2002, there have been three Kosovo victims and 86 foreign victims identified; in 2003, there were no Kosovo victims, but 34 foreign victims were identified; in 2004, 12 Kosovo and 35 foreign victims were identified; and in 2005, 18 Kosovo and 31 foreign victims were identified. According to the same source, traffickers who were arrested in 2004 included: 43 Kosovars, 20 Albanians, four Bulgarians, one Moldovan, one Romanian, and one of unknown nationality. In 2005, traffickers arrested were: 45 Kosovars, 31 Albanians, three Bulgarians, two Moldovans, four Ukrainians, two Romanians, one Serb and two of other nationalities. According to IOM, in 1999, only two victims were identified; in 2000, there were 114 identified victims; in 2001, 136 victims were identified; in 2002, 85 victims were identified; in 2003, 44; in 2004, 34, and until June 2005 only six victims were identified.

dence of Kosovo women trafficked abroad, their deteriorating economic situation, growing poverty and unemployment, changes in traditional family structures, violence against women and the growing trend towards more visible and accepted forms prostitution, may all contribute to Kosovo becoming a source region of women and girls trafficked abroad.

II. National Legal Framework

A. National legislation

According to UNMIK Regulation 2001/09, establishing a Constitutional Framework for the Provisional Self-Government of Kosovo, the main international human rights instruments are directly applicable in domestic legislation.

Internally, there are few legal instruments that regulate trafficking in human beings and related phenomena:

- UNMIK Regulation 2001/4 on the ***prohibition of Trafficking in Persons in Kosovo***, promulgated in January 2001;
- Administrative Directive 2005/03 on Implementing UNMIK Regulation 2001/04 on the ***Appointment of the Victim Assistance Coordinator*** within the ***Department of Justice***;
- The ***Provisional Criminal Code*** and the ***Criminal Procedure Code*** of Kosovo with specific chapters addressing the crime of trafficking, supplementing UNMIK Regulation 2001/2004.

Comment

Due to the fact that Kosovo is still in the process of finalizing its legal status in the international community and is still going through a transition period, it should be noted that all laws are based on UNMIK Regulations. Other laws in Kosovo are mainly of interim nature. Due to its undetermined legal status, Kosovo is not included in the table of ratifications in the Annex of the present publication.

B. Action Plan

The drafting of the ***Action Plan*** was initiated in March 2002, and was carried out in several phases, from June 2004 to April 2005. The Action Plan will be operational by 2007, when ***Action Referral Mechanisms*** will also be established in Kosovo. The structure of the Action Plan is based on ***international and EU***

standards. In particular, it follows a draft model, endorsed in May 2004 by all countries of the SEE region, as part of the **EU CARDS** project on the *Enhancement of Implementation Strategies for National Anti-Trafficking Action Plan in SEE countries*. This draft model was developed by the International Centre for Migration Policy Development (ICMPD). Additionally, the Action Plan has taken into account the **UNICEF/Stability Pact guidelines for the protection of the rights of children victims of trafficking.**

III. General Framework

A. Capacity building

The members of the **Inter-Institutional Anti-Trafficking Working Group** indicated the need to conduct training courses on the implementation of the Action Plan to Combat Human Trafficking. A Working Group was created to draft an Administrative Directive to implement Regulation No. 2001/4 on the *Prohibition of Trafficking in Persons in Kosovo*, including legal representation, counselling and temporary safe housing. The Administrative Directive also outlines the competences of the Victim Advocacy and Assistance Unit (VAAU) and the Victims Assistance Coordinator. The VAAU is responsible for the creation of the appropriate structures. The draft of the Administrative Directive was submitted to the UNMIK Office of Legal Affairs in April 2002.

The **Anti-Trafficking Secretariat**, established within the Office on Good Governance (OGG), developed and realised a **training programme** in cooperation with the Ministry of Justice, the International Organization for Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE), the shelter for foreign victims of trafficking and forced prostitution (PVPT) and the Kosovo Police Service/Human Trafficking Investigation Unit (KPS/HTIU).

A number of training courses on **monitoring forced labour of children**, including trafficking, are organised by the Ministry of Justice (MoJ), with the cooperation of the International Labour Organization (ILO) and the International Programme on the Elimination of Child Labour (IPEC). KPS/HTIU completed its fourth course on **investigation of human trafficking**. Its main objective was to train police officers within the HTIU sector, in order to prepare them for field work. Partner agencies in these activities were the Police Academy, the Prosecution Office, the IOM and the MoJ. The OGG and IOM conducted **presentations/**

lectures on human trafficking for students of psychology, sociology, journalism and teachers. Additionally, training sessions were held on **human trafficking and the role of schools in its prevention**. Seventeen trainers from the Ministry of Education, Science and Technology (MEST), specialising on gender issues have participated in these training sessions.

The Ministry of Labour and Social Welfare (MLSW), with the cooperation of IOM, organised a two-day training course on the **reintegration of domestic victims of trafficking**, aiming at better implementation of anti-trafficking projects. In addition to the direct beneficiaries, this training was also attended by an employee from each Centre for Social Affairs in Kosovo, 30 employees in total (four of them from the Serb minority). The Ministry of Health worked on **raising awareness among health employees** regarding the health problems faced by victims of trafficking, on various the ways for providing support to them, as well as on their role in the reintegration of the victims. In addition, other capacity building activities for health employees are being implemented focusing on the **direct prevention of trafficking in human beings**.

A three-day training course, attended by thirteen participants, was organised for **Helpline Operators**. A training session on **Assistance and Reintegration of Trafficking Victims** was held for governmental and non-governmental partners, in which 23 participants took part, including eight advocates for victims from the MoJ. The same training was held for 26 employees of Centres for Social Work (CSW), as well as for other personnel working in shelters.

Furthermore, the IOM made four presentations for the **reparation and reintegration of victims** of trafficking in a workshop organised by the Association *Norma*. The target groups of this training were local women, NGOs and municipal officials for gender affairs. The IOM has organised training sessions for investigators and prosecutors, aiming at improving the procedures for **victim identification**. The topic of these sessions was '*Understanding anti-trafficking, strengthening the institutional framework and justice*'. IOM was also invited by KPS to participate in the presentation of anti-trafficking initiatives in Kosovo and to elaborate on the involvement of IOM on this field.

PVPT was involved in **awareness raising** seminars for victims that were accommodated in their shelter. At the same time, PVPT was engaged in various programmes aiming at enhancing

cooperation between young people and the police, with the purpose of reducing cases of human trafficking in Kosovo.

B. Analysis, research and monitoring mechanisms

OGG is currently making efforts to establish a system of monitoring, assessment and review of the anti-trafficking strategy and the Action Plan, in order to assess their implementation progress and their impact in countering trafficking and protecting victims of trafficking at all stages.

C. Cooperation and networking at the regional and national level

The **National Coordinator** to Combat Trafficking in Human Beings, who is also the Director of the Advisory Office on Good Governance (AOGG), is supported by a **Secretariat** and the **Kosovo Team to Combat Trafficking** (Inter-Institutional Group) in his mission to implement activities foreseen under the Action Plan. The Secretariat of the AOGG was established to support the National Coordinator and the Working Group. It participates in anti-trafficking initiatives of other organizations, such as the IOM, and in the development of **Terms of Reference** for the Kosovo Team. The Terms of Reference aim at combating human trafficking through the creation of an **Inter-Institutional Working Group**, proposed by the Council of Europe Expert and supported by consultants from the OSCE Mission in Kosovo.

The **Group for Direct Assistance and Support to Foreign Victims of Trafficking** was established according to the *Standard Operating Procedures* (SOPs) developed in 2000 and updated in 2004, and is effective since 06.12.2004 (see p.216). This Group is composed by: UNMIK Police, HTIU, Department of Justice, UNMIK Unit for Assistance and Support of Victims of Trafficking, IOM-Mission in Kosovo, Unit for Combating of Trafficking, OSCE-Mission in Kosovo, Department of Human Rights and Law Enforcement, MLSW and various NGOs.

D. Mobilization of resources

The **main donors** who have contributed in the implementation of anti-trafficking activities in Kosovo are: Kosovo Consolidated Budget-KCB (governmental institution); OSCE, *Save the Children*; UNICEF; IOM; UNMIK Pillars I and III; *Kvinna Till Kvinna*; International Organization for the Elimination of Poverty (NOVIB); *Christian Aid*; UN Population Fund (UNFPA); Stability Pact; Office for Democratic Institutions and Human Rights

(ODIHR); *Comité Catholique contre la Faim et pour le Développement* (CCFD).

IV. Implementation of Anti-Trafficking Laws

Efforts are being made to implement anti-trafficking laws, consistent with the requirements of international instruments, namely the UN Trafficking Protocol. The **implementation framework** is based on three axes: prevention, prosecution and protection.

A. Prevention and awareness raising

The **Prevention Framework** of Kosovo is institutionalised and will be operating by 2007. It has three main **objectives**:

- **Awareness** about the consequences of human trafficking, as well as the existing legal anti-trafficking framework
- **Decrease of the demand** for victims' services.
- **Reduction of the vulnerability** of potential victims.

The main **activities** of the Prevention Framework include:

- Identification of levels of **human trafficking awareness** in high risk groups, as well as levels of demand for victims' services, followed by the organization of multidisciplinary and multi-lingual awareness campaigns targeting high risk groups.
- Monitoring of the **education strategy** implementation and implementation of activities to prevent girls and other vulnerable groups from dropping out from school;
- Review of the **labour legislation**, in order to ensure protection of working children.
- Advocacy to agencies already involved in **economic development** programmes, so as to include high-risk groups and trafficked victims in their projects aimed at improving their economic status.
- Monitoring the implementation of the **gender Action Plan** and the **anti-trafficking Action Plan**.

The above mentioned activities are implemented by the following **agencies**:

Office of the Prime Minister (OPM), AOGG, MEST, MLSW, the Police, Institute of Social Policy, UNICEF, ILO, IOM, OSCE, UNDP, the World Bank, UNIFEM, *Save the Children*, Commissioner's Office, Kosovo Journalists Association, Ministry of Health, Depart-

ment of Justice, IPEC, Ministry of Economy and Finance, Economic Chamber of Kosovo, Employers Union Syndicate of Kosovo, the Office of Legal Support (OLA), UNMIK Office of Gender Affairs, Gender Equality Committees, Municipal Committees and Inter Ministerial Working Groups.

B. Protection and assistance

The **Protection Framework** in Kosovo is institutionalised and will be operating by 2007. It sets the following **objectives**:

- **Victim assistance** and **social protection** including the establishment of standard measures for victim identification.
- **Cooperation** among all actors dealing with protection, in order to ensure integrated assistance to survivors and victims of trafficking (health, education, housing, psychological, financial assistance).
- **Reintegration/social inclusion**, taking into account the special needs of repatriated victims.

The main **activities** of the Protection Framework include:

- Establishment of procedures for victim **identification** and **referral** for the police. Development of standardised guidelines for victim identification and referral for all stakeholders. Development and implementation of standards for services provided to victims, as well as case management models.
- Review and finalization of the **Standard Operating Procedures** (SOP) for foreign and domestic victims of trafficking.
- Establishment of procedures/guidelines relating to the **reflection period** provided to victims.
- **Strengthening coordination** and **monitoring** capacities of labour and sanitary inspections for identifying victims. Development of monitoring capacities for the follow up of re-integrated cases. Development of community awareness raising projects to prevent stigmatization of victims.
- **Training of the police** and other stakeholders on victim identification and referral.

On 06.12.2004, the members of the **Group for Direct Assistance and Support to Foreign Victims of Trafficking** signed an Agreement, authorizing the operation of **Standard Operating Procedures** for **foreign victims of trafficking**. The aim of this agreement is to clarify the responsibilities of each agency/partner in order to establish close cooperation and coordination in the framework of the referral system. The **amendment** of the

Standard Operating Procedures (SOPs) aims at regulating assistance provided to internally trafficked victims. It includes, *inter alia*, recently involved partners, in particular the UNMIK Department of Justice and Assistance Unit (VAAU), the Ministry of Labour and Social Welfare, as well as local and international NGOs.

A **telephone helpline** for direct assistance to victims is run by **IOM**.

Assistance to victims of trafficking is provided by various agencies, which are usually in close cooperation with the UNMIK Pillar I Victim Advocacy and Support Section of the Department of Justice, the OSCE, the IOM and a network of local and international NGOs. Furthermore, NGOs are playing a key-role in providing services directly connected to MLSW, such as health services, psycho-social support, education (uncertified in-shelter classes), family counselling, vocational training, material support, income generation, employment assistance, and life skills.

The TPIU, the OSCE, the IOM and the PVPT are members of the **Counter-Trafficking Direct Assistance Coordination Group**. This Group, formerly known as the **Shelter Coordination Group**, is the **focal point** for trafficking, responsible for assisting trafficked women in Kosovo. It provides a forum for discussion of individual cases and of the general needs of the beneficiaries. It provides access to shelters for all victims of trafficking, regardless of their intention to cooperate with the authorities. Special attention is paid on ensuring the security of shelter personnel and on securing the confidentiality of information obtained, as well as on the safety and privacy for victims of human trafficking.

There are two Anti-Trafficking shelters in Kosovo: the **Interim Secure Facility** (ISF) for internally trafficked victims, which is established by TPIU and VAAU, and the **PVPT- Shelter for International Victims of Trafficking and Forced Prostitution**. In both shelters the **basic needs** of victims are met in accordance with the principles of the UNICEF/Stability Pact Guidelines. During their accommodation in the shelters, victims are also provided with training opportunities that facilitate their future reintegration, employment and independence after their traumatic experiences.

According to the SOPs, UNMIK, OSCE and IOM, always in cooperation with their Liaison Offices, are responsible for the **repatriation** of foreign victims. Since they cooperate with the coun-

tries of origin, they provide transport and travel documents to victims.

Reintegration services are provided by various agencies which operate under the coordination of the **Ministry of Labour and Social Welfare**. Victims of trafficking are provided with direct support. For example, the *Victim Advocacy and Assistance Unit* (VAAU) provides legal assistance and legal representation, while their legal services are funded by IOM. **IOM** plays a very important role in the provision of reintegration services and cooperates closely with all agencies, both governmental and non-governmental, which deal with victims of trafficking. At the same time, many governmental agencies, e.g. Centres for Social Welfare, are directly involved in these activities. The Ministry of Education, in direct cooperation with local NGOs, offers support classes to victims attending primary and secondary schools.

C. Prosecution

The **Prosecution Framework** is institutionalised in Kosovo and will be operating until 2007. It has the following **objectives**:

- Establishment of an **information exchange mechanism** between NGOs, the police, and other law enforcement agencies for the prosecution of traffickers.
- Promotion of the **institutional strengthening** of the police and judiciary to combat trafficking.
- Establishment of special provisions for the **protection of victims-witnesses**.
- Enhanced **coordination** among competent agencies.

The main **activities** of the Prosecution Framework include:

- Better **monitoring** of judges and prosecutors handling trafficking cases.
- **Training** of judges, prosecutors and police officers on the psychological impact of trafficking to victims, the use of expert evidence, the effective and sensitive interviewing techniques for trafficked persons, including children, organised crime investigations including covered operations and confiscation of assets.
- Training of **judges, prosecutors, lawyers** and other legal personnel in order to provide better protection during public hearings and handle sensitive information with special emphasis on children witnesses.

- Training of **social workers** and other victims' advocates in interviewing children.
- Organization of **round-table meetings** with the participation of judges and prosecutors in order to train them in handling trafficking cases.
- Intensive **training** of selected national prosecutors by prosecutors with special expertise.
- Creation of a **case database** accessible to judges, prosecutors, the police and the DoJ.
- Creation of a **national team** consisting of prosecutors and police officers aiming at promoting international cooperation and coordination of cases.
- Raising of '**flash funds**' for covert operations.
- Amendment of the **police promotions policy**, so as to allow promotions within TPIU in order to minimise the adverse impact of rotations/transfers.
- Recruitment of **more female officers** and increase of technical resources available for the fight against trafficking in human beings.
- Conclusion of **bilateral extradition agreements** for trafficking offenders.
- Amendment of the **Criminal Procedure Code**, in order to allow statements of victims to be used in courts.
- Establishment of a **team of judges and prosecutors** specializing in trafficking cases.
- Creation of **judicial panels** for trafficking cases, with the participation of national and international judges.
- Establishment of a **contact point** between anti-trafficking agencies and the Money Laundering Unit.

The **actors** involved in the above activities are the following: DoJ and the Department of Judicial Administration (MPS), KJI, Office of the Public Prosecutor of Kosovo (OPPK), MLSW, OPM, KPSS, Directorate of Organised Crime (Pillar I), KPS, Public Prosecutors, Chief Prosecutor's Office in Kosovo, Office of Legal Support (OPM), District Courts Presidents and the Financial Investigation Section (DOC).

V. BEST PRACTICES

- **Advocacy on repatriation:** The *Centre for Protection of Women and Children* (CPWC) achieved the repatriation of a trafficked victim to Kosovo. The victim, sent to the CPWC from IOM, was sheltered and received the appropriate treatment. During this period, the CPWC contacted other centres of the region and tried to contact the victim's family in order to arrange her safe return home. CPWC and CSW representatives finally managed to persuade the victim and her family that the best way for her reintegration was to return to her family. The case has been concluded successfully, while the CPWC still monitors the victim through contacts with the CSW and the victim's family.
- **Advocacy at health institutions:** The CPWC has provided support to one minor pregnant victim at the Gynaecological Obstetric Clinic.

VI. DEFICIENCIES

- Lack of institutions to provide **long term rehabilitation programmes**, especially for victims who suffer from serious psychological trauma;
- **Lack of an effective witness protection system;**
- **Lack of funds** for the establishment of an advanced National Referral System;
- Difficulties in **accurate identification** and treatment of victims of trafficking;

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report, and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. A unified **system** of **data collection** should be developed among all actors assisting trafficked victims, in order to obtain a reliable picture of numbers and trends and facilitate exchange of information.
2. The **participation** of women and children in **awareness raising** initiatives on gender equality and women's and children's rights should be reinforced.

3. The stipulation of **equal opportunities for girls** to education and the labour market is imperative, in order for them not to depend on family members or third persons who might take advantage of their vulnerability.
4. Better **support structures for girls and women**, who are victims of sexually related crimes should be established.
5. Taking into consideration that Kosovo is going through a transitional period, during which the risk of trafficking of human beings is higher, **more rigorous border control** and **closer cooperation** among countries of SE Europe is required for the prevention of this phenomenon.
6. An effective **witness protection system** should be established in order to guarantee the right of the victims/ witnesses.

LIST OF ABBREVIATIONS

AOGG	Advisory Office of Good Governance
CARDS	EU funded Programme for Community Assistance for Reconstruction, Development and Stabilization
CCFD	Comité Catholique contre la Faim et pour le Développement
CPWC	Centre for Protection of Women and Children
CSW	Centres for Social Work
DOC	Financial Investigation Section
DoJ	Department of Justice
ICMPD	International Centre for Migration Policy Development
ILO	International Labour Organization
IOM	International Organization for Migration
IPEC	International Programme for the Elimination of Child Labour
ISF	Interim Secure Facility
KCB	Kosovo Consolidated Budget
KFOR	Kosovo Peacekeeping Force
KJI	Kosovo Judicial Institutions
KPS	Kosovo Police Service
KPS/HTIU	Kosovo Police Service/Human Trafficking Investigation Unit
MEST	Ministry of Education, Science and Technology
MLSW	Ministry of Labour and Social Welfare
MoJ	Ministry of Justice
MPS	Department of Judicial Administration
NATO	North Atlantic Treaty Organization
NOVIB	International Organization for the Elimination of Poverty
ODIHR	OSCE's Office for Democratic Institutions and Human Rights
OGG	Office of Good Governance
OLA	Office of Legal Support
OSCE	Organization for Security and Cooperation in Europe

OPM	Office of the Prime Minister
OPPK	Office of the Public Prosecutor of Kosovo
PVPT	Shelter for Foreign Victims of Trafficking and Forced Prostitution
SOPs	Standard Operating Procedures
SRSG	Security Representative of the Secretary General
TPIU	Trafficking and Prostitution Investigation Unit
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children’s Fund
UNIFEM	United Nations Development Fund for Women
UNMIK	United Nations Mission in Kosovo
VAAU	Victim Advocacy and Assistance Unit

TURKEY

Author

- Human Resources Development Foundation - HRDF

TURKEY

I. Introduction

Situated at the northeast of the Mediterranean Sea in SE Europe and SW Asia, Turkey is a crossroad of many cultures. It is surrounded by the Black Sea to the north and the Aegean Sea to the west. Its neighbours are Greece and Bulgaria to the west, Russia, Ukraine and Romania to the north (through the Black Sea), Georgia, Armenia, Azerbaijan, and Iran to the east, and Syria and Iraq to the south.

Traditionally a country of emigration, Turkey increasingly became a point of attraction for irregular migration after the 1990s. Growing numbers of migrants from diverse backgrounds entered Turkey, mainly under the cover of tourism. While the majority of arrivals towards the end of the 1980s came from the Balkans, the composition changed with the collapse of the USSR and the nationals of the former Soviet republics, having encountered acute economic crisis and deteriorating living standards, became the main group of migrants in Turkey. In this context, Turkey became mainly a **destination country** for human trafficking.

The majority of documented cases involve women who were trafficked for purposes of forced prostitution. National statistics¹²⁰ show that most women trafficked to Turkey come from Moldova, Russia and the Ukraine. However, nationals of Kyrgyzstan, Uzbekistan, Romania, Azerbaijan, Kazakhstan, Turkmenistan, Georgia and Belarus are also identified as victims.

According to national statistics¹²¹, a total of 239 victims of trafficking have been identified by state authorities in 2004. This figure was 256 for 2005 and 138 for the first half of 2006. However, it is not possible to estimate the exact number of victims in Turkey. There are no recorded cases of Turkish victims trafficked abroad.

According to statistics of the *Human Resources Development Foundation* (HRDF) the majority (61%) of the victims, referred to HRDF's shelter, are between 18 and 24 years old. Victims in the age group of 25 to 30 represent 25,5 % of the victims and victims aged 30 and above represent 11% of the total number

¹²⁰ The General Directorate of Security, Department of Foreigners, Borders and Asylum Affairs, 'Combating Trafficking in Human Beings in Turkey' presentation distributed in a meeting, on file with the authors.

¹²¹ *Id.*

of victims. Identified minors represent 2,7 % of the total number of identified victims. Age statistics provided by the International Organization for Migration (IOM) are similar.

II. National Legal Framework

A. National law

The first legal provision that included the definition of Trafficking in Human Beings (THB) was Article 201/b of the **Penal Code**, which was revised in 2002. Art. 201/b called for heavy penalties for traffickers, including five to ten years of imprisonment.

The **new Penal Code of Turkey**, which entered into force on 01.06.2005, also includes the definition of THB (Article 80) and stipulates imprisonment of eight to twelve years and a legal fine corresponding to ten thousand days in prison. It also prescribes security measures for legal entities involved in THB.

Human Trading / Article 80;

- A person who procures or kidnaps or takes or transports persons from one place to another or harbours persons with the intention to force them to work or to provide a service or to subject them to slavery or similar practices or to remove their organs by exerting threats, pressure, force or violence, by abusing authority, by deceit or by obtaining their consent through taking advantage of the opportunities they have to control them or of their vulnerability, shall be sentenced to imprisonment for a term of eight to twelve years and to a judicial fine of up to ten thousand days in prison.
- The consent of the victim will be invalid in cases when the actions constituting the crime are performed with the aims mentioned in the first sub-paragraph.
- In the case of supplying persons under the age of 18 for the aims mentioned in the first sub-paragraph, as well as smuggling, moving or sending them from one place to another or sheltering them, the offender will be punished, as mentioned in the first sub-paragraph, regardless of having exerted threat, pressure, force or violence, or by abusing authority, or by deceit, or by obtaining their consent.
- Security precaution provisions will be applied to legal entities with respect to these crimes.

Comment

Evidence shows that, due to the limited definition utilised in Article 80 of the Penal Code, its application is not always possible. In such cases, Article 227¹²² concerning prostitution applies. Article 80 should be modified in order to cover all possible forms of human trafficking.

Other related laws and regulations

- According to the *Law on Working Permits for Foreigners*, the Ministry of Labour and Social Security is authorised to issue all forms of **working permits**. Employment in domestic services is possible under this Law. It aims at providing legal protection to foreigners against exploitation in the labour market and extends legal and administrative safeguards to private agreements. The Ministry of Labour and Social Security has prepared a model contract both in Turkish and in the native language of applicants.
- In accordance with the amendment of the *Citizenship Law*, a probation period of three years is required for acquiring **Turkish citizenship** through marriage. Those who have a

¹²² Prostitution/Article 227 - One who, instigates child to prostitution, facilitates it, procures or shelters or mediates for the prostitution of a child will be sentenced to prison terms of four years to ten years and fined up to five thousands days equivalent Turkish liras. Preparation acts are punished as the committed crime.

- One who instigates someone to prostitution, facilitates its way, or mediates for it, or guarantees the place where prostitution is practiced will be imprisoned from two to four years and fined up to three thousands days equivalent Turkish liras. Benefiting, partly or entirely, from the profits of a person who acts as a prostitute is regarded as instigation to prostitution.
- One who allows a person to get into the country and to get out from the country for the act of prostitution is punished in accordance with the above provisions.
- The above-mentioned punishments will be increased by half to twice the sentence for persons who procure or instigate someone to prostitution by using force or coercion or by abusing his/her misrepresentation or mistake.
- These punishments will be increased by half when the crimes are committed by the spouse, ascendants, ascendants in-law, brother (sister), adopting parent, guardian, educator, teacher, caretaker, by others who are under a duty of care and protection or committed by the abuse of power of public duty or service.
- These punishments will be increased by half in case the crime is committed within the framework of a crime organization.
- Private security precaution provisions will be applied to legal entities with respect to these crimes.
- One who acts as a prostitute will be treated or provided with therapy.

job incompatible with the institution of marriage and do not share the same house with their spouse will not be able to acquire Turkish citizenship.

- The *Road Transport Regulation*, which became effective as of 25.02.2004, states that the **transportation permit** will be cancelled for three years if the applicant is sentenced for certain crimes including human trafficking.
- The Ministry of Health has made necessary legislative and administrative changes in order to provide **free of charge medical treatment** at state-owned hospitals to victims of THB.
- The Ministry of Interior has authorised provincial administrative authorities to issue, where necessary, **humanitarian visas** and **temporary residence permits** to victims in order to allow them to stay in Turkey for rehabilitation and treatment. The duration of these permits is up to six months and can be extended.

B. Bilateral agreements

Turkey has signed 64 **Security Cooperation Agreements** with 52 countries for combating organised crime and terrorism. All agreements include provisions for cooperation against illegal migration and human trafficking. **Cooperation Protocols** have been proposed to Georgia, Bulgaria, Romania, Moldova, the Russian Federation, Azerbaijan, Belarus, Uzbekistan and the Ukraine within this framework in order to activate the relevant clauses of the said agreements.

In the course of the last three years the Turkish Ministry of Interior signed the following **Memoranda of Understanding** with the Ministries of Interior of the following countries:

- Additional Protocol on Implementation of Article 1 of the Cooperation Agreement against Crime between the Government of the Republic of Turkey and the Government of the **Ukraine** (07.06.2005) and with **Moldova** (08.02.2006).
- Memorandum of Understanding between the Ministry of Interior of the Republic of Turkey and the Ministry of Internal Affairs of the Republic of **Belarus** on Cooperation in the field of Combating Trafficking in Human Beings and Illegal Migration (28.07.2004).
- Protocol between the Republic of Turkey and **Georgia** on the Implementation of the Ninth Article of the Agreement on Combating Terrorism, Organised Crime and Other Major

Crimes between the Republic of Turkey, Georgia and the Republic of **Azerbaijan** (10.03.2005).

These agreements include provisions facilitating the following areas:

- Information exchange on traffickers and victims;
- Investigative procedures including joint operations;
- Entitlement of victims to support services and facilitation thereof;
- general awareness-raising;
- Information on the development of the legislative framework in the field of trafficking in human beings and related areas.

C. National Action Plan

Adopted in 2003, the **Turkish National Action Plan** comprises twelve points of action to prevent and combat trafficking in human beings. A brief summary of the action plan follows:

- Establishment of shelters;
- Ensuring the safe return of victims of trafficking;
- Establishment of an emergency Hot Line, providing 24/7 free of charge services;
- Amendment of Article 5 of the *Citizenship Law* (No. 403)¹²³, according to which a probation period of three years will be required before acquiring Turkish citizenship;
- Humanitarian visa application for Victims of Trafficking (VoT);
- Participation of law enforcement bodies in anti-trafficking training projects;
- A special law on witness protection, which also includes trafficked victim-witnesses;
- The Ministry of Labour and Social Security is assigned as the sole competent authority to issue work permits for foreigners in Turkey (*Law on Work Permits for Foreigners*);¹²⁴
- NGOs are encouraged to engage in the fight against trafficking in human beings;
- Recording of detailed statistics by the General Directorate of Statistics and Criminal Record of the Ministry of Justice;

¹²³ The Law was approved by Parliament on 06.06.2003.

¹²⁴ Law No. 4817. The Law has been approved by Parliament on 27.02.2003.

- The treatment and rehabilitation of victims of trafficking is ensured;¹²⁵
- Support is provided to victims of trafficking, under the Law on Fund of Encouragement of Social Aid and Solidarity;
- Preparation of special informative placards on trafficking in human beings in order to raise awareness.

The Turkish Government is in the process of modifying the National Action Plan. A working group has been established, comprising representatives of NGOs active in the area as well as representatives of governmental bodies, to deal with the modification.

III. General Framework

A. Capacity building

A number of **training courses** have been organised for different target groups in Turkey; the main organisers are the Ministry of Interior (MoI), the International Organization for Migration (IOM) and the Human Resource Development Foundation (HRDF).

Target-Institutions	Number of participants	Organization providing the training
MoI-General Directorate of Security	148	MoI (in cooperation with TAIEX and ICMPD SP)
MoI-General Directorate of Security	154	HRDF
MoI-General Directorate of Security	81	IOM
MoI-General Commandership of Gendarmerie	256	ΔOM
MoI-General Commandership of Gendarmerie	36 students	IOM
Ministry of Justice	64	HRDF
NGOs and local authorities	75	IOM
Bar Association	81	IOM
Police Helpline Operators	34	IOM

The General Directorate of Security provides regular **in-service training** for its staff. Starting in 2004, modules relating to human trafficking were added in the in-service training

¹²⁵ Free of charge medical treatment according to Resolution No. 2003/6565 of the Council of Ministers of 05.12.2003.

curricula. A total of 332 police officers have participated in this training programme in 2004; the number of in service participants was 515 in 2005 and 201 in the first half of 2006.

In addition to the above-mentioned training, a number of ***national workshops*** and seminars have been organised by various organizations. NGO representatives, police officers, prosecutors and judges have also participated in a number of international seminars, workshops and training courses.

A number of ***manuals*** have been developed for combating human trafficking. Currently a study is being implemented in order to standardise the training modules, which will be used in law enforcement training.

THB Manual	Distributed in 2003 by the General Directorate of Security (GDS) to all provinces
International Centre for Migration Policy Development (ICMPD) Trainer's Manual	Developed and adapted through a series of workshops by ICMPD experts and used in ICMPD trainings
AGIS Trainer's Manual	Currently in the process of adaptation by the GDS.
Combating Trafficking In Persons (TIP) Manual	Developed and used by the General Commandership of Gendarmerie in their in-service trainings
Combating Human Trafficking (HT) Guide	Developed by the GDS, will be distributed to police stations throughout Turkey.

Comments

- The training of law enforcement officers should reach a larger number given the fact that government officers are obliged to change their posts regularly.
- Training should be continuous, and updated training should be scheduled, taking into account the progressive mechanisms of combating human trafficking and new instruments developed internationally.
- The standardization in the training modules should be ensured.

B. Analysis, research and monitoring mechanisms

The increase of the number of illegal migrants led to the establishment of a new department in the Ministry of Interior re-

sponsible for illegal migration (***Illegal Migration Office*** in the Bureau for Foreigners, Borders and Asylum) in 1997. The Ministry of Foreign Affairs also established ***Unit for Combating Illegal Immigration*** in 2001. These two bodies are active in combating human trafficking in Turkey. Under the auspices of the Ministry of Foreign Affairs, a ***National Coordinator*** for international cooperation and national coordination has been appointed for combating human trafficking. The ***National Task Force*** composed of experts from various ministries and non-governmental organizations was established and convened for the first time in October 2002. The ***National Task Force to Combat Trafficking in Human Beings*** meets twice a year. This multi-disciplinary and cross-sector forum monitors and reviews the implementation of anti-trafficking action in Turkey. If particular issues require special attention, ***ad-hoc working groups*** are convened to discuss and resolve the issues in question (e.g. shelter modalities, health issues, etc.).

The compilation of data and the information regarding human trafficking issues are insufficient in Turkey. No official report has been prepared so far. The government and non-governmental bodies prepare ***reports for internal use***. IOM has prepared two national reports on human trafficking in Turkey so far. The first report was released in 2004 and the second in 2006.

Comments

- There is an absence of mechanisms of analysis, research and monitoring. The national mechanism to combat human trafficking should be restructured.
- Annual reports containing information on the number of identified victims, the services provided, the training aimed at government officers and the responsible authorities for different aspects of combating human trafficking should be prepared and published by the government.

C. Cooperation and networking at the regional and national levels

Cooperation agreements between law enforcement agencies and NGOs

The ***General Directorate of Security*** of the Turkish Ministry of Interior adopted two Protocols, one with the *HRDF* (04.09.2003) and one with the Foundation for Women's Solidar-

ity (31.10.2005). In addition, the **General Commandership of Gendarmerie** entered into a Cooperation Agreement with HRDF (14.06.2004).

The objective of these Agreements is *to determine the responsibilities of the partners within the framework of the 'Combating Human Trafficking' Programme*. Law enforcement bodies and NGOs are the partners. The former falls under the category **institutions supporting the programme** and the latter under the category **implementing agencies of the programme**. In addition to introducing preventive measures (awareness-raising, advocacy etc.) and capacity-building measures (training, NGO networking etc.), the Cooperation Agreements between law enforcement and NGOs, focus on victim identification, referral and repatriation of foreign victims of trafficking.

Cooperation agreements between municipalities and NGOs

The HRDF has signed a Protocol with the **Metropolitan Municipality of Istanbul** (29.06.2004). Its objective is to *determine the responsibilities of the partners within the framework of 'Opening and Operating Shelters for Female Victims of Trafficking'*.

Networking efforts

The Turkish Government has made networking efforts other than official Cooperation Agreements. Recently, in mid 2006, a meeting with the **representatives of the Embassies** of several countries was initiated by the General Directorate of Security to discuss practical cooperation possibilities and solve existing problems.

NGOs initiate their cooperation and networking with NGOs in other countries. HRDF became a member of the **ARIADNE** Network against trafficking in human beings in SE and E. Europe, in June 2005.

D. Mobilization of resources

Donors who provide funds for anti-trafficking programmes are scarce in Turkey. Besides the government of Turkey, including two local administrations, namely Istanbul Metropolitan Municipality and Ankara Metropolitan Municipality, the US Government, the European Union, the World Bank, SIDA, the Government of Norway and the Phillip Morris Inc. Altria Funds have provided funding for several anti-trafficking activities. Also, the Embassies of the Netherlands, Denmark, Sweden, Australia,

Canada, as well as the British Council, the Catholic Relief Services-Bulgaria and several UN agencies have provided smaller funding for ongoing activities.

Due to the **scarcity of funds**, non-governmental organizations are not very active in the area of combating human trafficking.

Comment

There is an urgent need for national and international donors to provide funds not only for meetings and conferences, but also for practical victim assistance.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

Various awareness-raising events have been carried out in the last three years in Turkey. Prime Ministry/The General Directorate of the Status of Women has convened three **public events** in 2002, 2003 and 2006. The most recent event, organised by the Directorate in Antalya, was an international conference where representatives of government, non governmental and inter-governmental agencies from Russia, Belarus, Moldova, the Ukraine, Azerbaijan, Georgia, Uzbekistan, Kyrgyzstan and Turkey met and discussed the possibilities of cross border cooperation.

HRDF has organised an **international conference** in Istanbul in 2004 in collaboration with *Catholic Relief Services-Bulgaria* with the participation of representatives of governmental and non-governmental agencies of Moldova, Bulgaria, Romania and Turkey. *Medecins du Monde-Greece*, together with a national NGO, *International Blue Crescent*, has organised two national meetings to address the issue and used the **media** to increase public awareness.

Currently, the variety and amount of **printed material** addressing this area is **limited**. There is a **helpline** operated by IOM in collaboration with the Turkish Government. IOM has developed and distributed 500,000 passport inserts in Atatürk and Sabiha Gökçen Airports and in Karaköy Seaport in Istanbul, in Antalya Airport and in Trabzon Seaport and also placed billboards in these ports to promote the helpline. More recently IOM has launched a broad media campaign titled **'Have You**

Seen My Mother?. Material on prevention is also being distributed in some of the countries of origin.

B. Protection and assistance

Currently, the aim of the national referral mechanism is the ***safe repatriation*** of foreign nationals, who become victims of trafficking in Turkey. The referral system does not include cases, in which the victim would stay in Turkey for longer periods of time.

There are two ***shelters*** providing services to victims of trafficking in Turkey. A trafficked person is referred by the Turkish National Police either to the shelter in Istanbul or to the one in Ankara. There is a Cabinet Decree that regulates to which shelter the trafficked person will be referred once he/she is identified outside of Istanbul and Ankara. Both shelters have secret addresses that are only known to a very limited number of stakeholders.

The *Human Resource Development Foundation (HRDF)*, established in 1988, is a Turkish NGO active in the area of population and development with special emphasis on promoting reproductive health/rights, and empowerment of populations under risk. *HRDF* established the first shelter in Turkey for victims of trafficking, in November 2004, in Istanbul. This 10-bed capacity shelter had accommodated more than 260 victims until June 2006.

The shelter in Ankara is operated by the *Foundation for Women's Solidarity (WFS)*. This Turkish NGO is rooted in the feminist activist movement. The shelter in Ankara was opened in September 2005 in cooperation with IOM and has a capacity of 11 beds.

Both shelters provide ***psychological counselling services*** and facilitate access to ***free medical services***, providing accommodation and ***social assistance***. Repatriation of the victims is ensured by IOM in collaboration with *HRDF* in Istanbul and in collaboration with *WFS* in Ankara. Limited ***legal assistance*** is provided to the victims with the efforts of NGOs.

Persons trafficked to Turkey may apply for a renewable six-months ***humanitarian residence permit***, which is issued by the Turkish National Police Department for Foreigners, Borders and Asylum. The victim's willingness to cooperate with the authorities in the investigation and prosecution of the traffickers is not a precondition for receiving such a permit. The visa can be

extended upon application. However, in Turkey victim assistance measures do not apply for longer stays, something that makes the usage of humanitarian visas problematic.

There is an anti-trafficking **helpline (157)**. This helpline is operated by IOM in collaboration with the Turkish Government and works 24 hours a day, 7 days a week. It is operated by Turkish, Russian, Romanian and English speakers and relevant calls are reported directly to the Turkish National Police or to the Gendarmerie by phone or email. The law enforcement agencies take action upon these calls to rescue the persons concerned.

There are also two additional helplines in Turkey, the general police helpline (155) and the gendarmerie helpline (156). These help lines are used primarily by clients of victims to report trafficked persons.

Comments

- Large parts of victim assistance services are currently funded by international sources. A sustainable solution should be developed for the continuity of these services.
- The national referral mechanism should include solutions other than the repatriation of victims under risk.
- Legal counselling services should be part of victim assistance programmes.
- The utilization of government structures for victim assistance is limited. The existing institutions could be modified to be able to better serve the victims of trafficking by ensuring the involvement of NGOs in the process.

C. Prosecution

Judicial authorities: There is no department dedicated to human trafficking cases in the Ministry of Justice; however, judges and prosecutors take national and international training courses and seminars to increase their knowledge in this area.

The existing provisions regulating the **status of victims in criminal proceedings** have limited practical relevance in trafficking cases. Trafficked persons in practice do not participate in court proceedings, due to the fact that they have already returned to their home countries. Victims usually testify at the very beginning of the investigation process while they are still in Turkey. If this is not possible, because the victim has already

left, or if further statements are needed for the prosecution of the case, statements may be obtained by using **channels of international cooperation**. While existing Bilateral Cooperation Agreements (e.g. with the Ukraine or Belarus) allow taking the statement of the witness abroad and transmitting it to Turkish courts, this procedure has yet to be applied in practice. Sometimes it is also impossible to find the victims in their respective home countries.

According to Turkish criminal procedural law, the responsibility to take procedural measures to protect the rights of victims who participate as **witnesses** in criminal proceedings, lies upon the prosecutor. There are measures, such as interviewing the victim-witness in a secret place, keeping his/her identity confidential, interrogating him/her behind a mirror in order to avoid confrontation with the accused or by means of video equipment. The latter technique may also be used, on the basis of Bilateral Protocols, for obtaining witness statements from victims abroad, including trafficked persons who have returned to their home country.

A draft Law on **witness protection**, which also applies to trafficked victim-witnesses, is expected to enter into force in 2006. It covers only those offences with a penalty of more than ten years, which includes trafficking in human beings according to Article 80 of the Criminal Code.

Police authorities: The Turkish Ministry of Interior plays a crucial role in coordinating operational issues with regard to identification, referral of victims and investigation of traffickers. The General Directorate of Security and the General Commandership of the Gendarmerie are responsible for combating human trafficking. Both bodies have special units that deal with foreigners and organised crime. The **Police** and the **Gendarmerie** work closely with non-governmental and international organizations.

The Turkish Government has started an **EU Twinning Project** entitled *Strengthening Institutions in the Fight Against Trafficking in Human Beings*, which is jointly implemented by the Turkish National Police, the Berlin Criminal Police Agency and the Boltzmann Institute of Human Rights in Vienna. The purpose of this 18month project is to prepare Turkey to meet the minimum standards for the suppression of trafficking in human beings, as well as to strengthen the institutions dealing with trafficking, to adopt an anti-trafficking strategy and to implement a sectoral action plan.

Comment

Necessary precautions and modifications in the criminal procedure should be made in order to ensure the participation or representation of the victims in court proceedings.

V. BEST PRACTICES – EXAMPLES

- **Government – NGO Collaboration:** *HRDF* has initiated its Combating Human Trafficking Programme in 2003 and has approached the Ministry of Interior to sign a Protocol enabling better cooperation and collaboration of the parties in this area. The General Directorate of Security of the MoI responded immediately and positively and a **Protocol** was signed in 2003. Since then, all the victims identified have been referred to *HRDF's* shelter by the police immediately. The same procedures have been followed one year later with the Ankara shelter upon its establishment.
- **Bilateral Cooperation:** An Azeri woman has been identified as a victim of trafficking in Turkey. It was understood during the interviews that the traffickers were threatening her son who was living in Baku. The Turkish police contacted **INTERPOL** and the Azeri police, and with their support, the boy was taken to a safe environment. The Azeri victim agreed to cooperate with the Turkish police after she had been informed about this.
- **NGO networking and Government - NGO collaboration:** An NGO from a source country contacted *HRDF* to make a denunciation. Upon learning the details, *HRDF* contacted the Turkish police and provided the information. The **Turkish police** conducted a raid to the address provided by the NGO and requested *HRDF* to send one of its shelter counsellors to assist in the identification process by accompanying the victims.
- **Regional Cooperation:** The **police force of Turkey** together with the **police force of Romania** have organised simultaneous raids at previously identified addresses of traffickers in Bucharest and Istanbul through an operation coordinated under SECI; the traffickers caught in these addresses were arrested.
- **Bilateral Cooperation:** The **Turkish police** acted upon information coming from the Embassy of Belarus. The information provided by the Embassy was combined with a

fastidious investigation and eventually a raid was made and the traffickers were arrested.

VI. DEFICIENCIES

- The application of Article 80 of the Penal Code is not always possible due to the **limited definition** provided in this article. In such cases, the article on prostitution (Article 227) is applied.
- **Training for law enforcement** agencies should be improved.
- Existing **victim identification mechanisms** do not fully guarantee that all victims will be identified and protected.
- There is an **absence of analysis, research and monitoring mechanisms**.
- The utilization of **government structures for victim assistance is limited**.
- There is a **lack of funds** to support victim assistance projects. Major components of victim assistance services are currently funded by international sources.
- The **national referral mechanism** is only limited to the repatriation of victims.
- The **legal counselling system** for victims is underdeveloped.
- **Lack of regional coordination** among competent agencies of the countries of origin and destination may result in re-trafficking and re-victimization.
- The **participation of victims in trials** is not ensured. As a result, the prosecution of their traffickers is not effective.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. Article 80 should be modified in order to cover all possible forms of human trafficking.

2. The **training of law enforcement** agents should reach larger number of officers given the fact that government employees are obliged to change their posts periodically.
3. **Training** should be continuous and updated training should be scheduled taking into account the progressive mechanisms of combating human trafficking and new instruments developed internationally.
4. The **standardization of the training modules** should be ensured.
5. Better-developed **mechanisms for victim identification** should be established, in order to protect all trafficked persons.
6. The **national mechanism** to combat human trafficking should be restructured to include analysis, research and monitoring mechanisms.
7. **Annual reports** containing information on the number of victims identified, the services provided, training sessions for government officers and the responsible authorities for different aspects of combating human trafficking, should be prepared and published by the government.
8. The **victims assistance government structures** should be modified in order to be able to support victims of trafficking, ensuring the involvement of NGOs in the process.
9. National and international donors should be encouraged to provide **funds** not only for meetings and conferences, but also for practical assistance of victims. A sustainable solution should be developed for the continuity of funding of these services.
10. The **national referral mechanism** should include solutions other than the repatriation of victims at risk.
11. **Legal counselling services** should be developed for the victims.
12. The laws, regulations and services should be **harmonised** within the region and a **communication mechanism** should be established among the countries of origin and destination. This mechanism should also provide the means for the follow up of repatriation and reintegration efforts, in order to avoid re-victimization.
13. Modifications should be made in order to ensure the **participation of the victims in the court proceedings**.

14. Bearing in mind that, due to their vulnerability, refugees and asylum seekers may be subject to trafficking and that trafficked persons may be eligible for **refugee status**, the link between these two regimes should be generally recognised and further developed.

LIST OF ABBREVIATIONS

AGIS	EU Funded Programme
ARIADNE	NGO Network against Trafficking in Human Beings in SE and E. Europe
GDS	General Directorate of Security
HRDF	Human Resources Development Foundation
ICMPD	International Centre for Migration Policy Development
ILO	International Labour Organization
INTERPOL	International Police
IOM	International Organization for Migration
MoI	Ministry of Interior
NGO	Non-Governmental Organization
SECI	Southeast European Cooperative Initiative
SIDA	Swedish International Development Cooperation Agency
TAIEX	Technical Assistance Information Exchange Unit
THB	Trafficking in Human Beings
TIP	Trafficking in Persons
VoT	Victims of Trafficking in Human Beings
USSR	Union of Soviet Socialistic Republics
WFS	Foundation for Women's Solidarity

UKRAINE

Author

- International Women's Rights Centre "La Strada Ukraine"

UKRAINE

I. Introduction

The Ukraine is a country situated in Eastern Europe. It borders with Russia to the north-east, Belarus to the north, Poland, Slovakia and Hungary to the west, Romania and Moldova to the south-west and the Black Sea to the south.

Currently, due to the poor economic situation in the country which has resulted in high unemployment rates, citizens emigrating from the Ukraine usually leave the country to look for employment opportunities abroad. The inefficiency of various attempts for political and economic reform, the high level of corruption among officials, the solely declarative nature of existing social policies, the growing gap between a wealthy minority and a deprived majority and the unfulfilled expectations following the first years of independence, have impeded positive changes in the country. Thus, migration is considered by the young generation not only as a means for solving temporary financial problems, but also as a lifestyle aspiration and a career strategy. Nowadays, the extremely low wages, well below the poverty line even for jobs requiring high qualifications (e.g. doctors, medical personnel, teachers), are considered the main cause of poverty, resulting in the constant deterioration of the living conditions of the Ukrainian people and eventually in the increase of crime. An additional factor fostering the desire to leave the country is violence against women, especially domestic violence, which often leads women to look for better living conditions outside the Ukraine.

About five million Ukrainians have been working abroad for at least a year. Up to one million of them have been working in Russia. However, in seasons of high mobility this number rises to three millions. Many Ukrainians mistakenly consider the countries of the former Soviet Union as safe, since most of them understand the Russian language. Another appealing factor is that entry requirements to these countries are not as complicated compared to entry requirements to countries of Western Europe, a fact that renders these borders a perfect route for trafficking in human beings.

The main routes of trafficking from the Ukraine are the following: from the Autonomous Republic of Crimea to Greece, Turkey, the United Arab Emirates, Portugal, Cyprus, Israel, Syria and the Former Yugoslav Republic of Macedonia; from Donetsk, Lugansk and Kharkiv to Russia, Serbia, Turkey, Leba-

non, the Former Yugoslav Republic of Macedonia and Israel; from the Ternopil region to Italy, Greece, Portugal and Spain; from the Zakarpatsky region to Poland, Hungary, the Czech Republic and Romania.

One of the main objectives of research carried out in the Ukraine for the evaluation of the phenomenon of trafficking was to study the eagerness of citizens to leave the country.¹²⁶ The results of one of the latest surveys are disappointing: 47% of citizens under 40 are willing to migrate. By contrast, only 10% of the population wishes to stay in the Ukraine for a lifetime, 21% for several years, 16% for several months. This means that about 50% of the population belongs to a potentially high risk group that can be easily fall victim to organised networks of trafficking. According to studies of the State Institute on Family and Youth Problems and several NGOs, the greatest migration flows come from regional centres, towns and villages, concerning either young high school graduates or people around 25-27 years old with young families (50-60% of them have children).

Comment

Employment abroad has both positive and negative aspects: it offers better prospects and opportunities, both in material and non material terms, but at the same time it causes irreparable damage to family structures, especially as far as families with young children are concerned.

The latest research data regarding the Ukraine reveal that the majority of victims of trafficking in human beings are young women between 18 and 26 years of age, single, with basic secondary or technical education, originating from rural areas of the Ukraine.¹²⁷ All of them have very low incomes. As for men, most of them are married, aged 31 to 50, leaving the country for a short period of time in order to earn enough money to provide decent living conditions for their families. Their educational level is usually the same as that of women victims. Most of the children victims are aged between 13 and 18 and are primarily girls. Most often, they come from problematic families

¹²⁶ Соціальний аналіз основних чинників торгівлі людьми: реальна ситуація та шляхи запобігання.- К.: Державний інститут проблем сім'ї та молоді, 2003.(Social analysis of main factors contributing to trafficking: real situation and ways of prevention).

¹²⁷ Id.

and have already suffered some form of domestic violence, usually by their fathers or stepfathers.

Domestic trafficking of children for purposes of pornography and prostitution is also growing. In addition to the above, forms of trafficking in human beings and ways of transportation change constantly thus introducing new challenges. The experience of law enforcement bodies and non-governmental organizations working with victims of trafficking allows the classification of victims in the following categories:

- Women who left the country on their own free will in order to find employment and became victims of trafficking, despite the fact that they suspected possible involvement into prostitution;
- Women, and to a lesser extent men, who left the country on their own free will, hoping to find employment in the entertainment industry, but later became victims of trafficking;
- People who left the country on their own free will and became victims of trafficking for the purposes of forced labour;
- People who became victims of trafficking within the Ukraine and were later taken abroad against their will.

Case-study

At the age of 22 Olga had two children and had lived in the Ukraine all her life. A friend told her about the possibility of working as a dancer in a famous German club. This friend got two tickets for Russia, provided by the representative office of the company in Moscow.

When Olga arrived in Moscow, the company representative took her passport and placed her in an apartment with other women who came from different parts of the former USSR. All women believed that they would be send abroad where they would work for several weeks. One of the women told Olga that the group would be travelling to Germany via Egypt. The women were deported twice from Egypt to Russia. Despite the fact that airport staff warned them several times about the practise of selling young women to Egyptian and Israeli brothels, they did not take these warnings seriously and Olga believed that sooner or later their group would arrive to Germany.

However, instead of going to Europe the women found themselves in the desert on their way to Israel. During this trip, Olga was sold and resold eight times. Olga had to work in a

brothel for 10-12 hours a day. The owner forbade using condoms, because clients paid more for 'natural sex'. When Olga got pregnant, she begged the owner to allow her to have an abortion immediately, but instead she was taken to a doctor when she was four months pregnant.

Olga managed to escape from the brothel and started working as a waitress in a local café. During a regular document check, Olga was arrested and sent to prison where she awaited deportation. There she met representatives of an Israeli NGO. Olga asked to be repatriated and the NGO assisted in her safe return. Once in the Ukraine, she was met by the social worker of the NGO *International Women's Rights Centre 'La Strada'-Ukraine* who provided further assistance.

The number of children trafficked for purposes of illegal work, sexual exploitation, child pornography, illegal adoption and forced begging constantly increases. Children are trafficked both internationally and domestically, from villages to big industrial cities, or tourist cities. In the Ukraine, children most often become victims of internal trafficking. Half of children-victims of transnational trafficking are usually taken to neighbouring countries (mainly the Russian Federation and Moldova). The main method of forcing children into trafficking is by offering rewards and favourable conditions. However, there are many cases when recruiters used different forms of coercion, and cases of abduction have also been reported. It is worth mentioning that recruiters try to attract children not only from disadvantaged, but also from prosperous families. A survey carried out by ILO shows that the first contact with a recruiter/trafficker usually takes place approximately four months prior to departure.

Child sex tourism is defined as the sexual exploitation of children by foreign citizens –either a man or a woman- traveling from one country to another, usually from a developed to a developing country, with the aim of having sexual intercourse with a child (based on research of the NGO *End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes* (ECPAT International)). Research by *ECPAT International* in Italy showed that the age of sex tourists is between 21 to 40 years. So far, sex tourism is not a major problem in the Ukraine.

Trafficking in children is a multi-dimensional problem. The global market 'employs' millions of children, violating their rights to a happy childhood and a decent and productive life. In

order to handle specific situations, public and social organizations should distinguish between different forms of trafficking, find affordable means of restoration and identify priorities.

Case-study

In Yevpatoria (Autonomous Republic of Crimea), a mother was offering during the summer, on the beach, her ten year old son for homosexual contacts

In Kiev, a mother was selling her nine year old daughter and was paid in dollars. She stated that she was pleased that she was selling the girl at a good price so that she could spend this money with her friends. She said that usually other parents were paid only 10 UAH for their children

In the Zhytomyr region, parents, who were alcoholics, sent their minor daughter 'for a drive' (render sex services) and received vodka in return

Children are pushed into prostitution not only for covering their basic needs, such as housing, food and shelter, but also by being offered pocket money and goods that they cannot afford otherwise. According to UNICEF, every day around 2800 children are forced into prostitution. They are both girls and boys and experts see a clear increase in the number of boys being forced into prostitution.

Case-study

Natalka, 13 years old today, was born in Luhansk. She lived with her mother since her father left them when she was seven. Her mother felt desperate and started drinking, and, at some point, she began bringing home various men and obliged Natalka to leave the house so that she could have a 'normal private life'. Natalka had to sleep outside the apartment numerous times.

One day Natalka came home and saw her mother packing. She asked what had happened, and her mother happily told her that she had met a nice man who invited both of them to Moscow. He had money and they would be able to visit museums and theatres. Natalka felt full of joy –finally, she would be able to spend time with her mother, take long walks and enjoy the big city.

In Moscow they met a man, a friend of the mother's friend. They got in the car and went to his house. He told them they

could stay there for a while.

The next day, Natalka's mother and her friend told the girl they needed to buy the tickets to Luhansk and told her to wait for them.

The hours were passing, but her mother did not show up. She never came back and Natalka still has no news from her. The man who met Natalka and her mother at the railway station raped the girl and told her that she would be working for him from now on. He would feed her, buy her clothes and let her stay in his apartment, but she had to provide sex services to men.

One evening, when her abuser was drunk, Natalka escaped. She was walking in the dark alone when she was picked up by a police car.

Natalka was taken to a police station and later to the reception centre of the Main Administration of the Ministry of Internal Affairs of Ukraine in Kiev. At the moment, Natalka lives in the reception centre and though she is happy there, she is not sure what she will do in the future.

Having recognised trafficking in human beings as a threat to national security and the very existence of a democratic state, as well as a blatant violation of human rights, the Ukraine committed itself to combating trafficking in human beings. Data collected on trafficking in human beings in the Ukraine called for the elaboration of a comprehensive approach in countering this crime. Such a comprehensive approach requires: the revision of legislation; the conclusion of international agreements; the improvement of the efficacy of the activities of law enforcement agencies, state institutions and departments; the creation of a system of preventive measures and the adoption of measures of social rehabilitation of victims.

II. National Legal Framework

A. National law

The legal framework for combating trafficking in human beings in the Ukraine is based on principles deriving from **international instruments** ratified by the Ukrainian Government, as well as on the **Constitution of the Ukraine** which recognises the social worth and dignity inherent to human beings (Art.3), grants the protection of motherhood and childhood (Art.51), and ensures state support for orphans and children deprived of adequate parental care (Art.52).

There was no specific criminal legislation relating to trafficking in human beings in the Ukraine before March 1998, when the Government initiated changes to Article 124-1 of the former **Criminal Code**. The new Article 124-1 is entitled 'Trafficking in Human Beings' and imposes punishments not only for trafficking in women, forced into the sex industry, but also for trafficking in persons for any type of exploitation, trafficking in children, and trafficking in human organs.

In 2001, Article 124-1 of the Criminal Code was replaced by Article 149 entitled 'Trafficking in Persons and Other Illegal Agreements Regarding the Transfer of an Individual'. By November 2005, the number of cases initiated under these two articles had reached more than 1,300. Article 149 defined trafficking in human beings as the:

sale or another paid transfer of a person, as well as any other illegal transaction regarding that person, involving the legal or illegal transfer of that person across the state border of the Ukraine, with or without that person's consent, with the intent of further sale or paid transfer of that person to another person(s) for the purpose of sexual exploitation, pornography, involvement in criminal activities, debt bondage, adoption for commercial purposes, use in armed conflict, or exploitation of labour.

Such crimes are punishable by imprisonment of three to eight years. The same crimes are punishable by imprisonment of five to twelve years, with or without confiscation of property, when committed against minors, against a group of persons, repetitively, through prior collusion among a group of offenders, through abuse of official power; or by a person upon whom the victim has been financially or otherwise dependent.

When carried out by an organised group, involving the illegal transfer of persons abroad or preventing their return to the Ukraine, or committed with the purpose of the removal of human organs or tissues from a victim for transplant or forced donation or resulting in other severe consequences, the crimes described above are punishable by imprisonment of eight to fifteen years, with or without confiscation of property.

In order to update the legislation on the subject, the Cabinet of Ministers drafted and adopted the **Regulations on the Interdepartmental Coordination Council on Combating Trafficking in human beings** (No. 1961 of 25.12.2002) and the **Standard Regulations on Rehabilitation Centres for Traf-**

ficked Victims (No. 987 of 27.06.2003). To comply with the provisions of the *Convention against Transnational Organised Crime*, Articles 149 and 303 of the Criminal Code of the Ukraine have been amended. In January 2006, Verkhovna Rada, the Supreme Council of the Ukraine, adopted the law ***On Modifications of the Criminal and Procedural Codes of Ukraine as for Responsibility for Trafficking in human beings, Coercion into Prostitution and Pimping.***

On 12.01.2006, the Ukrainian Parliament adopted a Law on ***Criminal Code Amendments on Improvement of Responsibility for Trafficking in human beings and Engaging in Prostitution.***

This law amended Article 149 of the Criminal Code of the Ukraine as follows:

- Trafficking in persons or other illegal transactions in which the object is a person, as well as the recruitment, transportation, harbouring, transfer or receipt of persons for the purpose of exploitation by means of fraud, extortion or abuse of a position of vulnerability of a person, are punishable with ***imprisonment of three to eight years.***
- If acts stipulated in paragraph 1 of this Article are committed over a ***minor***¹²⁸, by more than one persons, repetitively, through prior collusion among a group of offenders, through abuse of official power, or if committed by a person upon whom a victim had been financially or otherwise dependent, or if accompanied by violence that threatens the life or health of the trafficked person or his/her relatives, or by threat of such violence, the offenders will be sentenced to ***imprisonment of five to twelve years with or without confiscation of property.***
- If acts stipulated in paragraph 1 or 2 of this Article, are committed against an ***infant***¹²⁹, by an organised group, or accompanied by violence that threatens the life and health of the trafficked person or his/her relatives, or by threat of such violence, or if it leads to severe consequences, the offenders will be sentenced ***to imprisonment of eight to fifteen years with or without confiscation of property.***¹³⁰

¹²⁸ According to the Family Code of the Ukraine, minor is a child aged from 14 to 18.

¹²⁹ According to the Family Code of the Ukraine, infant is a child up to 14 years old.

¹³⁰ Unofficial translation.

Comments:

- It is worth mentioning that Ukrainian legislation incorporates provisions of international treaties in force, agreed by the Supreme Council of the Ukraine to be binding internally. Thus the above-mentioned ratified international treaties are binding for the Ukraine both internationally and domestically. In accordance with Article 9 of the Constitution of the Ukraine, international agreements become part of the national legislation if they are ratified by the Ukrainian Parliament. In cases of collision between provisions of international legislation ratified by the Ukraine and the Ukrainian national legislation, the international provisions will prevail.
- Expert analysts have noted limitations in the formulation and definitions included in the legislative framework, giving particular emphasis on the fact that it is possible to initiate proceedings against illegal transactions for the transfer of a person only when such a transfer has taken place across the Ukrainian borders (i.e. transfers within the Ukraine are not punishable by law).

B. Bilateral agreements

There are no specific bilateral anti-trafficking agreements between the Ukraine and other countries. Cooperation is based on general principles.

C. National Action Plan

The ***Comprehensive Anti-Trafficking Programme Concerning Prevention of Trafficking in Humans for 2002-2005***, adopted by Cabinet of Ministers' Decree No. 766 of 05.06.2002, carries out work in this direction.¹³¹ According to this programme, there are three ***main directions*** for countering trafficking in human beings: prevention of trafficking in human beings, prosecution of traffickers and protection and reintegration of victims. This programme addresses trafficking in human beings in general, while the first one addressed only trafficking in women and children. The change of its name is of principal importance, because it indicates the adoption of a social perception of trafficking in human beings, as enshrined in

¹³¹ This is the 2nd governmental programme. The 1st Programme on Prevention of Trafficking in Women and Children was adopted by Decree No. 1768, of September, 1999 of the Cabinet of Ministers. The 3rd governmental programme for 2006-2010 is now under consideration for approval.

the Ukrainian legislation and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the *United Nations Convention Against Transnational Organised Crime*.

Drafting of the **State Target Programme 2006-2010** started in spring 2005 and is based on discussions between the Ministry of Family, Youth and Sport, UNICEF and the *International Women's Rights Centre 'La Strada'-Ukraine*. These issues were also addressed during roundtables, and a model draft programme was adopted. Central executive bodies prepared the drafting of the new **State Programme for Combating Trafficking in human beings 2006-2010** which, in accordance with recommendations of the central executive organs, international and social organizations, will include provisions on labour migration, legislation, prevention of trafficking in children, organ transplantation, rehabilitation and reintegration of the victims etc.

Comment

The State Target Programme for Combating Trafficking in Human Beings is based on the principle of cooperation and collaboration between public authorities with international and non-governmental organizations.

Coordination within the framework of the Complex Anti-Trafficking Programme rests upon the **Interdepartmental Coordination Council on Combating Trafficking in Humans of the Cabinet of Ministers of the Ukraine** headed by the Vice Prime Minister of the Ukraine for Humanitarian Issues.

III. General Framework

A. Capacity building

Presently, the system of **State Social Services** is a branched network with 700 centres operating even in small towns and villages.

Practical social activities of **youth centres** are carried out in the following directions: social assistance to families, prevention of negative phenomena in children and young people, assistance with employment and secondary education of young adults, social work with army recruits and military servicemen, national school of volunteers, consultation on family life for

young adults, social work with disadvantaged and large families, social protection of young women, educational activities aimed at prevention of HIV/AIDS, trafficking in human beings etc.

This programme takes the form of **public cultural events**, trainings and lectures, social support and social inspection. Centres for counteracting trafficking in human beings offer the following types of assistance: a telephone helpline (191) for answering queries for travelling, working and living abroad, psychological and legal assistance to victims of trafficking, assistance with medical issues and social support.

The **Ministry for Children, Youth and Sport** carries out **practical work** with the public and victims of trafficking in cooperation with NGOs and youth centres. Data on victims is collected, mainly, via helplines operated by social services and NGOs, and also by law enforcement bodies. Ministerial departments provide various types of **assistance** to victims of trafficking: financial assistance, health programmes for trafficked children, assistance through employment and education, assistance on health issues and reduction of housing debts.

The **Ministry of Labour and Social Policy** contributes to combating trafficking in people with: employment consultation services and professional training sessions for the unemployed; teaching skills demanded in the labour market, taking into consideration the regional peculiarities, offering employment advice to graduates of vocational colleges and higher educational institutions and employment assistance to young adults turning to the State Employment Service; monitoring intermediary activities of entrepreneurial bodies offering employment abroad; monitoring travel and marriage agencies etc. The *State Employment Centre*, under the Ministry of Labour and Social Policy of Ukraine, aims at implementing the state employment policy. This organization consists of regional, urban, and district employment centres.

The **Ministry of Public Health** is crucial in providing social assistance to the victims. According to the *Complex Anti-Trafficking Programme*, it is responsible for the following: drafting and adoption of provisions aimed at the social reintegration of victims; running crisis centres and shelters for victims of trafficking in human beings and other forms of violence; organization of inter-branch seminars, 'round tables', conferences and training sessions on the issue of trafficking in human beings; improving mechanisms of assistance to victims provided by central and local executive bodies, law enforcement organs, diplo-

matic representations and consulates, educational institutions, healthcare establishments, social services, migration and border police and representatives of social organizations. Representatives of non-governmental organizations can apply to healthcare institutions for permission to provide assistance to the victims. Each organization has doctors providing medical assistance on request.

The **Ministry of Education and Science** carries out mainly preventive efforts among young adults. However this Ministry, particularly the Department of Boarding Schools for Orphans and Children Deprived of Parental Care, can be involved in social work with children victims of trafficking and is responsible for children deprived of parental care. Departments and institutions of the Ministry provide organizational and administrative support for the implementation of measures aimed at combating trafficking in human beings. The *Central Institute of Post-Graduate Paedagogical Education* regularly holds seminars on the subject and invites experts from the *International Women's Rights Centre 'La Strada'-Ukraine*. Experts from the Ministry of Education and Science participate in the preparation of informational and methodological material, such as a 'Study and Teaching Manual' and a video supplement entitled 'Prevention of Trafficking in Humans'. The Methodic Publishing Centre of the Organization of Publishing and Delivery of Educational Literature distributed these manuals to schools of all the regions of Ukraine (circulation of 20.000 copies: 14.000 in Ukrainian, 6.000 in Russian). 5.000 copies were distributed during roundtables with educators. The Scientific-methodological Centre of Higher Education in cooperation with the *International Women's Rights Centre 'La Strada'-Ukraine* prepares and publishes informational and methodical material to be distributed in higher educational institutions of the Ukraine.

Among the main tasks of the **Ministry of Foreign Affairs** is the representation and protection of the rights and interests of citizens and legal entities of the Ukraine abroad and the registration of Ukrainian citizens residing abroad, either permanently or temporarily. The MFA provides information, consultation and legal assistance to citizens of the Ukraine seeking employment abroad or travelling for healthcare, leisure and other purposes; it takes measures for the preparation and ratification, in accordance with the established procedure, of the *UN Convention Against Transnational Organised Crime*, the *Protocol Against the Smuggling of Migrants by Land, Sea and Air*, and the *Protocol to*

Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and for the harmonization of Ukrainian Law with their main provisions. It also works towards improving the mechanism of exchange of information between law enforcement agencies of the Ukraine and other countries on persons engaged in trans-border trafficking and towards advancing methods and procedures of investigation of crimes related to trafficking in human beings. The Ministry plays an important role in providing assistance to Ukrainian victims of trafficking who wish to be repatriated. It also facilitates the involvement of international organizations, civil society and private donors in the implementation of projects for combating trafficking, protecting the human rights of the victims, coordinating enquiries for missing persons abroad and facilitating the return and rehabilitation of the victims of trafficking.

According to the Consular Charter of the Ukraine, **the Consul of the Ukraine** in a foreign country shall be obliged to carry out registration of Ukrainian citizens permanently or temporarily living in the Consular District; inform Ukrainian citizens temporarily staying in the Consular District about the legislation of the host country and local traditions; on the request of the Ministry of Foreign Affairs and in accordance with the established procedure, he/she shall monitor the living conditions and upbringing of adopted Ukrainian children under the age of 18; the Consul shall have the right to issue and renew Ukrainian passports etc.

Diplomatic representations can provide the following services to victims of trafficking: preparation of the Certificate of Return to the Ukraine for the citizens of the Ukraine; financing the return trip to the Ukraine (in exceptional cases); assistance in search of Ukrainians missing abroad; facilitation in transportation to the Ukraine of bodies of Ukrainians who died abroad.

The **State Border Police** assists Ukrainian victims of trafficking and contributes to the implementation of projects for combating trafficking in human beings. Officers of the border police can prevent trafficking in human beings by distributing informational material to people belonging to vulnerable groups and by collecting information from repatriated victims in order to identify/assist potential victims. On the consent of victims, their personal information can be forwarded to NGOs or they can be provided with informational material about NGO activities aimed at assisting victims.

B. Analysis, research and monitoring mechanisms

Analysis, research and monitoring mechanisms are essential elements of an effective anti-trafficking policy. A number of **so-ciological studies** on the subject have been carried out, a **risk group database** is updated on a regular basis and discussions and individual consultations are held. An example of a **monitoring mechanism** is the reports on the implementation of the Comprehensive Programme against trafficking in human beings prepared by the Ministry of Family, Youth and Sport.

In order to combat effectively trafficking in human beings and form the necessary state mechanisms for its prevention, the **Interdepartmental Coordination Council** on Combating Trafficking in human beings, headed by the Minister of Family, Youth and Sport, has been formed by the Cabinet of Ministers of the Ukraine. For efficient coordination of measures aimed at the prevention of trafficking in human beings the Council formed in December 2004, an **Expert Working Group** consisting of professionals in different fields who are directly involved in actions envisaged by the **Complex Programme**.

Regional Standing Committees for Coordination and Data Exchange on the Prevention of Trafficking in human beings operate in every oblast (administrative unit of the country). Under the project *Support of Regional Coordination Councils for Combating Trafficking in human beings in Seventeen Oblasts of the Ukraine*, financed by IOM, **Advisory Councils** for Combating Trafficking in human beings were established in seven oblasts of Ukraine (Ivano-Frankivsk, Zakarpatska, Khmelnytsky, Poltava, Chernigiv, Sumy, and Kirovograd). Meetings held in this framework resulted in the elaboration of guidelines tailored to the specific characteristics of each region. These guidelines were then circulated to the Oblast Coordination Councils for Combating Trafficking in human beings.

C. Cooperation and networking at the regional and national level

The **Ministry of Internal Affairs** is the main institution responsible for the implementation of state policy in combating trafficking in human beings. Coordination of prevention, identification and investigation of crimes related to trafficking in human beings is being carried out by special units. Their main tasks are prevention, identification, investigation and solving of related crimes, instituting criminal proceedings against the offenders and cooperating with other state and non-governmental

organizations for providing assistance to the victims. Once the victims have been identified, the units combating trafficking in human beings refer them to NGOs or international organizations able to provide assistance and a wide range of rehabilitation services.

Since the crimes connected with trafficking in human beings very often relate to **transnational organised crime**, the Ministry of Foreign Affairs takes measures to build an active partnership and collaboration with the Ministry of Internal Affairs, with other national law enforcement bodies, with appropriate authorities of other countries and international organizations, in particular with the OSCE, Europol and the Council of Europe.

The Ministry of Foreign Affairs, that has observer status in the Council of Baltic Sea States (CBSS), collaborates closely with the CBSS Secretariat towards the solution of the **problem of street children** and takes active part in the organization of international conferences, seminars and activities aimed at combating trafficking in human beings and illegal migration.

The Ukraine participated actively in the drafting of the *European Convention against Trafficking in Human Beings*, and signed on 17.11.2005. In February 2005, the Ukraine-EU 2005-2007 Plan of Action was adopted. This Plan establishes close cooperation in the fields of justice and internal affairs with particular focus on issues of readmission and migration, of combating trafficking in human beings, of prevention and combating of the sexual exploitation of children and on issues of child pornography.

Cooperation of state bodies with non-governmental and international organizations facilitates the implementation of anti-trafficking policies. Such cooperation focuses on the following: participation in events; consultations; exchange of information; round tables, seminars, conferences; organisational, administrative and financial support; participation in drafting of joint plans of action and elaboration of a national policy for combating trafficking in women and enhancing their role and status. These forms of cooperation will be further developed in the future.

A large number of non-governmental organizations direct their activities towards the prevention of trafficking in human beings and the assistance of victims by establishing branched networks of non-governmental national and regional organizations. At the early stages of its development, the main activity

of the *International Women's Rights Centre 'La Strada'-Ukraine*, was **networking with governmental structures**, with the Ministry of Education and Science, the Ministry for Family, Children and Youth, and the State Social Services becoming its main partners.

As a result of this cooperation, the Ministry of Education and Science of the Ukraine prepared in 1998, a **recommendation letter** addressing the need for preventive work in the field of trafficking with the involvement of experts from non-governmental organizations, *inter alia*, the *International Women's Rights Centre 'La Strada'-Ukraine*. This letter was signed by the Minister and sent to the heads of various educational departments and institutions. Thereafter, the idea of cooperation between educational institutions and non-governmental organizations were embodied in the *Programme on Prevention of Trafficking in Women and Children* and the *Complex Anti-Trafficking Programme*.

Comment

The success of any method implemented by non-governmental organizations depends on effort coordination and the cooperation with state bodies.

D. Mobilization of resources

Governmental anti-trafficking programmes are not financed from the state budget. Thus, the majority of programmes in this field are realised by non-governmental organizations with the financial support of international organizations, international charities and foreign governments.

The following International Organizations, International Development Agencies and non-governmental organizations are working in the field of combating trafficking in human beings:

- US Agency for International Development;
- Organization for Security and Cooperation in Europe (OSCE);
- Mission of the International Organization for Migration (IOM) in the Ukraine;
- International Labour Organization (ILO);
- International Women's Rights Centre 'La Strada'-Ukraine;
- Women's Consortium of the Ukraine;

- Ukrainian Centre for Educational Reforms, etc.

Most of these organizations support various projects implemented by local non governmental organizations, or in some cases, they undertake anti-trafficking activities themselves.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

In order to combat effectively trafficking in human beings and form the necessary state mechanisms for its prevention, the ***Interdepartmental Coordination Council on Combating Trafficking in human beings***, headed by the Minister of Family, Youth and Sport, has been formed by the Cabinet of Ministers of the Ukraine. For efficient coordination of measures aimed at the prevention of trafficking in human beings, the Council formed in December 2004, an ***Expert Working Group*** consisting of professionals in different fields who are directly involved in actions envisaged by the **Complex Programme**.

Regional Standing Committees for Coordination and Data Exchange on the Prevention of Trafficking in human beings operate in every oblast (administrative unit of the country). Under the project *Support of Regional Coordination Councils for Combating Trafficking in human beings in Seventeen Oblasts of the Ukraine*, financed by IOM, ***Advisory Councils*** for Combating Trafficking in human beings were established in seven oblasts of Ukraine (Ivano-Frankivsk, Zakarpatska, Khmelnytsky, Poltava, Chernigiv, Sumy, and Kirovograd). Meetings held in this framework resulted in the elaboration of guidelines, tailored to the specific characteristics of each region. These guidelines were then circulated to the Oblast Coordination Councils for Combating Trafficking in human beings. Another important element in the fight against trafficking in human beings is **awareness raising** on all aspects of the problem. Principal activities in this direction are carried out by the ***Ministry for Family, Youth and Sport***.

Under the Complex Programme, different departments of the ministry provided information services to more than 26.260 people on issues of career choice and employment opportunities for young people, single-parent or disadvantaged families and young adults freed from places of detention. In addition to the above, more than 25.000 information and educational events have been held in collaboration with: IOM, *Winrock-Ukraine*, *International Women's Rights Centre 'La Strada'-Ukraine*, the

Red Cross, *League of Social Workers of the Ukraine*, *Plast-National Scouting Organization of the Ukraine*, *Caritas*, *Women to Women Centres*, *Youth League of Ukrainian Regions*, Centres for the prevention and fight against HIV/AIDS, *Women's Informational-Coordination Centre* etc.

The Ministry for Family, Youth and Sport in collaboration with the Ministry of Education and Science, the Ministry of Labour and Social Policy and other ministries and institutions participate in the implementation of the **International Programme on the Elimination of Child Labour (IPEC)** in the Ukraine.

At the NGO level, of great importance are the preventive and educational activities targeted directly at young women and girls from potential risk groups. In order to carry out such work, it was necessary to raise awareness among governmental officials and state bodies, obtain their support and establish close partnerships.

B. Protection and assistance

One of the crucial issues of combating trafficking in human beings is to provide assistance to children and women victims of trafficking. In the framework of the **Comprehensive Anti-Trafficking Programme Concerning Prevention of Trafficking in Humans for 2002-2005**, the Cabinet of Ministers of the Ukraine, by its Decree No. 989 of 27.06.2003 adopted the **Typical Provisions for the Rehabilitation Centre for the Victims of Trafficking in human beings**. The functions of the Centre include: psychological and legal support of victims, provision of primary medical services and further referral to health specialists if necessary, accommodation, organization of individual and group rehabilitation programmes, provision of general information on the activities of the centre and available programmes and awareness raising activities targeted to the general public.

Reintegration centres for trafficked victims play an important role in providing assistance and facilitating reintegration. Activities of the above centres include legal counselling to trafficked victims, confidential medical examination and social and psychological assistance. Reintegration programmes focus on providing training and organising traineeships and jobs placements for victims, as well as practical assistance in accommodation and property problems. In order to provide assistance to victims of trafficking the Ministry of Ukraine for Family, Youth

and Sport, in collaboration with the IOM and respective Oblast Administrations, created in 2005 **Inter-Regional Rehabilitation Centres** for victims of trafficking in Zhytomyr, Volyn, Chernivtsy, Lviv, and Kherson Oblasts.

NGOs, on the other hand, focus on activities aimed at preventing trafficking in human beings and at providing practical assistance to victims. NGOs active in this field are:

- International Women's Rights Centre 'La Strada'-Ukraine;
- School of Equal Opportunities;
- Luhansk Regional Council of Women;
- Faith. Hope. Love. (Odessa);
- Youth Centre of Women's Initiatives (Sevastopol);
- Hope and Future (Simpheropol);
- Revival of the Nation (Ternopil);
- Vesta (Uzhgorod);
- Zhinocha Gromada (Women's Community) (Kharkiv);
- Lyubystok (Mykolayiv);
- Progressive Women (Vinnitsa);
- Pan Alliance against Commercial Sexual Exploitation of Children.

The above NGOs started organizing campaigns against trafficking in human beings in the Ukraine in early 1997, at a time when trafficking in human beings had not received yet the requisite attention by the government. The *International Women's Rights Centre 'La Strada'-Ukraine* was the first NGO to develop such activities. Its main goal was to sensitise the general public and governmental officials to the problem of trafficking in women as a cruel violation of basic human rights. Gradually, awareness raising campaigns contributed to a better understanding of the problem and new programmes were devised: elaboration of joint Action Plans with state bodies and other non-governmental and international organizations (1998-1999), development of preventive activities (1999-2001), creation of a network of non-governmental organizations and improvement of the mechanism rendering assistance to victims of trafficking (2000-2002).

The Centre addresses different aspects of the problem: **assistance** to victims of trafficking, maintenance of a helpline, **research** in the field of violence against women, evaluation of

legislative acts in relation to various aspects of women's rights in the Ukraine, educational programmes for young adults on the rights of women and prevention of trafficking and other forms of violence and exploitation of women. In addition to the above, the centre also undertakes **awareness raising** activities which include: close cooperation with the mass media, distribution of information materials, publishing of reports and memos on the prevention of trafficking in human beings and distribution of these to Ukrainian women, organization of seminars, workshops and conferences, cooperation with state bodies with the aim of creating a National Action Plan focused on the prevention of trafficking, cooperation with foreign embassies in the Ukraine and Ukrainian embassies abroad, cooperation with governmental and non-governmental organizations in the Ukraine and abroad with the aims of preventing trafficking in women and providing assistance to the victims.

The efforts of NGOs also include the creation and operation of **helplines**. A helpline is not only an effective means of targeted preventive work, but also an opportunity to advise and provide assistance to women in need. The **Kiev** helpline started operating on 18.11.1997. Until May 2006, 30.000 phone consultations had been provided. The logistic-scientific support of helplines is provided by the State Institute for Family and Youth, the Ukrainian Institute for Social Research, the National University of Internal Affairs, and the State Centre for Youth Social Services.

National and international documents and their recommendations emphasize the need to provide social assistance to victims of trafficking and promote their **rehabilitation and reintegration**. Social work carried out by the *International Women's Rights Centre 'La Strada'*-Ukraine aims at providing assistance to victims in two stages. The first stage is to provide **assistance to the victim abroad** including assistance in tracing victims abroad, liberation from the place of detention, assistance with repatriation documents and the repatriation procedure. The second stage entails **direct assistance after the arrival** of victims in the Ukraine and includes the following: assistance in obtaining visas in order to testify against their traffickers abroad; assistance with job placements; legal assistance; provision of accommodation; medical assistance; organization of vocational training in the Ukraine and abroad; search of missing women; financial assistance (for medical treatment, renewal of documents, funerals). In the above procedures, an im-

portant role is played by rehabilitation centres and shelters operating in Kiev, Odessa, Lutsk, Ternopil, and Kharkiv.

Assistance to victims is provided by networks of non-governmental organizations, international organizations with sufficient financial resources and various state bodies and agencies, among them the Department for Family and Youth, Juvenile Services, Youth Social Centres, the Healthcare Department, the Employment Centre etc. The repatriation of Ukrainian citizens is financed by and carried out in cooperation with the Representative Office of IOM in the Ukraine. Diplomatic missions of the Ukraine also facilitate the repatriation of Ukrainian citizens.

C. Prosecution

Apart from adopting special legislation that is often updated in order to incorporate new trends and needs, organizational and practical measures were also adopted during the period under review in order to detect and eliminate organised criminal groups involved in trafficking in human beings.

An important step towards this direction was the creation in August 2005 of the **Department for Combating Crimes Related to Trafficking in human beings** within the Ministry of Internal Affairs and in respective divisions in the oblasts.

As many as 180 trafficking in human beings networks were eliminated and more than 300 people involved in these criminal networks were arrested; more than 160 criminal cases, referred by the Ukrainian Security Services, were brought to justice and were tried under Article 149 of the Criminal Code 'Trafficking in Human Beings and Other Illegal Transfer Deals in Respect of a Human Beings'.¹³²

In 2005, more than 3.200 cases of illegal transportation of minors across the border of the Ukraine were detected, as well as more than 13 attempts of illegal transportation for treatment, recreation and tourism and more than 40 cases of transportation of adopted minors by foreign citizens without duly executed documents.¹³³

According to data provided by the Ministry of Internal Affairs of the Ukraine, during the period 1998-2005, more than 2.200 crimes under Article 149 of the Criminal Code were investigated. The number of such crimes has increased annually

¹³² Information provided by the Ministry of Internal Affairs.

¹³³ Id.

(1998: two, 1999: 11, 2000: 42, 2001: 89, 2002: 169, 2003: 289, 2004: 262, 2005: 415, first five months of 2006: 217).

V. BEST PRACTICES

It can be stated that in the period 2002-2005 the Ukraine continued improving its strategies for combating trafficking in human beings, both at the international and national level. The following initiatives had a positive impact on dealing with the phenomenon:

- **Standing Committees for Effort Coordination and Data Exchange** for the Prevention of Trafficking in human beings are now operating in all oblasts of the country;
- The **Department for Combating Crimes Related to Trafficking in human beings** works effectively within the Ministry of Internal Affairs;
- **Preventive work** including trainings, discussions and roundtables targeted at the general population is carried out in all regions;
- **Non-governmental organizations** collaborate effectively and provide both methodological and financial assistance to victims;
- A **network of inter-regional rehabilitation and reintegration centres with asylums** for trafficked victims is being formed;
- **Sociological research** on the subject is carried out by scientists;
- A **risk group database** is updated on a regular basis and discussions and individual consultations are held;
- Preventive work via **helplines** is well-organised;
- Measures for organising **job placements** and entrepreneurship programmes for young people and unemployed women are implemented;
- Activities of travel agencies, marriage agencies and companies possessing licenses for intermediary activities connected with job placements abroad are monitored on a regular basis;
- **Information and legal assistance** is provided to the citizens of Ukraine travelling abroad;
- The **Interdepartmental Programme of Social Assistance to Disadvantaged Families** is implemented with the

aim of combating violence in the family and trafficking in children.

VI. DEFICIENCIES

It should be noted, however, that numerous problems remain unsolved and the problem of trafficking in human beings remains topical for the Ukraine.

- The increase of trafficking in human beings in the Ukraine is partly due to **poor information** of Ukrainian citizens regarding job opportunities abroad, as well as lack of information on the consequences of working illegally abroad.
- Absence of a functional system of **victim protection**.
- **Insufficient punishment** of the criminals, due to the fact that the crime of trafficking in human beings is hard to prove before a court of law and often the offenders escape punishment.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. Mechanisms for the effective implementation of **international legal instruments** concerning the protection of human rights should be developed;
2. While the Criminal Code of the Ukraine contains provisions for punishing crimes related to trafficking, further actions should be taken to **address the root causes** of the problem;
3. It is necessary to enhance the existing legal framework with the aim of promoting **complete reintegration** of trafficked persons and help reverse the negative effects of trafficking;
4. Considering the variety of measures adopted and the different actors actively participating in combating trafficking in human beings (state bodies, NGOs, religious, international and charity organizations, foreign missions in the country), **effective coordination** is necessary in order to achieve effective and sustainable results.

LIST OF ABBREVIATIONS

CBSS Secretariat	Council of Baltic States Secretariat
CBSS	Council of Baltic Sea States
ECPAT International	End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes
EUROPOL	European Police Office
ILO	International Labour Organization
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour
OSCE	Organization for Security and Cooperation in Europe
UNICEF	United Nations Children's Fund
USSR	Union of Soviet Socialistic Republics

ANNEX
Table of Ratifications, Accessions and Successions
to International Conventions

	UN Trafficking Protocol¹¹⁸	CEDAW¹¹⁹	CRC¹²⁰	CAT¹²¹	ILO Convention 182¹²²	CoE Convention On Trafficking¹²³
Albania	21.08.2002	11.05.1994	27.02.1992	11.05.1994	02.08.2001	-----
Bosnia & Herzegovina	24.04.2002	01.09.1993	01.09.1993	01.09.1993	05.10.2001	-----
Bulgaria	05.12.2001	08.02.1982	03.06.1991	16.12.1986	28.07.2000	-----
Croatia	24.01.2003	09.09.1992	12.10.1992	12.10.1992	17.07.2001	-----
FYROM	12.01.2005	18.01.1994	02.12.1993	12.12.1994	30.05.2002	-----
Greece	-----	07.06.1983	11.05.1993	06.10.1988	06.11.2001	-----
Moldova	16.09.2005	01.07.1994	26.01.1993	28.11.1995	14.06.2002	19.05.2006
Romania	04.12.2002	07.01.1982	28.09.1990	18.12.1990	13.12.2000	21.08.2006
Serbia	06.09.2001	12.03.2001	12.03.2001	12.03.2001	10.07.2003	-----
Turkey	25.03.2003	20.12.1985	04.04.1995	02.08.1988	02.08.2001	-----
Ukraine	21.05.2004	12.03.1981	28.08.1991	24.02.1987	14.12.2000	-----

¹¹⁸ United Nations Protocol to Prevent, Suppress and Punish trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime, 2000.

¹¹⁹ United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979.

¹²⁰ United Nations Convention on the Rights of the Child, 1989.

¹²¹ United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

¹²² ILO Convention No. 182 on the Worst Forms of Child Labour, 1999.

¹²³ Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

Notes

Montenegro became recently an independent State. The process of ratification of international Conventions has just started. Therefore a list of ratifications/accessions is not included in the above table.

Serbia: The State Union of Serbia and Montenegro was bound by all international human rights treaties ratified by the former Socialist Federal Republic of Yugoslavia and the Federal Republic of Yugoslavia.

Former Yugoslavia had ratified all major international human rights treaties. On 16.05.2005 the State Union of Serbia and Montenegro signed the Council of Europe Convention on Action against Trafficking in Human Beings. However, Serbia has not yet adopted the formal act to confirm its succession to already ratified international human rights instruments by the State Union of Serbia and Montenegro.
