

TRAFFICKING IN HUMAN BEINGS

Globally, trafficking in human beings is serious violation of human rights and abuse of human dignity. As a form of organized crime it undermines the basic principles of the lawful order and democratic standards in society. The transnational character of the phenomenon demands the joint efforts of all relevant institutions on a national, regional and international level.

Trafficking in human beings is defined as modern slavery and is a serious crime, connected to the exploitation of people, which are treated as commodities for sale. Trafficking in human beings is an exceptionally lucrative business for traffickers, with profits reaching up to 31 billion euro per year¹. For victims, trafficking is always accompanied with violence, control, coercion, and false promises. For the larger part of our society, this issue seems distant and imaginary, but the truth is that this is one of the great risks globally today.

Trafficking in human beings is a phenomenon that affects Bulgaria, which is predominantly a country of origin for victims of trafficking, and also a transit country due to its geographical location. Its strategic location makes the country especially vulnerable in regards to illegal channels not only for trafficking in human beings but also for immigrants, which try to illegally cross state borders.

“With the dissolution of the Warsaw Pact the greatest threat to the security and defense of Western Europe since the end of the Second World War ceases to exist. The focus is shifted from the defense of the territory of various states from military invasion towards non-territorial security threats – terrorism, trafficking in human beings, drugs, weapons, organized crime. Along with the economy, politics and the social sphere, the enlarged concept of security within the borders of the EU includes non-traditional issues of illegal migration”² and trafficking in human beings”.

The accession of Bulgaria in the European Union in January 2007 left the country facing new challenges, including the larger inflow of immigrants and asylum-seekers, and defined the real threat of the country becoming a final destination for legal and illegal immigrants and victims of trafficking.

Close to 160 countries admitted officially in 2008 that trafficking in human beings is a real issue to them, with 116 of them already having criminalized it in one way or another in their legislation.

In recent years the struggle against trafficking in human beings is constantly in the agenda of national governments and international organizations. Various mechanisms for counteracting and preventing trafficking in human beings by the UN, European Union and the Council of Europe are functioning on European level. Through the activity of the Special Representative for

¹ Source: The United Nations Global Initiative to Fight Human Trafficking (UN.GIFT)

² Simeonova, Denislava. *“Migration and internal security. Challenges before the migration policies of the European Union and Bulgaria”*, 2004, p.5

Combating Trafficking in Human Beings of the OSCE, the Stability Pact Task Force on Trafficking in Human Beings, the “SECI” centre in Romania and national-level institutions for combating trafficking in human beings, instruments, plans and activities for counteracting trafficking are being developed.

Definitions

Trafficking in human beings was first considered a separate crime in the international legal world around 2000. It's acknowledged as a problem not solely by nation-states but also as a transnational crime, affected at least two states in each case. With the adoption in 2001 and entry into force in 2003 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children to the UN Convention against Transnational Organized Crime (referred to as the Protocol Palermo), trafficking in human beings was given a definition, which the ratifying states were obliged to implement in their national legislations.

In this regard, in 2002 Bulgaria adopted a new Chapter IX “Trafficking in Human Beings” in its Criminal Code, criminalizing trafficking in human beings. In 2003 the Combating Trafficking in Human Beings Act was adopted, which created the institutional framework for developing, implementing and monitoring of the national policy and strategy on combating trafficking. Despite the development of measures, which Bulgaria has undertaken in combating trafficking in human beings (the creation of a National Commission for Combating Trafficking in Human Beings under the Council of Ministers, and Local Commissions for Combating Trafficking in Human Beings under high-risk municipalities, the development of an annual National Programme for Prevention and Counteraction of Trafficking in Human Beings, the creation of a specialized section “Trafficking in Human Beings” at General Directorate “Combating Organized Crime” under the Ministry of the Interior and others) and the pressure of its international partners and the international community, Bulgaria is still rated by the EU and the United States as one of the highest-risk countries for trafficking in Europe.

The international definition for “trafficking in human beings” is given in Art.2 from the Palermo Protocol. It is fully implemented in Art.4 of the Council of Europe Convention on Action against Trafficking in Human Beings and states that: *“Trafficking in human beings” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the 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 of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the 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.”*

The elements of the definition can be summarized in the following way:

ACTION	+	METHOD	+	PURPOSE
recruitment		use of fraud, threat or force		Exploitation, including:
transportation		violence or coercion		prostitution of others
displacement		abduction		sexual exploitation
hiding or harbouring people		fraud or deception		forced labour
		abuse of power		enslavement or similar practices
		payment or benefits		removal of organs
		unlawful deprivation of liberty		other types of exploitation

The legal definition of “trafficking in human beings” under **the Bulgarian Criminal Code (CC)**³ is given in Art.159a, par.1: *“An individual who recruits, transports, hides or admits individuals or groups of people in view of using them for sexual activities, forceful labour, dispossession of bodily organs or holding them in forceful subjection, regardless of their consent, shall be punished...”*

Another legal definition of “trafficking in human beings” is given in the Additional Provision of the Combating Trafficking in Human Beings Act (State Gazette, No. 46/20.5.2003, amended SG No. 74/15.09.2009, effective 15.09.2009): *“Trafficking in human beings” means the recruitment, transportation, transfer, concealment or acceptance of human beings, regardless of their own will, by means of coercion, abduction, deprivation of liberty, fraud, abuse of power, abuse of a state of dependence, or by means of giving, receiving or promising benefits to obtain the consent of a person who has control over another person, when it is carried out for the purpose of exploitation.*” It is accepted that this definition is more systematic and closer to the spirit of the definition from the Palermo Protocol, but for the needs of criminal prosecution and investigation, the definition of the CC should be used.

In the same Additional Provision of the CTHBA, other legal definitions are given: of **“victim”** (“any person who has become a subject of trafficking in human beings”); of **“risk group”** (“a group of individuals who due to their age, sex, social status or the geographical

³ For the full text of the constitution of Art.159a-d, see APPENDIX 1

location of the region where they reside pose potential victims”); of **"risk region"** (“a region inhabited by risk groups”).

Without having a legal definition, some terms have grown popular, such as:

- **“trafficking in human beings”** – a common term for of forms of crimes under Art.159a and 159b from the CC (recruits, transports, hides or harbours, or transfers through a state border);
- **“country of origin”** – the country whose citizen the victim is;
- **“country of final destination”** – the country where the victim is being exploited;
- **“internal and international trafficking”** – depending on whether or not the victims are being exploited within the country or have been transferred through a state border.

Differences between other crimes – “human smuggling”

What is not trafficking in human beings?

Crimes against the governmental border (“human smuggling”), illegal adoptions, trade with human organs, child pornography, prostitution.

Close to the crime “trafficking in human beings” is the constitution of Art.280 from the CC (effective 08.08.1997) *“A person who takes across the frontiers of this country individuals or groups of persons without permission from the respective authorities, or with permission but not through the points designated therefor, shall be punished by deprivation of liberty for one to six years and a fine of BGN five hundred to one thousand.”* Without doubt both crimes – human smuggling and the international trafficking in human beings – are forms of illegal migration and have similar components and characteristics.

Several important differences exist, however, the most important of which is that in trafficking exist a special purpose for the trafficker – the exploitation of the victim after crossing the border, while the connection smuggler-“victim” in human smuggling end after crossing the state border and the “victim” pays the smuggler for the service. Other differences are:

- Trafficking in human beings is a separate Section in Chapter II “Crimes against the Person” in the CC. At the same time, Art.280 CC is in Chapter VII “Crimes against activities of state bodies and public organizations”, Section I “Crimes against Governmental Order”. Within the international aspect the differences are fixed in separate documents – while smuggling is regulated in a UN Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the Convention against Transnational Organized Crime, regarding trafficking, a Protocol to Prevent, Suppress and Punish Trafficking in Persons supplementing said Convention was signed;

- Trafficking in human beings includes the displacement of human beings within the borders of a state (internal trafficking), while a necessary element of smuggling is the crossing of a state border;

In its regular report the State Department of the United States rates Bulgaria as “a source and, to a lesser extent, a transit and destination country for men, women and children from Ukraine, Moldova and Romania, transferred to and through Bulgaria for Germany, Belgium, France, Italy, Spain, Austria, Norway, The Czech Republic, Poland, Greece, Turkey and Macedonia for sexual exploitation and forced labour. Ethnic Roma women remain a high-risk group. Trafficking of children of Roma origin within Bulgaria and from Bulgaria to Greece and the United Kingdom for beggary and delinquency exists. Children account for approximately 15 percent of Bulgarian trafficking victims. Bulgarian women and men are trafficked internally within the country, particularly in resort areas along the Black Sea coast and to border towns along the Greek border, with the purpose of sexual exploitation and forced labour.”⁴

In its 2008 report, Europol notes Bulgaria as one of the six main countries of origin for victims of trafficking in human beings in the EU, along with Ukraine, Romania, Russia, Moldova and Nigeria.⁵ Official national data for Bulgaria differ in different time periods due to the inclusion of victims of other types of crimes (smuggling, for example) to trafficking in human beings, but mostly due to the developing processes on a European and regional level (the acceptance of the country in the EU, the removal of the visa regime for Bulgarian in the Schengen Area).

2.1. Causes of trafficking in Bulgaria, channels and risk regions

The development of the crime trafficking in human beings in Bulgaria can be defined in several **chronological stages**⁶:

- *emergence*: first half of the 1990s, time when the first contacts of Bulgarians with Western Europe are established, but Bulgarians are not actively participating in exploitation;
- *occasional trafficking*: since the second half of the 1990s, where occasional cases of involvement of Bulgarian citizens in trafficking are observed, at the time the methods used being extremely forceful (recruitment through abduction and use of force);
- *mass trafficking*: observed since the turn of the XXIst century, most intensive being 2003, when the visas for Bulgarians traveling in the Schengen Area were removed. Data for this period, despite all, are not reliable, due to the lack of a unified and reliable system for their gathering. In

⁴ Department of the United States of America, “Trafficking in persons report”, 10th edition, June 2010

⁵ Europol. Trafficking in Human Beings in the European Union: A Europol perspective. 2008, p. 3

⁶ Петрунов, Георги. „Явлението трафик на хора в България”, сб. Справедлив процес за жертвите на трафик

this period Bulgarian traffickers create networks and connection in Western Europe and the methods they use are no longer forceful, rather “business-relations” with the victims;

- *consolidation*: by 2007, which coincides with the entry of Bulgaria in the EU. Bulgarian organized criminal groups take an ever larger “market share” in Europe and push out the “cruel Albanian gangs” who controlled the markets”⁷.

Reasons for getting involved in trafficking

The National Commission for Combating Trafficking in Human Beings divides the causes of Bulgarian citizens becoming victims of trafficking in the following categories:

- *socio-cultural* – poor literacy, dissolution of the moral value system, racism and ethnic discrimination, mass media influence, incl. the Internet;
- *economic* – poverty, underdeveloped economy, unemployment;
- *psychological* – a sense of helplessness and insecurity, previous experience with domestic and/or sexual violence, unrealistic life planning, unsatisfactory personal and social relations, drug addiction, violence in school or common social violence (isolation, neglect), and others;
- *geo-political* – labour mobility, migration flows, international organized crime, geographic location.

⁷ In conversation with Sr. Inspector Svetlozar Georgiev, section “Trafficking in Human Beings”, GD “COC” at the MoI

STATISTIC

Gathering and analysis of data

In the last decade greater attention is paid on an international level on the subject of trafficking in human beings and its counteraction. As a result a multitude of researches have been conducted, documents, books and opinions were created. Despite all of this descriptive information, a clear quantitative measurement of the issue is still lacking. It is hard to gather accurate data both for victims and traffickers, as they often remain undisclosed. Due to the fact that trafficking is often executed through national borders the effectiveness of policy on a regional and international level depends on the sharing of information and data, of *comparable* data. A fundamental problem in the gathering of current quantitative data is the transnational character of the phenomenon trafficking in human beings – a single victim that has received support in the destination country and has been repatriated in the country of origin can, in practice, be counted twice as a unique victim of this crime. The same problem exists in the gathering of quantitative data about traffickers. Due to this reason, several international documents and initiatives call for the development of a coordinated and standardized approach to gather data:

- “Development of approaches to gather data for trafficking in human beings, including comparable indicators,” a joint project of the Ministry of the Interior of Austria and IOM, financed by the European Commission;
- “Programme for improving the response to trafficking in human beings in Southeastern Europe: gathering of data and information management,” project run by the International Centre for Migration Policy Development, Austria, in partnership with ten countries from Southeast Europe, incl. Bulgaria;
- “European Delphi Study – practical exercise on the development of indicators for trafficking in human beings,” European Commission.“

The gathering of comparable and reliable quantitative data regarding trafficking in human beings has been acknowledged by governments, organizations, and the EU as one of the greatest challenges on a national, regional and global level. The sharing of this information is of crucial importance for the planning and revision of policies of countries and regions for counteracting trafficking in human beings. One of the recommendations of the Council of Europe's Group of Experts on Action against Trafficking in Human Beings is precisely the “creation of preconditions and undertaking of measures for gathering data with the aim of identifying the issue.”⁸

In Bulgaria, in accordance to Art.7, p.4 from the CTHBA, the *National Commission for Combating Trafficking in Human Beings* creates the organization for study, analysis and statistical

⁸ Opinion No 7/2010 of the Group of Experts on Trafficking in Human Beings of the European Commission, „Proposal for a European Strategy and Priority Actions on combating and preventing trafficking in human beings (THB) and protecting the rights of trafficked and exploited persons”, page 58

accounting of the data regarding trafficking in human beings. Under the project “Improving the response to trafficking in human beings in Southeastern Europe: gathering of data and information management” of the ICMPD, the NCCTHB and the Supreme Cassation Prosecutor's Office received data bases for victims of trafficking and traffickers respectively, which serve to analyze the tendencies and undertake adequate measures of prevention, counteraction and victim protection.

In addition, each month the *Supreme Cassation Prosecutor's Office* gathers, summarizes and analyses information regarding: number of opened pretrial proceedings for trafficking in human beings, criminal accusations entered in court, number of accused persons, number of sentenced and acquitted persons, data for the victims of trafficking – number, age, purpose of exploitation. Currently a Unified Informational System for counteraction of crime is being developed, which will be available to all law enforcement institutions.

The *Ministry of the Interior*, within the directorates, which work on cases of trafficking in human beings, manages its own internal statistics regarding the number of investigations, victims, with whom it worked, countries of exploitation.

Victims of trafficking for 2009⁹

Total	297
Women	220
Men	31
Underage (under 18)	40
- girls	40
Minors (under 14)	6
- girls	4
- boys	2

Total	297
Women	
- sexual exploitation	188
- forced labour	11
- servitude	1
- pregnant	19
Men	
- sexual exploitation	4
- forced labour	27
Underage (all female)	40
- sexual exploitation	34
- forced labour	4
- servitude	2
Minors	6
- Art.159a, par. 3 CC	4
- Art.182b CC	2

⁹ Data of the Supreme Cassation Prosecutor's Office

Pretrial proceedings and convicted persons for 2009

Newly opened pretrial proceedings	131
Trafficking for sexual exploitation	109
Trafficking for labour exploitation	7
Trafficking for servitude	4
Trafficking of pregnant women for selling their baby	11

Total number of sentenced persons	108
Sentenced persons for <i>internal</i> trafficking for sexual exploitation	57
Sentenced persons for <i>external</i> trafficking for sexual exploitation	33
Sentenced persons for <i>internal</i> trafficking for labour exploitation	1
Sentenced persons for trafficking for servitude	2
Sentenced persons for Trafficking of pregnant women for selling their baby	2
Sentenced persons for exploiting a victim of trafficking ¹⁰	8
Sentenced persons for trafficking for sexual exploitation that is dangerous relapse	2
Sentenced persons for selling their baby (Art.182b CC)	3
Sentenced persons, with sentence entered in force	99

¹⁰ Additional chapter "Trafficking in Persons" in the Criminal Code from April 2009, in connection to Art.19 of the Council of Europe Convention against trafficking.

INSTITUTIONAL FRAMEWORK

The **National Commission for Combating Trafficking in Human (NCCTHB)** is established under the Combating Trafficking in Human Beings Act. With Decision of the Council of Ministers № 700 from 27 August 2009 for Chairman of the Commission was appointed the Deputy Prime Ministers and Minister of the Interior, Mr. Tsvetan Tsvetanov (up to this point Mr. Daniel Valchev). The members of the NCCTHB include 12 Deputy-Ministers and Deputy-Directors, and institutions, relevant to the national policy on counteracting trafficking in human beings and victim protection. The NCCTHB is led by a Secretary and a staff, very insufficient, of 9 persons.

According to Art.9 of the CTHBA, the National Commission organizes and coordinates the interaction between separate institutions and organizations executing the law; determines and administers the implementation of the national policy and strategy in the area of combating trafficking in human beings; it develops annually a National Programme for Prevention and Counteraction of Trafficking in Human Beings and Protection of the Victims, which is approved by the Council of Ministers; it organizes the research, analyses and reports statistical data on human trafficking; it participates in international cooperation for prevention and counteraction of human trafficking; it carries out information, awareness and education campaigns aimed at potential victims of trafficking; it develops training programmes for officials in connection to performing their duties in preventing and counteracting trafficking; it manages and supervises the activities of the Local Commissions for Combating Trafficking in Human Beings and the centres for protection and support of victims of trafficking; it registers physical persons and legal non-profit entities, who provide shelter to victims of trafficking in human beings.

For the implementation of the anti-trafficking policy of the country on a local level, the NCCTHB establishes **Local Commissions for Combating Trafficking in Human Beings**. They are led by a Chairman, in his quality as a deputy-mayor of the respective municipality, and their members include representative of the municipality's administration, responsible for educational, health issues and social policy, of the Local Commission for Combating Juvenile Delinquency, child protection units at Directorate "Social Support", the police, State Agency "National Security", non-governmental organizations, as well as pedagogues, psychologists, jurists, doctors and others.

The NCCTHB was officially registered in the BULSTAT register in 2006, despite the adoption of the law back in 2003. Due to staff-related issues, the Commission only began effective work in late 2007 with the appointment of Mrs. Antoaneta Vassileva as Secretary. Since then the Commission has developed the structures under the CTHBA (Local Commissions, centres, shelters), which did not exist in 2007, takes part in international projects financed by the European Commission, conducts national and local awareness campaigns, participates in the reception of

incoming signals for trafficking, coordinates cases, and protection of victims of trafficking in human beings.

With the current pace of development, an important condition for the effective institutional implementation of the NCCTHB's duties under the CTHBA is the provision of sufficient resources to the Commission, which can be deduced as sorely insufficient under the table below, with regard to the activities of the Commission.

Within the framework of the **Ministry of the Interior** a specialized **Section "Trafficking in Human Beings"** at General Directorate "Combating Organized Crime" was established, with officers in the territorial units of "COC" in the District Directorates of the MoI, as well as officers in Border Police. The activity of the section is to counteract the criminal activity of transnational organized criminal groups, conducting trafficking and trade in human beings for the purposes of sexual exploitation; the disclosure and neutralization of the criminal activity of local and transnational organized criminal groups, performing trafficking on and through the territory of Bulgaria; the disclosure and neutralization of the criminal activity of criminal organizations, hiring workforce through license, illegal adoptions and trade with human organs and tissue; controlling the locations where sexual services are offered – conduct of specialized operations; training and qualification of police officers, working in the area of trafficking; participation in international cooperation.

Crisis centres for children – victims of violence and trafficking in human beings: In January and February 2006 the Austrian police registered an increase in pickpocket thefts from juvenile Bulgarian citizens – 207 cases, in comparison with 35 cases for 2004 and 85 cases for 2005¹¹. As a result of the joint counteraction of the issue by both states, the Bulgarian children were identified as victims of trafficking in human beings and returned to the country. The necessity of their protection and support led to the creation of a new type of social service in 2006. The Crisis centres are under the jurisdiction of the Agency for Social Support, the agency being responsible for their establishment, the accommodation of children, and their full financial provision. By data of the Agency in the country there are 12 Crisis centres at the end of 2010 with a total capacity of 123 places. The Centres are located in 12 different Bulgarian cities, identified as secure locations for the rehabilitation and reintegration of the children in society.

¹¹ Vassileva, Antoaneta. "Trafficking and sexual exploitation of children," for foundation "Risk Monitor", 2010, unpublished