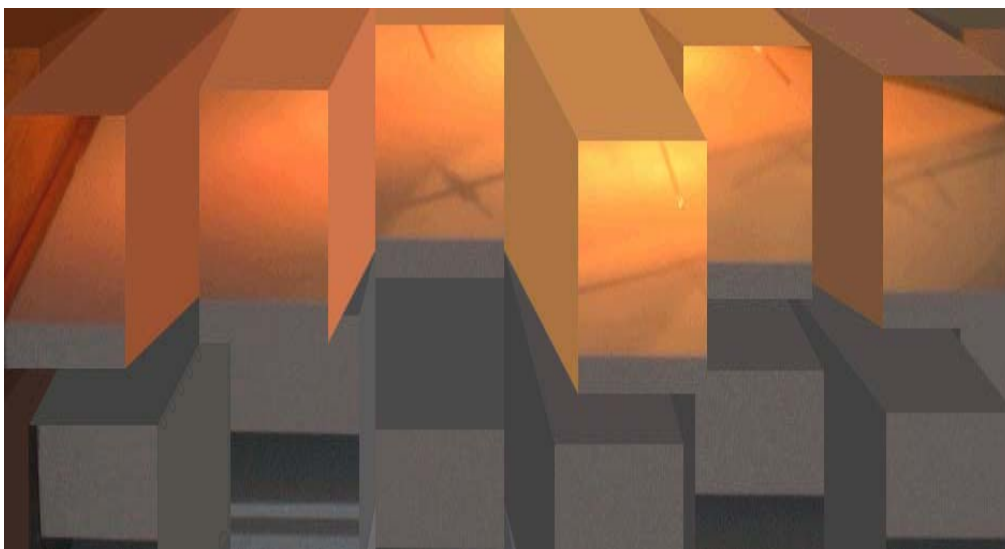




COMBATTING HUMAN TRAFFICKING:

Overview of UNHCR Anti-Trafficking Activities in Europe



Bureau for Europe Policy Unit

2005



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INTRODUCTION

UNHCR's interest in the problem of human trafficking is essentially two-fold. Firstly, refugees are vulnerable targets for traffickers. Displacement and vulnerability linked to persecution, conflicts and involuntary displacement put refugees and internally displaced persons at greater risk of exploitation and abuse. To access countries of asylum in an environment of tightening visa regimes and border control, some refugees may resort to desperate and even illegal measures in their search of a safe country and of livelihoods and can fall prey to trafficking. In the present climate of migration containment and restrictive asylum policies, those seeking international protection may turn to irregular migration channels in an attempt to reach safety.

Trying to find security by means of smuggling¹ increases their vulnerability to human trafficking. Some victims of trafficking may only become conscious of the difference between smuggling and trafficking after departure or upon arrival to the destination country, when deceit linked to trafficking becomes readily apparent. UNHCR needs to protect persons of concern from the risk of human trafficking.

Secondly, UNHCR is interested in human trafficking as a human rights violation, a crime against humanity and a war crime in the context of armed conflict. Some trafficking victims, in particular but not exclusively women and children, can be defined as refugees under the 1951 Convention relating to the Status of Refugees if they establish a well founded fear of persecution based on one of the Convention grounds. Victims of trafficking may qualify for international refugee protection if their country of origin is unable or unwilling to provide protection against further re-trafficking or as a result of traffickers' potential retaliation when circumstances can be linked to Convention grounds. A claim for international protection from a victim of trafficking can thus arise in two distinct circumstances; where the victim has been trafficked from abroad and seeks the protection of the host state, or where the victim, having been trafficked within national territory, manages to extricate her/himself and flees abroad in search of international protection. In both instances, it is necessary to establish a well founded fear of persecution in addition to a causal link to one or more of the 1951 Convention grounds, i.e., for reasons of race, religion, nationality, membership of a particular social group or political opinion.

UNHCR is not the principal organization working on combatting the trafficking of humans. UNHCR is mandated to help victims of trafficking as they relate to international asylum. Efforts to combat trafficking in Europe are often implemented in cooperation with national governments, other intergovernmental organizations and non-governmental organizations.

The Global Consultations on International Protection that led to the Agenda for Protection² engaged states and other partners in a dialogue aimed at improving the protection of refugees and asylum seekers and at guiding concrete action to this end. It revitalizes the 1951 Convention and the 1967 Protocol relating to the Status of Refugees in

1 Smuggling of migrants is defined in the UN Protocol against the Smuggling of Migrants by Land, Sea and Air as: Smuggling of migrants shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

2 UNHCR Agenda for Protection, Second Edition, March 2003.



the evolving environment of refugee protection. Current patterns of displacement, mixed population flows and the growth of smuggling and trafficking of persons, the problems of safeguarding asylum systems against abuse and of excluding and returning those not entitled to or in need of international protection were addressed in the Global Consultations. The Agenda for Protection includes the goal of protecting refugees within broader migration movements, and sets the objective of strengthening international efforts to combat the smuggling and trafficking of persons. It advocates for national asylum processes that are open to receiving claims from individual trafficked persons, especially women and girls who can base their asylum claim on the grounds of the 1951 Convention.

UNHCR has consistently expressed the view that women and girls who experience sexual violence or other gender-related persecution should have their claims for refugee status considered under the 1951 Convention. UNHCR's Executive Committee has pronounced on this issue in a number of Conclusions. UNHCR's current guidance is provided in UNHCR's 2002 Guidelines on International Protection: Gender-Related Persecution within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, as well as the Guidelines on International Protection: Membership of a Particular Social Group.

This overview provides an analysis of UNHCR's engagement in combatting human trafficking in Europe. Regional and country specific data on statistics and trends, national legal frameworks and implementation arrangements are presented in the country chapters for the 33 of the 42 countries covered by the Europe Bureau. Data was not available for the Malta, Portugal, the Baltic states of Estonia, Latvia and Lithuania or for the Nordic countries of Denmark, Finland, Iceland and Norway as UNHCR does not have an office presence in Malta or Portugal. In addition to the description of and specific information about UNHCR's activities, changes to emerging case law and UNHCR's capacity and national mechanisms to address trafficking-related asylum claims are presented in this report. The annexes found at the back of this study provide country information in a summarized format. They include tables on the status of relevant international instruments, national anti-trafficking legislation and implementation arrangements and areas of UNHCR involvement.

It is hoped that the overview will contribute to the identification and sharing of best practices and serve as a basis for the future implementation and training on UNHCR's forthcoming guidelines on the application of Art 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, in cases of human trafficking. The report can also serve as a tool to deepen regional and in-country cooperation with partners such as the Office of the High Commissioner for Human Rights (OHCHR), the newly appointed UN Special Rapporteur on Human Trafficking in Persons, especially in Women and Children, the Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM), United Nations Children's fund (UNICEF), the Council of Europe (CoE) and international and local NGOs. The overview aims to assist UNHCR country offices to situate themselves on the map of counter-trafficking activities in Europe, and exchange information between UNHCR field offices on best practices in the areas of legislative development, victim identification, referral systems, refugee status determination, training and durable solutions.



METHODOLOGY

The information contained in this overview was collected between February and August 2005. The initial intent was to limit the information to UNHCR's engagement in combatting trafficking. However, it soon became apparent that trafficking needed to be put within a broader national perspective and UNHCR's role needed to be contextualized within the national mechanisms and international efforts to combat human trafficking. The nature and extent of the problem demands a clear understanding of the role of state and non-state actors, as well as situating UNHCR's role in combatting trafficking within this framework.

Country information was predominantly provided by UNHCR branch offices in the countries of Europe and supplemented by government sources, NGO websites, inter-governmental and UN organizations active in this field. In countries where UNHCR offices were not directly involved in anti-trafficking initiatives, the information was derived from governmental and NGO sources.

This overview is not intended to be exhaustive but rather was created in order to place the efforts of UNHCR within a regional and national context. The regional overview and country chapters provide a picture of current legal frameworks and the implementation of initiatives to outline good practices from UNHCR and other organizations. A resource list and contact information for UNHCR offices are also included at the end of every chapter to encourage cooperation and exchange on this issue.

This regional study was prepared by the Policy Unit of the Europe Bureau. The country chapters were based on information obtained from UNHCR country representations and from research by interns James Pope and Maria Makayonok. The cover graphic was created by Phil Tancre. Final proof-reading and editing was done by Jana Eidem and Malika Floor, who also supervised this study and guided the analysis of data. The authors at the Policy Unit would like to express their gratitude to the following UNHCR staff members, whose contributions made this work possible:

Friederike Adlung, Agnes Ambrus, Paolo Artini, Akif Atli, Hortenc Balla, Maria Bances del Rey, BO Ankara Gender and Children Team, Ewa Boguszewska, Jorunn Brandvoll, Anna Buellesbach, Tamara Chelidze, Marcel Colun, Anne Dawson-Shepherd, Birgit Einzenberger, Debbie Elizondo, Urara Furukawa, Helvise Gallet, Brian Gorlick, Lori Handrahan, Reiko Hasegawa, Madalena Hogg, Jurgen Humburg, Katarina Ivezic, Nadia Jbour, Sedi Keshavarzi, Gottfried Koefner, Laura Kok, Olga Komiti, Peter Kresak, Dajena Kumbaro, Seda Kuzucu, Bart Leerschool, Gang Li, Jesper Lindholm, Hans Lunshof, Marie Herminne de Montangon, Tihomir Nikolovski, Grainne O'Hara, Diego Rosero, Ivan Saleyeu, Hans Schodder, Biserka Sirovica, Marcela Skalkova, Davor Sopf, Christos Theodoropoulos, Marie Noelle Thirode, Alexander Tyler, Veerapong Vongvarotai, Catherine Walker, Eduardo Yrezabal, Pablo Zapata, and Ernest Zienkiewicz.



The countries covered by this study are:

Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Luxemburg, Moldova, the Netherlands, Poland, Romania, Russian Federation, Serbia-Montenegro and Kosovo, Slovakia, Slovenia, Spain, Sweden, Switzerland, The Former Yugoslav Republic of Macedonia, Turkey, Ukraine and the United Kingdom.

SUMMARY AND CONCLUSIONS

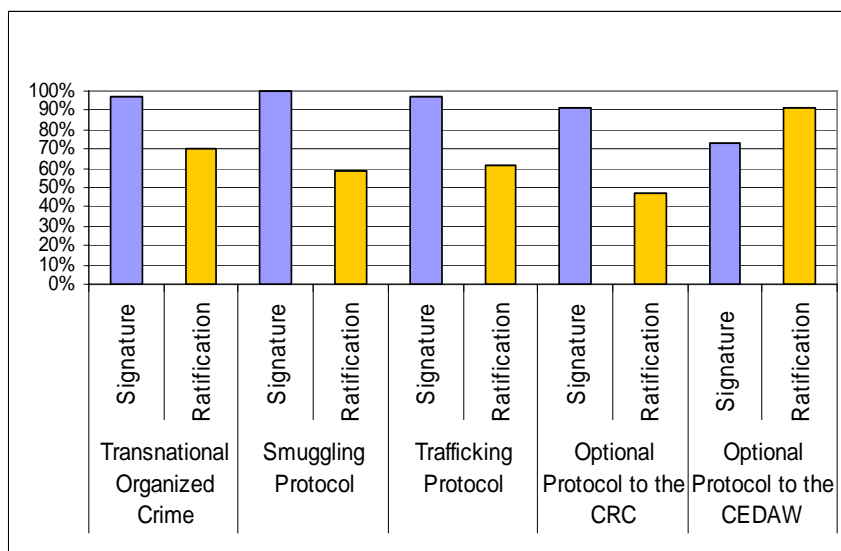
Defining Trafficking

Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, (also known as the first Palermo Protocol or the Trafficking Protocol) which supplements the United Nations Convention on Transnational Organized Crime defines the transnational organized crime of trafficking as follows:

Trafficking in persons 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 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. 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...³

Most of the 42 countries covered by UNHCR’s Regional Bureau for Europe are parties to the Palermo Protocol and several other international legal instruments relating to anti-trafficking (see Figure 1).

Figure1. Status of Relevant International Instruments in Europe



³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime. Available at: www.un.org



Not all countries covered by this study have defined trafficking in their national laws. Where trafficking *is* defined, definitions often vary and are not always consistent with internationally accepted ones. Some countries have included the definition from the Palermo Protocol whilst others have defined the crime differently.

At the regional level, the Council of Europe Convention on Action against Trafficking in Human Beings was endorsed by the Committee of Ministers and opened for signature in May 2005⁴. The Convention builds upon existing international standards of protection for trafficked persons. In particular, it expands the definition of trafficking set out in the Palermo Protocol to explicitly include in-state trafficking and trafficking not necessarily involving organized criminal groups.

In the geographical area covered by this study, trafficking into, out of or within Europe seems to be done overwhelmingly for the purpose of sexual exploitation. While there are, in fact, also cases of men being trafficked both for sexual and labour exploitation, the vast majority of known victims are women and girls, and to a lesser extent boys.

Data and Statistics

Presently, there are no reliable and conclusive statistics on the number of trafficking victims in the European region. The data provided by official governments sources, international organizations and NGOs vary greatly, with estimates ranging from 100,000 to 500,000 of persons trafficked annually into Western Europe alone⁵. Regrettably, available data does not record key indicators, including information on age, gender, number of victims as well country of origin. The information that *was* available was primarily collected by government ministries, police departments and NGOs but the data was not quantifiable or comparable. Region-wide data obtained through consistent means with reliable partners is desperately needed. Without this information, it is extremely difficult to raise awareness and effectively deal with the protection and assistance needs of the victims.

The 2005 ILO report estimated that there are some 270,000 victims of trafficking for forced labour (including for sexual exploitation) in industrialized countries of Europe and the U.S.⁶ Alongside established flows of trafficking victims from certain developing countries in Africa, Latin America and Asia to Western Europe, there was a significant increase in the number of women and children trafficked into the EU from Central and Eastern European countries. Furthermore, candidate countries have become significant transit routes for victims destined to the EU member states. The phenomenon of re-trafficking has also been reported as a growing trend in Europe.⁷

The International Organization for Migration (IOM) has developed a counter-trafficking module database which is a unique information source on IOM's assistance to victims of trafficking and strengthens research capacity into the causes, processes, trends and consequences of trafficking by providing data on recruitment, transportation and exploitation methods, profiles of the victims in terms of their assistance needs and statistical data for selected countries.⁸ IOM estimates that

4 Council of Europe Convention on Action against Trafficking in Human Beings. Available at: www.coe.int/T/E/human_rights/trafficking/PDF_TrafConv_E_August2004.pdf

5 www.migrationinformation.org/Feature/display.cfm?ID=66

6 International Labour Office, A global alliance against forced labour, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Geneva, 2005.

7 http://europa.eu.int/comm/justice_home/news/8mars_en.htm

8 International Organization for Migration (IOM). Counter-Trafficking Module (CTM) Database.



each year, 500,000 women are trafficked to sexual exploitation and prostitution in Europe.

Estimates by the United States Department of State (2004) put the worldwide figure of cross-border trafficked persons at 600,000 – 800,000. According to the US estimates, 70 percent of trafficking victims are women and 50 percent are children.⁹ The OSCE estimated that 1,2 million children are trafficked annually in the world for sexual exploitation, domestic slavery or to work in agriculture, mining or street-based activities such as petty crime and begging.¹⁰

An increasing number of women are reportedly being deceived by traffickers into leaving their countries with false promises of employment as dancers, waitresses or sex workers. In several countries, traffickers recruited their victims through acquaintances, friends and even family members. Similar deception techniques were also used by traffickers to recruit men for forced labour exploitation.¹¹ Often, these individuals find themselves living in slave-like conditions. Children, especially girls, are increasingly trafficked for sexual exploitation. The trafficking of children includes boys and girls for begging and other street-based activities.

In Europe, migrants are turning to alternative means of entry, including smuggling, due to increasing migration pressures and restrictive immigration practices. To fend off real or perceived illegal migrants, European countries are responding by instituting stricter asylum policies, visa systems and border controls which have considerably altered the balance between the migration control and refugee protection. Studies suggest that some persons entering the EU in an irregular manner, including people with legitimate refugee claims, do not file asylum applications for fear of being apprehended, detained and/or deported.¹²

A recent resolution by the European Parliament calls for member states to appoint national rapporteurs to gather, exchange and process information on trafficking, and stresses the importance of gathering gender-based and comparable data, bearing in mind that it is of the utmost importance to ensure the confidentiality of information, given the concerns of NGOs about the sharing of data on victims.¹³

Legal framework and implementation

A recent proliferation of legislative reforms within European countries means that most countries have now introduced laws specifically designed to combat the trafficking of humans, although the punishment for involvement in such activities can vary significantly from state to state. When countries do include an anti-trafficking law in their national criminal code, it is not necessarily in sync with either the Palermo Protocol or with the Council of Europe (CoE) definitions and therefore there is no common European standard. Any country which has not written specific anti-trafficking legislation must rely on other laws (for example anti-slavery laws, migration laws and sometimes anti-prostitution or anti-coercion to engage in prostitution

⁹ United States Department of State. Trafficking in Persons Report, 2004.

¹⁰ OSCE, Combating Trafficking in Children, 18 March, 2005. Available at: www.osce.org/documents/cthb/2005/03/15338_en.pdf

¹¹ Idem

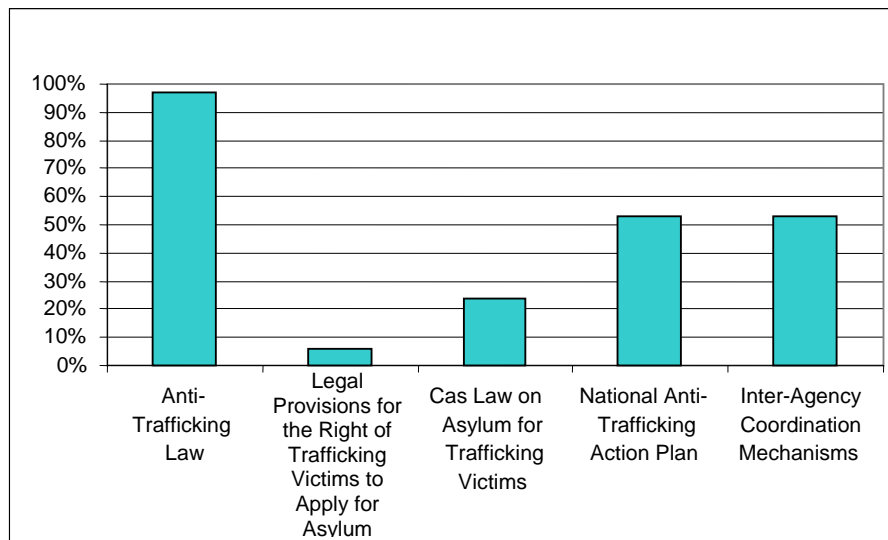
¹² UNHCR, Reconciling Migration Control And Refugee Protection In The European Union: A UNHCR Perspective, Discussion Paper, UNHCR, Geneva, October 2000.

¹³ European Parliament, Committee on Women's Rights and Gender Equality, Draft report on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation.

PR\580691EN.doc, 19/9/2005.

laws) in order to prosecute traffickers. Figure 2 gives an overview of European anti-trafficking legislation and implementation arrangements in the countries covered by this regional overview.

Figure 2. National Anti-Trafficking Legislation and Implementation Arrangements



The European Union countries seeking to harmonize national legislation adopted two Council Framework Decisions of 2002 and 2004 on combating trafficking in human beings and on combating sexual exploitation of children and child pornography. The European Council Directive (2004/81/EC) on the short-term residence permit issued to third country victims of trafficking in human beings or to third country nationals who have been subjects of an action to facilitate illegal immigration who cooperate with competent authorities, is linked to the legal acts related to the status of victims in criminal proceedings and compensation procedures¹⁴. Europol noted a lack of legal framework and differences in definitions of trafficking and trafficked victims, penalties and non-ratification by all EU member states of the UN Convention against Transnational Organized Crime and its protocols. Europol also remarked that giving short-term residence permits varied and the procedures and duration of the resident permits do not follow the Council Directive in most of the countries.¹⁵ A recent communication from the European Commission of October 2005 to the European Parliament and the Council aims to further strengthen the fight against trafficking in human beings by using an integrated approach and proposed action plan.

In 2004, the Experts Group on 'Trafficking in Human Beings', set up by the European Commission, recommended more targeted awareness raising campaigns, better training, more effective administrative controls and monitoring of private recruitment agencies that are part of the modus operandi of trafficking.

¹⁴ Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings (OJ L 82,22.3.2001) and the Council Directive 2004/80/EC of 29 April 2004 relating to the compensation to crime victims (OJ L 261, 6.8.2004).

¹⁵ Europol Public Information. Legislation on Trafficking in Human Beings and Illegal Immigrant Smuggling. Europol, 2005.



In November of 2005 the European Parliament adopted a resolution on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation¹⁶. The resolution calls for cooperation among the countries of origin, transit and destination at the EU, regional and global levels. It also calls for coherent action among international organizations and calls on its member states to use a broader strategy to address the international triangle of the trafficking market, including the victim, trafficker and client.

At both regional and international levels, efforts are being made to ensure the protection of human rights of the victims in addition to the focus on trafficking as a criminal activity and on prosecution of traffickers (and sometimes, victims). The CoE Convention, OSCE work and European Council and Commission initiatives are examples of the recognized need to respond to the protection and assistance needs of the trafficking victims.

The OSCE is active in advocating national level action to fulfill and implement the international and regional standards and calls for economic and social policies aimed at addressing the root causes of trafficking in human beings. OSCE, with a mandate inclusive of North America and Central Asia, promotes regional cooperation to combat trafficking. OSCE adopted an action plan in 2004 which complemented by an addendum, specifically to address the needs of child victims of trafficking for protection and assistance.¹⁷

The United Nations General Assembly and its subsidiary bodies have adopted a number of resolutions on human trafficking under the commissions on the status of women, human rights and crime prevention and criminal justice which complement and inform the implementation of the relevant human rights instruments for the protection and assistance of trafficking victims. The principles set forth in the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Declaration on the Elimination of Violence against Women are relevant in ensuring that the human rights and protection needs of the trafficked persons are met. The Recommended Principles and Guidelines on Human Rights and Human Trafficking contained in the Report of the UN High Commissioner for Human Rights (UNHCHR) to the Economic and Social Council of May 2002 provided standards and guidance on issues such as prevention, assistance and protection.¹⁸ Other examples of normative UN work include the World Health Organization's (WHO) Ethical and Safety Recommendations for Interviewing Trafficked Women, the UNICEF Guidelines for Protection of the Rights of Child Victims of Trafficking of April 2005 and contribution by UNICEF and the Innocenti Research Centre to the UN Secretary General's Study on Violence against Children in the form of UN Human Rights Standards and Mechanisms to Combat Violence against Children of 2005.

¹⁶ European Parliament, Committee on Women's Rights and Gender Equality, Draft report on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation. PR\580691EN.doc, 19/9/2005.

¹⁷ OSCE Permanent Council Decision No. 557, OSCE Action Plan to Combat Trafficking in Human Beings, PC.DEC/557 of 24 July 2003 and OSCE Permanent Council Decision No. 685, Addendum to the OSCE Plan to Combat Trafficking in Human Beings: Addressing the Special Needs of Child Victims of Trafficking for Protection and Assistance, PC.DEC/685 of 7 July 2005.

¹⁸ Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council. E/2002/68/Add.1 of 20 May 2002.



UNHCR, in an observer capacity, has been involved in the drafting of many of the international and regional standards and plans and is in the process of finalizing guidelines on trafficking in the context of asylum to provide guidance to national asylum authorities, legal practitioners, NGO advocates, and UNHCR staff conducting refugee status determination under the UNHCR mandate.

Many countries have also drawn up national action plans to combat the phenomenon. However, the problem is now one of implementation as many of the projects are still run on an *ad hoc* basis. State action plans and coordination committees have been set up following the adoption of national legislation incorporating human trafficking as a punishable crime into the existing criminal laws.

Multi-sectoral working groups to address or combat trafficking combat trafficking have been established in many countries. They usually address multiple aspects of trafficking, ranging from prosecution of the traffickers to victim protection. Where such arrangements are in place, some UNHCR offices participated in their activities and contributed to the development of relevant legislation and policies by drawing attention to the protection needs of refugees and asylum seekers. UNHCR participation is most active in countries where offices have already been involved in related activities such as prevention of sexual and gender-based violence (SGBV).

Prevention and response

Assistance to the victims of trafficking is usually in the form of hotlines or shelters where the victims are accommodated after seeking help or after having been intercepted by the police. Locally-run shelters, mainly run by NGOs, that offer medical assistance and legal representation for trafficked persons are relatively widespread throughout Europe. While such measures may appear suitable and appropriate, in reality the number of women and girls in shelters is decreasing despite an apparent increase in the number of trafficking cases. The report entitled *Trafficking in Human Beings in South Eastern Europe* confirms that in countries of transit or Western Balkans, shelters are virtually empty, only accommodating local women identified as internally trafficked.¹⁹ One possible reason for this is because typically, victims who choose to stay in shelters are either repatriated to their countries of origin directly or, if they are offered the opportunity to remain in the country for a short period of time, the temporary stay permits are often linked to requirement to collaborate with the criminal proceedings. Some countries are willing to grant victims a temporary 2-3 month reflection or recovery period while he/she decides whether or not to cooperate with the authorities, although victims are often not informed about their right to this reflection or decision period as it is not systematically applied. This may also influence the victim's possibilities to decide whether to apply for asylum, to apply for a temporary residence permit or to return to her/his country of origin.

Once women and girls are returned to their countries of origin without adequate follow up support, they often face the same vulnerabilities that led to their trafficking in the first place. Although more qualitative and quantitative data is needed regarding the numbers of victims who are re-trafficked after return, the phenomenon is now well recognized.

¹⁹ Limanowska, B., *Trafficking in Human Beings in South Eastern Europe*, 2004: Focus on Prevention, UNICEF/UNOHCHR/OSCE/ODIHR, 2005. Available at: www.unicef.org/media/files/2004Focus_on_Prevention_in_SEE.pdf



There is a need to protect the victims of trafficking in cases where they are returned to their country of origin, especially where criminal networks make internal flight alternatives impossible. Furthermore, there seems to be a lack of adequate support during the reintegration phase for these women and children, and it is mostly left to NGOs without proper involvement or support by governments and law enforcement authorities.

There are some indications that temporary residence permits could be used in lieu of asylum status as victims with similar claims have been recognized in other countries as refugees. It may be that when victims are not informed of their right to seek asylum but rather advised to temporarily stay, they usually opt for a residence permit. They are not informed that a residence permit and asylum are not exclusive of each other. In addition to this, they are not provided appropriate legal counselling to articulate their asylum claim.

The regional variation in trafficking victims recognized as refugees throughout Europe is problematic. Victims in different countries who have similar profiles, (they have been trafficked by the same or similar criminal groups, they face the same threats of persecution if forced to return) are not being equivalently assessed throughout Europe. Some refugee authorities recognize victims of trafficking but others do not and for this reason, many victims might not be receiving international protection. Overall, this inconsistency in granting asylum to the victims of trafficking corresponds to the geographical variations in recognition rates of asylum applications in Europe, where only half of the 42 countries have recognized refugees claiming asylum on gender-related persecution grounds.

A UNHCR study from 2004 on gender-related persecution in European laws and practice states that only ten of the 42 countries studied granted some form of status for cases based on sexual exploitation or fear of sexual exploitation. These are Albania, Austria, Belarus, Denmark, France, Germany, Ireland, the Netherlands, Spain and the UK.²⁰ In a few of countries victims of trafficking have been granted asylum on the 1951 Convention grounds, usually on the grounds of a membership in a particular social group. UNHCR has recognized victims of trafficking in countries where it undertakes refugee status determination under its mandate and in some cases has pursued their resettlement due to the lack of protection available in the country of asylum. However, some victims seeking asylum and in need of protection, though not formally recognised as refugees, are allowed to stay on humanitarian grounds. Across the region, there is an overriding emphasis on return as the most appropriate response in trafficking cases.

UNHCR Activities and Concerns

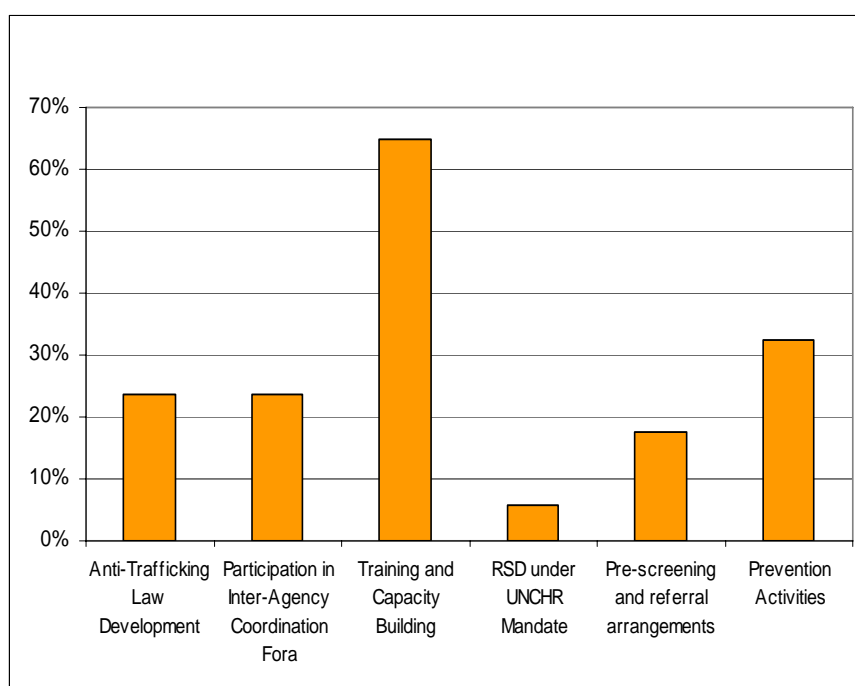
Throughout Europe, UNHCR country offices are involved in various and diverse anti-trafficking activities either through their own initiatives or in collaboration with others. Most commonly, UNHCR is active in training and capacity building, development of asylum sensitive anti-trafficking legislation, participates in inter-agency coordination fora, engaged prevention activities, pre-screening and referral arrangements and, when necessary, undertaking refugee status determination under UNHCR's mandate. Figure 3 (see following page) is a graph of European UNHCR field office participation in these areas.

²⁰ Heaven Crawley and Trine Lester (2004). Comparative analysis of gender-related persecution in national asylum legislation and practice in Europe. UNHCR, Evaluation and Policy Analysis Unit and the Bureau for Europe.



Principal training and capacity building activities in Europe include providing training for some or all of the following actors about asylum and refugee status determination issues: national refugee status determination (RSD) authorities, judges, lawyers, law enforcement officials, border guards and partner organizations. Trafficking specific information has been incorporated into broader training activities carried out by UNHCR addressing the full range of asylum issues. Several UNHCR offices, working in collaboration with partner organizations such as IOM, OSCE, NGOs and national government ministries are engaged in ensuring that trafficking victims are informed of their right to seek asylum and that they have access to the refugee status determination procedures through referral systems. These mechanisms are particularly developed in the Balkan countries.

Figure 3. UNHCR European Country Office Involvement in Anti-Trafficking Activities



UNHCR also works with national authorities to further legislative development in order to safeguard the right of individual victims of trafficking to seek asylum as appropriate (in keeping with Article 14 of the Universal Declaration of Human Rights) and to advocate for the gender and age sensitive interpretation of the 1951 Convention.²¹ UNHCR has lobbied many European governments to ensure that anti-trafficking laws include provisions for asylum, that refugee laws are inclusive of gender-related persecution grounds and that they recognize sexual and gender-based violence as a form of persecution.

Variations in UNHCR’s approaches to anti-trafficking stem from differences in UNHCR’s country presence, staff resources and capacities, operational goals and the presence of partner organizations. Overall, UNHCR is most operational in terms of humanitarian assistance provision in Eastern Europe which constitute also countries of origin of trafficked persons. UNHCR is least engaged in anti-trafficking work in these regions where its role could be to prevent the

²¹ 1951 Convention Relating to the Status of Refugees. Available at: www.unhcr.org



trafficking of refugees, internally displaced persons and other persons of concern to UNHCR. This study shows that UNHCR offices are best equipped to respond to protection needs of trafficked persons in European countries of transit where many offices are involved in all areas of work: law development and training, victim identification and referral, legal counselling and legal representation, refugee status determination, material assistance and durable solutions. In Western and Central Europe, with individual asylum systems and urban refugee settings, UNHCR's presence is small and the Office is mainly active in monitoring the asylum and refugee status determination procedures and providing support to launching second instance appeals of asylum seekers rejected in the first instance applications. One factor apparently explaining UNHCR's engagement in anti-trafficking activities is related to the geographical distribution of UNHCR offices and resources. Where UNHCR presence is strong, more involvement in anti-trafficking activities can also be observed. For example, UNHCR does not have offices in the Baltic countries and in Portugal. Offices in the Mediterranean countries are small and far away from border crossing points or shores.

It is noteworthy that where UNHCR offices are actively working to prevent and respond to sexual and gender-based violence (SGBV), UNHCR is also active in anti-trafficking work. Arguably, staff capacities and understanding of gender-sensitive programming, gender-differentiated protection and assistance needs and staff commitment to promote gender equality seem to partly explain for the high level of engagement in anti-trafficking work. This observation also corresponds to the European asylum systems: countries that recognize gender-related persecution as a ground for asylum and have gender-sensitive asylum procedures, have the capacity to detect and assess gender-based asylum claims, including those made by women and girl victims of trafficking.

Organizations need to collaborate in order to address the magnitude of the problem of trafficking in humans. Where partner organizations such as IOM and OSCE are actively combatting trafficking, UNHCR's involvement is also much larger. It is more feasible for UNHCR to become involved in anti-trafficking practices where awareness of the issue and where we find government, IGO and NGOs participation.

Human trafficking is a concern to all countries in Europe. Some trafficking victims qualify for international protection while others remain at risk of being trafficked. For this reason, UNHCR is involved in the prevention of and response to human trafficking and engages in capacity building with its partners to raise awareness around this issue. A review of existing practices and new policy initiatives might help in this regard. Human trafficking is an exceptionally dynamic phenomenon where traffickers adapt in response to the various policies designed to combat it. For this reason, awareness campaigns and necessary mechanisms to address the nexus between trafficking and asylum must be promoted further. First and foremost, however, the plight of the victims of this scourge deserves to be the focus of our concerted and collaborative attention.



COUNTRY CHAPTERS

Albania

Albania

Overview and Profile of Victims

Albania is a source and transit country for persons trafficked for the purpose of sexual exploitation and forced labour. Italy and Greece remain the primary destination countries however trafficking to other European countries has also been reported.²² Between 1993 and 2001, the government estimated that 100,000 people were trafficked either from or through Albania.²³ In recent years, the number of victims identified by the pre-screening process has sharply declined, suggesting that the transit through Albania might have been replaced by other routes, such as through Montenegro, Bosnia and Croatia.

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

In 2001, a criminal code amendment introduced specific articles on trafficking that established penalties of 5 to 15 years in prison. If a victim of trafficking is a minor the sentence is 15 to 20 years imprisonment. Despite these provisions, the lack of prosecution of traffickers remains a problem. Traffickers who are arrested are often released due to insufficient evidence, and those who are prosecuted are often charged with lesser crimes.²⁴

In 2003, a witness protection law was adopted by the Parliament, however its implementation has still not been carried through with. In 2004, the prosecutor general issued instructions that trafficking victims should no longer be charged with the crimes of prostitution and illegal border crossing.

Implementation

A National Strategy to Combat Illegal Trafficking in Human Beings was adopted in December 2001, after a drafting process involving UNHCR as well as IOM, ICMC and NGOs. The national strategy aims to develop the necessary legal framework, to establish the Committee to Combat Trafficking in Human Beings which report to the Prime Minister, to better coordinate state institutions dealing with human trafficking and to increase public awareness of the issue.

The Ministry of Public Order has established an Anti-Trafficking Unit, an Organized Crime Section and an Office of Internal Control in order to control police involvement in trafficking.

22 U.S. Department of State, 2003 Country Reports on Human Rights Practices.

23 National Strategy to Combat Illegal Trafficking in Human Beings, Albania, 2001.

24 U.S. Department of State, 2004 Country Reports on Human Rights Practices.

**Albania**

Albania participates in the regional Community Assistance for Reconstruction, Development and Stabilization, (CARDS) project with the European Commission to develop and implement migration and asylum best practice policies in accordance with international standards. Furthermore, the government of Albania signed a Memorandum of Understanding (MoU) with UNHCR, IOM, OSCE and ICMC on a 'Pre-Screening Mechanism' to identify foreign economic migrants, asylum seekers and victims of trafficking.²⁵

The pre-screening mechanism builds on already established programmes: the Albanian asylum system, supported by UNHCR; the IARS programme for voluntary return of victims of trafficking and the Assisted Voluntary Return programme implemented by IOM; and the extensive monitoring by OSCE through its field presence in Albania.

The mechanism is triggered with the detention of a foreigner by the police; after that the chief of the respective commissariat contacts the pre-screening focal point to provide them with the profile of the person(s) detained. If the profile matches that of a trafficked woman, IOM dispatches its teams, while in all other cases, UNHCR and the Directorate for Refugees at the Ministry of Public Order send their teams to interview the foreigner(s). The pre-screening teams interview the foreigner(s) within 24 hours of the referral. In recognition of the project's success, the European Commission has agreed to co-fund the pre-screening mechanism which was extended to all Albanian border-crossing points at the end of 2004.

An agreement for the protection of unaccompanied children, trafficked children and children at risk of being trafficked is currently being drafted between Albania and Greece. The future agreement is planned to cover Albanian minors and to address issues such as criminal prosecution, prevention and child protection. The draft agreement has been recently distributed for comments to various NGOs and inter-governmental organizations.

Response/Prevention*1) Assistance and support to victims of trafficking*

The Government operates a National Reception Centre where assistance is provided to victims of trafficking, while two additional shelters are run by NGOs. As part of the pre-screening project detailed above, work has started on the establishment of six (out of eight planned) temporary border reception facilities for asylum seekers, victims of trafficking and irregular/economic migrants.

2) Awareness and capacity-building

The Ministry of Education cooperates with NGOs in organizing trainings for teachers and producing and disseminating information in schools on the dangers and mechanisms of human trafficking. A series of awareness raising programmes were broadcasted on television in 2003.

UNHCR participates in an international consortium, which was established in early 2002 after a proposal by the U.S. Embassy supported by the Delegation of the European Commission and the Italian Interforza Mission. The group is comprised of international organizations and diplomatic missions whose collective aim is to provide assistance to the Albanian Police, reinforcing it and helping it to avoid duplication and protection gaps. Along with other issues of training assistance, legal reform, equipment assistance and border control, the international consortium also focuses on anti-trafficking issues.

²⁵ MoU: www.osce.org/documents/pia/2002/10/551_en.pdf



Albania

UNHCR is there to ensure that the implementation of police assistance programmes takes into consideration the right to seek asylum and to introduce a balanced approach between legitimate public order concerns and human rights protection in the management of irregular migratory flows.

In October 2004, UNHCR, the Refugee and Migrant Service in Albania (RMSA) and IOM jointly organized a one-day training session on asylum and community services to asylum seekers and to newly appointed staff of the National Reception Centre. Among training topics were principles and concepts of asylum, pre-screening procedures, differences between asylum seekers, irregular migrants and trafficked persons and principles of conduct with asylum seekers.

Ten one-week courses for 172 high and mid-ranked border police officers were designed and implemented as a joint cooperation of UNHCR and IOM between September and December 2004. The successful implementation of the courses was made possible through collaboration with the Police Academy, Border Police Directorate, Tirana Law Faculty, School of Magistrates and General Prosecutor's office. The programme covered issues related to asylum, refugees, irregular migration and trafficking matters and the pre-screening procedure.

Case Law and Legal Practice

There have been at least two trafficking cases assisted by UNHCR which could qualify for asylum on the basis of the 1951 Convention. Both cases were granted temporary protection on humanitarian grounds by the Directorate for Refugees.

UNHCR Involvement

Although UNHCR does have access to victims of trafficking through its involvement in the CARDS project, the partner mandated to deal with these victims is IOM. However, as detailed above, there are many opportunities for cooperation and joint initiatives between UNHCR and IOM including the training of border guards and police as well as pre-screening.

Outstanding Issues

Respect for children's rights remains a major issue. Albanian NGOs working in the field of children's rights claim that children are routinely physically ill-treated during arrest or while in police custody. The lack of a specialized juvenile justice system in Albania and of training of police to deal with minors contributes to this problem.

Another problem is the lack of recognition that Albania continues to be a major country of origin of trafficking victims. Trafficking is often viewed as an issue of illegal migration rather than a serious human rights violation. Prosecution of traffickers continues to be the weakest link in the system: only a small fraction of those arrested by the police are successfully prosecuted and tried. Even when traffickers are found guilty, they receive prison sentences that are generally much lower than the new statutory minimum of seven years. Addressing capacity-building of law enforcement agencies and staff and the implementation of the witness protection system could positively contribute to these outstanding issues.

**Albania****Other Resources**

- Second Research Report on Third Country National Trafficking Victims in Albania, IOM/ICMC, June 2002. Available at: www.icmc.net/files/traffalb.en.pdf
- The Trafficking of Albanian children in Greece, Terre des Hommes, January 2003.
- Child Trafficking in South-eastern Europe: The Development of Good Practices to Protect Albanian Children, Terre des Hommes, November 2004

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Armenia

Armenia

Overview and Profile of Victims

Armenia is a source as well as a transit country for trafficked persons. The destination of these victims is mainly the United Arab Emirates (U.A.E.), Turkey, Russia, as well as Greece and other European countries. As a destination country, several cases have been reported of women from Uzbekistan trafficked to Armenia for sexual exploitation. Trafficking for the purposes of labour exploitation to Russia, Turkey and the U.A.E. has become an increasingly significant problem.²⁶

There is no conclusive data regarding the number of women trafficked from Armenia, however the European Institute for Crime Prevention and Control (HEUNI) estimates the annual number of Armenian victims of trafficking to be 500-700.²⁷

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	-

National law:

Armenia's ratification of the Convention against Transnational Organized Crime and of the optional or so called Palermo Protocols in May 2003 was followed by the adoption of a new criminal code which includes a specific provision regarding the trafficking of human beings. The 2003 criminal code covers kidnapping and trafficking under Articles 131 and 132 respectively, and penalties range from fines to imprisonment for a maximum of 4 years. Article 168 specifically forbids child trafficking and provides for increased sentences of 3 to 7 years imprisonment. Involvement in trafficking as part of an organized crime group or a death of a trafficked victim is punished with 5 to 8 years in prison.

The criminal code is considered to fall short of internationally recognized standards to combat trafficking and smuggling, especially regarding the protection and support of victims. The code does not establish smuggling as a crime nor does it contain a provision reflecting the Saving Clauses of the Palermo Protocols. Apart from the criminal code, the Law on the Rights of the Child adopted in 1996 provides protection for child victims of trafficking.

²⁶ U.S. Department of State, Trafficking in Persons Report 2004.

²⁷ Lehti, M., Trafficking in women and children in Europe, HEUNI Paper No. 18, Helsinki, 2003.

**Armenia****Implementation**

In October of 2002, an Inter-Agency Committee comprised of representatives from all relevant ministries and agencies was established by the Prime Minister with the aim of countering trafficking in persons. The Ministry of Foreign Affairs coordinates the committee while UNHCR, IOM, OSCE, UNDP and ABA-CEELI²⁸ are present in an observer capacity. In May 2002, a decree was issued establishing two commissions for women's issues, one of which is dealing with trafficking of women.

In 2004, the Armenian government approved the 2004-2006 National Action Plan for Prevention of Trafficking in Persons from the Republic of Armenia (NAP) and a Concept Paper on Anti-Trafficking – a document intended to complement the NAP by outlining the objectives, guiding principles and policy priorities for the government's action to combat trafficking. This decision of the government requires the Inter-Agency Committee to submit semi-annual progress reports to the government. Due to UNHCR's efforts, refugees were included as a separate group-at-risk in the NAP.

Upon the initiative from IOM and with the support of the U.S. Bureau of International Narcotics and Law Enforcement Affairs (INL), a pilot project was launched in 2004 to improve investigation and prosecution of human traffickers.²⁹ A specialized counter-trafficking unit is also being created within the Armenian police.

Response/Prevention*1) Assistance and support to victims*

Most of the assistance available to victims of trafficking in Armenia is provided by local NGOs. The NGO named Hope&Help operates a shelter for victims of trafficking in need of protection. They receive medical, legal and psychological assistance and are eligible for reintegration assistance in the form of vocational training.³⁰

Furthermore, through grants from the Open Society Institute Assistance Foundation in Armenia, UNDP and IOM, as of 2004, Hope&Help will participate in a regional anti-trafficking initiative. In the course of the project, Hope&Help representatives will network with Turkish and Georgian NGOs and IOM offices in order to make contact with the Armenian victims of trafficking in Turkey. The identified victims will be interviewed and provided medical and legal advice, as well as help to return to Armenia.³¹

The United Methodist Committee on Relief (UMCOR) is also actively engaged in anti-trafficking activities and operates a hotline service. Currently, there are on-going talks between UMCOR and Department of Migration and Refugees with the view of further collaboration on trafficking issues. An agreement regarding relevant hotline calls has already been reached between the two agencies.

2) Awareness and capacity-building

In 2003, the UNHCR assisted two of its implementing partners – the Sakharov Human Rights Centre (SAHRC) and Mission Armenia (MA) in the implementation of a UK Embassy- funded awareness raising project on trafficking and smuggling among the refugee population in Armenia.

28 ABA-CEELI American Bar Association – Central and Eastern European Law Initiative advances the rule of law in the world by supporting the legal reform process in Central and Eastern Europe, Eurasia and the Middle East. www.abanet.org/ceeli/home.html

29 IOM Press Briefing Notes ,17 August 2004. www.iom.int/en/archive/pbn170804.shtml#item3

30 Idem

31 Open Society Institute Assistance Foundation in Armenia www.osi.am/news.asp



Armenia

UNHCR facilitated the organization of five training sessions in four different locations with the participation of local experts to prepare staff of the NGOs to conduct trafficking awareness raising activities targeting refugees. UNHCR also cooperated with SAHRC to organize a televised roundtable called Ratification of the Palermo Protocols on Trafficking and Smuggling: What does it mean to Armenia? The roundtable, attended by representatives of interested international organizations, local NGOs and the Governmental Inter-Agency Commission on Human Trafficking, raised public awareness of the scope and content of the obligations assumed by Armenia through the ratification of the Palermo Protocols. It also aimed to stimulate the debate on necessary steps to be taken in order to ensure Armenia's implementation of those obligations.

In 2004, the Government of Armenia and the UNDP launched the Anti-Trafficking Programme: Capacity Building Support and Victims Assistance. The overall objective of this two-year project is to facilitate the development of a national framework for tackling the problem of human trafficking as well as to provide direct assistance to the victims of trafficking.

Among other initiatives, through cooperation between IOM and the INL, training is provided for staff of Armenian diplomatic missions to enable them to assist Armenians abroad, including victims of trafficking.

Case Law and Legal Practice

In 2004, it came to the attention of UNHCR that eight Uzbek women who had been trafficked to Armenia were arrested by the Armenian boarder guards and then returned to Uzbekistan. Unfortunately, the UNHCR was not able to intervene as the information was received too late.

UNHCR Involvement

The UNHCR office in Armenia works on the basis of the country agreement with the Government of Armenia. Recently, a Memorandum of Understanding (MoU) was signed between UNHCR and the Government, however before the MoU is ratified, it still needs to go through a number of bureaucratic procedures. UNHCR also has an observer role in refugee status determination (RSD) procedures and its recommendations are advisory.

UNHCR works with its governmental counterpart, the Department of Migration and Refugees (DMR). As there are no sub-offices of DMR at the borders, UNHCR does not always become aware of the cases when a person is returned on the grounds of illegal entry. Proper referral systems within the government do not exist. The establishment of several working groups has improved information-sharing, although many cases remain unknown.

The UNHCR has played an active role in shaping the work of the UN Expanded Theme Group on Anti-Trafficking in collaboration with the UNDP, IOM and OSCE who are the key players in the field of counter-trafficking in Armenia. Other relevant agencies such as UNICEF, UNFPA, the U.S. Embassy and relevant NGOs also play an important role. UNHCR is a member of the legislative sub-group that monitors legal developments in the field, and is chaired by the OSCE. UNDP and

**Armenia**

IOM are primarily involved in the subgroup that deals with awareness raising.

UNHCR also contributed to the creation of the NAP and provided an analysis of the existing and proposed legal frameworks on trafficking with a focus on the right to asylum for victims of trafficking in need of international protection.

UNHCR is also a member of the OSCE working group that includes local and international experts and representatives from the Ministry of Justice. The working group is developing a victim protection mechanism by drafting amendments to the civil procedural code that would protect victims and witnesses of trafficking.

In September 2004, UNHCR met with the OSCE Special Representative on Combatting Trafficking in Human Beings to discuss the possibility of including the Saving Clauses of the Trafficking Protocol into the national legislation. As the OSCE is currently supporting the working group on trafficking legislation, UNHCR will propose amendments to the Protocol in the national legislation. Issues relating to the right to asylum of the victims would be addressed through awareness raising activities involving relevant NGOs and law enforcement bodies.

Outstanding Issues

Poverty, high levels of unemployment and increasing migration are the main factors contributing to commercial sexual work and trafficking of women and children from Armenia. The legal framework to regulate the field has only recently been developed and is rather weak. The effectiveness of law enforcement is affected by corruption and transparency issues.

Given the vulnerability of the refugee population, refugee women can be considered at high risk to become potential victims of trafficking.

Other Resources

- Stop Violence Against Women www.stopvag.org
- NGO Training and Resource Centre. Available at: www.ngoc.am

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Austria

Austria

Overview and Profile of Victims

Austria is a transit and destination country for trafficked persons mainly for the purpose of sexual exploitation. The majority of the victims come from Eastern Europe and the former Soviet Union. The final destinations for most victims transiting through Austria are other EU countries. The OSCE Task Force on Trafficking estimates the presence of 4,000 victims of trafficking in Vienna alone.³²

In May 2005, the Austrian Federal Bureau of Criminal Investigation (Bundeskriminalamt) confirmed a 40 % increase in cases of trafficking in human beings (from 169 in 2003 to 238 in 2004) reported to the police. 337 victims (among them 129 Romanian, 57 Bulgarian, 46 Belarussian and 48 Hungarian nationals) were identified, 99% of whom were women. They were often recruited by organizations posing as travel agencies with bogus promises of jobs as waitresses or au pair girls, but ended up in sexual exploitation having to repay alleged debts of up to 20,000 Euro.

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

Trafficking is punishable under Articles 104a and 217 of the Austrian Penal Code, with sentences from 6 months to 10 years, depending on the circumstances. Higher sentences are foreseen in cases where the victim is a minor, where violence was used and if an organized crime group is involved. Since January 1998, the treatment of victims of trafficking has been regulated by Article 10 (4) of the Aliens Act, which allows for a temporary residence permit to be granted for humanitarian reasons to victims of crimes defined in Article 217. However, Austrian legislation provides for neither a reflection period nor assistance in obtaining a temporary residence permit.³³

Other legal instruments related to trafficking in human beings include Article 104 of the penal code (slavery) and Article 105 of the Aliens Act (exploitation of aliens), although the Article on slavery has never been applied. Article 105 of the Aliens Act covers all forms of economic exploitation (not only sexual) of aliens in a relationship of particular dependence. However, neither of the relevant articles can be applied to victims who have been trafficked for the purpose of marriage.

³² U.S. Department of State, Trafficking in Persons Report 2004.

³³ Berliner Institut für Vergleichende Sozialforschung (BIVS), Prevention and Fight against Trafficking: Institutional Developments in Europe. Austria Report, 2003.

**Austria****Implementation**

Between 1995 and 1998, the Inter-Ministerial Working Group on Trafficking in Women (Interministerielle Arbeitsgruppe Frauenhandel) was operating, as initiated by the Ministry of Interior. However, the working group was discontinued in 1998 due to a divergence of interests in relation to the protection of victims and the persecution of perpetrators.

Since 1997 there has been a Prevention Advisory Council (*Präventionsbeirat*) within the Ministry of Interior. The Council comprises government representatives, local authorities and NGOs, and coordinates the efforts of these agencies. Although the Council deals with trafficking issues, it is only within the broader framework of violence against women, but not as an issue in its own right. The Council has an important role in budgeting for trafficking prevention.

There is no form of institutionalized cooperation among institutions and organizations engaged in anti-trafficking initiatives in Austria. Nevertheless, cooperative relationships are established on an individual basis, for instance, between the LEFÖ-IBF NGO (Latin American Emigrant Women in Austria – Intervention Centre for Women Affected by Trafficking) and the Criminal Department in Vienna.³⁴

Response/Prevention*1) Assistance and support to victims of trafficking*

A shelter for female victims of trafficking (*Interventionsstelle für Betroffene des Frauenhandels - IBF*) is run by LEFÖ in Vienna, with financial support from the Ministry of Interior and the Ministry of Health and Women. The LEFÖ-IBF is the only institution providing support to victims of trafficking in Austria.³⁵

2) Awareness and capacity-building

In cooperation with LEFÖ-IBF, UNHCR arranged for the dissemination of brochures describing the activities of this NGO to the authorities and to main NGO partners with the aim of awareness raising.

UNHCR regularly monitors the main reception centres to ensure the effectiveness of trafficking prevention measures. UNHCR also regularly makes recommendations to improve the situation of persons of concern who are at risk of being trafficked, advocating for special facilities for separated children and the provision of counselling for single female asylum seekers.

Case Law and Legal Practice

UNHCR does not provide individual legal counselling; UNHCR has not identified a trafficking case who would be in need of international protection.

In one case, however, a Chinese minor, at risk of being sold into prostitution by her father, was granted refugee status by the Austrian authorities.³⁶ Forced prostitution or sexual exploitation of trafficked persons has been recognized as a form of persecution by the second instance asylum authority in Austria. Moreover, in another instance involving a single woman from Kosovo, it was found that the risk to be forced into prostitution would constitute a violation of Article 3 of the

34 supra note 24, p. 12

35 supra note 24, p. 9

36 Crawley, H. Lester, T. Comparative analysis of gender-related persecution in national asylum legislation and practice in Europe, AMRE Consulting, EPAU UNHCR, 2004.



European Convention on Human Rights (ECHR), and therefore subsidiary protection was granted.

The Higher Administrative Court has ruled that an asylum application from a female victim of trafficking cannot be rejected as a manifestly unfounded claim. The Court stated that in such cases a more in-depth assessment is necessary to establish whether a risk of persecution was linked solely to criminal factors or (also) to a 1951 Convention ground, such as membership of a particular social group.

UNHCR Involvement

UNHCR is involved in monitoring reception centres to ensure that there are safeguards in place to protect the groups which are most vulnerable to trafficking. Through its NGO partner, LEFÖ-IBF, UNHCR has been disseminating information aimed at awareness raising and prevention of trafficking.

Through active collaboration with international partners in Vienna, particularly the OSCE Special Representative on Combating Trafficking in Human Beings, UNHCR has contributed to the content of policy papers, action plans, workshops and inter-agency meetings.

Close cooperation has also been established between UNHCR and the Anti-Trafficking Unit of the United Nation Office on Drugs and Crime (UNODC) in Vienna. Through joint efforts the Project against Trafficking and Sexual and Gender-based Violence (PATS) was developed between UNODC, UNHCR and the Slovenian authorities. The key objectives are to introduce formalized mechanisms to identify, assist and protect victims of human trafficking and sexual and gender -based violence within the asylum procedures in Slovenia. Meanwhile, the project has been expanded to Croatia and Bosnia and Herzegovina.

Other Resources

- Prevention and Fight against Trafficking: Institutional Developments in Europe. Austria Report, Berliner Institut für Vergleichende Sozialforschung (BIVS), 2003.
- Trafficking in Women to Austria for Sexual Exploitation, IOM, 1996. Available at: www.iom.int

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Austria



Azerbaijan

Azerbaijan

Overview and Profile of Victims

Azerbaijan is a source and transit country for trafficked persons. The main destination countries are United Arab Emirates, Turkey, Pakistan and India. Victims trafficked through Azerbaijan come mainly from Ukraine, Russia and Central Asian countries. There are reports of men being trafficked mostly to Turkey and Russia for the purpose of forced labour although the majority of cases involve women and children trafficked for sexual exploitation.³⁷

A report issued by IOM in September 2002 revealed that the women in Azerbaijan most at risk of becoming victims of trafficking are those aged 19 to 35, unemployed, whose education level does not exceed secondary school.³⁸ A survey report published in 2005 by a local NGO Clean World established that most women from Azerbaijan who become victims of trafficking are recruited through a personal contact.

As Internally Displaced Persons (IDPs) remain among the most socially and economically deprived parts of society in Azerbaijan, it is known that many of the trafficked women originate or are recruited from IDP settlements.³⁹

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

There is no specific law about the trafficking of persons in Azerbaijan, nor is trafficking in persons mentioned in the criminal code. Most criminal investigations are instead focused on prostitution, brothel keeping, fraud, illegal border crossing and the use of false travel documents. Most trafficking related crimes carry maximum penalties between 3 to 6 years imprisonment.

Articles of the criminal code that could be related to trafficking are: Article 106 (slavery, including sexual slavery), Article 108 (sexual abuse), Article 150 (violence of a sexual nature), Article 151 (forcible sexual activity), Article 152 (sexual intercourse or activity with a minor under the age of 16), Article 171 (coercion of minors into prostitution), Article 173 (trade in minors), Article 243 (coercion to engage in prostitution) and Article 244 (maintaining a brothel).

³⁷ U.S. Department of State, Trafficking in Persons Report 2004.

³⁸ IOM, Shattered Dreams: Report on Trafficking in Persons in Azerbaijan, September 2002.

³⁹ Brief Report on the Survey of Victims of Human Trafficking Conducted by the Clean World Social Union for Civil Rights with the Assistance of the John Hopkins Institute, March 2005.



Implementation

Inter-agency coordination meetings were held in 2003 and 2004 with the participation of the Ministry of Internal Affairs, IOM, OSCE, and other international organizations and embassies to prepare a draft National Action Plan on Combatting Human Trafficking, and subsequently to coordinate its implementation. UNHCR participated in these working group meetings to ensure that the links between asylum and trafficking are given necessary consideration. IOM has the role of lead agency in the working group.

The National Action Plan (NAP) on Combatting Human Trafficking was adopted in May 2004. Following the adoption of the NAP, a National Coordinator on Combatting Human Trafficking was appointed and a special department was created within the Ministry of Internal Affairs. The NAP aims at bringing national legislation in line with international legal instruments on trafficking, but this is still a work in progress.

The Azerbaijan Presidential Office, OSCE, the U.S. Embassy and IOM organized a landmark conference devoted to human trafficking in April of 2004 in which UNHCR also participated.

Response/Prevention

1) Assistance and support to victims of trafficking

IOM, together with two local NGOs, is assisting in repatriating between 20 and 30 cases of trafficked women per year, offering them shelter, medical assistance, psychological, legal and social counselling.

2) Awareness and capacity-building

IOM, OSCE and the U.S. Embassy have been particularly active in organizing roundtable discussions and training events on human trafficking issues and have also produced a number of awareness raising publications. Local NGOs make efforts to identify patterns of trafficking and raise the general public awareness of this issue.

UNHCR, in cooperation with IOM and the State Committee for Refugees, has conducted training events for border guards on asylum and migration issues, including trafficking, since 2004. IOM is also invited to discussions with women at the Refugee Women Centre on the topic of trafficking. In April 2005, a seminar was conducted for UNHCR implementing partners, in cooperation with IOM, OSCE and Clean World on trafficking in human beings in the refugee context.

UNHCR is continuously raising the issue of trafficking in discussions with the U.S., Italian, French, Norwegian and German Embassies, OSCE and the European Union.

Case Law and Legal Practice

UNHCR has not registered any individuals who were, either at the time of registration or later, identified as victims of trafficking, neither is the office aware that the government of Azerbaijan has received applications for asylum from trafficking victims.

Nevertheless, UNHCR is aware of the possibility that trafficking victims and members of organized criminal groups involved in trafficking can be among individuals approaching the office for assistance. They have, therefore, employed a female officer from the Ministry of Internal Affairs to conduct document checks and to identify any potential trafficking cases at the Refugee Reception Centre.

Moreover, since the beginning of 2005, UNHCR has been revisiting its approach towards separated children by emphasizing proper documentation in the case file and making frequent home visits to families where these children live. A criminal investigation was initiated

**Azerbaijan**

in the case of a refugee family which could not explain the current whereabouts of two separated children who had been registered with their family and who had subsequently "disappeared". Although the investigation of this case continues, it is not suspect that the children were trafficked.

Outstanding Issues

The lack of anti-trafficking legislation (and more specifically a law on trafficking in human beings) and a lack of provisions on protection, repatriation and rehabilitation of trafficking victims create serious obstacles for effectively combatting human trafficking in Azerbaijan. Moreover, the criminal code recognizes as a criminal offence or felony only crimes identified as such by the criminal code, which implies that provisions included in international counter-trafficking protocols signed by Azerbaijan, but not yet incorporated in the criminal code, are not yet recognized as prosecutable crimes.

There is a lack of preventive measures for potential victims of trafficking, as well as a lack of witness protection mechanisms, shelters, hotlines, repatriation and rehabilitation/reintegration arrangements for actual victims of trafficking. Trafficked women who return to Azerbaijan are hesitant to seek legal, psychological or medical assistance upon their return and tend to end up continuing to work in the domestic sexual industry or risk being re-trafficked.

There is insufficient awareness of the problems of trafficking both among law enforcement agencies and among the general public. There is still a tendency to view victims of trafficking as criminals rather than as victims. Law enforcement officers have not been properly instructed on victim identification and do not adequately investigate trafficking cases.

High levels of corruption in Azerbaijan are considered to lead to border guards facilitating the entrance and exit of trafficked women into and out of the country.

Other Resources

- Shattered Dreams: Report on Trafficking in Persons in Azerbaijan, International Organization for Migration, September 2002
- A Brief Report on the Survey of Victims of Human Trafficking Conducted by the Clean World Social Union for Civil Rights with the Assistance of the John Hopkins Institute, March 2005.

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Belarus

Belarus

Overview and Profile of Victims

Belarus is a country of origin and transit trafficking victims to Europe, North America, Russia, Middle East and Japan for the purpose of sexual exploitation and forced labour.⁴⁰

According to Belarusian authorities, in 2004 about 400 women were identified as trafficking victims.⁴¹

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

The new criminal code of 2001 establishes criminal liability for human trafficking. Article 181 provides for 5 to 10 years of imprisonment for trade in persons for sexual or other exploitation. Protection measures for participants in criminal proceedings are provided in the procedural criminal code.

On 9 March 2005, the President of Belarus signed a decree on Measures for Combatting Human Trafficking, establishing tougher administrative and criminal responsibility for violations of the law in this sphere.⁴²

Implementation

In June 2000, the Department for Drug Trafficking and Morality was created within the Ministry of Interior. It is responsible for combatting human trafficking for the purpose of sexual exploitation.

The National Programme of Comprehensive Measures towards Combatting Trade in Human Beings and the Spreading of Prostitution for 2002 – 2007 (NP) was adopted under the auspices of the Ministry of Interior, with the involvement of other national bodies (Ministry of Justice, Ministry of Foreign Affairs, State Security Committee, Ministry for Health, Ministry of Education, Ministry of Information, State Committee for Border Security, etc.) and NGOs. The NP addresses ways to improve legislation, international cooperation, combat trafficking, and assist victims. In 2004, a special anti-trafficking division was created within the Ministry of Interior.⁴³

⁴⁰ U.S. Department of State, Trafficking in Persons Report 2004; and IOM Press Briefing Notes, 2 April 2004. Available at: www.iom.int.

⁴¹ Available at: www.belarusembassy.org/humanitarian/trafficking2.htm

⁴² Available at:

<http://law.by/work/EnglPortal.nsf/0/7E09BCF084D9BC18C2256FC00046F361?OpenDocument>

⁴³ supra note 32


Belarus

Since June 2003, a joint UNDP/EU project called Combatting Trafficking in Women in the Republic of Belarus, has been in effect. The project was implemented by the Ministry of Labour and Social Security with the support of the UNDP Office in Belarus and will last until end of 2005. As part of the project, awareness raising activities have been organized and an Information-Retrieval System (IRS) called Belarus against Trafficking was also created. As an outcome of the project, a hotline providing free information for people wishing to work abroad, and a shelter for victims of trafficking were established.⁴⁴

In spring 2005, a roundtable, Europe: Making Joint Efforts to Combat Human Trafficking was organized at the initiative of UNDP and the Parliamentary Assembly of Belarus in the framework of the UNDP/EU joint project. The purpose of the roundtable was to draw attention to human trafficking and to identify methods to combat it. Participants in the meeting included legislators, government officials, representatives of inter-parliamentary international organizations, NGOs, members of the diplomatic corps and journalists. A set of recommendations on combatting human trafficking was agreed upon.⁴⁵

Response/Prevention
1) Assistance and support to victims of trafficking

Women and Children Social Service Centres throughout the country provide assistance for women who became victims of violence. Such centres are also run by the Belarusian Women's Union auspices, the Women's Educational and Advisory Centre, and the Belarusian Union of Social Workers.

In 2001, the Young Women's Christian Association (YWCA) of Belarus in cooperation with La Strada (Poland) and funded by the Office for Democratic Institutions and Human Rights of the OSCE and the Stephan Batory Foundation (Poland), implemented the Ariadna project for the prevention of trafficking in Belarusian women. This included an information and counselling telephone line.⁴⁶

In October 2002, IOM, with the financial support of the US Department of State, the Swedish International Development Cooperation Agency (SIDA), began implementing a project to combat human trafficking in Belarus. IOM currently runs an information website and a free 24-hour hotline.⁴⁷

The International Federation of the Red Cross and Red Crescent Societies in Belarus, the Republic of Moldova and the Ukraine have designed a long-term programme to be implemented from 2005. The programme aims to reduce the scale and impact of human trafficking in the three countries by addressing the needs of vulnerable people and victims.⁴⁸

2) Awareness and capacity-building

The Centre for Gender Information and Policy (CGIP) of the Ministry of Labour and Social Welfare together with women's associations are conducting awareness raising activities, including publishing informative pamphlets, holding consultations and a series of seminars under the topic Trade in Women in Belarus: Status and Solution.⁴⁹

⁴⁴ www.humantrafficking.org/collaboration/regional/eur/news/2005_05/belarus_info_system.html

⁴⁵ <http://un.by/en/undp/news/belarus/2005/06-06-05-01.html>

⁴⁶ www.belarusembassy.org/humanitarian/trafficking.htm

⁴⁷ www.stoptrafficking.by/pressreleases/2005/04/

⁴⁸ IFRC, Human Trafficking in Belarus, Moldova and Ukraine – Appeal 2005. Available at:

www.ifrc.org/docs/appeals/annual05/logframes/Europe/05AA071backHumTraff.pdf

⁴⁹ supra note 37



In November 2001, a brochure *Trade in Human Beings: Fiction or Reality?* was published by CGIP, YWCA of Belarus, UN Mission and UN Department for Public Information (UNIC) in Belarus. The brochure includes a review of international and national legal mechanisms concerning human trafficking, lists of agencies licensed in Belarus to provide employment services abroad and of Belarusian and foreign NGOs assisting trafficking victims.⁵⁰

In November 2004, the database *European and CIS Organizations Rendering Assistance to the Victims of Trafficking* was placed on the website of the Belarusian Association of Social Workers.⁵¹

Case Law and Legal Practice

UNHCR Minsk is not aware of any cases of refugee victims of trafficking or of trafficking victims being granted refugee status in Belarus.

UNHCR Involvement

Currently UNHCR in Belarus is not directly involved in the issue of trafficking. However, UNHCR closely monitors the situation and participates in the Advisory Board of the joint EC/UNDP Project named *Combatting Trafficking of Women in the Republic of Belarus*. Also, UNHCR regularly participates in the events hosted by said Project and events of IOM related to the problem of trafficking.

Other Resources

- www.stoptrafficking.by (in Russian)
- Belarusian Association of Social Workers
www.basw-ngo-by.net/

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Belarus

⁵⁰ supra note 37

⁵¹ www.basw-ngo-by.net/index.php?la=e&ra=W10302



Belgium

Belgium

Overview and Profile of Victims

Belgium is a destination and transit country for persons trafficked primarily from Sub-Saharan Africa (Nigeria, Democratic Republic of Congo, Rwanda, Côte d'Ivoire, Gabon, and Ghana), Central and Eastern Europe (Albania, Bulgaria, Poland, Hungary, Romania, and former Yugoslavia) and Asia (especially China). The victims from the first two regions are usually young women aged 21 to 30 and teenage girls under the age of 18, all of whom are trafficked for sexual exploitation. Victims from Asia often include young men trafficked for labour exploitation in restaurants and sweatshops. Other instances of male trafficking include a number of boys aged 12 or 13 who are brought from West Africa and Latin America by soccer agents to Belgium with false documents.⁵²

In most cases of trafficking, organized crime groups from Central and Eastern Europe (particularly from Albania) have been involved. Despite the growing number of trafficking victims who come forward, the identification or capture of the traffickers has rarely been achieved. Due to the freedom of movement within the EU, traffickers have been able not only to move victims from country to country but also to evade arrest if a victim has gone to the authorities.⁵³

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

Belgium has ratified the European Convention on Mutual Assistance in Criminal Matters and is a member of the Europol Trafficking Expert Group, the Interpol Trafficking Expert Group, of EuroJust and of the Police Chiefs Task Force.

National law:

Belgian law does not specifically define trafficking in human beings, but refers to certain offences covered by the penal code which amount to trafficking in human beings, without necessarily implying either trans-border trafficking or the victim's sexual exploitation.

The act of trafficking in human beings is a criminal offence under the Law on the Suppression of Trafficking of Human Beings and Child Pornography of 13 April 1995. This law not only sanctions the offence of trafficking for the purpose of debauchery or prostitution, but also

⁵² IOM, Protection Schemes for Victims of Trafficking in Selected EU Member Countries, Candidate and third Countries, December 2002.

⁵³ U.S. Department of State, Trafficking in Persons Report 2004.

aims to combat the exploitation of foreigners in general. Article 77bis provides for imprisonment of 1 to 5 years and a fine for anyone who, either directly or indirectly, takes advantage of a foreigner's vulnerability because of his or her irregular or precarious status, and either sells, rents or allows the use of premises with the intention of realizing exorbitant profits. The penalty for anyone acting as a member of an organized crime group is 15 to 20 years imprisonment and a fine. The death of a trafficking victim can now result in up to 20 years of imprisonment and a 150,000 Euro fine.

Although prostitution is not illegal in Belgium, certain activities are criminal offences under Article 380 of the penal code. For instance, Article 380(1) prohibits engaging, enticing, coercing or holding of a person who is not of legal age for the purposes of prostitution or debauchery; Article 380 (4) sanctions the exploitation for prostitution or debauchery of others with a fine and up to 5 years imprisonment. If committed against a minor under the age of 10, such acts are punishable by a fine and imprisonment of 15 to 20 years. If there are other aggravating circumstances, such as the use of violence, abuse of a person's vulnerability, fraud, threats, etc., the prison term can be up to 10 to 15 years. If such acts are committed by a member of an organized crime group, Article 381 provides for imprisonment of between 15 and 20 years.

Corrupting a minor is also a criminal offence. Article 379 of the penal code provides that any person who, to satisfy the passions of another, violates public morals by inciting, furthering, or facilitating the corruption or debauchery of a minor, of either sexual, shall be subject to a fine and imprisonment.

Article 77bis of the Immigration Law of 15 December 1980 provides for penalties for anyone who causes a foreigner to enter, transit or reside in the country, and for subjecting a foreigner, directly or indirectly, to fraudulent practices, violence, threats, or any form of coercion or for taking advantage of a foreigner's vulnerability. Such acts are sanctioned by imprisonment of 1 to 5 years, or 10-15 years if committed as part of an organized crime group.

Furthermore, the Belgian criminal jurisdiction is extended to citizens and residents who engage in the above mentioned activities abroad.

Belgian law also provides that victims of trafficking who provide evidence against their trafficker may be granted temporary residence and work permits and are eligible to receive significant financial assistance from government funded reception centres. The victim's application is submitted to the Aliens Office by the shelter assisting the victim. Law enforcement officials should inform victims of trafficking of their right to a 45-day reflection period (suspended expulsion order). Permanent residence status may be granted after the trial.

Implementation

The Belgian government has adopted a National Plan of Action (NPA) to fight human trafficking involving the Federal Departments of Justice, Foreign Affairs, Interior, Labour and Employment, Social Affairs and the Department for Social and Labour Inspection. The NPA provides for assistance to victims and for their socio-psychological and legal aid. It also foresees a monthly control of high-risk sectors and locations, in coordination with the Ministry of Labour and Social Affairs and special liaison magistrates. Liaison magistrates in each judicial district coordinate and cooperate with the aid associations.

Belgium

**Belgium**

The Taskforce on Trafficking in Persons, created within the Prime Minister's Office, drew up a guideline for the cooperation between the various departments concerned, while the Federal Justice Department ensures and reports annually on its implementation.

The inspection departments of the Ministry of Labour and Employment and the Ministry of Social Affairs conduct targeted checks on the use of foreign labour and, in particular, on all forms of exploitation of labour. An interdepartmental committee coordinates anti-trafficking activities in all three regions of Belgium and with the neighbouring states.

The Federal Police Unit dealing with trafficking in human beings, set up in 1992, is responsible for the identification of criminal groups and networks involved in human trafficking and the employment of irregular migrants, as well as for the necessary follow-up activities. The Federal Department of Public Prosecution is the prime interlocutor for the Directorate-General for the Federal Police Department for Criminal Investigations, which includes a unit dealing with trafficking in human beings.

The Board of Public Prosecutors, created in 1997, is in charge of overseeing the implementation and coordination of the policy measures adopted to assist victims of trafficking.

Response/Prevention*1) Assistance and support to victims of trafficking*

The Centre for Equal Opportunities and Opposition to Racism (CEOOR, *Centre pour l'égalité des chances et de lutte contre le racisme*), established by the Royal Decree 1995, coordinates and promotes cooperation between the different private services specialized in assisting victims of international trafficking in human beings. The Centre sets performance standards for the three regional government-funded NGOs referred to as specialized centres assisting trafficked persons, Payoke, Pag-Asa and Sürya based in Antwerp, Brussels and Liège, respectively.

The European Centre for Missing and Sexually Exploited Children, operating under the name Child Focus, provides active support in the investigation of disappearances, abductions or the sexual exploitation of children at both the national and international levels, and works on the prevention of these cases.

In March 2004, the Belgian government set up a new Information and Analysis Centre on Trafficking which coordinates data from the CEOOR, Child Focus, ministerial departments, the College of Prosecuting Magistrates and the Office of the Federal Prosecutors.

The government also provides funding to IOM for assisting voluntary return and the reintegration of victims. A pilot project to gather and disseminate information on the services available to victims of trafficking in order to set up mechanisms and procedures for a dignified return was funded by the Belgian government as a part of its preventive education campaigns which are carried out in countries of origin.

2) Awareness and capacity-building

In 2004, the King Baudouin Foundation sponsored a major anti-trafficking awareness raising programme in Belgium, which involved the participation of the royal family and the prime minister, and resulted in nationwide media coverage of the problem of human trafficking both domestically and abroad.⁵⁴

⁵⁴ U.S. Department of State, Trafficking in Persons Report 2004.



On the occasion of the 10th Anniversary of the 1995 law, CEOOR and the three regional centres specialized in the reception of victims issued a press release which emphasized the relative success of the law. Whereas the repressive aspect of the law is deemed rather efficient, the approach to victims remains controversial and victim protection aspects are considered insufficient. Furthermore, because of the complexity of Belgian political structure, various entities have adopted diverging policies to address human trafficking.

While much engagement exists on the international level and in particular in the countries of origin, the efforts of the Belgian government with regards to domestic demand reduction are much weaker.

Case Law and Legal Practice

UNHCR is not aware of any case law where the victims of trafficking were granted asylum.

UNHCR Involvement

UNHCR has not recently been involved in any trafficking related activity.

Outstanding Issues

Some NGOs have reported that police rarely inform the victims of their right to a reflection period. The victims are encouraged to immediately complete a declaration and those who are not willing to do so are under the threat of immediate expulsion.

Moreover, the fact that the short-term residence permit granted to the victims during the procedure is renewable leaves these persons in a precarious situation. The existing uncertainty regarding their future, depending on whether or not a suspected trafficker has been sentenced, does not set up the climate of trust needed to encourage the victims to collaborate with the authorities. Furthermore, release on bail of the suspected trafficker has also been criticized, as, once released, they often leave Belgium and escape trial.

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Belgium


**Bosnia &
Herzegovina**
Bosnia and Herzegovina
Overview and Profile of Victims

Bosnia and Herzegovina (BiH) is a major transit country for trafficking in women and girls for the purpose of sexual exploitation from the Republic of Moldova, Ukraine, and Romania, as well as from Russia, Belarus and Serbia and Montenegro generally on the way to Western Europe. BiH is also an important destination country and is increasingly becoming a country of origin for trafficking victims.⁵⁵

There are no valid statistics on the number of trafficking victims in BiH. However, Human Rights Watch (HRW) reported in 2002 that as many as 2,000 women and girls from the former Soviet Union and Eastern Europe have found themselves trapped in Bosnian brothels.⁵⁶ The same year, IOM registered 283 victims of trafficking at their shelter, 53 the following year, and 15 between January and March 2004.⁵⁷ It has been reported that international peacekeeping forces contribute to the demand of trafficked women and girls.⁵⁸

Legal Framework
International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Signed

In December 2000, BiH also signed the Palermo Anti-Trafficking Declaration of South Eastern Europe.⁵⁹

National Law:

New criminal and criminal procedure codes were adopted in March 2003, making trafficking in persons a federal level crime punishable by up to 10 years' imprisonment.

The legal framework for asylum in BiH is laid down in the Law on Movement and Stay of Aliens and Asylum (LMSAA) which entered into force in October 2003. This law contains provisions relating to the protection of and assistance to victims of trafficking (Articles 35 and 37). The area of asylum is further regulated in the Bylaw on Asylum which entered into force in June 2004 and incorporates comments submitted by UNHCR.

55 U.S. Department of State, Trafficking in Persons Report 2004.

56 Human Rights Watch, Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution, November 2002. Available at: www.hrw.org/reports/2002/bosnia/Bosnia1102.pdf

57 Limanowska, B., Trafficking in Human Beings in South Eastern Europe – 2004: Focus on Prevention, UNICEF/UNOHCHR/OSCE/ODIHR, 2005. Available at: www.unicef.org/media/files/2004Focus_on_Prevention_in_SEE.pdf

58 Lehti, M., Trafficking in women and children in Europe, HEUNI Paper No. 18, Helsinki, 2003. Available at: www.heuni.fi

59 supra note 81



This bylaw makes specific reference to victims of trafficking in the asylum procedure and their entitlement to separate and safe accommodation (Article 22). Furthermore, a Rulebook on Protection of Alien Victims of Trafficking in Persons entered into force in June 2004. UNHCR's engagement in the drafting process of this rulebook was reflected in the inclusion in Article 23 of a provision reflecting the Saving Clauses of the Palermo Protocol.

A law on the protection of witnesses under a threat and of vulnerable witnesses has been adopted. However, the protection afforded by this law lasts only until the end of the trial in which the victim is assisting and not until their repatriation or reintegration has been secured.⁶⁰

Implementation

A National Action Plan (NAP) for Combatting Human Trafficking was adopted by the Council of Ministers in December 2001, based on the UN Convention against Discrimination against Women and the Convention on the Rights of the Child. The NAP established a state commission to monitor its implementation and allowed for the enhancement of border control, a shelter for victims, reforming and harmonizing legislation and engaging in prevention, training and awareness raising activities. The NAP was drafted with the participation of the OHCHR, UNICEF, IOM, OSCE, UNHCR, Oxfam and other NGOs.

The Ministry of Security is responsible for asylum and trafficking matters in BiH. The Office of the State Coordinator for Anti-Trafficking in Human Beings and Illegal Immigration was established in 2003. This office is supported by the so called State Group which comprises representatives from various national authorities, including the Ministry of Security, Ministry for Human Rights and Refugees, Ministry of Foreign Affairs, Ministry of Justice, BiH Prosecutor, Entity Prosecutors, State Border Service, BiH Interpol, Entity Ministries of Interior (MUPs), and others.

As a part of the inter-agency cooperation effort, an International Working Group on Anti-Trafficking in Human Beings (IWG) was established including the OHCHR, OSCE, IOM, UNICEF, UNHCR, NGOs in the RING Coalition, Save the Children Norway, the U.S. International Criminal Investigative Training Assistance Programme and others. The State Coordinator regularly invites both the State Group and the IWG to their coordination meetings. The IWG closely cooperates with the national authorities responsible for combatting trafficking and protection of trafficking victims in BiH. Through these mechanisms, close cooperation has been established with NGOs whereby trafficking victims who seek asylum are referred to UNHCR.⁶¹

The Special Rapporteur on Trafficking in Persons, Especially Women and Children (SR), Sigma Huda, visited BiH in February 2005 at the invitation of the government. During the visit, the SR met with government officials, representatives of NGOs and visited shelter homes for victims of trafficking. According to the report of the SR, a number of anti-trafficking strategies and measures initiated within the framework of the NAP appear to have had a positive impact on reducing the number of trafficking cases in BiH. Border control, for example, has been strengthened and the border is consequently less porous than in the past. However, the SR was informed that traffickers

⁶⁰ UNHCHR, Mission to Bosnia and Herzegovina Addendum to Integration of the Human Rights of Women and the Gender Perspective, Report of the Special Rapporteur on trafficking in persons, especially women and children, Sigma Huda; Commission on Human Rights Sixty-first session, E/CN.4/2005/71/Add.1, 9 March 2005, (hereafter, SR on Trafficking: Mission to BiH).

⁶¹ Idem

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have adopted new strategies to traffic persons into BiH, including fake arranged marriages of BiH citizens to foreigners. Similarly, raids on nightclubs and bars have resulted in a dramatic decrease in the number of trafficking victims referred to shelters. Many argue that trafficking has not stopped, but rather that it has been pushed underground with trafficked victims being moved to private apartments where they are almost impossible to detect. Thus, their access to seek protection has been made difficult.⁶²

Response/Prevention*1) Assistance and support to victims of trafficking*

The RING network of NGOs opened a number of shelters for women victims of trafficking and domestic violence in Modrica, Mostar and Sarajevo. Special care for women victims of trafficking is provided by IOM which looks after their health and mental care and facilitates return to their country of origin. At the beginning of 2005, the Ministry of Security signed protocols of cooperation with NGOs for the provision of shelter to trafficking victims. Alongside IOM, OHCHR, UNICEF, OSCE, UNHCR, Oxfam and other agencies are also engaged in addressing trafficking issues.⁶³

Local NGOs have assisted nationals of BiH who are victims of trafficking. Since 2003, the NGO Lara has been running a shelter for victims of trafficking in Bijeljina. The International Forum of Solidarity (IFS) assisted victims of trafficking in its two shelters, in Doboj and Sarajevo. Assistance to victims has also been provided by the local branch of La Strada.⁶⁴

On 20 July 2004, the Ministry of Security and NGO Vaša Prava signed the Protocol on Provision of Free Legal Aid which governs mutual rights and obligations of the two parties in the provision of free legal aid to refugees, asylum seekers, persons granted temporary residence on humanitarian grounds, persons granted temporary admission and persons entitled to protection as victims of human trafficking. UNHCR provided technical assistance in the drafting of this protocol.

2) Awareness and capacity-building

Several awareness raising campaigns have been undertaken in the country by local and international agencies on trafficking related issues. Most recently, in February 2005, the IOM office in Sarajevo launched a nationwide education campaign in primary and secondary schools to raise awareness of the dangers of trafficking, including the transmission and spread of sexually transmitted diseases such as HIV/AIDS. This campaign, carried out with the support of seven partner NGOs, is part of IOM's Prevention and Awareness Raising Campaign on Trafficking in Human Beings in Bosnia and Herzegovina (PARC).⁶⁵

Case Law and Legal Practice

UNHCR received claims for asylum from women who were allegedly trafficked from their countries of origin (the Republic of Moldova, Romania, Ukraine and Russia). Several of these claims were considered to meet the criteria in Article 1 A (2) of the 1951 Convention and were recognized as refugees under UNHCR's mandate. Given the cross-border character of regional criminal networks, it was decided that some refugees

62 supra note 84

63 IHF-HR, Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2004 (Events of 2003). Available at: www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860

64 supra note 81

65 IOM Press Briefing Notes - 22 February 2005. Available at: www.iom.int/en/news/pbn220205.shtml



belonging to this group could not remain in BiH because of protection reasons and were hence submitted for resettlement to third countries.

UNHCR Involvement

UNHCR is engaged in several other anti-trafficking initiatives and regularly attends inter-agency coordination meetings between international and national actors.

UNHCR developed internal guidelines on the Referral of Victims of Trafficking, which, *inter alia*, emphasize that victims of trafficking seeking asylum in need of accommodation should not be accommodated in any of the reception and asylum centres, but should be informed about possible assistance available in protected shelters managed by partner organizations such as IOM and relevant NGOs. Victims of trafficking who wish to be accommodated in these shelters should be referred by UNHCR to the responsible organization.

UNHCR is funding local NGO Vaša Prava, which provides free legal aid to refugees, asylum seekers, temporarily admitted persons and trafficking victims, among others. UNHCR has provided training to Vaša Prava lawyers designated to deal with these specific cases on access to asylum for trafficking victims and their rights. UNHCR has encouraged regional cooperation in this area and has supported the participation of a delegation from BiH in a regional conference on Exploring the Regional Applicability of the Project against Trafficking and Sexual and Gender-based Violence (PATS) which was held in December 2004 in Ljubljana. A PATS follow-up conference was co-organized by UNHCR and a Slovenian NGO in Sarajevo in April 2005. As a result, awareness raising sessions in reception and asylum centres are being implemented by the UNHCR-supported national NGO Bosnia Herzegovina Women's Initiative (BHWI).

UNHCR pays special attention to the problems of refugee children who might be at risk of trafficking. In January 2005, UNHCR provided an opinion to the Ministry of Security in response to concerns raised regarding the issuance of asylum seeker cards to undocumented minor asylum seekers in BiH. In this context, UNHCR has intervened with the local authorities to ensure a timely issuance of birth certificates to refugee children and the appointment of guardians to unaccompanied minors.

UNHCR continued to coordinate with local authorities and NGOs to ensure that victims of trafficking who were seeking asylum had access to the asylum procedure, and that their special protection and accommodation needs were met. UNHCR's comments were incorporated in the by law on the Protection of Alien Victims of Trafficking in Human Beings, adopted in June 2004.

UNHCR contributed to the preparation of OHCHR Legal Manual on Protection of Victims of Trafficking in Persons in Bosnia and Herzegovina.⁶⁶

Outstanding Issues

According to local NGOs, trafficking is clearly becoming more concealed; traffickers are operating from private apartments, making it more difficult to detect and to identify victims.⁶⁷

⁶⁶ UNHCR National Legal Officer Snjezana Ausic is one of the co-authors of this manual.

⁶⁷ supra note 81

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Although the criminal code defines human trafficking as a criminal offence, combatting human trafficking is hindered by the shortcomings in the immigration and asylum laws. Furthermore, within law enforcement organs, some staff members have been known to have links to criminal circles. This obviously poses serious obstacles to successful anti-trafficking activities.⁶⁸

Other Resources

- Human Rights Watch report on trafficking in BiH in 2002. Available at: www.hrw.org/reports/2002/bosnia/
- Trafficking in Human Beings in South Eastern Europe 2004 – Focus on Prevention UNICEF/UNOHCHR. Available at: www.unicef.org/ceecis/Trafficking.Report.2005.pdf
- The Office of the BiH State Coordinator for Combatting Trafficking in Human Beings issues Quarterly Newsletters. See also www.anti-trafficking.gov.ba

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⁶⁸ supra note 79

Bulgaria

Bulgaria

Overview and Profile of Victims

Bulgaria is a significant transit country for human trafficking. Most of the victims come from the former Soviet Union, particularly the Republic of Moldova, Ukraine and Russia, as well as from Romania. Bulgaria is also a country of both origin and destination for women and girls trafficked for the purpose of sexual exploitation to Greece, Italy, Austria, Turkey, Macedonia, Poland, the Czech Republic and Cyprus. According to the U.S. Department of State, women and girls of the Roma minority are disproportionately represented among the victims of Bulgarian origin.⁶⁹ Cases of trafficking in boys have also been reported.

There are no reliable statistics about the number of trafficking victims in Bulgaria. The U.S. Department of State indicated that government authorities and NGO observers in Bulgaria reported 275 identified cases of human trafficking in 2002 and 104 cases in 2003.⁷⁰ However, the number of victims is likely to be much higher.

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Signed

In December 2000, Bulgaria signed the Palermo Anti-Trafficking Declaration of South Eastern Europe.

National law:

Trafficking in persons is illegal under Bulgarian national law. In March 2004, the Council of Ministers approved regulations implementing the 2003 Law on Combatting Human Trafficking in Bulgaria, which supplemented the 2002 amendment to the penal code that made trafficking in persons a criminal offence. The anti-trafficking legislation in Bulgaria is designed to provide protection and assistance to trafficking victims and to promote cooperation between the central government, municipal authorities and NGOs for the development of programmes to combat trafficking.

The punishment for trafficking includes fines and penalties of 1 to 8 years in prison. If aggravated circumstances exist, such as the involvement of a minor, kidnapping, trafficking of persons across borders or connection with organized crime, penalties increase to 10 to 15 years and fines are significantly higher with the possibility of confiscation of the assets of the perpetrator. In addition to the trafficking law, a number of other relevant laws were adopted in 2002-2003, including the Law on Asylum and Refugees of May 2002, (adopted in May 2003, its latest amendment in April 2005), and the

⁶⁹ U.S. Department of State, 2004 Country Reports on Human Rights Practices.

⁷⁰ Idem

**Bulgaria**

Law on Protection from Discrimination, (adopted in September 2003).⁷¹ UNHCR and its NGO partners actively participated in the drafting process of the anti-trafficking legislation, a process coordinated by the Ministry of Justice. Upon adoption of the trafficking law, UNHCR was involved in the drafting of supplementary regulations. These regulations, adopted in March 2004, relate to the work of the National Commission and to the work of shelters for victims of trafficking. As a result of UNHCR's input and interventions, the right to apply for asylum for victims of trafficking is included in the legislation.

In November 2004, the National Assembly adopted witness protection legislation, which covers victims of a wide range of crimes including those associated with trafficking. Protective measures for witnesses include: a personal guard, temporary placement in safe houses as well as the changing of residence, workplace and, if necessary, identity. This legislation also allows for witnesses to be transferred abroad if security cannot be guaranteed in the country. For victims with no legal immigration status, the legislation gives the possibility of special residency status if they are willing to cooperate with law enforcement personnel.

Implementation

As prescribed by the trafficking law, the Ministerial Council appointed the Vice-Prime Minister as the Chairman of the National Commission for Combatting Trafficking of Human Beings in 2004. The commission serves as the primary coordination and policy-making body for trafficking issues. Rules of procedure of the National Commission were also adopted in 2004, and the right to apply for asylum by victims of human trafficking is now stipulated in Article 23 of these rules. NGOs and international organizations have the right to participate in the sessions of the national commission as observers. The first meeting of the National Commission was held in December 2004.

In January 2005, the commission adopted the Annual National Programme for Prevention and Combatting Trafficking in Human Beings and Protection of Victims. According to official information from the Ministry of Justice, USAID will finance the implementation.

The U.S. Department of Justice hosts and coordinates a group of NGO and international organizations active in anti-trafficking issues. The group includes national NGOs, UNHCR, IOM, Catholic Relief Services and others.⁷²

Response/Prevention*1) Assistance and support to victims of trafficking*

In 2003, the Ministry of Interior re-equipped a shelter for children in Sofia to accommodate victims of trafficking, and similar arrangements are expected to be made in four additional shelters in Varna, Burgas, Plovdiv and Gorna Oryakhovitsa.⁷³

Although most of the assistance to trafficking victims in Bulgaria is provided by NGOs, several governmental agencies are active in the field as well. For instance, the State Agency for Child Protection, having received a grant from Germany, works with IOM to train local experts

⁷¹ Law on Combatting Human Trafficking in Bulgaria, adopted in May 2003. Available at: www.unhcr.bg/bglaw/en/illegal_traffic_en.pdf ; Law on Protection from Discrimination, adopted in September 2003. Available at: www.unhcr.bg/bglaw/en/discrimination_en.pdf ; Law on Asylum and Refugees of May 2002. Available at: www.unhcr.bg/bglaw/en/discrimination_en.pdf

⁷² supra note 93

⁷³ Limanowska, B., Trafficking in Human Beings in South Eastern Europe, 2004: Focus on Prevention, UNICEF/UNOHCHR/OSCE/ODIHR, 2005.



and to monitor reintegration and provision of services to child victims of trafficking.⁷⁴

3) Awareness and capacity-building

As part of its efforts to address the problem of trafficking in persons, the government implemented various training sessions and trafficking awareness programmes for law enforcement personnel and media representatives throughout 2003.⁷⁵ On the basis of the Employment Protection Act, the Ministry of Labour and Social Policy carried out projects addressing unemployment among the high risk groups of population.⁷⁶

Media Training on Migration/Asylum and Trafficking in Human Beings in the Context of Bulgaria's EU candidacy was organized in March 2004 in Sofia by the International Centre for Migration Policy Development and the European Institute for Crime Prevention and Control.⁷⁷

In Bulgaria, IOM is actively engaged in awareness raising efforts about the issues of trafficking.⁷⁸

Case Law and Legal Practice

There has been no record of victims of trafficking having been granted refugee status in Bulgaria.

UNHCR Involvement

Besides UNHCR involvement in lobbying for the new legislation and its participation in the anti-trafficking group mentioned above, the office has been active in providing training.

UNHCR has an agreement with the National Service Border Police (NSBP) on the introduction of refugee protection training in the context of human rights, trafficking and smuggling. The training has been incorporated into the official curriculum at the national training centre of the NSBP where border police officials from all over the country are trained. The regular training sessions designed for 2005 focus on access to territory and refugee status determination procedures, and application of protection under the 1951 Convention for victims to trafficking and smuggling. UNHCR provides the legal training, while experts from the Nadja Centre, a Bulgarian NGO active in the field of psycho-social assistance to the victims of smuggling and trafficking, provide social and psychological training on issues relating to the protection of vulnerable persons, including victims of trafficking and smuggling.

The 2002 International Workshop on Policies to Combat Human Trafficking: Human Dignity, Refugee Protection and Gender Issues, held at the Academy of Ministry of Interior, was initiated by UNHCR and the US Department of Justice. The workshop resulted in cooperation with the Academy of the Ministry of Interior.⁷⁹ Other workshops conducted by UNHCR include a 2004 Workshop on Access to Territory and Refugee Status Determination Procedure, Safe Third Country and Safe Country of Origin Notion,⁸⁰ and a 2004 Workshop on

74 U.S. Department of State, Trafficking in Persons Report 2004.

75 supra note 93

76 supra note 98

77 www.unhcr.bg/events_records/2004/index.htm

78 supra note 93

79 Relevant collection of documents is available at:

www.unhcr.bg/events_records/2002/vipond_29_30/police_%20academy_en.pdf

80 www.unhcr.bg/events_records/2004/svilengrad_en.pdf

**Bulgaria**

Access to Territory and Refugee Status Determination Procedure for Vulnerable Groups.⁸¹

Outstanding Issues

Financing of shelters, the actual implementation of the recent legislation and relevant and reliable statistical data on trafficking remain among the outstanding issues. The National Commission for Combatting Trafficking in Human Beings is understaffed and the follow-up to legislation has been delayed. Finally, trafficking related training materials are needed.

Other Resources

- Law on Protection from Discrimination, September 2003. Available at: www.unhcr.bg/bglaw/en/discrimination_en.pdf
- Law on Asylum and Refugees, May 2002. Available at: www.unhcr.bg/bglaw/en/ukaz_162_en.pdf
- Law on Ombudsman, May 2003. Available at: www.unhcr.bg/bglaw/en/ombudsman_en.pdf

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⁸¹ www.unhcr.bg/events_records/2004/handout_271004_en.pdf



Croatia

Croatia

Overview and Profile of Victims

Croatia is mainly a transit country for women trafficked for sexual exploitation from Ukraine, the Republic of Moldova, Romania, Hungary, Bulgaria, Bosnia and Herzegovina (BiH) and Slovakia. Trafficking routes pass through the Balkans to Western Europe. Official estimates suggest that between 100 and 200 persons are trafficked annually through Croatia, 10% of the victims are reported to be minors.⁸² There are reports that Croatia is also increasingly becoming a destination country, particularly for women trafficked from BiH.⁸³

According to the data available from the Ministry of Interior, a total of 33 trafficked persons were identified in the Republic of Croatia from 2002 to September 2004. They came from BiH, Cameroon, the Republic of Moldova, Morocco, Romania, the Russian Federation, Slovenia, Serbia and Montenegro, Ukraine, Croatia and for one person the citizenship was not established.

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Succeeded
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Succeeded
Optional Protocol to CEDAW	Ratified

In December 2000, Croatia signed the Palermo Anti-Trafficking Declaration of Southeastern Europe.

National law:

Within the national legislative framework the issue of trafficking in persons is referred to in several laws. The amendments to the criminal code establishing trafficking as a criminal offense were approved by parliament and took effect on 1 October 2004. Now the criminal code identifies the specific crime of trafficking in persons, and provides for prosecution and punishment of the perpetrators. The Criminal Proceedings Act and Juvenile Courts Act provide a legislative framework for the protection of threatened witnesses, including trafficking victims. The Witness Protection Act regulates conditions and procedures for rendering different forms of protection to witnesses in danger and persons close to them. Finally, the Legal Person Liability Act provides for sanctioning of those legal entities, such as bars, night clubs, travel agencies etc., that are involved in organized criminal activities, including trafficking in persons.

A new Law on Foreigners came into effect in January, 2004, which includes a provision allowing issuance of temporary resident permits on humanitarian grounds.

⁸² Lehti, M., Trafficking in women and children in Europe, HEUNI Paper No. 18, Helsinki, 2003. Available at: www.heuni.fi

⁸³ U.S. Department of State, Trafficking in Persons Report 2004.



Croatia

Implementation

In 2002, the Croatian government established the National Committee for the Suppression of Trafficking in Persons whose members include representatives of all relevant ministries and government agencies, NGOs and the media. The Deputy Prime Minister responsible for Social Affairs and Human Rights acts as the chairperson. The National Committee is the central steering body responsible for the implementation and coordination of activities set forth in the National Programme for the Suppression of Trafficking in Persons. The National Coordinator is appointed by the government to monitor and coordinate the implementation of the National Action Plan for Suppression of Trafficking in Persons. An operational team of the National Committee has been set up in order to resolve problems related to specific cases of trafficking in persons and to co-ordinate the activities of all parties involved in their resolution. However, the National Committee lacks financial and institutional support to carry out anti-trafficking activities.

The Office of the Ombudsperson for Children was established in 2003. The ombudsperson participates in anti-trafficking activities regarding children and is a member of the Working Group for Suppressing Trafficking in Children within the national committee.

In 2004 the Croatian Government adopted the National Programme for Suppression of Trafficking in Persons, covering the period 2005 – 2008 and the National Action Plan for 2005.

In 2004, UNHCR participated in an Anti-Trafficking in Persons Workshop organized by the U.S. Government through USAID and World Learning. The workshop included a group of 30 persons from the Croatian government, NGOs and international organizations which contributed to the drafting a proposal for the new national anti-trafficking action plan. During the workshop, UNHCR stressed the importance of trafficked persons receiving proper information on the asylum procedure.

Response/Prevention*4) Assistance and support to victims of trafficking*

The Law on Foreigners permits trafficking victims to apply for temporary residence permit in Croatia for 90 days, renewable up to two years.

Since 2003, the government, in cooperation with NGOs, has supported a shelter for trafficking victims and has established three reception centres in cooperation with the Croatian Red Cross. They provide temporary accommodation to victims. A Memorandum of Understanding (MoU) on victim protection and assistance was signed between the Ministry of Labour and Social Welfare and IOM. The government also financially supports a national hotline devoted to trafficking.⁸⁴

In January 2004, a witness protection law entered into force that defined the conditions under which state protection is granted when a witness' life, health, freedom or property are threatened. However, this law was not applied in any trafficking-related cases during 2004.

2) Awareness and capacity-building

The government largely relies on NGOs to carry out most anti-trafficking initiatives and provides them limited financial support. In 2003 and 2004, training and awareness raising activities were organized by the police academy for border police and for counter-

⁸⁴ supra note 107



organized crime police.⁸⁵

In 2004, UNHCR participated in the Regional Conference on Exploring the Regional Applicability of the Project against Trafficking and Sexual and Gender-Based Violence (PATS) organized by UNHCR and the Association Kljuc in Ljubljana. The regional conference introduced the PATS model to Croatia and BiH. UNHCR also participated in the conference on Mechanisms for Combatting Trafficking in Persons organized by the Croatian Government Office for Human Rights in 2004. The conference, held under the auspices of the Vice Prime Minister, collected information on existing mechanisms to combat trafficking in human beings in Croatia and abroad, and presented the findings to experts and to the wider public.

Case Law and Legal Practice

UNHCR is not aware of any cases where trafficking victims applied for refugee status in Croatia.

UNHCR Involvement

UNHCR has a cooperative relationship with the Government Office for Human Rights and the National Coordinator. Through joint discussions, it advocated for the protection of asylum seekers against trafficking.

Similarly, UNHCR has a cooperative relationship with IOM on trafficking matters will attend joint training events on trafficking to be held with IOM, the Croatian Red Cross and the Government Office for Human Rights in 2005.

At the moment, UNHCR is developing a project related to the protection of asylum seekers from trafficking. It is expected to be implemented in collaboration with the Government Office for Human Rights, the Croatian Red Cross and IOM, all of which have expressed their interest. The Ministry of Interior has been informed about this initiative and supports it.

Finally, the Project against Trafficking and Sexual and Gender-Based Violence (PATS) developed in Slovenia may lead to similar initiatives in Croatia, focusing on protection of asylum seekers against trafficking.

Outstanding Issues

UNHCR foresees the need for the staff members of its NGO partners, which provide assistance to asylum seekers, to be specifically trained on protection of asylum seekers against trafficking.

Other Resources

- Trafficking in Human Beings in South Eastern Europe 2004 – Focus on Prevention UNICEF/UNOHCHR. Available at: www.unicef.org/ceecis/Trafficking.Report.2005.pdf
- Government Office for Human Rights. Available at: www.ljudskaprava-vladarh.hr

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⁸⁵ supra note 107



Croatia

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Cyprus

Cyprus

Overview and Profile of Victims

Cyprus is a transit and destination country for women trafficked from Eastern and Central Europe for the purpose of sexual exploitation. The U.S. Department of State reported that Chinese women are also increasingly being trafficked to Cyprus. Traffickers commonly recruit victims with promises of work as dancers or waitresses on artist or employment visas.⁸⁶ By means of threats and violence these women are later forced into prostitution. After the victims have worked in Cyprus for a maximum of six months, many of them are then sent to Lebanon, Syria, Greece or Germany.⁸⁷

Although there is no reliable data on the number of trafficking victims in Cyprus, the ombudsperson estimated that every six months 1,000 foreign women come to Cyprus with artist visas.⁸⁸

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

In 2000, the Law for the Prevention of Human Trafficking and Sexual Exploitation was introduced, which prohibits sexual exploitation and trafficking, even with victim's consent or knowledge, and provides for punishment of up to 10 years in prison. When an offence is committed against a minor, the punishment is increased to up to 20 years.⁸⁹ The law does not address internal or labour trafficking.

The Protection of Witnesses Law of 2001 provides for assistance to witnesses in criminal proceedings. Victims of acts foreseen in the Law for the Prevention of Human Trafficking of 2000 qualify for such assistance.

Implementation

The government established an inter-agency working group and a ministerial group to address trafficking issues. The Ministries of Justice, Labour, and Interior and the Attorney General's office share the responsibility for combatting trafficking. An anti-trafficking unit was established within the Police Criminal Investigation Office.⁹⁰ Under its newly created Office of Combatting Trafficking, the police dealt with 91 trafficking related cases in 2004, compared to 10 cases in 2003 and 7 cases in 2002.

⁸⁶ U.S. Department of State, Trafficking in Persons Report 2005.

⁸⁷ Commissioner for the Administration (Ombudsperson), The Status of Entry and Work of Alien Women who arrive in Cyprus as Artistes, Report of November 2003.

⁸⁸ Idem

⁸⁹ www.interpol.int/Public/Children/SexualAbuse/NationalLaws/csaCyprus.asp

⁹⁰ www.police.gov.cy/police/police.nsf/All/FBDFDE626F03CAE6C2256F940029B35A?OpenDocument

**Cyprus**

The National Action Plan (NAP) against trafficking was finalized in April 2005, but is still pending formal adoption. It refers to the legislative and administrative measures taken to combat human trafficking and proposes a 22-page list of measures to be taken in the fields of prevention and combatting this phenomenon, as well as of protection, rehabilitation and reintegration of victims of trafficking. Among these proposed measures, the urgent need for a shelter for victims, the completion of a handbook for handling victims and the adoption of the new Aliens and Immigration Law are highlighted.

Pursuant to a decision of the Council of Ministers of September 2001, a team of experts was composed for the coordination of activities to combat trafficking, from both governmental and non-governmental organizations dealing with women issues, support of migrants and protection of human rights. Since 2003, UNHCR is regularly invited to provide expert advice.

The government departments are working closely with NGOs in the field of anti-trafficking, relying completely on very few NGOs dealing with victim's rehabilitation. The government provides some funding to the NGOs for this purpose but cooperation could be improved and expanded.

Response/Prevention*1) Assistance and support to victims of trafficking*

The anti-trafficking law requires the government to provide protection and support for trafficking victims by allowing them to remain in the country to press charges or by facilitating their return home, and by providing shelter, medical and psychiatric care. The law also provides for the appointment by the Council of Ministers of a guardian to assist victims of exploitation. The director of the Social Welfare Department was appointed as a guardian, however, this position has been only formal and no programme has been prepared yet.⁹¹

Rooms for trafficking victims are available in the government-subsidized housing and funds are being collected for the operation and construction of a permanent shelter. The government stopped the issuance of new cabaret licenses. It also prohibited hiring replacements for women on artist visas who have been identified as victims and removed from the workplace. Although the government established a screening and referral process, it has yet to implement them.⁹²

Assistance to trafficking victims is also offered by NGOs that protect the rights of women and immigrant workers. In January, the Russian Orthodox Church in Limassol opened a shelter for trafficking victims, partially funded by the Orthodox Church of Cyprus.⁹³

2) Awareness and capacity-building

In March 2005, the Ministry of Interior organized a press conference to publicize the release of an information pamphlet containing anti-trafficking information designed for all newly arriving female foreign workers. The police anti-trafficking unit held a number of press conferences and appeared in the media to promote its anti-trafficking activities.⁹⁴

91 supra note 111

92 supra note 110

93 U.S. Department of State, 2004 Country Reports on Human Rights Practices.

94 supra note 110



Case Law and Legal Practice

In the two years of implementation of the Refugee Law, no case of a victim of trafficking has been recognized as being in need of international protection.

UNHCR Involvement

UNHCR provides training to Refugee Status Determination officers of both the first and second instance bodies, with particular sessions devoted to gender and age issues, including trafficking. UNHCR also participates in training targeted to governmental and non-governmental organizations on the issues of trafficking and international protection. As part of the UN inter-agency Country Team (UNCT) on gender, UNHCR is providing input to the drafting of a country-specific handbook against sexual exploitation as well as to the compilation of a relevant training package, including on issues of trafficking. Training of peacekeepers working with the United Nations Force in Cyprus (UNFICYP) is another activity undertaken by UNHCR in the framework of the UNCT. UNHCR has advocated strongly for the adoption of the new Aliens and Immigration Law.

Outstanding Issues

The adoption of the new Aliens and Immigration Law, which includes provisions aiming to reduce the level of dependency of foreign workers on their employers and the formalization of the NAP are issues that need to be addressed as a matter of priority.

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Cyprus


**Czech
Republic**
Czech Republic
Overview and Profile of Victims

The Czech Republic is a country of origin, transit, and destination for women trafficked for sexual exploitation from Eastern Europe, Russia, the Balkans and Asia. Destinations outside the Czech Republic include Western Europe, and to a lesser extent, the United States, Japan, and Mexico. There are reports of small numbers of men trafficked to and from the Czech Republic for forced labour exploitation. Internal trafficking of local and foreign women has also been reported.⁹⁵

In 2001, a study on trafficking and female asylum seekers was requested by UNHCR from the Czech Academy of Science. According to the study, the typical profile of a trafficking victim in the Czech Republic is as a woman under 40-years of age, unaccompanied and in a vulnerable socio-economic position coming from Ukraine, the Republic of Moldova, Russia, Bulgaria, Romania or an Asian country, and who works in night clubs of West Bohemia or South Moravia.⁹⁶

According to the statistics provided by the Czech Ministry of Interior, the number of registered trafficking victims increased from 53 in 2003 to 72 in 2004. During the period from January to May 2005, the NGO La Strada registered 21 victims (20 females, 1 male), five of whom submitted applications for asylum at the suggestion of La Strada. The victims came from Vietnam, Kyrgyzstan, Mongolia and Ukraine (1 male victim).

Legal Framework
International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

The legislative instrument addressing trafficking in persons for sexual exploitation in the Czech Republic is Act No. 140/1961 Coll. of the criminal law. The criminal law was amended by Act No. 134/2002 Coll., which entered into force in July 2002. The amendment has changed the wording of Article 246, formerly dealing with trafficking in women. Currently, the crime is defined as trafficking in persons for the purpose of sexual exploitation, regardless of the sex or age of victim. The name of the crime has also been changed to trafficking in persons for the purpose of sexual exploitation, and its definition has been expanded so that it is now considered a crime to hire or transport a person for sexual exploitation not only to, but also from, a foreign country.

95 U.S. Department of State, Trafficking in Persons Report 2004.

96 Uherek, Z., Skřivánková, K., Weinerová, R., Women Asylum-seekers and Trafficking, Department of Ethnic Studies, Institute of Ethnology of the Academy of Sciences of the Czech Republic, Praha 2001.

Available at: www.unhcr.cz/dokumenty/study_women.doc

In 2004, further changes in the criminal code related to trafficking entered into force, making it applicable not only to cross-border but also to internal trafficking.⁹⁷ The definition of trafficking was amended and now covers trafficking in persons for the purpose of sexual intercourse, sexual exploitation, forced work, slavery and bondage. The provisions of Article 246 also deal expressly with the crime of trafficking in children. Aggravating circumstances, carrying stricter sentences, include commitment of the crime within an organized group, gaining of considerable profit, inflicting grievous bodily harm or causing the death of the victim.

The crimes of trafficking in persons for sexual exploitation committed in the Czech Republic that are not explicitly covered by Article 246 of the criminal law may be prosecuted as procuring and soliciting prostitution, punishable by a prison term of up to 12 years if the victim is under the age of 15 (Article 204).

Other provisions of the criminal law relevant to trafficking in persons are: Article 231 (unlawful restraint), Article 232 (imprisonment), Article 235 (blackmail), Article 237 (the crime of oppression), Article 216 (kidnapping), or Article 217 (wilful corruption of youth).

The Foreigners Act, which regulates the residence of foreign nationals in the Czech Republic, does not explicitly address the status of foreign nationals who have become victims of trafficking and who reside in the country illegally. However, a trafficking victim may be granted a visa to stay (Article 35), if she or he proves or, in particular circumstances, declares that she or he is prevented from leaving the country by circumstances independent of his or her will. Such a visa may be granted for a necessary period of time, but no longer than 365 days and is renewable.

The draft amendment to the Foreigners Act further specifies reasons for granting a temporary visa to a foreign national acting as a witness in a criminal procedure, including victims of trafficking. Pursuant to the Cabinet's Action Plan to combat illegal migration⁹⁸, draft provisions of Article 33 aim at the legalization of stay and the protection of foreigners who may act as important witnesses in cases of criminal prosecution, mainly of organized groups with links to other foreigners or international organized crime.

Implementation

A special department charged with combatting trafficking in persons was established within the Organized Crime Investigation Unit of the Service of the Criminal Police and Investigation (UOOZ). UOOZ actively cooperates with partner institutions in Germany, Austria, the Netherlands, the United Kingdom, Italy, Slovakia, Poland and Hungary. In several cases, UOOZ also obtained help from U.S. agencies such as the FBI or the US Immigration Service.

The Refugee Facility Administration has created a Strategy of Internal Security in Asylum Facilities of the Ministry of Interior. Among other goals, the strategy intends to focus on vulnerable asylum applicant groups, which include single women and single mothers. The strategy also includes the ANNA project, which aims at identifying both potential and actual victims of trafficking and at assisting and protecting them against violence and exploitation.

⁹⁷ OSCE, *Combatting Trafficking in Children in the Czech Republic: Overview*, OSCE High-Level Conference, "Alliance Against Trafficking in Persons: Combatting Trafficking in Children", Vienna, 18 March 2005.

⁹⁸ Cabinet's decree No. 108/2004.

**Czech
Republic**

The IOM missions in various countries participate in tracing Czech citizens who have become victims of trafficking abroad, and use the help of Czech representative offices to distribute information leaflets to such victims.

Response/Prevention*1) Assistance and support to victims of trafficking*

The government implemented a nation-wide victim assistance programme under which victims are provided with a 30-day reflection period. Within this period victims are given psychological and social assistance and must decide whether or not to cooperate with authorities on criminal prosecution. Victims who choose to cooperate can apply for a residence permit for the period of criminal proceedings; those who refuse to cooperate are returned to their countries of origin. Cooperating victims are eligible to apply for a permanent residence permit on humanitarian grounds after the end of proceedings.⁹⁹

A local branch of the La Strada NGO network provides shelter, medical treatment, psychological and psychiatric care along with legal counselling to both foreign and Czech national victims of trafficking. With the help of IOM and the police, La Strada tries to recover or obtain the victims identity and travel documents.

The Czech Catholic Caritas association has established a coordination centre for helping victims of trafficking and those forced into prostitution. The centre refers victims to the care of suitable institutions in the Czech Republic, coordinates, coaches and trains its staff, finances the care for victims and mediates contacts with partner institutions abroad. Caritas has a network of protected anonymous shelters and separate apartments for the victims of trafficking. It is also able to accommodate victims of trafficking at rectories, convents, monasteries and other facilities.

2) Awareness and capacity-building

The Organization for Aid to Refugees (OPU), along with the Czech branch of La Strada, organized a series of activities to mark the 16 Days of Activism against Gender Violence campaign in December 2004. Among the various activities, a special documentary on trafficking was shown and an information campaign on trafficking, sexual and gender-based violence and HIV/AIDS among adolescents took place. The programme was supported by UNHCR and included daily consultations with victims of violence and trafficking as well as distribution of the manual on prevention and monitoring of SGBV among persons in need of international protection', produced jointly by the Hungarian NGO Menedek and OPU. The government also cooperated with IOM to deliver school curricula addressing the dangers of trafficking.

Case Law and Legal Practice

According to La Strada, in 2004 it provided services to 18 female clients, four of whom submitted their application for asylum. Two of these victims were from the Ukraine, one from Turkmenistan and one from China. In January 2005, the Chinese minor was granted protection status on humanitarian grounds, although UNHCR advised the authorities to consider the applicant as a 1951 Convention Status refugee on the ground of being a member of a particular social group. UNHCR is not aware of any cases of trafficking victims being granted asylum on the 1951 Convention grounds.

99 U.S. Department of State, 2004 Country Reports on Human Rights Practices.



UNHCR Involvement

UNHCR pays particular attention to possible asylum cases of victims of trafficking through regular monitoring and reviewing of first instance decisions and jurisprudence of the regional courts and the Brno Supreme Administrative Court.

In 2003, UNHCR together with La Strada and with the support of the British Embassy in Prague, organized training for humanitarian workers serving in refugee facilities to alert them and provide them with additional tools to deal with trafficking related cases, including in refugee status determination procedures.

Efforts are being made to mainstream the issues of trafficking within the policy priorities of women and children. For example, with regards to the on-going activities in monitoring the Czech asylum procedures, UNHCR carries out systematic analysis of the quality of asylum decisions including focusing on application of gender-based persecution and victims of sexual and gender-based violence, including trafficked individuals. However, the number of cases detected to date remains low. UNHCR also ensures that trafficking issues are one of the important components in NGO activities, particularly in the provision of social, legal and psychological counselling.

In 2003, UNHCR translated relevant documentation, such as the UNHCR Sexual and Gender-Based Violence Guidelines, Considerations for Asylum Officers Adjudicating Asylum Claims for Women by the US Immigration and Nationality Service (INS)¹⁰⁰, and the World Health Organization's Ethical and Safety Recommendations for Interviewing Trafficked Women, etc. In addition, its local web site is regularly updated and enables the dissemination of specialized documents to a wider public.

Outstanding Issues

In general, the Czech authorities are inclined to grant humanitarian asylum under Article 14 of the Czech Asylum Act rather than on the 1951 Convention grounds in cases related to trafficking.

The government and law enforcement agencies mainly concentrate their anti-trafficking efforts on apprehending and prosecuting traffickers rather than on addressing the needs of the victims.

Finally, under the Czech criminal law legal entities (bars, clubs, and agencies) are not criminally liable and cannot be prosecuted for their involvement in human trafficking.

Other Resources

- Organizace pro pomoc uprchlíkům - Organization for Aid to Refugees (OPU). Available at: <http://opu.cz/index.html>
- La Strada Czech Republic. Available at: www.strada.cz/en/

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¹⁰⁰ US Immigration and Nationality Service, 1995.



France

France

Overview and Profile of Victims

France is a destination and transit country for women and children trafficked for the purposes of sexual exploitation and domestic servitude, and also for smaller numbers of men trafficked for forced labour. The majority of victims come from Central Europe and the former Soviet Union. However, a considerable number of women are also trafficked to France from outside of Europe, especially from Latin America and Africa. The U.S. Department of State reported that Nigerian trafficking networks are expanding their activities in France and the trafficking of Brazilian women and girls into sexual exploitation in French Guiana is a serious problem. Trafficking for prostitution is centred in Paris and in the major provincial cities. According to the U.S. Department of State, in 2004, French police estimated that 90% of the prostitutes working in France are victims of trafficking, and that 3,000-8,000 children are exploited in forced prostitution and labour.¹⁰¹ There are no reliable statistics on the annual number of the victims of trafficking in France.

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

Trafficking for sexual and non-sexual exploitation is criminalized in France. The Internal Security Act (loi sur la sécurité intérieure) introduced in March 2003 contains various provisions to combat human trafficking, including criminalization of human trafficking (Article 32), access for victims to accommodation and social rehabilitation centres (Article 43), granting of residence permit to victims who file a complaint or act as witnesses (Article 76) and the possibility of financial assistance. The definition of human trafficking (traite des êtres humains) is set out in the penal code (Article 225-4-1 in Section 1 bis of the same law). The penalties for trafficking in persons can amount to up to 7 years in prison and a substantial fine. Penalties for soliciting child prostitutes can be up to 10 years. The exploitation of foreign labour and exposing labourers to inhumane conditions are also recognized criminal offences with the punishment for employers of up to 3 years' imprisonment or fines. Slavery is punishable by up to 2 years in prison and a fine, and up to 5 years when more than one victim is involved.¹⁰²

101 Lehti, M., Trafficking in women and children in Europe, HEUNI Paper No. 18, Helsinki, 2003. Available at: www.heuni.fi; and U.S. Department of State, Trafficking in Persons Report 2004.

102 U.S. Department of State, Trafficking in Persons Report 2004.



Implementation

Several law enforcement agencies are involved in combatting human trafficking in France. OCRIEST (Office central de répression de l'immigration irrégulière et de l'emploi des étrangers sans titre), under the authority of the Central Criminal Investigation Directorate of the Judicial Police, centralizes information and coordinates operations to counter trafficking and maintains contact with the police, the Gendarmerie, the border police, foreign and international law enforcement authorities and NGOs. Regional services of the police also address trafficking.

A steering committee oversees the development of the system of addressing prostitution and trafficking matters, with representatives of all the different partners concerned: various ministries and government departments, a coordinating team, representatives of local and regional agencies of central government departments and representatives of NGOs. It meets twice a year under the auspices of the French General Directorate for Social Welfare to review the performance of the system, in order to improve coordination between the partners and to identify difficulties that have been encountered.

An inter-ministerial working group led by the Chef de Cabinet of the Minister for Parity and Professional Equality monitors how trafficking in persons is addressed in France. This group includes representatives of the Ministries of Health, Justice, Interior, Foreign Affairs, Education and Social Cohesion and serves as a channel for exchanges of information and cooperation between the different departments.

Since the law of 3 March 2003 entered into force, 172 residence permits were granted and 190 were renewed in 2003 while 180 were granted and 212 renewed in 2004 to foreign women who agreed to testify against those who forced them into prostitution. According to the head of OCRIEST, these provisions have led to the dismantling of seven international criminal gangs in 2003 and another four in 2004.

The government regularly cooperates on a bilateral basis with international institutions such as the OSCE and the European Police Agency to investigate, track, and dismantle trafficking rings.

Response/Prevention

To assist victims of forced prostitution, in 2002 the Ministry of Social Cohesion began to support the creation of a coordinated national reception procedure (Ac-Sé), run by a non-profit institution ALC (Accompagnement Lieux d'Accueil Carrefour Educatif et Social) which has signed a special agreement with the French General Directorate for Social Welfare. The system is based on a national coordinating structure, a network of non-specialized accommodation centres and the cooperation of specialized social services. The procedure works also through the French government-funded specialized welfare services that provide help to prostitutes of either sex.

Victims of trafficking in France are eligible for three to six months renewable temporary residence permits according to an assessment of their needs and their cooperation with police.¹⁰³ Those victims who prefer to return to their country of origin can benefit from the assistance programmes run by the IOM as well as through special agreements with Romania and Bulgaria. Contact has also been established with certain NGOs in many countries of origin.

¹⁰³ supra note 132

**France**

In 2002 the Operational Liaison Group (GLO) was set up to facilitate contacts between the various French and Romanian government agencies dealing with unaccompanied minors. This agreement was intended to include other countries with large fluxes of emigrants towards France however the programme did not prove to be very successful.

Social Aid to Children (ASE), the national social services branch for childcare, is responsible for assisting victims under the age of 22. The ASE provides social workers who help victims gain access to social care, legal counsel, and asylum assistance. ASE works closely with the Office for the Protection of Refugees and Stateless Persons. There is also a local call rate phone number for professionals and volunteers dealing with trafficking victims.

Several local initiatives have been undertaken in the four major French cities (Paris, Lyon, Bordeaux and Nice) to establish emergency reception and accommodation facilities for victims in need of immediate assistance and who cannot, or who do not wish to, leave the city where they currently reside. These initiatives are funded by the local and regional agencies of central government departments and encompass a variety of accommodation facilities. A specialized social service provides additional assistance if needed.

An agreement has been signed between the government and the Committee Against Modern Slavery (CAMS), an NGO specializing in assisting and defending the victims of domestic slavery. In 2000-2003, CAMS has coordinated the European Commission project DAPHNE on the best practices in assisting victims of trafficking in Austria, Belgium, France, Germany, Greece and Italy.

Since 2004, NGO involvement in the issue has increased, including Les Amis du Bus des Femmes and Enfants du Monde-Droits de l'Homme. Among NGOs working with young foreign victims of trafficking are: France Terre d'Asile, which runs the only accommodation centre for minor asylum seekers, the Red Cross, which runs the accommodation centre for minors arriving through the waiting zone of Roissy airport (LAO), the Service Social d'Aide aux Emigrants (SSAE), Enfants du Monde-Droits de l'Homme (EMDH) and Enfants-Droits in Marseille.

Case Law and Legal Practice

Until the recent legislative reform implemented in January 2004, French jurisprudence did not consider non-state persecution in its criteria for refugee recognition. However, with the new law which recognizes both non-state persecution and subsidiary protection, the latter being now applied in the normal procedure and as such being decided upon by OFPRA and the Refugee Appeal Board, increasing numbers of trafficking victims may receive this form of protection. An example is the case of an Albanian woman whose claim was considered by the Refugee Appeal Board in 2005. The board recognized that her fear of being captured again and ill-treated was well-founded but decided that it did not fall under the definition of article 1A2 of the 1951 Convention. Nevertheless, the woman was granted subsidiary protection.

UNHCR Involvement

UNHCR's involvement is mainly to raise awareness of trafficking issues in its training sessions and to follow the developments in this sphere. Some lobbying has been done with the parliamentarians during the preparatory works of the last immigration legislative reform from November 2003, mainly to draw attention to the possible link between



the victims of trafficking and persons of concern to UNHCR so that they do not become further exposed to trafficking.

UNHCR is one of the three members of the French Refugee Appeal Board and, as such, participates in the eligibility process of asylum seekers who may be trafficking victims. Furthermore, the UNHCR Representative sits as an observer on the OFPRA Administrative Council and can provide advice if and when needed.

Outstanding Issues

France has been one of the principal European proponents of measures to counter illegal immigration and to reinforce barriers to Europe. However, not enough concern has been paid to the increased difficulties faced by potential asylum seekers to reach a safe European country.

Other Resources

- Websites of Ministries of Interior, Foreign Affairs, Justice, Social Cohesion
- Le Défenseur Des Enfants www.defenseurdesenfants.fr
- France Terre d'Asile www.france-terre-asile.org/
- Association Nationale d'Assistance aux Frontières pour les Etrangers (ANAFE) www.anafe.org
- Comité Français contre l'Esclavage Moderne (CCEM) www.esclavagemoderne.org/
- GISTI Groupe d'Information et de Soutien des Travailleurs Immigrés www.gisti.org

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France



Georgia

Georgia

Overview and Profile of Victims

Although the U.S. Department of State recently described Georgia as not only a source and transit country but also a destination for trafficked persons, the number of non-Georgians trafficked into the country is believed to remain low due to its poor economy. Human trafficking only began receiving serious attention in the last couple of years in the country. Cases of human trafficking reported by some organizations working on trafficking and women's rights usually involved Georgian citizens. UNHCR received reports of women from Uzbekistan who had escaped their captors and who were sheltered by Georgian NGOs and later by the law enforcement authorities.¹⁰⁴ However, according to IOM these cases did not involve asylum seekers or refugees.

Typically, trafficking victims in Georgia are young women from impoverished villages or former industrial areas, such as Poti, Kutaisi, Rusatavi and Tbilisi, who attempt to seek better employment in Western Europe. Women were also reportedly trafficked to Turkey, Israel, the United Arab Emirates and the United States. In a few instances, men have been trafficked to more economically advanced countries such as Russia, Greece, Spain and other destinations mainly to work in manual labour. It is known that women from Russia, Ukraine and Central Asia have been trafficked through Georgia to Turkey sometimes using forged travel documents. No official statistics are available to give an age or sexual breakdown of victims, nor is there reliable data on the number of victims.

There is not enough evidence to support UNHCR's fear that the large IDP population (237,000 people), which is generally more economically disadvantaged than other Georgians, is particularly vulnerable to human trafficking.

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Signed

National law:

Trafficking in persons, including minors, for the purposes of sexual, labour, and other forms of exploitation are prohibited in the criminal code. The basic penalty ranges from 5-12 years' imprisonment, with a maximum penalty of 20 years for aggravated circumstances. A Memorandum of Understanding between the Prosecutor General's Office and the Ministry of State Security (MSS) has been signed, which, according to the U.S., has resulted in greater cooperation,

¹⁰⁴ U.S. Department of State, 2004 Country Reports on Human Rights Practices.

joint operations and many arrests and charges under trafficking statutes.¹⁰⁵

In December 2004, the President approved the National Anti-Trafficking Plan of Action (NPA) for 2005-2006 which is comprised of members from the Ministry of Foreign Affairs, Ministry of Interior, Ministry of Healthcare and Social Protection and Ministry of Finance. The NPA was elaborated in close cooperation with OSCE, IOM, and NGOs working in the field of human trafficking and women's rights. Recently, UNHCR was included into the NGO coordination meetings as well. The NPA has established an *ad hoc* Inter-agency Commission against Trafficking under the auspices of the National Security Council (NSC). The Human Rights Unit of the NSC remains the government-wide anti-trafficking focal point. One of the main priorities of the NPA is to introduce new legislation, an example of which is the Draft Law on Prevention of Human Trafficking and Protection, Assistance and Rehabilitation of Trafficking Victims.

In addition, the Ministry of Healthcare and Social Protection has been requested to draft a Law on Labour Migration to be adopted by the Parliament, as well as to introduce amendments to the criminal code and the criminal procedures code. The Ministry of Foreign Affairs has been tasked with starting negotiations to conclude bilateral re-admission agreements with other countries. It is also charged with the promotion of Georgia's accession to the European Social Charter and with the ratification of the Convention on Protection of the Rights of the Migrant Workers and Their Families. NGOs expressed their readiness to participate in the drafting process of a code of conduct for investigators of cases involving trafficking. They also expressed interest in monitoring the implementation of the NPA.

Implementation

In October 2004, after an unsuccessful merger with the anti-kidnapping unit, the anti-trafficking unit within the Ministry of Internal Affairs (MIA) was re-established with two branches, one in Tbilisi and one in Batumi. The Ministry of Interior was established following the merger of the MIA and MSS, within which a Department of Special Operations on Trafficking and Illegal Migration was created.¹⁰⁶

Response/Prevention

1) Assistance and support to victims of trafficking

The only assistance available to trafficking victims in Georgia is provided by a few NGOs on an *ad hoc* basis.¹⁰⁷

2) Awareness and capacity-building

Georgian NGOs, together with IOM and OSCE, are actively engaged in capacity building activities to raise awareness within the law enforcement authorities and the public at large about trafficking issues.

Case Law and Legal Practice

UNHCR has not had any contact with trafficking victims seeking asylum in Georgia.

UNHCR Involvement

Because of minimal caseload involving non-Georgians, trafficking in persons has not been prioritized in the operations of UNHCR Georgia. The number of asylum applications lodged in Georgia is extremely

¹⁰⁵ supra note 134

¹⁰⁶ Idem

¹⁰⁷ Idem

**Georgia**

small, a total of 22 persons / 14 families between 2003 and April 2005, the majority of whom are from Iran¹⁰⁸.

Recently the UNHCR began participating in roundtable meetings on trafficking issues organized by the Human Rights Information and Documentation Centre.

Outstanding Issues

The RSD system in Georgia is still rather elementary. Consequently, training conducted by UNHCR focuses on basic principles. UNHCR's efforts in capacity-building were seriously constrained by the political upheaval that culminated in the "Rose Revolution" in late 2003, and which resulted in almost a complete reassignment of key officials who had been trained by UNHCR for a number of years.

Other Resources

- IOM Georgia www.iom.ge
- Human Rights Information and Documentation Centre (HRIDC) www.hridc.org
- OSCE Mission to Georgia www.osce.org
- Women International Aid Caucasus www.womenaid.org/caucasus

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¹⁰⁸ Statistics obtained from the Ministry of Refugees and Accommodation (MRA). Note, however, that this number does not include Russian nationals from Chechnya, who are given prima-facie refugee status by the Georgian government. Approximately 2,600 Chechen refugees are hosted in Georgia at present.



Germany

Germany

Overview and Profile of Victims

According to the European Institute for Crime Prevention and Control, (HEUNI) Germany is the main destination country for trafficking in women in Europe¹⁰⁹. As to the number of trafficked persons, the estimated figures vary from 2,000 to 10,000 per year. Most of the victims of trafficking are women and children who come from Central and Eastern Europe and who are forced into prostitution or domestic work. IOM notes that nearly 80% of the estimated 10,000 women trafficked into Germany every year are from Central and Eastern Europe and the former Soviet Union countries such as Belarus, Estonia, Latvia, and Lithuania. Trafficked children also come from those and other countries in Eastern Europe, as well as from countries in Africa.¹¹⁰

According to the 2003 report of the Federal Criminal Investigation Office (BKA) on preliminary investigations of 1,235 victims of trafficking, of whom 1,108 were foreign nationals, about 60 per cent of the victims entered Germany legally, especially nationals from the new EU member states. In 45% of all cases the victims had been recruited through false advertisements. In 52% of the cases the traffickers had resorted to violence.

Legal Framework

International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National Law:

On February 11, 2005 an amendment to the German Penal Code entered into force, including separate provisions for the offences of trafficking for sexual exploitation and for forced labour (Articles 232 and 233), and provide the legal framework for a heavier punishment for these offences. Article 232 of the German Penal Code explicitly prohibits trafficking in human beings. A penalty of a fine or imprisonment for six months up to 10 years (previously 5 years) applies to any person who, with the knowledge of another person's vulnerability in a foreign country, causes that person to engage in illicit sexual practices. If the victim is under the age of 14 the minimum sentence is one year.

With regard to the immigration status of trafficked persons, the Residence Act provides for the deportation of such persons. However, immediate deportation may be postponed in cases where those to be deported are willing to testify as witnesses in criminal proceedings against the perpetrator of the trafficking offence.

109 Lehti, M., Trafficking in women and children in Europe, HEUNI Paper No. 18, Helsinki, 2003. Available at: www.heuni.fi/25460.htm

110 U.S. Department of State, 2004 Country Reports on Human Rights Practices.

**Germany**

Administrative regulations to the Residence Act, adopted in October 2000, grant trafficking victims a grace period either to prepare to return to their country of origin or to decide if they will testify against their traffickers.

Witnesses of organized crime and trafficking whose testimony is needed to ascertain the facts in criminal proceedings, and who are thus in danger, are, together with their close relatives, protected under Article 1 Section 1 of the Law on the Harmonization of the Protection of Endangered Witness Zeugenschutz-Harmonisierungsgesetz. They may be provided with a changed identity and can, as provided for in the Residence Act, only be extradited or deported upon approval by the Witness Protection Department.

The criminal law, designed to combat sex tourism, asserts that with respect to trafficking in human beings and slave trade, its provisions apply irrespective of the place where an act is committed.

Implementation

The German Federal Ministry for Economic Cooperation and Development (BMZ) established two supra-regional sector projects, one against trafficking in women and another against child trafficking. The projects are implemented by the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH and funded by the German Federal Government's Programme of Action 2015: Poverty Reduction. The sector project promotes measures to combat trafficking in all sectors, for instance by lobbying for the development of legal standards, the implementation of reintegration programmes, the training for relevant professional groups, such as the police and labour inspectors, and the development of training and awareness raising materials.¹¹¹

Response and Prevention*1) Assistance and support to victims of trafficking*

There are a number of specialized NGO counselling centres in Germany for victims of forced marriage and trafficking such as Solidarity for Women in Distress (SOLWODI), Jadwiga, KARO (working at the Czech boarder), Terre des Femmes, Kofiza, and Women in One World among others, who also cooperate with NGOs in other countries. In each Federal State a Witness Protection Unit has been established, which is co-located with the police headquarters or other authorities and cooperates with specialized NGOs. If the police arrest a foreign prostitute and there are indications that she or he is a victim of trafficking, she or he should get access to such specialized counselling centres to obtain information on her or his legal situation, including on how to give testimony, to return home, or ask for refugee or humanitarian status.

Victims are also granted temporary residence for a period of four weeks to decide whether to testify against their traffickers or to leave. Those who decide to testify are offered temporary work permits, police protection and assistance for medical care. In order to facilitate the work of the counselling centres, the German government also plans to grant the right to refuse to give evidence in order to ensure victim confidentiality. In practice, however, victims of trafficking who are apprehended by the police often face deportation without having been informed about the possibility to collaborate with the German authorities, and without an individual examination by the competent authority of the danger of being re-trafficked upon return to their home country. UNHCR is in close contact with counselling centres and the IOM in order to help improve the situation.

¹¹¹ www.gtz.de/de/dokumente/en-svbf-infosheet-e.pdf

2) *Awareness and capacity-building*

In November 2004, in cooperation with the City of Osnabrück, the NGO Terre des Hommes hosted an international conference on child trafficking, which was attended by more than 200 participants from more than 30 different countries. Politicians, representatives from various institutions, NGOs and other specialized organizations, discussed networking and issued practical recommendations to effectively combat child trafficking.

One of the first activities of the GTZ project was a workshop on child trafficking, which took place in April 2005 in Wörrstadt near Mainz. UNHCR's implementing partner in the field of refugee children, the Federal Association for Unaccompanied Minor Refugees, took part in the congress as an expert NGO. The workshop was organized in cooperation with the Federal Criminal Office and was intended to mark a first step in finding common definitions in the field of child trafficking, statistics, referral systems and the treatment of victims.

Case Law and Legal Practice

In 2004, one girl from Albania and another from Vietnam who were both victims of trafficking were granted humanitarian protection¹¹². UNHCR also knows of several other decisions regarding female victims of trafficking. However, in no case pertaining to adult women was the applicant granted refugee status or humanitarian protection.¹¹³

In general, refugee status has so far been granted to victims of trafficking only in very exceptional cases where the person concerned was at risk of being exposed to additional persecutory measures upon return, such as in the case of a Pakistani woman who was forced into prostitution and raped by the Pakistani police when seeking help there. In a few cases, subsidiary protection was granted to actual and potential victims of trafficking, mostly minors, whereas the majority of adult victims of trafficking were denied both refugee and humanitarian status.

The new Residence Act, which entered into force in January 2005 and which replaces the Aliens Act of 1990, may, however, have a positive impact on the asylum cases of trafficking victims. The law introduces positive changes regarding the recognition of persecution at the hands of non-state actors as well as persecution on account of gender, which according to Section 60(1) of the Residence Act, will now be recognized as reasons leading to full refugee status and not, as in the past, to humanitarian status only.

UNHCR Involvement

UNHCR is in close contact with the federal and state governments as well as with NGOs in the area and has participated in various expert meetings and congresses. Input is also given to and by UNHCR's implementing partner in the field of refugee children, the Federal Association for Unaccompanied Minor Refugees. Networking to enhance lobbying efforts as well as to support the victims is one of the priorities of the UNHCR office. Together with government and NGO representatives, it is a member of various working groups on refugee women and separated children and unaccompanied minors. Interventions on behalf of the victims are also made with asylum adjudicators, as well as with the relevant authorities and social institutions. Due to a regular monitoring practice of the RSD authority, the Federal Office for Migration and Refugees, as well as the respective administrative courts and through regular contact with NGOs that care

112 FedOff dec. 5034391-121 of 09.03.2004 and FedOff dec. 5051117-432 of 26.02.2004.

113 AC Aachen, dec. 8 K 1220/02.A of 21.01.2004.

**Germany**

for victims of trafficking, UNHCR has gained quite a broad overview of asylum decisions taken with regard to trafficking cases, as well as of practical protection problems arising in this context. UNHCR has also introduced the topic in several meetings with the Federal Office to sensitize the adjudicators.

In 2004, the issue of child trafficking gained increased importance for UNHCR after various counterparts had approached it with requests for help. In two cases of minor victims, for instance, support from UNHCR was sought because the children concerned were about to be returned to another state under the Dublin II Regulation and the NGO involved wanted to ensure that the minors found the necessary protection and care in the responsible member state (both cases were still pending at the time of writing this overview).

UNHCR works in close contact with IOM on the issue of trafficking. For instance, in November 2004, the UNHCR Liaison Officer gave a presentation on trafficking in children and asylum during a workshop on human trafficking organized by IOM in cooperation with the Bavarian State Ministry of Work, Social Order, Family and Women.

Outstanding Issues

The lack of awareness that the issue of trafficking is cross-sectoral poses serious constraints. There is no political consensus on how the victims of trafficking should and could be best protected – either the focus is placed on combatting trafficking rather than protecting the victims (not only temporarily to extract evidence but in a sustainable manner), or protection is shifted from one authority to another (RSD authority, aliens authority, etc.). Training is only effective when there is a readiness to take on responsibility for the victims.

Despite the agreements between the police and NGOs and instructions to police officers, victims of trafficking are often seen as illegal immigrants who have committed a criminal offence and who should be returned home as soon as possible. It is less frequent that trafficked persons are considered to be potential victims who should get support, protection and counselling. Victims of trafficking may not get access to the arrangements in place but are placed in detention awaiting deportation without proper counselling and care.

The RSD procedure is carried out in an isolated manner, i.e. as a rule not linking the victims of trafficking to specialized asylum NGOs. Furthermore, the risks faced by the victims upon return to their countries of origin are often not examined.

UNHCR has become aware of some cases of minor victims of trafficking who first stayed in another European country and who now face a return to that member state under the Dublin II Regulation. It is not examined whether the minors will be provided with special care and protection upon transmission to another Member State.



Other Resources

- Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)
www.gtz.de/traffickinginwomen
- Terre des Hommes www.tdh.de

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Germany



Greece

Greece

Overview and Profile of Victims

Greece is a transit and destination country for persons trafficked for the purposes of sexual exploitation and forced labour. Most victims come from Eastern European countries and the former Soviet Union, including Ukraine, Russia, the Republic of Moldova, Bulgaria, Albania and Romania. The majority of children trafficked for forced labour originate from Albania. Some cases of transiting to Italy, Cyprus, Turkey and the Middle East were reported.¹¹⁴

Over the past decade the number of persons, especially women from Central and Eastern Europe, engaged as sexual workers in Greece, has been steadily increasing. According to the U.S. Department of State, NGOs estimated that approximately 13,000 to 14,000 female victims of trafficking were in the country at any given time.¹¹⁵

Legal Framework

International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

Procuring, exploitation for prostitution, purchasing of sexual services from minors and trafficking in persons for the for the purpose of sexual exploitation, forced labour, and removal of organs are criminalized by the Greek Criminal Code (Articles 323, 323A, 349, 351 and 351A), with penalties of up to 10 years imprisonment and fines. When a victim of trafficking is a minor or other aggravating circumstances are present (e.g. abuse of authority by an officer on duty), the sentence is a minimum of 10 years. Greek Law No. 3064/2002 further extends the above list of criminal offences by including the recruitment of minors for the purpose of using them in armed conflicts. Emphasis is also given to the protection of vulnerable groups, and children in particular, from any kind of exploitation.

Under the current law the prosecutor is responsible for recognizing a person as a victim of trafficking and defining the kind of assistance and protection that should be offered, as well as the agency to provide such assistance. Subsequently, the victim can seek to obtain a temporary residence permit from the regional authorities. It is usually the police who would, upon arrest, ask the prosecutor to determine whether a person is a victim of trafficking. However, it was also pointed out during the Roundtable on Trafficking and Asylum, convened by UNHCR and IOM in February 2004, that prosecutors are not always aware of this responsibility or how to operationalize it.

¹¹⁴ U.S. Department of State, Trafficking in Persons Report 2004.

¹¹⁵ U.S. Department of State, 2004 Country Reports on Human Rights Practices.

Implementation

By Presidential Decree No. 233/2003, an inter-ministerial committee on trafficking was established chaired by the Secretary General of the Ministry of Justice. Other ministries responsible for combatting human trafficking are the Ministries of Health and Social Solidarity, Public Order, and Foreign Affairs, with support from the Ministries of Interior, Equality, Economy and Finance, Education, and Employment and Social Protection. Two prosecutors were designated to deal with trafficking cases.¹¹⁶

On August 4, 2004, a National Action Plan to fight human trafficking (NAP) was adopted. Its most important elements are the creation of two shelters that are funded and administered by the state and the provision of funds to five lawyers' associations around the country to provide legal counselling to victims of trafficking. Plans were also included for new public awareness campaigns, the creation of a national database on trafficking, facilitating victim recognition, the provision of residence permits and training programmes. The NAP, however, did not include any references to asylum.

During 2004, the Greek law enforcement agencies participated in the Southeast European Cooperative Initiative (SECI) Regional Anticrime Centre's region-wide anti-trafficking effort called Mirage 2004.¹¹⁷

In July, 2005 a memorandum of cooperation was signed between UNCHR and Greek Ministry of Interior, Public Administration and Decentralization represented by the General Secretariat for Equality. The memorandum addresses the rights of refugee and asylum seeker women and girls arriving in Greece and includes a joint action plan, defining the responsibilities of the parties.

An agreement on the protection of unaccompanied children, trafficked children and the children at risk of being trafficked is currently being drafted between Albania and Greece. The future agreement would cover only Albanian minors and would address issues such as criminal prosecution, prevention and child protection. The draft agreement has been distributed to various NGOs and inter-governmental organizations for views and feedback.

Response/Prevention*1) Assistance and support to victims of trafficking*

Anyone possessing victim status is automatically entitled to protection and assistance under the Greek law. The Greek Council for Refugees and several NGOs (e.g. Arsis, Klimaka) provide legal counselling to asylum-seeking women victims of trafficking and to separated children. Furthermore, victims are entitled to free and immediate medical and pharmaceutical care by the services of the national health system, for as long as protection and assistance measures are in force. However, due to the lack of effective screening and referral mechanisms, many potential victims of trafficking do not receive legal status and are arrested and deported.¹¹⁸

In 2004, the Ministry of Foreign Affairs provided funds for the implementation of anti-trafficking projects and three new government-run shelters were opened. A few NGOs have been running shelters and operating hotlines for trafficking victims. The government also has a 24-hour hotline for trafficking victims.¹¹⁹

116 supra note 145

117 Idem

118 supra note 144

119 supra note 145



Greece

2) Awareness and capacity-building

The government supports NGOs that organize trafficking awareness raising activities.¹²⁰

Case Law and Legal Practice

To date, no one has been granted refugee status in Greece on the grounds of trafficking.

UNHCR Involvement

UNHCR is increasingly becoming concerned with women victims of trafficking who may be in need of international protection and it has made a concerted effort to sensitize the authorities to the trafficking/asylum nexus. UNHCR's ongoing refugee law training seminars for police, coast guards, lawyers, judges, public prosecutors and local authorities in Greece address trafficking. In February 2004, a roundtable was convened by UNHCR and IOM on the relationship between trafficking in human beings and asylum. Specifically, there was discussion as to what extent a victim of trafficking can qualify as a refugee, and in such a case, what referral mechanisms should be put in place, what kind of information should be provided and what type of protection should be afforded.

UNHCR has recommended that the relevant Greek authorities, together with the IOM, UNHCR and other organizations, improve the identification and reception system for women and children victims of trafficking and violence, including potential asylum seekers. A referral system for specialized governmental and non-governmental organizations for assistance, protection, housing and medical needs should be set up¹²¹.

In June 2005, UNHCR, in cooperation with the Greek Ombudsman, launched guidelines on the treatment of separated children seeking asylum in Greece. It is hoped that these guidelines, which are based on the Statement of Good Practice of the Separated Children in Europe Programme (SCEP), as well as the Directive 2003/9 of the European Commission on minimum standards for the reception of asylum seekers, will be adopted and implemented by the Greek Government.

Outstanding Issues

During visits to a migration detention centre for women in Athens (Amygdaleza), UNHCR observed that foreign women detainees include those who have been arrested as dancers or undeclared sex workers. Some of them have applied for asylum. However, police eligibility officers are unwilling to consider such asylum claims as genuine, because doing so would encourage ever more women to apply for asylum. The authorities fear of opening a gate for the legal stay of illegal sex workers in Greece.

Gaps in Greek legislation remain in the identification of newly arrived persons (accompanied or unaccompanied) below the age of 18, in the appointment of a legal guardian for such minors and in the search for durable solutions for them.¹²²

An increasing number of separated children are not identified as such; instead they are placed in detention and after their release are not referred to any protective institution. The whereabouts of most are thereafter unknown.

120 supra note 145

121 UNHCR Position on Important Aspects of Refugee Protection in Greece, UNHCR Greece, November 2004.

122 supra note 151



Greece

Other Resources

- Hellenic Ministry of Foreign Affairs, www.mfa.gr
- Hellenic Red Cross, www.redcross.gr
- National Youth Foundation, www.ein.gr
- Médecins Sans Frontières Greece www.msf.gr
- International Organization for Migration www.iom.gr
- Greek Council for Refugees www.gcr.gr

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Hungary

Hungary

Overview and Profile of Victims

Hungary is mainly an origin and transit country for trafficked women and children. Foreign nationals are trafficked from Russia, Romania, Ukraine, the Republic of Moldova, Bulgaria and the Balkans to Western Europe and the United States for sexual exploitation.¹²³ Hungary has also been identified as destination country for trafficked women and children. It is alleged that Romanian, Ukrainian and Chinese victims, predominantly females, are trafficked into the country for sexual exploitation. There are also reports of Romanian children trafficked to beg in the streets. Hungarian girls and women are believed to be trafficked to Italy and the Netherlands for sexual exploitation.

Despite the legislative provisions against trafficking, between 1998 and 2003 not a single person was sentenced for the crime. This triggered considerable criticism from the EU and the US Government. Recently, increased cooperation between US and Hungarian NGOs and state agencies has been developed to improve Hungary's skills both in the field of prevention and response. In 2004, 38 individuals were sentenced on trafficking charges in the courts.

Generally, the authorities and the public tend to ignore or blame the victims rather than the traffickers for these crimes. Victim protection is still in a nascent stage.

Legal Framework

International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National Law:

Section 175/B of the criminal code defines trafficking activities. Trafficking is punishable by up to life imprisonment depending on the circumstances, purposes and methods. Seventy cases have been brought to court since 1999 after trafficking in human beings was defined in the criminal code as crime in 1998. The main difficulty faced by law enforcement bodies is related to the substantiation of the crime committed.

Victim protection is underdeveloped in Hungary. There is no act of parliament or a government decree on the protection of victims. Instead, the protection of victims is regulated through several provisions under different legal instruments that have been introduced since 1999.

As a result of the 300,000 persons per year who fall victim to serious criminal acts in Hungary, the government has adopted a victim

¹²³ U.S. Department of State, Trafficking in Persons Report 2004.



protection strategy that received parliamentary approval, along with a countrywide network for victim protection under the responsibility of the Ministry of Interior. This countrywide protection strategy also covers, in principle, victims of trafficking and smuggling. The measures for the protection of victims include, among other things, psychological counselling and support, as well as the issuance of temporary residence permits. However, due to the lack of efficiency of the system, victims of trafficking are ignored in most cases.

Implementation

The Hungarian government is actively supporting UNODC's Anti-Human Trafficking Unit's Regional Project against Trafficking and Sexual and Gender-based Violence by earmarking its 2004 contribution to UNODC.

The National Police has been charged with investigating trafficking crimes, while smuggling in human beings is covered by the National Border Guards. As of July 2004, a 10-person task force was established by the government within the National Police headquarters to investigate and prosecute cases of human trafficking. Since then, 41 cases have been brought to the courts under Section 175/B of the criminal code.

In September 2004, Vital Voices Global Partnership, an American NGO, and Women for Women – Together against Violence (NANE), in conjunction with the Hungarian National Judicial Council and the Hungarian Ministry for Equal Opportunities started to implement strategies for combatting human trafficking and domestic violence.

Hungary has been involved in several regional initiatives beyond the EU harmonization and the Council of Europe initiatives. There are two sub-regional initiatives, which address, *inter alia*, issues related to trafficking such as the Budapest Process and the Söderköping Process. These initiatives look mainly at illegal and unlawful migration, including trafficking and smuggling. In addition, in 1992 Hungarian border guards initiated a worldwide cooperation network. The Siofok International Conference on Border Guarding, involving 66 countries and 27 international agencies, included trafficking and smuggling in its agenda.

Response/Prevention

1) Assistance and support to victims of trafficking

The Hungarian Baptist Aid (HBA) runs the only shelter for victims of trafficking in Hungary. The cooperation agreement signed by the Office of Immigration and Nationality (OIN) and the HBA in March 2005 covers an initial period of eight months and is financed by US sponsors. The project aims at offering a safe haven for up to 64 victims of trafficking.

The Ministry of Youth, Social and Family Affairs and Equal Opportunities provide a free 24-hour hotline for victims of trafficking and domestic violence. NANE, the local NGO mentioned above, operates a hotline for victims of violence. Recently, NANE extended its mandate and responsibility to cover victims of trafficking.

2) Awareness and capacity-building

IOM conducts awareness raising campaigns and training activities on trafficking, including intense media involvement. In April 2004, IOM organized a 10-day workshop on the prevention of and response to trafficking for selected police and border guard officers, judges, refugee status determination officers and NGO representatives. The workshop had a training of trainers component in order to multiply its impact

Hungary

**Hungary**

through follow-up workshops. Some of the participants were selected for a study visit to Brussels.

NANE has been an implementing partner of IOM in awareness raising campaigns and training activities and has been the engine of a partnership programme with Vital Voices Global Partnership. NANE also provides parallel NGO reporting to CEDAW on the situation of women in Hungary.

Case Law and Legal Practice

Only one relevant case has been reported to date. In 2004, the Office of Immigration and Nationality considered the case of a female Ukrainian asylum-seeker who was a victim of trafficking for sexual exploitation. Unfortunately, the applicant absconded before the final RSD decision was reached and consequently the procedure was discontinued.

UNHCR Involvement

UNHCR includes the issue of trafficking in its annual protection monitoring missions. Interviewing techniques and skills training workshops held in 2004 and 2005 incorporated a component on how to interview victims of trafficking based on the WHO Ethical and Safety Recommendations for Interviewing Trafficked Women. The OHCHR document, Recommended Principles and Guidelines on Human Rights and Human Trafficking, was translated into Hungarian and distributed widely among UNHCR's implementing and operational partners. The training of social workers - both regular and those dealing with separated children seeking asylum - includes an awareness raising element on trafficking.

A pilot project was initiated in 2003 to implement UNHCR's Guidelines on the Prevention of and Response to Sexual and Gender-Based Violence. Within the framework of this pilot programme, a gender advisor was contracted to provide support for UNHCR's implementing partners. This expert from NANE has conducted training for the project staff (governmental, non-governmental, legal and non-legal) to raise awareness on trafficking. Furthermore, within the framework of this pilot, a friendly interview environment was established in 2004 with UNHCR funds to interview traumatized asylum seekers, including victims of trafficking. A protection workshop for RSD officers, held in 2004, on the grounds of persecution included training on how and when a victim of trafficking can qualify as a refugee.

Outstanding Issues

Information received from the Hungarian Helsinki Committee suggests that access to territory and RSD procedures is problematic for asylum seekers wishing to enter or who are staying unlawfully in Hungary. UNHCR's own experience gathered through monitoring missions to Hungary's external borders and to detention facilities confirm this observation.

The fact that far fewer applications for asylum were registered in Hungary in 2004 as compared to the number of new applications in neighboring countries, (especially in Slovakia and Austria), raises the question whether access to the territory and to the RSD procedure is unhindered in Hungary. While access both to the territory and asylum may be a problem, there may be also be other reasons for the significant decrease in asylum applications. A possible factor could be the efficient work of the Hungarian Border Guards, who have diverted trafficking and smuggling routes to the north and south of Hungary.



Beyond the expressions of political willingness to combat human trafficking through the accession to all relevant instruments, there have been serious handicaps in actual implementation. Heavy and ineffective government bureaucracy, little cooperation among government agencies, a lack of financial resources to implement protection mechanisms as well as a notorious lack of interest to address the human rights dimension of the problem are the main issues to be addressed.

In the context of RSD, asylum seekers, including victims and potential victims of trafficking, are usually interviewed by four different authorities, out of which three have the explicit aim of crime control. In the absence of specific safeguards, there is a risk of revictimization when trafficked persons are requested to provide evidence against traffickers without being protected against possible consequences.

Other Resources

- NANE Women's Rights Association www.nane.hu
- International Organization for Migration www.iom.hu

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Hungary



Ireland

Ireland

Overview and profile of victims

Ireland is a destination and transit country of for victims of trafficking. According to the information available to UNCHR, no official and publicly accessible statistics or estimates exist in Ireland regarding the total number of trafficking victims or the routes used for trafficking. Indications are that victims of trafficking in Ireland are women, girls and boys, predominantly trafficked for sexual exploitation.

In June 2003, the Garda Síochána (police), investigated allegations of the trafficking of women into Ireland for exploitation in the sex industry. All lap-dancing clubs situated in major cities throughout Ireland were searched and over one hundred females were arrested under the aliens' legislation. However, as soon as their identity had been established they were released. A number of management and key personnel of these clubs are being prosecuted. The women, coming from a range of different countries, had been completely dependant and under constant control of the club management and owners, as well as in financial debt to the clubs for the money spent on bringing them to Ireland. According to the Garda, the clubs could no longer seek work permits for non-EU nationals working there and had asked the women to register as students. Ruhama NGO also reports of examples where women have registered themselves or have been registered by the trafficker in the asylum system in order to regularize their stay in Ireland. Such asylum applications would, more often than not, be incorrect and submitted under an incorrect nationality.

The situation of unaccompanied children arriving in Ireland also causes concern, as up to 80% of them are reunited with persons claiming to be relatives but who are not their immediate family members, which raises suspicions that the children may have been trafficked. The nationalities of the children today follow more or less the top five asylum seeking nationalities in Ireland¹²⁴. During 2004, a number of cases were identified of unaccompanied or separated children being trafficked into Ireland, either destined for a prostitution ring or in transit to prostitution rings abroad.

Legal Framework

International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

¹²⁴ In 2003, the top five asylum seeking nationalities in Ireland were Nigeria, Romania, DR Congo, Moldova, and the Czech Republic; in 2004: Nigeria, Romania, Somalia, China, Sudan.

National legislation:

The Illegal Immigrants (Trafficking) Act from 2000 provides that anyone who organizes or facilitates the entry into the state of a person whom he or she knows to be an illegal immigrant will be guilty of an offence punishable on conviction to an unlimited fine or up to 10 years in prison or both. Additionally, the means of transport used for trafficking illegal immigrants into Ireland may be forfeited to the state.

Of importance are also the Childcare Act from 1991, which governs the care of separated children and the Child Trafficking and the Pornography Act from 1998, which contains a series of measures to deal with the trafficking and sexual exploitation of children and establishes penalties of up to life imprisonment.

National legislation, however, does not include provisions for the protection and care of victims of trafficking, nor does it provide for a recovery and reflection phase during which victims are not subject to deportation orders and while they decide whether they wish to return to their country of origin or opt to stay in Ireland. With regard to a (temporary) legal status of victims of trafficking, the only options under current legislation are general immigration provisions and the possibility that the Humanitarian Leave to Remain may be applicable at the discretion of the Minister for Justice, Equality and Law Reform.

Implementation

Currently no national referral or coordination mechanism exists in Ireland, nor is there a national plan of action in place.

IOM pursues anti-trafficking activities and UNHCR and IOM are currently discussing whether and how to cooperate more closely on trafficking issues further to the good working relationship already existing between the two organizations.

In November 2000, an informal forum named *Ireland en Route* (IeR) was established with the objective of sharing information, pooling ideas and learning about all aspects of trafficking in women and children for sexual exploitation in Ireland. More specifically, the aims of the forum are to raise awareness, to explore the nature and extent of the subject, and to promote the development of best practices and policies. IeR is comprised of inter-governmental (IOM) and statutory agencies (e.g. the Unaccompanied Minors Unit and Women's Health Project of the Eastern Health Board, the Garda (Police) National Immigration Bureau), NGOs (including the Irish Refugee Council and Immigration Council of Ireland), and academics. These actors work separately and jointly to address the problem of trafficking. The fact that the mandate is limited to trafficking of women and children for the purpose of sexual exploitation is reflective of the current profile of the problem of trafficking in Ireland. Another reason may also be that the mandate of the NGO (*Ruhama*) initiating the forum is focused on assisting women forced into prostitution.

UNHCR has been informed that there is currently some difficulty within IeR deciding on the direction for the forum's work due to the many actors involved. UNHCR is currently assessing whether increased UNHCR activities to address trafficking in Ireland would best be channeled through IeR or through tripartite cooperation with the Government and IOM.

The Irish Human Rights Commission also looks closely at the issue of trafficking and participated in the preparation of the 2004 *Berlin Declaration* of national human rights institutions setting out a series of recommendations for governments and other actors to combat

**Ireland**

trafficking. One recommendation for national human rights institutions is that they should form a monitoring body on the implementation in practice and law at the national level of international and regional standards affecting the protection against trafficking.

Other organizations based in or working out of Ireland, such as the Franciscans International and Trocaire, also look at the subject of trafficking from the international perspective.

Trafficking in women and girls constituted one of the themes during the Department of Foreign Affairs' Sixth Annual NGO Forum on Human Rights in 2004. Among recommendations put forward by the Forum's rapporteur on trafficking were the following:

- the government classify trafficking as a human rights violation and not treat it as a matter of immigration control only;
- the government raise awareness and understanding about what trafficking entails and establish a national rapporteur;
- the government widely ratify and implement domestically international instruments tackling trafficking;
- underlying factors, such as poverty and impunity, must be addressed;
- proper training of law enforcement agencies must be carried out; and,
- adequate support and protection must be provided to trafficking victims.

Response/prevention*1) Assistance and support to victims of trafficking*

Shelter and counselling of victims of trafficking seem to be entirely left to humanitarian and charity organizations in Ireland, such as Ruhama and the Rape Crisis Centre. There are no safe houses designated for victims of trafficking. According to Ruhama, this is of grave concern because the mere request by trafficked persons for help and assistance may jeopardize their safety.

2) Awareness and capacity-building

IOM is generally involved in anti-trafficking measures in Ireland and currently implementing a project entitled Training of Border Guards, Border Police and Custom Officials in Identifying and Providing Assistance to the Victims of Trafficking, funded by the European Commission. The purpose of the project is to reinforce cooperation between border police, law enforcement officers, customs' officials and immigration liaison officers in the EU member states, candidate countries and third states, to improve mutual knowledge and intelligence sharing and to foster the implementation of international and European standards with regards to the screening, identification and protection of trafficking victims. The project consists of research on the existing national legal and policy framework in the participating countries; two steering committee meetings and the organization of three training workshops, the first which will be held in Dublin in September 2005 are in the plan.

Trafficking is an integral part of UNHCR's RSD training for asylum institutions. The first and second instance decision-making authorities in Ireland (Office of the Refugee Applications Commissioner – ORAC, and the Refugee Appeals Tribunal - RAT) apply UNHCR's guidelines on SGBV including as they relate to trafficking. ORAC has prepared a resource paper on gender-related persecution drawing also on the United Kingdom and Canadian gender guidelines. They also include in their database the UNHCR study called Comparative Analysis of Gender-related Persecution in National Asylum Legislation and Practice in Europe. All ORAC caseworkers, RAT Tribunal Members and most

solicitors from the Refugee Legal Service (RLS) have received advanced training from UNCHR along with other organizations about how to deal with gender specific issues, including trafficking.

Case law and legal practice

In some cases, refugee status has been granted for claims based on trafficking. Detailed information in this regard has, however, been difficult to access, mainly due to the fact that decisions are not currently published in Ireland. The predominant 1951 Convention ground applied in these cases is membership of a particular social group, while real or imputed political opinion is also considered in some cases.

UNHCR Involvement

UNHCR's role has so far been one of training, monitoring and reporting. Now that the issue is becoming increasingly pressing the office is looking to address it more proactively with the government, IOM and NGOs. The immediate objectives for UNHCR are to ensure continued access by the victims of trafficking to the asylum procedure and that asylum institutions continue to understand how trafficking should be assessed in the context of RSD. In addition, UNHCR will encourage government authorities to monitor the situation of unaccompanied and separated children who are unified with persons claiming to be relatives but who are not their immediate family members. Follow-up should be carried out to ensure these children do not end up in situations of abuse or exploitation.

Outstanding Issues

It is a difficult challenge for Ireland to convince the government to put the subject of trafficking on the agenda and persuade the government to look at the issue as a human rights violation that should not be approached solely from an immigration control angle. The Government should set out to prevent trafficking in cooperation with other countries and with international governmental and non-governmental organizations, prosecute those responsible for trafficking and ensure care and protection for the victims of trafficking.

The lack of systematic information gathering in mapping out the phenomenon of trafficking in Ireland, including the consequences for victims, seems to make it difficult if not impossible to address trafficking in an appropriate and effective manner both nationally and with regard to Ireland's participation in international anti-trafficking efforts. Ruhama, dealing *inter alia* with victims of trafficking, claims that the lack of resources and coordination on this issue is rooted in a general denial of its existence.

Other Resources

- Proceedings of the 6th annual forum on human rights as organized by the Irish Department of Foreign Affairs under the annual theme of "Women and Human Rights".¹²⁵
- Trafficking in Unaccompanied Minors in the European Union Member States- Ireland. Research Summary. Research Report prepared for the International Organization for Migration by Dr. Pauline Conroy, Ralaheen Ltd, Dublin.
Available at: www.iomdublin.org/REPORT%20SUMMARY.pdf

¹²⁵ The Department of Foreign Affairs: Sixth Annual NGO Forum on Human Rights, Croke Park, 4 December, 2004. Available upon request from UNHCR Dublin or the Department of Foreign Affairs, Human Rights Unit, Iveagh House, 80 St. Stephens Green, Dublin 2, Ireland.



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Italy

Italy

Overview and Profile of Victims

Italy is a destination and a transit country for women and children trafficked for the purposes of sexual and labour exploitation, mainly from Nigeria, Romania, the Republic of Moldova, Ukraine, and Albania, but also from Russia, Bulgaria, Africa, China, and South America. According to the estimates from a social research institute (PARESC) based in Italy, there were about 2,000 to 3,000 new trafficking victims in Italy in 2004.¹²⁶

Legal Framework

International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

In 2003, the Italian Parliament approved Law 228/2003, Measures against Trafficking in Persons, which incorporates the trafficking definitions of the Palermo Trafficking Protocol¹²⁷ and establishes penalties for traffickers ranging from 8 to 20 years of imprisonment. If the offence is committed against a minor, the penalties are increased. This law was published in the Official Gazette of 23 August 2003, and amended Articles 600, 601 and 602 of the penal code, which criminalize trafficking for the purpose of sexual exploitation, begging and the trade in human organs.¹²⁸

Article 18 of the Immigration Law 286/98 provides for the granting of a special stay permit to foreigners who have suffered abuse or severe exploitation. This permit also gives a victim the right to work, study and to access social and health services in Italy. However, the victim is required to either bring charges against the traffickers or to provide information that could be used for a possible prosecution of the traffickers or for combatting trafficking in general. Article 18 also provides for the creation of a special anti-trafficking fund, comprised of assets confiscated from traffickers, to be used to finance assistance and protection programmes for trafficking victims.¹²⁹

Implementation

An inter-ministerial committee for the implementation of Article 18 was established, with the responsibilities to conduct annual evaluations and to co-finance projects implemented under the Article. The Committee supports nationwide programmes.

126 U.S. Department of State, Trafficking in Persons Report 2005.

127 Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

128 Altamura, A., O'Brian, M., Trafficking in Children for Sexual Purposes, Update Country Report: Italy. Available at: www.ecpat.net/eng/Ecpat_inter/projects/promoting_law/East-West_Research-2004/Italy_ENG.pdf

129 Idem

**Italy**

The Committee is chaired by the Ministry of Equal Opportunities and includes representatives from the Ministries of Labour and Social Policies, Interior, and Justice.¹³⁰ A special anti-trafficking unit was established within Italian police with the task to enforce national anti-trafficking laws.¹³¹

From September 2002 to April 2004, the Ministry of Foreign Affairs carried out a pilot project programme, intended to improve the country's efforts in combatting the trafficking of persons from Nigeria. As part of the programme, research was conducted on trafficking and existing counter-trafficking responses in Nigeria and Italy; trainings for Nigerian law enforcement officials were carried out and awareness raising campaigns along with pilot micro-credit activities in Edo State, Nigeria, were organized.¹³²

A Memorandum of Understanding (MoU) was signed between Italy and Nigeria to improve the countries' cooperation in anti-trafficking activities. The second MoU was issued in 20 January 2004.¹³³

Response/Prevention*1) Assistance and support to victims of trafficking*

Using the financial resources provided for under Article 18, shelters were opened to provide assistance to victims of violence and sexual exploitation. These financial resources have also been available to various NGOs to carry out prevention programmes.¹³⁴ The Ministry of Equal Opportunity sponsors a hotline for potential trafficking victims.¹³⁵

2) Awareness and capacity-building

The government provided funding for information campaigns conducted in various countries of origin. From November 2002 until December 2003, pilot assistance projects in Turin and Piedmont were carried out by a local NGO called Tampep-Onlus for UNICRI's Programme of Action against Trafficking in Minors and Young Women from Nigeria into Italy for the Purpose of Sexual Exploitation. The project aimed to improve Nigerian victims' social integration and to provide assistance in accessing social protection programmes.¹³⁶

Case Law and Legal Practice

A few cases, mainly female asylum seekers from Nigeria, have been granted refugee status, however never solely on trafficking-related grounds, but also on other 1951 Convention grounds.

UNHCR Involvement

UNHCR is lobbying for the adoption of comprehensive asylum legislation. There is no need for UNHCR to lobby for a new law on trafficking or for amendments of the existing law.

Outstanding Issues

Competent persons and institutions dealing with trafficking issues identified the following issues as major concerns: the limited possibilities to extend protection to family members in the countries of origin of victims collaborating with the Italian authorities, the difficulty

130 IOM, *Trafficking in Migrants*, Quarterly Bulletin No.26, September 2002. Available at: www.iom.int/documents/publication/en/tb26.pdf

131 www.crime-research.org/articles/Mohamed2/4

132 www.unicri.it/www/trafficking/nigeria/index.php

133 www.unicri.it/www/trafficking/nigeria/memorandum.php

134 *supra* note 158

135 www.state.gov/g/tip/rls/tiprpt/2003/21276.htm

136 www.unicri.it/www/trafficking/nigeria/streetunits.php



to properly disseminate information about the possibilities of denouncing their traffickers as well as the related forms of protection offered by the state.

Other Resources

- Ministry of Equal Opportunities www.pariopportunita.gov.it
- Ministry of Interior www.interno.it
- Ministry of Foreign Affairs www.esteri.it/eng/
- On The Road Onlus www.ontheroadonlus.it
- Partners of Life Project www.life-torino.it
- Centro Studi Immigrazione onlus www.cestim.org/
- Nuove Schiavitù www.nuoveschiavitu.it

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Italy



Luxembourg

Luxembourg

Overview and Profile of Victims

There are no official reports of persons trafficked to, from, or within Luxembourg.

According to the U.S. Department of State Trafficking in Persons Report 2005, Luxembourg is a destination country for women trafficked from Eastern Europe for the purpose of sexual exploitation.¹³⁷

Until 2004, the government granted "artist visas," valid for 1 month, to nearly 1,000 women a year to work as performers in cabarets, under an "artist contract". To obtain the visas, the women had to sign a contract in their own language regarding their rights and received an emergency telephone number to call if needed. Later, information emerged that some of the dancers were pressured into prostitution to earn additional income to pay back airfares, insurance and agency fees both for themselves and family members. It was suggested that traffickers used this guise to import foreign women to the EU via Luxembourg.

Pursuant to a recommendation by the Commissioner for Human Rights at the Council of Europe, the artist visa programme was ended in May 2004. The termination of the programme was meant to prevent the trafficking of women. As a result, approximately 700 women lost their right to remain in Luxembourg to work in cabarets and bars and were required to return to their home countries.

Legal Framework

International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

The law of 31 May 1999 provides for measures against trafficking in human beings and against the sexual exploitation of children. The criminal code and the code of criminal procedure were amended by the creation of Chapter VI: Prostitution, Exploitation of and Trafficking in Human Beings. The offences listed in Article 379bis of the criminal code are punishable by up to 10 years' imprisonment. The law sets criminal penalties for adults who traffic children, facilitate child persecution or exploit children through pornography. Luxembourg's criminal jurisdiction is extended to citizens and residents who engage in such activities abroad.

¹³⁷ U.S. Department of State, Trafficking in Persons Report 2005.



Implementation

In November 2003, the Luxembourg government organized a working group to determine whether trafficking presented a significant problem in the country and whether there was a link between trafficking and prostitution, as well as to propose possible initiatives to combat trafficking if necessary. In 2003, three roundtables pertaining to treatment of women also were organized, during which the issue of trafficking was discussed.¹³⁸

Response/Prevention

1) Assistance and support to victims of trafficking

The government does not offer assistance to victims of trafficking; however, it gives funding to NGOs that provide shelter and counseling services to women in distress.¹³⁹

2) Awareness and capacity-building

According to the 2003 Report by the Ministry for the Promotion of Women, (now the Ministry for Family and Integration), awareness programmes have been run for victims of domestic violence although not specifically targeting trafficked victims. The awareness programmes included poster displays at strategic locations around the city.

On 25 September 2003, the Grand Duchess attended a discussion and film showing on trafficking.

Case Law and Legal Practice

UNHCR is not aware of any case law where victims of trafficking were granted asylum.

UNHCR Involvement

UNHCR has not recently been involved in any trafficking related activity in Luxembourg.

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¹³⁸ U.S. Department of State, 2003 Country Reports on Human Rights Practices.

¹³⁹ U.S. Department of State, 2004 Country Reports on Human Rights Practices.


**The
Republic of
Moldova**
The Republic of Moldova
Overview and Profile of Victims

The Republic of Moldova, including the border region of Transnistria, (which is not under the central government's control), is a major source country for women and children trafficked for the purpose of sexual exploitation to European countries, particularly to the Balkans, along with Turkey and the Middle East. Trafficking of Moldovan men and children for forced labour and begging to other countries in the region and to Russia has been reported, as well as the trafficking of Moldovan victims for the removal of organs. The Republic of Moldova is increasingly becoming a transit country for women and girls trafficked from Romania, Ukraine and other Eastern European countries, and a destination country for persons trafficked internally and from neighbouring countries for exploitation in the growing sexual tourism market.¹⁴⁰

IOM reported to have assisted 1,230 trafficking victims in the Republic of Moldova from 2000 to 2004. La Strada Moldova and Save the Children Moldova (Salvati Copii) have assisted victims from various destination countries. According to La Strada, it provided assistance to 101 victims between January 2002 and March 2004, while Save the Children reported to have assisted 74 victims in 2003.¹⁴¹

Legal Framework
International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	-

National law:

The Moldovan criminal code was revised in June 2003 and definitions and penalties were added for trafficking in persons (Article 105/2) and, separately, for trafficking in children (Article 224, Article 113/1). Trafficking for the purpose of sexual or non-sexual exploitation is prohibited and penalties range from 7 to 10 years' imprisonment. Penalties are increased up to life imprisonment for severely aggravating circumstances.¹⁴²

A witness protection law adopted in 1998 covers trafficking victims, providing for various protection measures including provision of a new identity.¹⁴³

¹⁴⁰ IOM, Changing Patterns and Trends of Trafficking in Persons in the Balkan Region, IOM Counter-Trafficking Service, July 2004. Available at: www.iom.md/studies-reports.html

¹⁴¹ Idem

¹⁴² U.S. Department of State, Trafficking in Persons Report 2004.

¹⁴³ supra note 167



Implementation

In November 2001, the National Committee of Counter-Trafficking in which representatives from 15 governmental agencies participate was established.¹⁴⁴ In 2003, the National Committee created four working groups, with the participation of international organizations, to address issues of legislative reform, child trafficking, reintegration of victims and prevention.¹⁴⁵

In 2003, the Moldovan government restructured the Organized Crime Department by setting up 37 regional offices in the country with an anti-trafficking unit in each office. With funding from the OSCE and the Council of Europe, the government also provided specialized training for trafficking investigators.¹⁴⁶ There are plans to establish a European Regional Centre for Combatting Trafficking in the Republic of Moldova in 2005.

The Republic of Moldova participated in a SECI Human Trafficking Task Force and cooperated with Interpol, as well as the governments of Belarus, Ukraine and Russia in investigating trafficking cases.¹⁴⁷

Response/Prevention

1) Assistance and support to victims of trafficking

There are no government-run assistance programmes for trafficking victims in the Republic of Moldova. Assistance is provided mainly by various NGOs. IOM operates women's shelter, providing temporary emergency housing, medical, psychological and legal assistance and job training.¹⁴⁸

2) Awareness and capacity-building

In 2003, IOM started a programme providing information on how to avoid exploitation for persons wishing to work abroad. IOM also launched a one-year information campaign around the film *Lilya 4-ever* which portrays the realities of trafficking. The campaign also promotes the counter-trafficking information hotline operated by *La Strada*.¹⁴⁹

Case Law and Legal Practice

UNHCR has not encountered any cases of trafficking victims being granted refugee status in the Republic of Moldova.

UNHCR Involvement

Currently, UNHCR is not involved in any direct activity to prevent or combat trafficking in the Republic of Moldova, although the office participated in the elaboration of the legal framework.

Since 1998 UNHCR has assisted several victims of trafficking in their repatriation. Later on, this function was taken over by the NGO *Save the Children*. In 2001, at the request of Ministry of Foreign Affairs, UNHCR intervened in a case of a kidnapped girl taken to the Former Yugoslav Republic of Macedonia, who was assisted with her repatriation along with implement 10 other girls found in similar situations. In 2003, at the request of the APCE's Commission on anti-trafficking, a UNHCR officer interviewed a victim who was asked to act as a witness in a criminal case.

144 supra note 167

145 U.S. Department of State, 2004 Country Reports on Human Rights Practices.

146 supra note 167

147 supra note 172

148 supra note 167

149 www.iom.md/prevention.html



**The
Republic of
Moldova**

Other Resources

- Centrul de Informare in Domeniul Migratiei www.migratie.md
- International Organization for Migration www.iom.md

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The Netherlands

The
Netherlands

Overview and Profile of Victims

The Netherlands is a transit and destination country for persons trafficked mainly from Sub-Saharan Africa, Central and Eastern Europe, and Asia. More than 40 percent of the victims come from Eastern Europe and about 10 percent from other EU member countries. The traffickers are usually foreigners who are residents in the Netherlands.¹⁵⁰

According to the European Institute for Crime Prevention and Control, the annual number of victims of trafficking for sexual exploitation is estimated between 1,000 and 3,000 women and children. The annual number of reported cases of coerced prostitution is reported to have been rising steadily: from 70-80 cases in the early 1990s, to 150-180 in the mid-1990s, and 250-300 in 2003.¹⁵¹

As highlighted in the recent ILO report, the National Rapporteur on Trafficking in Human Beings estimated 1,602 victims of forced commercial sexual exploitation in the Netherlands between 1995 and 2001.¹⁵²

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

In October 2000 the ban on brothels was lifted in the Netherlands, legalizing prostitution in order to establish better control and regularize this sector. Forced prostitution remains punishable under Dutch law.¹⁵³

Since January 2005, the definition of trafficking in persons contained in Article 273a of the Dutch Penal Code was expanded to include not only trafficking for the purpose of sexual exploitation, but also labour exploitation and trafficking for the purpose of removal of organs.¹⁵⁴ The law establishes penalties that include imprisonment for a maximum of 6 years and a fine of 45,000 Euro. In the presence of aggravating circumstances sentences increase to 8-15 years.

Persecution of traffickers may also be pursued based on other relevant provisions of the penal code, such as: Article 242 (sexual violence and

150 Lehti, M., Trafficking in women and children in Europe, HEUNI Paper No. 18, Helsinki, 2003. Available at: www.heuni.fi

151 Idem

152 ILO, A global alliance against forced labour, Geneva, 2005.

153 IOM, Protection Schemes for Victims of Trafficking in selected EU Member Countries, Candidate and Third Countries, December 2002.

154 Toelichting wijziging Vc 2000, 2005/9 en aanhef voorstel van wet.


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rape), Article 231 (forged travel documents), Article 140 (participation in a criminal organization), Article 197a (smuggling of human beings), Article 197b (illegal labour; also penalized in the Law on Economic Offences), Article 278 (abduction of human beings - *mensenroof*), Article 279 (removal of a minor from parental or state control), Articles 282 and 283 (deprivation of freedom), Article 284 (coercion), Article 285a (threats and intimidation), Article 300 (abuse), Article 317 (extortion), Article 326 (fraud). Article 274 regarding slave trading is rarely applied.¹⁵⁵

In 2000, the so called B9 Regulation was adopted with the objectives of enabling better investigation of trafficking cases and prosecution of traffickers, as well as providing protection to victims of trafficking. Under this regulation, the deportation of a trafficked person who has been sexually exploited can be postponed for a reflection period of three months, during which time the victim must decide whether she or he wants to press charges against the traffickers.¹⁵⁶ Victims of other forms of exploitation mentioned in Art 273a of the penal code are excluded from this reflection period.¹⁵⁷ If a victim cooperates, a temporary residence permit is issued for the period of one year or to cover the duration of the court proceedings in the first instance and the first appeal. The witness is only issued a residence permit for the period when, according to the Public Prosecutor, his or her presence is deemed necessary.¹⁵⁸ Upon expiration of the B9 temporary residence permit, it is possible to apply for a permanent residence permit on humanitarian (Article 3.52 Aliens Decree) or other grounds (e.g. to stay with partner).¹⁵⁹ In practice, however, most trafficking victims are deported after the end of the court proceedings.¹⁶⁰

In addition, the decision regarding the implementation of the Aliens Labour Act deals with access to the labour market by aliens. By virtue of an amendment to this decision in March 2005, victims who collaborate with the police no longer need a work permit to enter the labour market.¹⁶¹

Implementation

Prior to the legalization of prostitution in 1999, the Council of Chief Commissioners of Police set up the Project against Prostitution/Human Trafficking within the Dutch Police, which ended in December 2004.¹⁶² This nationwide police project group was created with the aim of exchanging policy and operational information, pursuing a uniform approach to human trafficking cases and collecting data on trafficking in human beings. As an outcome of this project, recommendations were issued on, *inter alia*, the consequences of extending the human trafficking section in the Dutch Penal Law and on further development of the national expert group on prostitution and human trafficking.¹⁶³

¹⁵⁵ supra note 52; Ongezien en Ongehoord, Kinderhandel in Nederland een eerste inventarisatie, Unicef Nederland i.s.m. ECPAT NL/Defence for Children International Nederland, Den Haag, augustus 2004.

¹⁵⁶ WBV 2004/19, 5 april 2004.

¹⁵⁷ supra note 53

¹⁵⁸ WBV 2004/19, 5 april 2004, p. 8.

¹⁵⁹ supra note 53

¹⁶⁰ supra note 52

¹⁶¹ Staatsblad 2005, 187, Besluit van 17 maart 2005 tot wijziging van het Besluit uitvoering Wet arbeid vreemdelingen.

¹⁶² Afsluitende Rapportage, Portefeuille Georganiseerde Criminaliteit, Project Prostitutie/Mensenhandel DNP, 5 december 2004.

¹⁶³ Idem

The Bureau of the Dutch National Rapporteur on Trafficking in Human Beings (BNRM) was founded in 1997 and started its work in 2000 after the appointment of a National Rapporteur on Trafficking.¹⁶⁴ Another position for a national public prosecutor on trafficking in human beings was created. This person was charged with the responsibility to coordinate efforts and to function as a focal point for information. Regional public prosecutors specialized in trafficking matters were also appointed. Within the Immigration and Naturalization Department (IND), the authority working under the responsibility of the Ministry of Justice and dealing with issuing resident permits under the B9 Regulation,¹⁶⁵ regional contact officers on human trafficking were also appointed.

In July 2004, the Action Plan on Structuring and Protection of the Prostitution sector containing a chapter on trafficking and prosecution of trafficking in human beings was presented to Parliament.¹⁶⁶

The National Action Plan on Human Trafficking (NAP) was presented to Parliament in December 2004.¹⁶⁷ The Formal Note on illegal migrants (*Illegalennota*), supplementary to the NAP, mentions the importance of taking into account victims of trafficking when combatting illegal immigration.¹⁶⁸

Response/Prevention

1) Assistance and support to victims of trafficking

Assistance and support are provided to trafficking victims during the reflection period and also as soon as they receive a B9 permit. Trafficking victims may also claim compensation independently of a civil claim from the Government Fund for Victims of Violent Crime, which is not composed of the forfeited trafficker's assets.¹⁶⁹

Stichting Tegen Vrouwenhandel – the Foundation against Trafficking of Women (STV) is officially designated to prevent and combat human trafficking and to provide support, including shelters and housing to trafficked women. In 2004, 405 victims of human trafficking requested support from STV, compared with 257 applications in 2003. STV provides support to various NGOs working with trafficking victims in the Netherlands.¹⁷⁰ STV also represents the Netherlands within the La Strada network - an international group of nine independent NGOs which aim to prevent and suppress the trafficking in persons.¹⁷¹

The Bonded Labour in the Netherlands (BLinN) programme, established in 1999, is a joint initiative of two NGOs, Humanitas and Novib. It supports women who are victims of trafficking and have been forced into prostitution or other bonded labour situations. Currently, research is being conducted by BLinN to clarify whether the B9 Regulation is applied to victims of trafficking who are detained, for example, at the border points.¹⁷²

164 Idem

165 supra note 52

166 Idem

167 Idem

168 National Action Plan Human Trafficking, supplementary measures by the Government regarding combatting human trafficking in the Netherlands, December 2004.

169 supra note 52

170 www.fo-stvkennisnet.nl/

171 www.lastradainternational.org

172 www.blinn.nl/en/index.html

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NIDOS Foundation provides protection and support, including provision of guardianship, to unaccompanied minor asylum seekers and refugees.¹⁷³

AMOC and DHV are two foundations united in one organization which provides assistance to male drug abusers in Europe, many of whom work in prostitution and are often victims of trafficking.¹⁷⁴

The Foundation SRTV (Dutch Foundation of the Religious against Trafficking in Women) also deals with trafficking and forced prostitution issues, mainly focusing on prevention and information dissemination. It also supports projects assisting the return of trafficked women to their home countries.¹⁷⁵

2) Awareness and capacity-building

According to the U.S. Department of State, the Dutch government conducted awareness raising campaigns and preventive education programmes for youth and provided funding to NGOs for their anti-trafficking initiatives. The government did not, however, conduct any information campaigns targeting demand.¹⁷⁶

Case Law and Legal Practice

UNHCR is not aware of any cases of trafficking victims being granted refugee status in the Netherlands.

In 2002, a Nigerian woman, whose entry to the Netherlands was denied, claimed that her detention should have been lifted due to her collaboration with the police after being trafficked, as provided under the B9 regulation. The court ruled that one can only stay legally in the Netherlands after being admitted to the country, which was not the case, thus the detention could be continued.¹⁷⁷

In 2004, a Slovak woman claiming to be a victim of human trafficking was granted a temporary residence permit based on the B9 Regulation. When the trial was over, she applied for a residence permit on humanitarian grounds, but her application was rejected. In the final appeal, the Council of State ruled that the burden of proof lies with the applicant to provide evidence that she will face a risk of reprisals upon return and will not be protected by the authorities of Slovakia.¹⁷⁸

UNHCR Involvement

UNHCR has not recently been involved in any trafficking related activity in the Netherlands.

Outstanding Issues

The Dutch legislation seems primarily concerned with facilitating investigation and prosecution of the traffickers and not as concerned with the needs of the victims. This can be inferred from the fact that only victims who are willing to press charges are eligible to obtain a temporary residence permit that in any case expires as soon as the court proceedings have ended irrespective of the mental condition of the individual. Only in a very small number of exceptional cases do victims receive permanent residence permits.¹⁷⁹

173 www.nidos.nl/

174 www.amoc-dhv.org/en/background_en.html

175 www.srtv.info/engels/srtv/index_uk.html

176 U.S. Department of State, Trafficking in Persons Report 2004.

177 Judgment of Council of State, 30 December 2004.

178 Judgment of the District Court, The Hague, 23 October 2002.

179 *supra* note 52



Other Resources

- Federatie Ovang, Stichting Tegen Vrouwenhandel (The Knowledge Reef of the Dutch Federation of Shelters and the Foundation Against Trafficking in Women). Available at: www.fo-stvkennisnet.nl/kr_fo/
- Stichting Religieuzen Tegen Vrouwenhandel (Dutch Foundation of the Religious against Trafficking in Women). Available at: www.srtv.info/engels/srtv/index_uk.html

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The Netherlands



Poland

Poland

Overview and Profile of Victims

Poland is a country of origin, transit and destination for victims of trafficking. Women and girls are trafficked mainly to Western Europe, particularly to Germany, Italy, Belgium, France and the Netherlands. Victims trafficked to and through Poland primarily originate from Russia, Ukraine, Belarus, the Republic of Moldova, Romania and Bulgaria. Polish women may also be trafficked as far as Japan and North America.¹⁸⁰

There is no exact profile of a trafficking victim; however the majority of identified victims are women and girls, while men and boys constitute an estimated 2%. Victims tend to be between the ages of 18 and 25, although girls are reported to be trafficked at increasingly younger ages. Trafficking of minors frequently occurs among family and community members. Both abroad and in Poland, persons targeted for trafficking are often recruited from medium-sized towns in impoverished regions. Most are unemployed, poor and with little education, some are married with children, often coming from dysfunctional families and rarely speak foreign languages or have sexual education.¹⁸¹

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

According to Article 253(1,2) of the 1997 penal code, the person responsible for trafficking, even with the victim's consent, is subject to a minimum of 3 years' imprisonment. A person who organizes adoption of a child for monetary gain is subject to an imprisonment between 3 months and 5 years.

Article 204 stipulates that the person, who with the purpose of obtaining material benefit, incites a person to prostitution or facilitates prostitution of that person, is subject to a sentence of imprisonment for a period of time of up to 3 years.

According to Article 33 of the 2003 Aliens Law, a residence permit may be issued to an alien regardless of whether or not the circumstances would otherwise justify refusal of a visa, if he or she is required to appear in person before an agency of the Polish public authority. A residence permit can also be granted on the basis of an exceptional personal situation.

¹⁸⁰ U.S. Department of State, Trafficking in Persons Report 2004.

¹⁸¹ www.strada.org.pl/index_en.html



Poland

In October 2004, the Ministry of Interior and Administration submitted amendments to the 2003 Aliens Law and to the Aliens Protection Law and other acts in order to implement, *inter alia*, the EU Council Directive of 29 April 2004 on the documentation of victims of trafficking. The amendment to the Aliens Act provides for a 2 month reflection period during which time deportation is postponed. The aim of the reflection period is to allow the victim to recover and to pursue legal action. According to the amendment of the Aliens Law, victims of trafficking can be granted residence for a fixed period if the conditions mentioned in Article 53 sec. 15 of the Aliens Law are met. The amendment will enter into force in October 2005.

Implementation

The National Programme to Combat and Prevent Human Trafficking prepared by the Ministry of Interior and Administration, was approved by the Council of Ministers in September 2003 and should be realized within 18 months. The programme contains proposals in four categories:

- Establishing a cooperation unit comprised of representatives from the Ministry of Interior and Administration, Police, Border Guards, Office for Repatriation and Aliens, Ministry of Justice and Government Plenipotentiary for Equal Status of Women and Men, Ministry of Education, Ministry of Foreign Affairs and Ministry of Health;
- Legislative reform;
- Proposals to make activities more effective, including training on human trafficking issues for the police; organizing within the police a unit responsible for the coordination of activities aimed at fighting human trafficking; organizing meetings of experts from countries of origin of victims, transit countries and countries of destination; and,
- Improvement of protection of victims and witnesses.

The international NGO network La Strada, set up to combat human trafficking, has been active in Poland since 1995. It started with bilateral exchange between the Stichting tegen Vrouwenhandel (Dutch Foundation against Traffic in Women, STV), the Foundation against Trafficking in Women and women rights NGOs in Poland and the Czech Republic. La Strada's multi-focal campaign covers press and lobbying activities, prevention and education programmes, and the provision of social assistance to victims of trafficking.¹⁸²

The OSCE ODIHR Office in Warsaw also deals with a number of issues related to combatting trafficking in human beings.

Response/Prevention

1) *Assistance and support to victims of trafficking*

The government cooperates extensively with NGOs that provide a wide range of support services to trafficking victims.

La Strada has assistance programmes for victims of trafficking, including accommodation, medical, and legal services. La Strada also operates a helpline, advocates for the special needs of women victims of trafficking, cooperates with NGOs and other institutions to ensure the safe return of the women to their home countries, and establishes local national networks of relevant services and institutions to support the victims.

In January 2004, Caritas Poland started a Project Against Forced Prostitution in five main Polish cities. Free, legal assistance is provided

¹⁸² http://free.ngo.pl/lastrada/index_en.html

**Poland**

to victims of human trafficking. The Halina Niec Human Rights Association, a UNHCR implementing partner, also offers similar services. The aforementioned organizations cooperate on international levels with governmental and non-governmental partners.

2) Awareness and capacity-building

La Strada produces and distributes educational and awareness raising materials directed at various target groups, delivers lectures on prevention, conducts training seminars for labour agencies, NGOs, street workers, embassies, police officers, teachers, and disseminates the La Strada hotline number among possible victims of trafficking.

The British Embassy in Warsaw, together with La Strada Foundation, realized the GATE project within the framework of British-Polish tripartite cooperation with Ukraine, Belarus and Russia (Kaliningrad District) since December 2002. The project included a series of training events for professionals (border guards, police, judges, psychologists, members of NGOs and local governments from regions close to the border), who encounter the problem of trafficking in women in their work. The objectives of the training were two-fold: first, to have a forum for discussion and the exchange of information and best practices, and secondly to prepare basic rules and effective, concrete methods for cooperation to combat trafficking in women, as well as to provide assistance to victims.

In 2005, UNHCR plans to provide seminars for border guards about the identification of, and response to, the needs of persons of concern to UNHCR including victims of trafficking.

Case Law and Legal Practice

UNHCR is not aware of cases where victims of trafficking were granted asylum in Poland.

UNHCR Involvement

In 2004, UNHCR participated in the conference organized to conclude the British-Polish project GATE – Harmonization of Cross-border Cooperation. In June 2005, UNHCR organized training on anti-trafficking issues for the representatives of the border guards.

Outstanding Issues

A prominent Human Rights Association in Poland pointed out the following problems:

There is a lack of systematic implementation of the reflection period and postponing of deportation. The amendment to the Aliens Act provides for a 2-month delay in deportation, while in reality the delay is reduced to 30 days, during which time the police may withhold the investigation. Afterwards, the victim becomes a witness and has to cooperate with the police, finding herself under great pressure. This may lead to revictimization. Therefore, legal regulations must be harmonized. The victim should be offered help during the criminal proceedings.

There are different sanctions for crimes under Article 253 and 204(4), however both articles cover factual events which may be interpreted as trafficking in human beings for the purpose of sexual exploitation. Consequently, if the prosecution does not want to file a lawsuit under Article 253 (trafficking), the crime committed will be classified only as a misdemeanor. At the same time, the police are reluctant to file lawsuits under Article 253 and attorneys refer only to Article 204(4) or other sexual crimes.



The members of the anti-trafficking teams are not employed on a full-time basis. Consequently, there are still no people responsible exclusively for this category of crime, no operations are conducted and actions are taken *post factum*, that is only after a victim has been identified.

Other Resources

- Government Plenipotentiary for the Equal Status of Women and Men www.rownystatus.gov.pl
- La Strada Poland www.strada.org.pl/index_en.html
- Women's Rights Centre <http://free.ngo.pl/temida>
- Helsinki Foundation for Human Rights www.hfhrpol.waw.pl
- ITAKA Foundation for the Assistance to Those Affected by the Problem of Missing Persons www.itaka.org
- The Halina Niec Human Rights Association www.niecassociation.org.pl
- OSCE-ODIHR www.osce.org/odihr

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Poland



Romania

Romania

Overview and Profile of Victims

Romania is a source and transit country for persons trafficked to Western Europe, especially to Spain, France and Italy and to the Balkans for the purposes of sexual exploitation and forced labour. Victims trafficked through Romania come mainly from the Republic of Moldova, Ukraine, Russia and Asian countries.¹⁸³ According to reports from the law enforcement agencies regarding Romanian victims, in 2004, many more victims were reported from Transylvania.

According to statistics provided by the General Division for Combatting Organized Crime and Drugs, in the period of June 2004 to February 2005, 304 Romanian trafficking victims were registered, the majority of which were women aged 18-25. Male victims were also registered, 3 of whom were minors. The main destination countries were Spain (89 victims), Italy (105 victims) and France (30 victims).

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

A new criminal code was adopted in 2004 and entered into force at the end of June, 2005. The new criminal code establishes a series of offences related to trafficking in human beings, such as slavery and trafficking in slaves (Article 202), subjection to forced or obligatory labour (Article 203), trafficking in adults (Article 204) and trafficking in children (Article 205). The penalties range from 3 to 15 years imprisonment if the victim is a minor, if there is more than one victim or in the case of a serious injury to the victim. If trafficking leads to the death of the victim, the sentence is 5-25 years. The sentence can be imposed even if the crime was committed with the victim's initial consent.¹⁸⁴

Other prosecutable offences related to human trafficking include the distribution of pornographic materials, infantile pornography or infantile pornography through computer systems (Articles 236-238). Prostitution and procurement are also considered criminal offences under Articles 234 and 235.

The law No. 211/2004 regarding protection of the victims of crimes, which entered into force in January 2005, establishes four fields of assistance provided by the state, directly addressing the needs of the victims: provision of information on their rights, psychological

¹⁸³ U.S. Department of State, Trafficking in Persons Report 2005.

¹⁸⁴ U.S. Department of State, 2004 Country Reports on Human Rights Practices.



counselling, free legal assistance and financial compensation for the victims of certain crimes. These measures of protection complement relevant provisions of law No. 678/2001 on preventing and combatting trafficking in human beings. The law establishes an obligation for the Ministry of Justice, through the National Institute of Magistrates, and the Ministry of Administration and Interior, to provide specific training for their personnel working directly with victims of crimes.

According to law No. 678/2001, Articles 26-28, and Article 38, victims of these crimes shall be granted special physical, legal and social protection and assistance. The Ministry of Administration and Interior shall provide protection and welfare to victims at their request. Foreign trafficked victims can be sheltered, for their physical security, in the appropriate centre, according to Law No. 123/2001. Trafficked victims have a right to be advised on legal and administrative procedures in a language they can understand.

Other relevant legislation includes law No.302/2004 regarding the international judicial cooperation in criminal matters, and law No. 508/2004 by which the Division for the Investigation of Organized Crime and Terrorism Offences was established within the General Prosecutor's Office attached to the High Court of Cassation and Justice. The Division has territorial structures in all counties and is competent to investigate and prosecute cases related to the trafficking in human beings.

Implementation

The National Action Plan (NAP) for combatting trafficking in human beings, adopted in 2001, is currently under implementation in all counties. The implementation of the NAP is coordinated by an inter-ministerial working group (IMG). In 2004, a sub-group on children was created within the IMG, which is coordinated by the National Authority for Child Protection and Adoption.

In 2004, the parliament adopted four new laws that entered into force in January, 2005 concerning the rights of the child, child protection and adoption. Complementing this legislation, in 2004 the government approved the Plan on Priority Actions in the field of Child Protection against Abuse, Carelessness and Exploitation (2004-2005), the National Action Plan for Preventing and Combatting Trafficking in Children (2004-2007) and the National Action Plan for the Elimination of Child Exploitation through Labour.

A national network of judges (52 judges – one for each tribunal and court of appeal) specialized in cases of trafficking in human beings, was established in July 2004. The Centre for Juridical Resources organized seminars for the members of this network. The National Institute for Magistrates organizes training for judges and prosecutors in the field of combatting organized crime, with special attention to the professional training of judges working with minors.

In 2004, under the auspices of the UNDP, the IWG members, together with NGOs and international organizations, elaborated a legal act for the establishment of a National Agency for the Prevention of Trafficking in Human Beings and Monitoring Protection of Victims of Trafficking, subordinated to the Ministry of Administration and Interior. The agency is to become operational in January, 2006. As an interim structure, in September 2004 the National Office for Preventing Trafficking in Human Beings and Monitoring the Protection of Victims was established within the National Institute for Research and Prevention of Crime.

A resource centre on trafficking in human beings was set up in September 2004 within the General Division for Combatting Organized

Romania

**Romania**

Crime and Drugs (GDCOCAD) of the General Inspectorate of Police, with the objective of creating a centralized data-base containing all relevant statistical information connected to trafficking in human beings, thus facilitating studies of this phenomenon and the identification of proper tools and actions to combat it. At the same time a specialized office for combatting illegal migration was created within GDCOCAD to provide the possibility for differentiated treatment for trafficked persons and smuggled migrants.

In December 2004, the General Inspectorate of Border Police began the process of creating, within all its territorial branches, specialized structures in charge of fighting trafficking in human beings and illegal migration.

Romania participates in the Southeast European Cooperative Initiative (SECI) Regional Anti-Crime Centre, where it coordinates the Task Force on Combatting Trafficking in Human Beings. In 2004, cooperation between Romania and Turkey through SECI resulted in the dismantling of a trafficking network engaged in the sexual exploitation of women.

Response/Prevention*1) Assistance and support to victims of trafficking*

IOM organized a network of NGOs that provide assistance for victims of trafficking, including shelter, medical care, psychological counselling, legal assistance and representation.

There are six shelters providing services to victims in Romania, however only one, operated by the NGO Reaching Out, offers long-term assistance. Three shelters are in Timisoara, one in Pitesti, one in Bistrita and one in Bucharest, which is located within the accommodation centre run by the National Refugee Office. Romania does not yet have an operational national hotline or 'greenline' available for trafficking victims.

The government actively assists in preparing documents for repatriations but relies on IOM to actually execute these repatriations from destination countries. The government generally respects the legal prohibition against punishing victims for crimes committed throughout the course of the trafficking.

Romanian authorities expect that 9 shelters, provided for by law, will be open by mid-2005.

2) Awareness and capacity-building

In order to raise public awareness of human trafficking dangers, the Ministry of Education and Research included a new course in the national curriculum a course on Education for a Democratic Citizenship, addressing several themes related to trafficking of human beings.

Numerous media stories and anti-trafficking messages on government-sponsored television channels were aimed at raising awareness of the problem. All relevant ministries participated in an IOM-coordinated Counter Trafficking Steering Committee and the IOM continued its campaign to increase awareness of the problem.

The government cooperates with NGOs in anti-trafficking efforts. The NGO Save the Children, together with the General Division for Combatting Organized Crime and Drugs, launched an impressive preventive media campaign entitled 'Stay Away From the Traps of the Traffickers in Human Beings'.



Case Law and Legal Practice

UNHCR is not aware of any case law where victims of trafficking were granted asylum in Romania.

UNHCR Involvement

Save the Children Romania, in a project funded by UNHCR on Assistance for Separated Children, organized training sessions for legal guardians of separated child asylum seekers. Prevention of trafficking in children was addressed as part of this project.

UNHCR's strategy aims at establishing mechanisms to identify potential asylum seekers among victims of trafficking and to prevent asylum seekers and refugees from becoming victims of trafficking. Furthermore, UNHCR aims to raise awareness about the issue among relevant government officials, other international and national institutions as well as asylum seekers and refugee communities, and has incorporated into its 2005 Project the following activities: continuation of training sessions for border police which include trafficking as one of the topics; continuation of sessions on prevention of human trafficking among asylum seekers and refugees in the reception and accommodation centres; identifying and assisting victims of trafficking in need of international protection through the system of legal counselling provided by its implementing partner; producing information materials for persons of concern; liaising with IOM, aliens and border police for the identification of non-national victims of trafficking living or placed in locations other than reception and accommodation centres and ensuring multi-disciplinary assistance to victims of trafficking based on a multi-team approach.

Other Resources

- UNDP Law Enforcement Manual for Fighting Against Trafficking in Human Beings, 2003.
- Romania's Efforts to Prevent and Suppress Trafficking in Human Beings, Including Trafficking in Children (the 2004 achievements), 18 March 2005, OSCE.
- IOM Counter-Trafficking Activities in Romania, January-December 2003.

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Romania


**The Russian
Federation**
Russian Federation
Overview and Profile of Victims

The Russian Federation (Russia) is a source, transit and destination country for trafficking victims. The victims are mainly women (and to a lesser extent children), trafficked from or through Russia to countries with higher living standards or to countries that are centres of sex-tourism where, despite the generally low standards of living, there is a high demand for sexual services from foreign tourists. The main form of exploitation of trafficking victims in Russia is sexual, though other forms of exploitation occur as well. Russia also receives flows of people from countries where living standards are lower.

Human trafficking in Russia became a problem after the dissolution of the Soviet Union. In 1997, the State Duma's Committee on Security sponsored an international conference addressing the criminal exploitation of people from Russia. Since then, a wide variety of international and domestic organizations and scholars have studied the problem. There are no official figures or estimates of trafficking victims in Russia.

Legal Framework
International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	-
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

Russia's legislation did not used to include specific anti-trafficking legislation, which meant that human trafficking was not, as such, a prosecutable crime under RF law. As a consequence, provisions prohibiting slavery, rape and falsification of documents needed to be resorted to in order to prosecute traffickers. Other relevant provisions used to prosecute traffickers pertained to the violation of the country's borders by an organised group either using violence or the threat of violence; forcing a person into sexual activity; drawing a person into prostitution by force or threat of force; maintaining a brothel; the use of forged documents to smuggle persons across the border; and crossing the country's borders without the required documentation.

In early 2003, provisions relating to trafficking crimes were introduced into the revised the criminal code and later adopted by the parliament in 2004.

Article 127(1) of the Russia criminal code now defines and prohibits the trafficking in human beings,¹⁸⁵ and Article 127(2) covers the prohibition of the use of slave labour. It is too early to comment on how effectively these provisions will be applied in practice.

Implementation

There is no government-sponsored National Action Plan against trafficking in Russia. However, RF civil society has been in the forefront in advocacy for the past several years.

In 2004, an assembly on counteracting human trafficking took place in Moscow. NGOs and executive government officials (among them US State Secretary Colin Powell) gathered to discuss ways to fight the modern slave trade.

Response/Prevention

1) Assistance and support to victims of trafficking

Often trafficking victims find themselves in a foreign country with little chance of getting assistance. Russian law enforcement agents do not have jurisdiction beyond the country's borders, while Russia's embassies pursue other functions and simply lack the resources to help. If exploitation takes place within Russia, law enforcement agencies often face difficulties caused either by the lack of adequate laws to deal with the problem or by corruption.

Some local NGOs (such as the Perm Centre Against Violence and Human Trafficking and the Angel Coalition) are running information centres on the internet and provide material and physical help to victims.

To UNHCR's knowledge, there are no government sponsored counselling, rehabilitation or support facilities for victims of trafficking.

2) Awareness and capacity-building

Although there have been limited government efforts in the fight against human trafficking, Russian NGOs together with international agencies such as IOM have been active in the promotion of the awareness of the issue. To a great extent, these efforts have helped to advance the change in criminal code to include human trafficking as a punishable offence. However, there is still a need for capacity building and awareness raising amongst the general population.

Case Law and Legal Practice

The amendments to the criminal code so far have only resulted in charges against perpetrators. It is yet to be seen how effectively law enforcement bodies will be able to implement the law.

Among asylum seekers and refugees registered with UNHCR trafficking victims are very rare. UNHCR is not aware of any case of a trafficking victim being granted a refugee status in Russia.

UNHCR Involvement

UNHCR is not directly involved in any anti-trafficking activities in Russia. However, the office is attentive to asylum applicants who may be victims of trafficking or who may be potential and is following the guidelines on the Prevention of Sexual and Gender-Based Violence.

¹⁸⁵ Article 127(1) defines trafficking of human beings as: "human being's purchase and sale or his recruiting, transportation, transfer, harbouring or receiving for the purpose of his exploitation".

**The Russian
Federation****Outstanding Issues**

The effectiveness of law enforcement bodies to implement the law in combatting human trafficking still needs to be assessed. An important issue for the government, NGOs and IGOs to address is the lack of information and awareness about the dangers, traps and risks associated with human trafficking.

Other Resources

- Russian Association of Crisis Centres for Women (RACCW):
PO Box 38 113035 Moscow, Russia, Tel: 7 (095) 129 10 01 or
141 72 26
- Centre Against Violence and Human Trafficking www.cavt.ru/
- The Angel Coalition (The Anti-Trafficking Coalition of Russia
and the Commonwealth of Independent States)
www.angelcoalition.org/aboutcoalition1.html
- Miramed Institute www.miramedinstitute.org/

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Serbia-Montenegro and Kosovo

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Overview and Profile of Victims

Given the particular geographical situation of Serbia and Montenegro (SCG) and Kosovo, the country is principally a transit country for human trafficking, however it is also a destination country and, to a lesser extent an origin. Furthermore, cases of human trafficking within the territory of SCG and Kosovo have also been reported.

Due to the specific constitutional framework and division of competencies within the State Union of Serbia and Montenegro following the adoption of the constitutional charter of SCG in February 2003, the following information refers to Serbia proper (excluding Kosovo) and Montenegro, separately. Information on Kosovo is included under each sub-heading to illustrate the UNHCR operational profile. The geographic position of SCG and Kosovo have contributed significantly to its status as a country of transit for the trafficking of women and girls into Bosnia- Herzegovina (BiH), The Former Yugoslav Republic of Macedonia and Western Europe from the Republic of Moldova, Ukraine, Romania, and the CIS countries. Serbian women and girls are also trafficked to Italy and Greece. There is also an increase in the number of cases of Serbian women working in the sex industry in Kosovo, BiH, Montenegro and The Former Yugoslav Republic of Macedonia as well as an increasing number of trafficking cases within the region itself.¹⁸⁶

According to a public statement made by the coordinator of the Referral and Coordination Service for Victims of Trafficking established within the Ministry of Labour, Employment and Social Affairs (MLESA) of SCG in March 2004, 38 victims of trafficking were referred in the period from the establishment of the Service until the end of 2004. Out of that number, 20 of them were nationals and 18 were foreign citizens originating mainly from Romania, the Republic of Moldova and Ukraine. Of the total number, 18 were minors, 14 of whom were girls. Three major trends were noticed regarding the victims of human trafficking in 2004: an increased number of domestic victims in comparison to foreign nationals, an increased number of child victims and an increased number of victims with psychological and mental problems.

Montenegro is primarily a transit route through which women and girls from Serbia are trafficked into Western Europe, especially into Italy. Women and girls from Kosovo, Romania and Albania are also trafficked via Montenegro into EU countries. During the past several years Montenegro has been a destination point for human trafficking from the Republic of Moldova, Romania, Ukraine and the Russian Federation, however that trend was apparently reduced when the Project on Board for Counter Trafficking was established in 2001, chaired by the National Coordinator and OSCE with the participation of international and national agencies and NGOs. Despite several attempts and interventions at various levels, UNHCR has never succeeded in becoming a member of the board. It should be noted that the Montenegro Police and relevant NGOs reported that the majority of

¹⁸⁶ Limanowska, B., Trafficking in Human Beings in South Eastern Europe, 2004: Focus on Prevention, UNICEF/UNOHCHR/OSCE/ODIHR, 2005.


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trafficked women working in the sex industry are from Serbia and BiH.¹⁸⁷ Kosovo is a source, transit and destination point for trafficking victims. They are primarily women and children trafficked for sexual exploitation. The majority of victims are from Eastern Europe, the Balkans and the former Soviet Union and are trafficked into Kosovo or through Kosovo to the Former Yugoslav Republic of Macedonia, Albania and Western Europe. Moreover, internal trafficking is a growing problem.

There are no reliable statistics on the overall scale of the trafficking problem in Kosovo. IOM, which works primarily with women from other countries who have been trafficked into Kosovo, has assisted 381 victims between 2000 and 2003, approximately 10 percent of whom were under the age of 18. While the majority of minors were from Romania, one fourth of trafficked minors were from Kosovo. IOM's statistics show a progressive increase in the number of Kosovo women and girls who have become victims of trafficking. This suggests that the issue of internal trafficking, far less visible than international trafficking, is perhaps of greater long-term concern for Kosovo. In May 2004, Amnesty International (AI) published a report called Protecting the Human Rights of Women and Girls Trafficked for Forced Prostitution in Kosovo. The report indicates that since the deployment in July 1999 of an international peacekeeping force (KFOR) and the establishment of the United Nations Interim Administrative Mission in Kosovo (UNMIK), Kosovo has become a major destination country for women and girls trafficked into forced prostitution. AI indicates that over the past years a small-scale local market for prostitution has been transformed into a large-scale industry based on trafficking run by organized criminal networks. The number of places in Kosovo where trafficked women and girls may be exploited, such as nightclubs, bars, restaurants, hotels and cafes, has increased from 18 in 1999 to more than 200 in 2003. The report claims international personnel make up about 20% of the people using trafficked women and girls even though its members comprise only 2% of Kosovo's population.

Legal Framework
International law:

The following chart is applicable to Serbia and Montenegro.

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Succeeded
Optional Protocol to CEDAW	Acceded

¹⁸⁷ Idem



In December 2000, SCG signed the Palermo Anti-Trafficking Declaration of South Eastern Europe. Kosovo is legally bound by various international treaties relevant to trafficking which are incorporated into national applicable legislation through the constitutional framework (Regulation 2001/09) including: the Universal Declaration on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

National law:

In SCG, the criminal code was amended and a new criminal act, Trafficking in Human Beings, was adopted in 2002¹⁸⁸. The punishment established for trafficking is from one to ten years imprisonment. In addition, the Law on Organization and Competence of Government Institutions in the Suppression of Organized Crime was adopted in 2003 and the Special Public Prosecutor's Office for the suppression of Organized Crime was also established. Likewise, a special court department within the Belgrade County Court and a special department within the Ministry of the Interior of Serbia were established with the same purpose. Both a special department within the Belgrade District Court, as well as the Special Public Prosecutor are competent to judge cases of trafficking in human beings.

In terms of the legal status granted to victim of trafficking, the Ministry of Interior recently issued a special instruction enabling victims of trafficking to be granted a temporary residence permit for a period of 90 days. This residence permit can be extended for an additional period of six months (provided that the victim is willing to cooperate with authorities in the process of criminal investigation) and can be extended for a period of one year (if the victim consents and decides to participate in the court proceedings). In Montenegro, a new penal code was introduced in 2003. Of special relevance is Article 444 (trafficking in human beings) which provides for up to 10-12 years of imprisonment (12 in case of injury) and Article 445 (trafficking in children for the purpose of adoption), under which a minimum sentence of 3 years imprisonment has been established. A Law providing for witness protection was also adopted and entered into force in April, 2005.

In Kosovo, the provisional criminal code entered into force in April 2004 and provides a definition of trafficking in Article 139 based on the definition from the Trafficking Protocol.¹⁸⁹ The difference between it and the Trafficking Protocol definition is that in the Kosovo criminal code there is no requirement for the crime of trafficking to be organized (i.e. more than 2 persons) or for it to be of a trans-border character.

Prior to the provisional criminal code, UNMIK Regulation 2001/4 (adopted in January, 2001) was the main legal instrument for combatting trafficking. UNMIK regulation provides victims of trafficking

188 Article 111b, criminal code of Serbia.

189 As provided in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime.

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an exception from criminal charges of prostitution and illegal border crossing; however such provisions are not always followed by the local judges.¹⁹⁰ It is unclear whether the provisions in the UNMIK regulations, which are not included in the provisional criminal code, are still applicable. However, as stated by the Legal Adviser to the SRSG referring to victim protection and assistance (sections 2, 3 and 4) of the UNMIK regulation, they remain in force because they were not incorporated in either the provisional criminal code or in the provisional criminal procedure code. Penalties for trafficking, or attempting to engage in trafficking, range from 2 to 12 years in prison and up to 15 years if the victim is a minor. Sentences for engaging in trafficking as part of an organized group are 7 to 20 years in prison, while facilitating trafficking through negligence is punished by 6 months to 5 years in prison. Sentences for engaging in sex with a victim of trafficking, especially if the victim is a minor, are up to 5 and 10 years in prison respectively.¹⁹¹

Implementation

Within the framework of the Stability Pact Task Force on Trafficking in Human Beings in South Eastern Europe, the Former Republic of Yugoslavia (at that time) appointed a national coordinator from the Ministry of the Interior in 2001 and created a Team to Combat Trafficking at the federal level in 2002. Due to constitutional changes in 2003, the establishment of the State Union of Serbia and Montenegro and the subsequent transfer of competences to the level of the constituting Member States, each member state must now appoint its own national coordinator and form its own Team to Combat Trafficking.

In Serbia, a national coordinator was appointed within the Ministry of Interior. A team to combat trafficking was created and includes representatives from relevant Ministries (Ministry of the Interior, Ministry of Labour, Employment and Social Affairs, Ministry of Finance, the Anti Corruption Initiative, Ministry of Justice, etc), Judiciary, Child Rights Council, Civil Society and NGO's (ASTRA, Beosupport, Counselling Centre for Victims of Violence, Victimology Society) and international organizations.

The activities of the national team are conducted and supported through the work of four established Working Groups (WG). The four WGs are the following:

1. Working Group for Combatting Trafficking in Children;
2. Working Group for Prevention and Education;
3. Working Group for Victim Support and Protection;
4. Working Group for Law Enforcement.

The final draft of the National Action Plan (NAP) has been prepared and is expected to be endorsed by the government soon. In 2001-2002, the Montenegro government implemented a Victim's Protection Project within the framework of the Stability Pact Task Force on Trafficking in Human Beings in South Eastern Europe. It was an initiative jointly conducted by international organizations and civil society NGOs that were already involved in trafficking issues.

190 U.S. Department of State, 2004 Country Reports on Human Rights Practices.

191 Idem



A special task force on border control and another on trafficking and smuggling were created in 2001 in Montenegro. Each task force is comprised of specialist teams of five to six persons in the seven security centres that cover the entire country. The Ministry of Interior has recently signed a Memorandum of Understanding with an NGO to provide adequate assistance and comprehensive identification and response mechanisms for victims of trafficking. However, the Witness Protection Project was never officially endorsed and government actions have only been carried out on an *ad hoc* basis. Trafficked women and girls are referred to the shelter for victims of trafficking in Podgorica, managed by the Montenegrin Women's Lobby which is supported by IOM. After staying a couple of days in the shelter, the victims are interviewed by the Police.¹⁹² Under the current procedures, IOM informs trafficking victims of UNHCR's mandate and those seeking asylum are referred to UNHCR for refugee status determination and eventual resettlement to a third country if their claims are recognized. The agencies responsible for anti-trafficking activities in Kosovo are: UNMIK police including the Trafficking in Human Beings Section (THBS),¹⁹³ Kosovo Police Service (KPS) and Border Police, UNMIK Department of Justice including UNMIK's Victim Advocacy and Assistance Unit (VAAU), the OSCE, the Prime Minister's Office of Good Governance, and the Ministries of Health, Education, Public Services, and Labour and Social Welfare.

The anti-trafficking coordination group meets twice per year and mainly facilitates the exchange of information. It is chaired by OSCE's Victim's Assistance Unit and is attended by UNHCHR, THBS, UNICEF, and the NGO Hope and Homes, among others.

The Direct Assistance Team (DAT) deals directly with the victims. It is comprised of representatives from IOM and their implementing partner,¹⁹⁴ OSCE, THBS and the Department for Social Welfare, among others. They have developed standard operating procedures for the referral of international victims of trafficking which describe the responsibilities and services provided by each of the signatories. In March 2003, operative referral procedures were established for Kosovar trafficking victims.

There was also an inter-ministerial working group established in October, 2003 to coordinate and establish policies and to draft the Kosovo Plan of Action to combat trafficking in Human Beings. There is a trafficking focal point from each relevant ministry forming the working group. However the lack of reference, decision-making power and training of the focal points makes taking concrete actions to combat trafficking within their own ministries difficult.

Response/Prevention

1) Assistance and support to victims of trafficking

In Serbia, the Referral and Counselling Centre for Foreign and Domestic Victims of Trafficking was established within the Ministry for Labour, Employment and Social Affairs in March of 2004. The main purpose of the centre is to coordinate victim protection and assistance. A mobile team was created including members of the Referral and

192 *supra* note 183

193 Former Trafficking and Prostitution Investigation Unit (TPIU).

194 Previously the United Methodist Committee on Relief (UMCOR).

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Counselling Centre together with national NGO representatives in order to identify and refer victims to the Referral and Counselling Centre.

Victims of trafficking are accommodated in one of the two existing shelters in Serbia managed by two national NGOs which provide basic medical and psychological assistance, social support, legal counselling and, based on assessed needs, education and training activities as well as preparation for voluntary return. One of the shelters is managed by the NGO Counselling Centre for Victims of Violence and is intended to accommodate foreign nationals as well as SCG national victims of trafficking. Victims are provided with medical, legal and psychological assistance. A second shelter is run by the NGO Atina and is intended to assist victims of trafficking who are in the process of local reintegration. Also, a national SOS hotline for potential victims of trafficking is run by the anti-trafficking NGO Astra and offers direct counselling services for potential victims of trafficking.

In Montenegro, the Ministry of Interior has signed a Memorandum of Understanding with a local NGO to provide assistance to victims of trafficking and of ensuring adequate co-ordination of identification and response mechanisms for victims of trafficking. Trafficked women and girls are referred to the Shelter for Victims of Trafficking in Podgorica, managed by the Montenegrin Women's Lobby where they are offered a range of services not including professional legal advice. SOS telephone lines for victims of violence or potential victims of trafficking¹⁹⁵ are presently operational in a few cities in Montenegro. In Kosovo, there is an inter-agency procedure for the referral of international trafficking victims to ensure that victims get assistance. The VAAU, in collaboration with the THBS, aims to protect the victims of trafficking from further exploitation as well as to provide legal counselling, interpretation, psychological, medical and accommodation support, regardless of any charges of prostitution or of illegal entry that may be pending against them. The VAAU maintains a database of potentially vulnerable foreign women working in a variety of businesses across Kosovo, to monitor and assist potential victims of trafficking. The Ministry of Social Welfare, the local NGOs providing shelter, IOM and OSCE are involved in the referral system.

Distinct assistance frameworks have been developed for foreign and Kosovar trafficking victims. There is one shelter, managed by PVPT, dedicated to internationally trafficked victims in Kosovo¹⁹⁶. There is another shelter run by DOJ for international and national victims, as well as one shelter for national victims managed by a local NGO, the Centre for Protection of Women and Children (CPWC).

In June 2004, UNICEF issued a report called Trafficking in Children in Kosovo: A Study on protection and assistance provided to children victims of trafficking. The report assessed to what extent the 2003 UNICEF Stability Pact Guidelines for the Protection of the Rights of Children Victims of Trafficking in South Eastern Europe had been implemented in Kosovo. The UNICEF guidelines, signed by Kosovo UNMIK representatives in December 2003, cover all stages of assistance, from initial identification through the child's final recovery and re-integration. It aims to set standards with respect to protection and assistance of child victims of trafficking.

195 supra note 183

196 Previously managed by UMCOR.



2) Awareness and capacity-building

In Serbia, educational training events and seminars targeting police and judiciary officials are conducted by relevant international organizations (UNDP, OSCE, IOM, etc) on a regular basis. Around 400 members of the police and 150 judges have already been trained. An awareness raising campaign was led mainly by the anti-trafficking NGO Astra. In Montenegro, educational training events are organized by IOM and awareness raising campaigns are conducted by NGOs. International organizations and NGOs, particularly IOM, have been conducting trafficking awareness raising campaigns in Kosovo. As part of the government's efforts, anti-trafficking educational materials for schools were developed through joint efforts of the Prime Minister's Office of Good Governance and the Ministry of Education.¹⁹⁷

Case Law and Legal Practice

In SCG, UNHCR is conducting refugee status determination (RSD) procedures on an interim basis for asylum seekers originating from outside of the former Yugoslavia, including victims of human trafficking. Refugee recognition has so far been granted by UNHCR on convention grounds for two victims of human trafficking. Both victims were successfully resettled to third countries. In 2002 in Kosovo, UNHCR processed the resettlement through the Canadian Women at Risk programme of a young unaccompanied Iraqi woman who was recognized as a refugee under the UNHCR mandate on the basis of having suffered gender-based persecution in her country of origin. A Kosovar single female head of household with four small children whose life was threatened due to her minority ethnicity, and who had suffered sexual abuse due to the lack of a male "protector," was also resettled to Canada under this programme. Furthermore during 2004, UNHCR was contacted on one occasion by IOM with regard to a Kosovar girl that had suffered sexual exploitation within Kosovo. IOM asked UNHCR about possible ways to facilitate the departure of the girl to third countries. UNHCR referred the case to UNICEF.

UNHCR Involvement

UNHCR is involved in trafficking issues within an inter-UN agency collaborative framework and human rights approach (UNDAF, UNICEF Joint Mobile Teams, etc). In particular, special advocacy efforts towards the adoption of NAP's for trafficking in SCG is envisaged through the active participation in the above-mentioned national initiatives (i.e. National Team to Combat Trafficking, the National Action Plan for Combatting Trafficking, the Referral and Counselling centre formed within the MLESA, etc).

As a part of UNHCR's overall protection objectives in Serbia and Montenegro, it is currently assisting the government of SCG through the provision of technical and legal expertise and assistance in the process of drafting national legislation on asylum for the establishment of national asylum structures and procedures. A significant step forward has been the adoption of the Law on Asylum of SCG in March 2005, which set up the initial basis for the adoption of implementing asylum legislation and by-laws and the establishment of asylum structures in the country.

¹⁹⁷ supra note 190

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UNHCR is conducting regular training for police and border officials about international refugee protection and the protection of vulnerable cases (such as victims of human trafficking who are asylum seekers) and assisting the authorities in the establishment of a referral mechanism for asylum seekers at the borders. A joint UNHCR-Ministry of Interior project for the referral of asylum claims to UNHCR has been put into effect at the Belgrade International Airport.

Linked to the issue of human trafficking, UNHCR also carries out activities related to SGBV prevention and response under its protection mandate. In this respect, UNHCR has organized various awareness raising activities, seminars, training events and conferences. The UNHCR Guidelines on SGBV against Refugees and Internally Displaced Persons: Protection and Response were translated into Serbian and distributed amongst relevant actors and implementing partners, all potential beneficiaries, local organizations, schools and health clinics. SGBV leaflets were also translated into Romani and Albanian with the intention of targeting the most vulnerable Roma IDP population. UNHCR also participated in the 6th task force meeting called Stability Pact for South Eastern Europe on Trafficking of Children and Minors and Forced Labour Dimensions of Human Trafficking.

As trafficking cases are regarded as a component of the broader sexual and gender-based violence issues in Kosovo, UNHCR will work with the various actors involved in the trafficking and domestic violence referral system existing in the country in order to strengthen UNHCR's capacities to deal with SGBV cases. In 2005, UNHCR Kosovo is also planning to set up a referral system targeting SGBV cases among persons of concern to UNHCR. The objective is to follow-up and monitor SGBV cases including possible trafficking cases.

In 2000-2001, UNHCR in Kosovo participated in an *ad hoc* advisory role in activities related to the trafficking of women in Kosovo. One of the goals was to sensitize participants from OSCE, IOM and UNMIK Police on the gender-based persecution criteria and UNHCR's role in the identification of solutions for persons who may fall under the mandate. Conscious of the particular needs of victims of trafficking, it was clear that these girls and women could not be housed in general shelters designed for returnees. UNHCR therefore became involved in a working group on trafficking comprised of OSCE, IOM, UNMIK Police and a number of NGOs looking at ways to find practical solutions to the problem. In 2001, UNHCR assisted UNMIK and IOM with the start-up costs (US\$ 50,000) to establish a safehouse for victims of trafficking and ensured that UNMIK Regulation 2001/4 on the Prohibition of Trafficking in Persons in Kosovo contained a protective non-refoulement clause to protect victims of trafficking who have a well founded fear of persecution or who face a risk to their lives and fundamental freedoms if returned to their place of origin. In addition, the working group devised a referral mechanism to ensure that UNMIK Police were informed of the existence of the shelter and able to determine which cases could be referred there. IOM, in turn, developed a repatriation programme to assist those women who wished to return to their country of origin. The working group also subsequently drafted a proposed regulation on the prohibition of the trafficking in Kosovo, as mentioned above.



Outstanding Issues

Neither Serbia nor Montenegro has yet adopted their respective NAPs on combatting human trafficking. This has, obviously, negatively affected the expected developments and is one of the reasons why the existing mechanisms are functioning only on an *ad hoc* basis within a limited institutional framework. Trafficking in Kosovo has become a major issue which UNHCR has neither the mandate nor the financial or staff capacity to address. Nevertheless, UNHCR is likely to remain involved with the issue through its SGBV-related activities. It is important to stress that many actors are involved in anti-trafficking issues in Kosovo, whereas less energy and attention is being paid to the domestic violence problems. UNHCR has therefore decided to focus more on domestic violence and this initiative is welcomed by many interlocutors.

Other Resources

- NGO Astra www.ASTRA.org.yu
- Stop Violence Against Women – Serbia and Montenegro
[www.stopvaw.org/Serbia and Montenegro](http://www.stopvaw.org/Serbia%20and%20Montenegro)
- United Methodist Committee on Relief
www.umcor-ngo.org/english/countries/kosovo.htm

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Serbia-
Montenegro
and Kosovo


**Slovak
Republic**
Slovak Republic
Overview and Profile of Victims

The Slovak Republic is a country of origin and transit for women and girls trafficked for the purpose of sexual exploitation to Western and Central Europe, as well as to Japan. Most victims trafficked through the Slovak Republic to European Union countries come from the Balkans and from the former Soviet Republics.¹⁹⁸

Although there is not much reliable information regarding trafficking victims in the Slovak Republic, the U.S. Department of State and IOM reports, which are based on Slovak police records, describe the victims as generally female, between 18 and 25, coming from areas of high unemployment. Roma women, as well as men and women looking for seasonal employment abroad, are considered high-risk groups that are vulnerable to being trafficked due to their socio-economic situation and their lack of awareness about the dangers human trafficking.¹⁹⁹

Legal Framework
International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

The new amendments of the criminal code were adopted in September 2001 and include provisions on trafficking that are consistent with the trafficking protocol. The laws prohibit the trafficking in persons and traffickers may be sentenced from 3 to 10 years. If the offence was committed against a minor or if the offender is a member of an organized crime group, the sentence is increased to between 12 and 15 years. The sentence for causing serious bodily harm or death of the victim is between 8 and 15 years in prison.²⁰⁰

Implementation

The agencies responsible for dealing with human trafficking in the Slovak Republic are the police Anti-trafficking Unit, the Ministry of Interior, and the Prosecutor's Office. A special department was created within the Ministry of Interior to monitor cases of trafficking in women and children.²⁰¹

An inter-ministerial expert working group was established in March 2005 to develop a National Action Plan to combat human trafficking.²⁰²

¹⁹⁸ U.S. Department of State, Trafficking in Persons Report 2004; and IOM, Trafficking in Human Beings in Slovakia: Country Assessment, 2003. Available at:

www.iom.sk/publikacie/trafficking_in_human_beings-country_assessment.pdf

¹⁹⁹ U.S. Department of State, Trafficking in Persons Report 2004.

²⁰⁰ IOM, Trafficking in Human Beings in Slovakia: Country Assessment, 2003. Available at: www.iom.sk/publikacie/trafficking_in_human_beings-country_assessment.pdf

²⁰¹ supra note 197

²⁰² U.S. Department of State, Trafficking in Persons Report 2005.

UNODC, as a part of its Global Programme against Trafficking in Human Beings, is implementing a technical assistance project against trafficking in human beings in the Slovak Republic, as well as in the Czech Republic and Poland. The project assists countries in the midst of legal and institutional reform to ensure that their policies are in accordance with the Convention against Transnational Organized Crime and the Protocol against Trafficking in Persons. In the Slovak Republic, the project is aimed to assist the newly established trafficking unit within the criminal police to introduce a new model for cost-effective ways of protecting and assisting victims of trafficking.²⁰³

Response/Prevention

1) Assistance and support to victims of trafficking

There is no formal screening or referral process in place in the Slovak Republic, however the U.S. Department of State reports that the anti-trafficking unit of the Slovak police refers victims to NGOs for assistance. Several government agencies provide funding on an *ad hoc* basis to NGOs that offer services to trafficking victims.²⁰⁴ With funding from the Ministry of Interior, an NGO-operated hotline was established to provide information to trafficking victims and people wishing to work abroad.²⁰⁵

Assistance and protection to victims of trafficking is largely provided by a number of NGOs operating in the Slovak Republic such as Aliancia žien Slovenska (Alliance of Women in Slovakia), Fenestra, Linka Detskej Istoty Pri Slovenskom Výbore, UNICEF (Child Line of the UNICEF Slovak Committee), Pomoc Obetiam Násilia (Victim Support Slovakia), Únia Centier Prevencie a Pomoci, DAFNÉ (Union of the Centres of Prevention and Aid, DAFNÉ), and Pro Familia. Some of these NGOs have already assisted victims of trafficking while others have not encountered such cases but have the capacity and willingness to do so. Although only the Alliance of Women in Slovakia is dealing exclusively with trafficking issues, other NGOs offering valuable contributions are engaged in combatting violence against women, promoting respect for human rights and the protection of children.²⁰⁶

2) Awareness and capacity-building

From December 2002 to March 2004, IOM carried out a project entitled Information Campaign for the Prevention of Trafficking in Women. The project aimed at increasing awareness of the problem by informing the public about possible risks related to working abroad and to point out ways to avoid such risks, as well as to provide protection and care to victims of trafficking.²⁰⁷

In January 2004, a project sponsored by the European Commission was launched by La Strada Czech Republic in cooperation with La Strada Poland and the Alliance of Women in Slovakia. The project was designed to contribute to the sharing of best-practices and to finding effective ways of combatting human trafficking in Slovakia.²⁰⁸

The UNHCR, through a project with its implementing partners, is planning to produce information leaflets informing asylum seekers of the dangers of trafficking. The leaflets will be produced in 5 different

203 UNODC, Technical Cooperation by Geographical Region. Available at: www.unodc.org/unodc/en/trafficking_projects.html

204 U.S. Department of State, 2004 Country Reports on Human Rights Practices.

205 supra note 200

206 supra note 198

207 www.iom.sk/english/programmes_and_activities0.htm

208 La Strada, Interim Report of La Strada Czech Republic, January-June 2004. Available at: www.fo-stvkennisnet.nl/kr_fo/uploaddb/download_object.asp?atoom=4925&VolgNr=1

**Slovak
Republic**

languages according to the countries of origin of the largest numbers of asylum seekers. The UNHCR is also addressing trafficking through its implementing partners as part of building sexual and gender-based violence (SGBV) prevention and monitoring systems in the refugee centres. This will be implemented through social counsellors who are present on a weekly basis in refugee centres. Moreover, the issue of trafficking and its dangers were included during SGBV training conducted in 2004 by UNHCR for migration office staff working in refugee centres.

Case Law and Legal Practice

In 2003, UNHCR monitored a case involving three girls from the former Yugoslavia which may have been a child trafficking case. The girls were travelling illegally and were identified by an NGO and accommodated at the reception centre in Adamov. However, the girls disappeared from the reception centre just a few days after their arrival. In 2004, UNHCR noted an increased number of separated children from the Republic of Moldova, all of whom later disappeared from the refugee centres.

UNHCR Involvement

UNHCR has not been directly involved in any anti-trafficking activities in the Slovak Republic to date, though as noted above it is planning an awareness raising campaign among asylum seekers on the dangers of human trafficking. In 2004, UNHCR incorporated trafficking issues into its SGBV training of staff in refugee centres. Furthermore, by way of a partner NGO called the Slovak Helsinki Committee, UNHCR provides legal aid to asylum seekers, some of whom may be trafficking victims.

Outstanding Issues

The numbers of asylum seekers physically present in the refugee centres, when compared to the statistical records, indicate continuous disappearances of asylum seekers from the refugee centres. This, in turn, suggests a well-established network of smugglers and possibly traffickers. The asylum seekers do not have sufficient information on the dangers of trafficking and smuggling of persons.

Other Resources

- Change Net www.piatazena.sk/engl/ngos.htm

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Slovenia

Slovenia

Overview and Profile of Victims

Slovenia is mainly a transit country, but is also a source and destination country for women and girls trafficked for the purpose of sexual exploitation. Most victims come from the CIS countries (Ukraine, the Republic of Moldova and Russia), the Balkans (Romania and Bulgaria), the Czech Republic and Slovakia. The destination areas for women trafficked through Slovenia are predominantly the European Union countries (Italy, Greece, Portugal, Spain, Austria, Germany and the Benelux Countries).²⁰⁹

There is no reliable data on the numbers of trafficking victims in Slovenia. However, victims identified by the local NGO Association Kljuc, which provides assistance to trafficking victims, were mostly women and girls from 12 to 38 years of age. In 2004, 27 victims of trafficking were identified in Slovenia, most of whom came from Ukraine, Serbia and Montenegro and Slovak Republic.

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Succeeded
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Succeeded
Optional Protocol to CEDAW	Succeeded

National law:

In March 2004, the National Assembly passed amendments to the penal code. Trafficking in human beings has now been criminalized and is defined in the following articles: Article 185 (exploitation through prostitution), Article 187 (presentation, manufacture and distribution of pornographic material), Article 311 (unlawful crossing of the state border or state territory), Article 387 (enslavement) and Article 387a (trafficking in human beings). Article 387a provides for sentences from 1 to 10 years in prison for involvement in human trafficking for the purpose of sexual exploitation, forced labour or organ harvesting. If the victim is a minor or if other aggravating circumstances were present (e.g. use of force, involvement of a criminal group, etc.) the sentence is a minimum of 3 years.

Implementation

Following decision No. 240-05/2003-1 from December 2003, the government of Slovenia appointed the Inter-ministerial Working Group (IWG) on the Fight against Trafficking in Human Beings. The IWG is comprised of representatives of ministries and government bodies, and members of domestic and international inter-governmental organisations and NGOs. UNHCR has been a member of the IWG. The IWG adopted a National Action Plan (NAP) for the period from 2004 – 2006 which was approved by the government of Slovenia in July 2004. The NAP was based on the Programme on the Fight Against

²⁰⁹ U.S. Department of State, Trafficking in Persons Report 2004.


Slovenia

trafficking in Human Beings developed in December 2001 and has served as a basis for upgrading the activities of governmental bodies and NGOs. The NAP has inter-departmentally harmonized on the basis of the IWG guidelines and has narrowed its focus to concrete projects that are considered to be priorities. The PATS project (see below) has been included among selected national priorities in the NAP.

Response/Prevention
1) Assistance and support to victims of trafficking

In 2003, a local anti-trafficking NGO association named Kljuc received government funding and has been running a shelter for trafficking victims. They signed a Memorandum of Understanding with the Ministry of Interior and the State Prosecutor's Office that specifically provides victim immunity from prosecution, extensions of temporary residence permits, work permits and access to social services, for victims cooperating with authorities in the prosecution of traffickers.²¹⁰

Kljuc also signed a Memorandum of Understanding with the police to ensure that it would be involved in police raids and investigations that may potentially involve trafficking victims.²¹¹

2) Awareness and capacity-building

As a part of its anti-trafficking initiatives Kljuc organizes public awareness raising activities. The Ministry of Interior cooperates with various NGOs and supports their trafficking awareness raising programmes.²¹²

Case Law and Legal Practice

In terms of the refugee status determination procedure in Slovenia, it is likely that victims of trafficking would be granted asylum on humanitarian grounds rather than on the basis of the 1951 Convention. At this point, however, it remains an assumption since, as yet, no such case has been encountered by the RSD procedure. Nevertheless, through the implementation of PATS (see below) in the asylum procedure, UNHCR has encountered cases where trafficking was strongly suspected. The suspicious cases were females between 17 and 21 years old from Albania and Kosovo (Serbia and Montenegro).

UNHCR Involvement

UNHCR has implemented a Project against Human Trafficking and Sexual and Gender-Based Violence (PATS) since May 2004 in partnership with the Asylum Section at the Ministry of Interior, Migration Directorate, Kljuc, and the national NGO Slovene Philanthropy. With this project, formalized mechanisms within the asylum procedure in Slovenia have been established to systematically provide information to those asylum seekers most vulnerable to human trafficking and to assist and protect victims of human trafficking and sexual and gender-based violence (SGBV) identified within the asylum procedure. The project's primary objective is to provide potential trafficking victims with information on the warning signs and dangers of human trafficking as well as to provide them with information on where victims can seek information and assistance in Slovenia and key destination countries in

Europe. The asylum seekers are provided with this information in an individual information session performed by a specially trained PATS coordinator. As mentioned above, PATS was adopted as part of the NAP and, consequently, funding is available by the Ministry of Foreign Affairs for the project from 2004-2006.

²¹⁰ supra note 207

²¹¹ U.S. Department of State, 2004 Country Reports on Human Rights Practices.

²¹² Idem



Slovenia

PATS has also drawn attention from the regional support unit in Budapest (RSUB at the time – currently our regional office in Budapest), UNODC in Vienna, and UNOHCHR in Sarajevo. In close cooperation with RSUB, UNHCR organised a regional conference on PATS and invited relevant practitioners from Croatia and Bosnia and Herzegovina (BiH) in December 2004. The conference was co-funded by UNHCR and the Government of Slovenia, and representatives from UNODC and UNOHCHR participated in the conference as resource persons. The purpose of the conference was to introduce the PATS as a good practice model and to explore possible resources for implementing similar projects in other countries. The conference received positive feedback from the participants of both Croatia and BiH. (The final report of the conference is available upon request.)

Following the conference, two training and coordination workshops were planned to take place in March/April 2005 respectively in Croatia and BiH for relevant practitioners in order to implement a PATS-type project. The Slovene Ministry of Foreign Affairs provided funds to organize these two events for 2005. The project partners of PATS will participate in these workshops as resource persons. Recently UNODC decided to provide funding for the realization of PATS-type pilot projects both in Croatia and BiH in 2005. Both countries are planning to implement the projects after the training seminar. UNHCR offices in these countries are acting as focal-points for the implementation.

UNHCR is planning to start discussions with relevant authorities in 2005 on the implementation of PATS-type projects in detention centres for illegal migrants (separate from the reception centre for asylum seekers) where potential victims of human trafficking are accommodated.

Outstanding Issues

Victim identification is extremely difficult in Slovenia. In some cases, victims of human trafficking won't have experienced the most severe forms of exploitation before they arrive in Slovenia. As a consequence, such persons do not recognize themselves as victims during the short stay in the reception centre for asylum seekers where the PATS project is implemented.

Although UNHCR systematically includes trafficking issues and its nexus with asylum in its regular training activities (for NGOs and governmental organizations), more attention should be given to the training of target groups that are not linked to the national RSD procedure (i.e. prosecutors, judges and border police). Limited resources remain the main challenge.

Other Resources

- International Organization for Migration www.iom.si
- Association Kljuc kljuc.centre@siol.net

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Spain

Spain

Overview and Profile of Victims

Spain is both a transit and destination country for persons trafficked mainly for the purpose of sexual exploitation, but also for forced labour. Most trafficking victims in Spain come from Romania, Russia, Bulgaria, Ukraine, Brazil, Colombia, Ecuador, Guinea, Nigeria and Sierra Leone. Persons trafficked through Spain are destined for Portugal, France, and Germany. The phenomenon of trafficking in women for sexual exploitation has increased steadily in Spain during the last ten to fifteen years, and dramatically in the last three to four years. According to the U.S. Department of State, in 2004, police in Spain identified 1,717 victims of trafficking for sexual exploitation and 797 victims of forced labour trafficking.²¹³

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

Although there is no specific individual law regarding trafficking, provisions contained in the 1978 Constitution, the penal code, labour law, immigration law and witness protection law address trafficking in persons. The penal code criminalizes trafficking for forced prostitution and for forced labour and provides for penalties of 5 to 12 years in prison. Under Article 59 of the Aliens Law 4/2000 (modified by 8/2000), a trafficking victim will not be deported if he or she reports the traffickers to the police, cooperates with the police in the investigation, and testifies in proceedings against the trafficker. Immigration law provides for temporary residency, work status and rights to certain economic aid and assistance for trafficking victims.²¹⁴

Implementation

Spain does not have a National Action Plan (NAP) against Trafficking, nor does it have a specific multi-sectoral strategy on this matter. Although the government has not gathered specific NGO or inter-agency fora, it has supported UNHCR in doing so.

In September 2003, a Mixed Commission (congress and senate) on Human Trafficking created a detailed and thorough report on the matter of human trafficking and legal implementation, including concrete recommendations. This was followed by the recommendation from the Parliament to draft a NAP.

²¹³ Gallagher, A.M., Country Report: Spain: Trafficking and Smuggling of Women, Network on European Women's Rights, November 2003; and U.S. Department of State, Trafficking in Persons Report 2005.

²¹⁴ Idem



Response/Prevention

1) Assistance and support to victims of trafficking

There is no national referral mechanism for victims of trafficking in Spain. Nevertheless, several NGOs (most of which receive government funding) run shelters and assistance programmes for victims. Assistance programmes normally include psychological assistance and vocational training. However, the difficulties involved in receiving a residence permit based on Article 59 of the Aliens Law make integration possibilities rather uncertain. IOM runs a programme for the voluntary return of trafficking victims.

Police and NGOs agree that current structures do not have the capacity to deal with the number of victims identified by police. Moreover, most current assistance methods do not include specialized legal assistance or orientation and there is little awareness of the possibility to seek asylum.

2) Awareness and capacity-building

UNHCR is not aware of specific programmes or projects concerning awareness or capacity-building on the subject of trafficking. The U.S. Department of State reports that, in 2004, the federal government and the City of Madrid announced a demand-reduction anti-trafficking awareness raising campaign targeting the clients of prostitutes.²¹⁵

Case Law and Legal Practice

Until now, there has been only one case of a trafficking victim being granted refugee status in Spain. This case was recognized only partially based on the trafficking experience. Until mid-2004, asylum applications based on subjection to trafficking were not admitted to the RSD procedure. The asylum office considered that these fell outside of the scope of the refugee definition. However, the new asylum authorities accepted the position of UNHCR on this issue and, as of then, applications by trafficking victims have been admitted to the RSD procedure.

In April 2005, as a result of a proposal by the asylum office, the Inter-ministerial Commission on Asylum (in which UNHCR participates without the right to vote) granted refugee status to a Russian trafficking victim who was implicated in an investigation of corruption allegations in Russia and subsequently trafficked. A Romanian trafficking victim was rejected due to a lack of credibility.

Currently, there are several asylum claims from trafficked women in the RSD procedure. This is largely due to the efforts of UNHCR in raising awareness among local NGOs of the nexus between trafficking and asylum.

UNHCR Involvement

Besides its role in the Spanish RSD procedure, UNHCR has played a catalytic role in advancing matters pertaining to protection of trafficking victims. In mid 2004, UNHCR organized a working meeting with local NGOs to share and exchange information on existing assistance and protection for the victims of trafficking.

In December 2004, UNHCR, with support from the Ministry of Interior, organized a one-day workshop on the protection needs of trafficked women. Various angles of protection, including asylum were analyzed. The workshop was attended by police, administration officials, the ombudsman and NGOs, and included presentations by, the Director General for Home Affairs, the Deputy Ombudsman, the Governmental

Spain

²¹⁵ U.S. Department of State, Trafficking in Persons Report 2005.

**Spain**

Asylum Office, Amnesty International and UNHCR. A number of areas of intervention were identified to increase the availability of protection and conclusions were shared with relevant governmental actors.

In May 2005, a follow-up one-day workshop was organized by UNHCR with the support of the Ministry of Labour and Social Affairs. The aim was to give more content to some of the recommendations from the first workshop and to encourage the government to draft a NAP, which was also recommended by a Joint Parliamentary Commission in 2003. It was agreed to present the government with a request to draft a NAP. Because of its limited mandate on trafficking, UNHCR announced that it cannot continue leading a coordination forum, but offered assistance and concrete support to the organization that decides to coordinate future events.

Outstanding Issues

An apparent paradox concerning asylum and victims of trafficking in Spain has to be noted. The majority of asylum seekers in Spain are Nigerian women (approximately 1/6 of all asylum applications), most of whom are presumably trafficked to Spain for sexual exploitation. However, they are instructed to lodge applications by their traffickers, who normally accompany them to the asylum office in Madrid. The aim of the traffickers is that the victims receive documents allowing them to stay in Spain legally pending the asylum procedure. The victims rarely admit to having been trafficked, but rather, as instructed by their traffickers, refer to a religious conflict in Nigeria that supposedly has affected them. Most of such applications are rejected in the admissibility phase as manifestly unfounded. Although the Spanish authorities now accept that trafficking could be a valid ground to grant refugee protection in some cases, a decision about the issue is still pending.

One of the issues discussed in both of the workshops organized by UNHCR was that procedural safeguards should be elaborated, agreed upon and implemented so that the authorities are able to offer trafficking victims the possibility to leave trafficking rings and to be informed of protection alternatives available to them, including asylum. The victim should then be referred to an adequate assistance programme and offered legal orientation.

Procedural obstacles involved in applying for and receiving a visa based on Article 59 are concerning. In order to qualify for the Article 59 visa, a victim must cooperate and collaborate with the police by providing essential information to the investigation or by testifying in criminal proceedings against the traffickers. The central brigade in Madrid tends to interpret "to cooperate and collaborate" only as agreement to testify against the trafficker(s). If the victim does not fully cooperate, he or she will not be eligible for a temporary visa. Although many men and women may be willing to provide essential information to the police regarding the trafficker(s), most are afraid to testify because of potential retaliation by the trafficking networks against them and/or against their families.

Furthermore, during the investigation and prosecution of trafficking crimes, the cooperating victims are not eligible for residence or work permits. They must wait until the cooperation and collaboration is completed and confirmed by the national police report before they can apply for the Article 59 visa. The adjudication of the application for an Article 59 visa can take anywhere between two to nine months. Therefore, cooperating victims are required to wait for lengthy periods of time before being able to legally reside and work in Spain.



Given the complexity of the process and the amount of work involved in applying for the Article 59 visa, victims often need either the assistance of NGOs or other independent lawyers. Not all victims have access to such services or are even aware of them, and therefore are forced to rely on the police or the judicial authorities involved in prosecuting the case to advocate on their behalf. Seeing as how both the police and the judicial authorities are primarily concerned with enforcement issues – the investigation and prosecution of traffickers and smugglers – they provide little support and protection to victims. Therefore, victims without independent legal representation often have little chance of obtaining Article 59 visas.

This situation is further complicated by the fact that the majority of trafficking victims who are encountered by the police are considered to be irregular migrants and are therefore subject to deportation. Consequently, due to the fear of reprisals against themselves and their families along with a high likelihood of deportation, many victims of trafficking who suffer abuse and human rights violations do not come forward or notify the police.

Other Resources

- Proyecto Esperanza, an anti-trafficking NGO that runs the most comprehensive network of shelters for victims:
www.proyectoesperanza.org
- Report of a Joint Parliamentary Commission on Trafficking in Spain (available in Spanish).
www.malostratos.org/images/pdf/Boletin%20oficial%20Cortes%20Generales.htm

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Spain



Sweden

Sweden

Overview and Profile of Victims

Sweden is a transit and destination country for women and children trafficked for the purpose of sexual exploitation from Eastern Europe, Russia, and the Baltic states. A smaller number of victims have also been reported to come from Thailand. Persons trafficked through Sweden are generally destined for Denmark, Norway, Germany and the United Kingdom.²¹⁶ According to the National Criminal Investigation Department, between 400 and 600 women who are victims of trafficking arrive in Sweden every year. Traffickers often recruit women with phony offers of work as waitresses, dancers or domestic workers.²¹⁷

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

In 2002, legislation entered into force in Sweden establishing criminal liability for trafficking in human beings for sexual purposes. In 2004, amendments were made to the Swedish legislation criminalizing all forms of trafficking in persons, including trafficking within national borders not only for sexual exploitation but also for the purpose of forced labour and for the removal of organs. Sentences for involvement in human trafficking range from 2 to 10 years in prison. Attempt, preparation and conspiracy with the purpose of human trafficking or failures to report such crimes are also punishable.²¹⁸

In 2004, amendments were made to the provisions in the Aliens Act, with a new provision added allowing the issue of a temporary residence permit for trafficking victims. The temporary residence permit may be issued to a victim or witness if his or her presence in the country is considered necessary for a preliminary investigation or for the main criminal proceedings against the trafficker(s), and it may be extended upon application by the prosecutor. During their stay in Sweden, the victims are entitled to medical assistance and social welfare.²¹⁹

In January 1999, Sweden introduced the Act Prohibiting the Purchase of Sexual Services. The Act provides for a minimum sentence of a fine equivalent to 50 days' income, and a maximum sentence of six-months in prison.²²⁰ There are currently no witness protection measures in Sweden.

²¹⁶ U.S. Department of State, Trafficking in Persons Report 2005.

²¹⁷ www.sweden.gov.se/content/1/c6/03/16/13/110ab985.pdf

²¹⁸ Idem

²¹⁹ Idem

²²⁰ Idem



Implementation

Two national rapporteurs on trafficking in women, both of whom report both to the government and to Europol were appointed in 1997 within the National Criminal Investigation Department.²²¹

In 2002, the Nordic Baltic Campaign against Trafficking in Women, initiated by the Swedish Minister for Gender Equality Affairs, was launched in the Nordic countries and in Estonia, Latvia and Lithuania. The Task Force against Trafficking in Human Beings was established at the initiative of former Swedish Minister of Foreign Affairs and Sweden has taken on a secretarial function for the group. The purpose of the task force is to serve as an umbrella organization for the coordination and facilitation of efforts to combat human trafficking in the Nordic and Baltic countries.²²² At Sweden's initiative, activities were launched to combat prostitution and trafficking of women and girls for the purpose of sexual exploitation from Murmansk and Archangelsk oblast (Russian Federation) to the northern parts of Sweden, Finland and Norway.²²³

Between 2004 and 2006, the Swedish Government is to develop a National Action Programme for combatting trafficking in human beings. It will be composed of two parts: a national action plan for the continued work to combat prostitution and trafficking in human beings for sexual purposes, especially women and children, and a national action plan for combatting trafficking in human beings for the purposes of forced labour, the removal of organs and other forms of exploitation.²²⁴

Response/Prevention

1) Assistance and support to victims of trafficking

No authority in Sweden has been charged with the responsibility for victims of trafficking while they are in the country. Most victims of trafficking, when found, are deported to their countries of origin. Some social support is provided to them by a few organizations and authorities, as part of their general activities which are not specifically for trafficking victims.²²⁵

According to the U.S Department of State, the Swedish government allocates funds to local and international NGOs that provide shelter and other services to trafficking victims.²²⁶

2) Awareness and capacity-building

The Nordic-Baltic Campaign against Trafficking in Women, mentioned above, is a key awareness raising activity. This programme includes eight national campaigns against trafficking in the Nordic and Baltic countries and was designed to increase awareness among the public and to initiate discussion about problems related to the trafficking of women. The Swedish campaign is aimed at disseminating information about prostitution and trafficking.²²⁷

Case Law and Legal Practice

UNHCR has not encountered any cases of trafficking victims being granted refugee status in Sweden.

221 www.sweden.gov.se/sb/d/4242/a/28655

222 www.sweden.gov.se/sb/d/4242/a/28655;

www.sweden.gov.se/sb/d/1034/a/10688;jsessionid=aUGssHHCjkc-

223 www.sweden.gov.se/sb/d/4096/a/32220;jsessionid=aUGssHHCjkc-

224 www.sweden.gov.se/sb/d/4096/a/26488;jsessionid=aUGssHHCjkc-

225 Candappa, M., *Prevention and Fight Against Trafficking: Institutional Developments in Europe*, Overview Reports on Finland, Ireland, and Sweden, Centre for Research in Ethnic Relations, University of Warwick, 2003. Available at: www.emz-berlin.de/projekte_e/pj37_1pdf/FIS.pdf

226 U.S. Department of State, 2004 Country Reports on Human Rights Practices.

227 www.against-trafficking.org/templates/news.aspx?page_id=251

Sweden

**Sweden****UNHCR Involvement**

The UNHCR Regional Office in Sweden cannot provide any information on its possible involvement in anti-trafficking activities.

Outstanding Issues

Lack of resources and staff, combined with the large area covered by the UNHCR regional office (8 countries) seriously limit the ability to engage in more anti-trafficking activities.

Other Resources

- Nordic Baltic Task Force against Trafficking in Human Beings
www.against-trafficking.org
- ECPAT Sweden – End Child Prostitution, Child Pornography And Trafficking in Children for Sexual Purposes:
www.ecpatsweden.org/docs/rapport_030519.pdf
- The National Organization for Women's Shelters and Young Women's Shelters in Sweden: www.roks.se

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Switzerland

Switzerland

Overview and Profile of Victims

Switzerland is a country of destination, and to a lesser extent of transit, for women trafficked for the purposes of sexual exploitation and domestic servitude mainly from Thailand, certain African countries and South America. However, an increasing number of trafficked women from Eastern Europe and the former Soviet Republics have also been reported. Estimates by the federal police suggest 1,500-3,000 potential victims of human trafficking were in the country in 2003.²²⁸

According to a 2001 Report of the Working Group on Human Trafficking for the Ministry of Justice and Police and the Federal Office of Justice, of an estimated annual number of 3,000 trafficking victims in Switzerland, on average only 30 of them file a complaint. Of these 30 complaints, only an average of 1.4 judgments (or a maximum of 5% of the complaints) results in a conviction of the perpetrator.

According to their 2003 report, the Fraueninformationszentrum (FIZ), a Zurich-based NGO that provides counselling and assistance to women victims of trafficking, trafficked women in Switzerland originate mainly from Thailand, Brazil, the Dominican Republic, Columbia and Eastern European countries such as Russia, Romania, the Republic of Moldova, Hungary and Slovakia. Of the women counseled, 42% had no legal residence in Switzerland and 2 individuals were asylum seekers.

Legal Framework

International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Signed
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	-

In order to ratify the Palermo Protocols, Switzerland needs first to make amendments to certain national legal provisions (e.g. Article 196 of the penal code, which currently covers sexual but not other forms of exploitation).

National law:

The relevant legal provision concerning trafficking of human beings is Article 196 of the penal code, which is complemented by Article 195 (punishment for advancing prostitution). There are also additional provisions which may apply in cases of trafficking should Article 196 or Article 195 not be applicable. They include: Article 181 (duress), Article 183 paragraph 1 (deprivation of freedom and kidnapping), Article 187, paragraph 1, (sexual acts with children), and Article 197, paragraphs 1 and 3, (pornography).

Under Swiss law, trafficking in persons is punished with a sentence of up to 5 years in prison, and coercing a person into prostitution is punishable by up to 20 years. The prosecution of illegal prostitution

²²⁸ U.S. Department of State, 2004 Country Reports on Human Rights Practices.

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and trafficking in persons normally falls under the authority of the cantons, while cases linked to organized crime are under the jurisdiction of federal agencies. According to the 2004 Country Reports on Human Rights Practices by the U.S. Department of State, in 2002 the federal tribunal decided that hiring women, even consenting women, from abroad to engage in prostitution qualified as human trafficking if the abusers exploit a situation of distress.

Furthermore, Article 23, paragraphs 2 and 4 of the Aliens Act (AA) penalizes assisting the illegal entry or stay of a foreigner with the intention of unlawfully making financial gains, as well as intentionally employing foreigners who are not permitted to work in Switzerland. In the experience of FIZ, the provisions of the Aliens Act are more often applied than Articles 195 and 196 of the penal code. Consequently, trafficked persons are not dealt with as victims, but rather as though they themselves are guilty of the offence of illegal residence (Article 23, paragraph 1, AA). This is punishable by up to six months in prison and possibly a fine. If the offence is not considered grave, then only a fine is imposed.

Aid can be provided to victims of trafficking under the Victim Aid Act, (Opferhilfegesetz, VAA). This law foresees aid to persons whose physical, sexual or mental integrity has been directly interfered with. Trafficked persons who have been forced into prostitution or who have been trafficked for the purpose of labour exploitation or for their internal organs are entitled to aid under this law. Aid to victims is provided in the form of counselling, protection during criminal proceedings, and compensation and amends. Cantons can grant additional protection to victims of trafficking than the amount foreseen by the VAA. Some cantons preserve the anonymity of the victim by keeping their name and address secret, as well as by distorting the person's voice and shielding the person so that they cannot be seen during the trial.

Although Switzerland does not have a general programme for the protection of witnesses or victims, a few examples are known in which people under threat have been able to move to another canton under a different identity.

No specific legal norms exist that regulate the residence of victims of trafficking for the duration of the trial. A temporary stay of deportation can be granted if there is a criminal trial, but it is generally not renewed once the trial is over. The FIZ asserts that, to date, it has no knowledge of any long-term residence permit being granted to a victim of trafficking.

Implementation

The Coordination Centre against Human Trafficking and Smuggling (Koordinationsstelle gegen Menschenhandel und Menschenschmuggel, KSMM) was established by the Swiss authorities in 2002 and began work in January, 2003. The KSMM is located in the Federal Office for Police and is tasked with creating the necessary structures and network to effectively combat and prevent human trafficking and smuggling in Switzerland. Its main aim is to ensure that victims obtain better protection and that perpetrators are punished.

The KSMM consists of members of a number of offices from different ministries, for example the Political Department, the Department for International Law, the Department for Development and Cooperation of the Ministry of Foreign Affairs, the Federal Office for Migration (FOM), the Federal Office for Justice and the Federal Office for Police of the Ministry of Justice and Police. The cantons, NGOs (FIZ and Terre des Hommes) and IOM are also represented.

Independent experts are consulted when considered necessary.

Response/Prevention

1) Assistance and support to victims of trafficking

Federal and cantonal governments provide funding to NGOs and women's shelters offering assistance to trafficking victims, including accommodation, counselling, legal assistance, and medical aid.²²⁹

IOM began a pilot-project for trafficked women in January, 2005. The project aims to facilitate the voluntary return of trafficked persons and their long-term reintegration in their home country. This project was discussed with the KSMM and involves close cooperation with other IOM partners and NGOs (including FIZ) in Switzerland and in the countries of origin.

2) Awareness and capacity-building

As reported by the U.S Department of State, the Swiss government funded anti-trafficking awareness raising and education campaigns in several source countries.²³⁰

The FIZ prepared leaflets for potential victims which are distributed by the Swiss Red Cross (SRC) to asylum seekers in the transit zone of the Zurich airport when considered appropriate. In addition, the SRC remains in contact with asylum seekers who have been rejected in the airport procedure through weekly visits to the deportation detention centre. To UNHCR's knowledge, such information leaflets are not made available at the four inland reception centres by the Swiss authorities.

Case Law and Legal Practice

Only one trafficking case has come to the attention of UNHCR in Switzerland. A woman asylum-seeker claimed to have been forced into prostitution after having fled her country of origin (DRC) and before being sent to Switzerland. This aspect of her claim was left unexamined by the Federal Office for Migration (FOM), which was inclined to consider the case as manifestly unfounded in the airport procedure. The woman was allowed entry to the ordinary asylum procedure following UNHCR's intervention (with reference to the Guidelines on Gender-specific Persecution, as the Draft Guidelines on Trafficking were not available).

UNHCR Involvement

The UNHCR is directly involved in the Swiss accelerated airport procedure in which a number of cases, mainly women from Cameroon (formerly also from Nigeria), are suspected of coming to Switzerland for purposes other than seeking asylum.

The UNHCR works closely with the SRC, which provides social and legal counselling to asylum seekers in the transit zone at Zurich-Kloten, to identify victims of trafficking. Due to the short time asylum seekers stay in the transit zone (25 days maximum) and to the fact that many at that point may not be aware of what exactly awaits them once they have entered Switzerland, none have stated that they have come to Switzerland for prostitution or other work which may later prove to be exploitative. The SRC would contact UNHCR if such cases were to be identified.

The FIZ is aware that UNHCR is concerned about the cases of victims of trafficking which may fall under the 1951 Convention and has agreed to bring cases to UNHCR's attention. Upon request, the various

²²⁹ supra note 226

²³⁰ Idem

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legal counselling centres in Switzerland will also refer such cases to UNHCR, as will the Swiss Refugee Council. UNHCR will support the cases by providing the legal representative with a statement and possibly by bringing the case up directly with the Federal Office for Migration (FOM).

Outstanding Issues

The concerns regarding possible victims of trafficking in the airport procedure have been raised informally with the Federal Office for Migration (FOM). The FOM is not keen on becoming proactive at this stage of the procedure and fears that providing information on trafficking too freely at this stage may encourage false claims, making their task of identifying manifestly unfounded claims in the airport procedure more difficult.

Concerning airport cases, it is difficult to keep track of their whereabouts once they enter Switzerland and the ordinary asylum procedure, as they are normally (though not always) first sent to a reception centre before being designated to a canton. Many cases reportedly do not report at the reception centre and simply disappear (this applies equally to cases where no indications of possible trafficking exist).

Non-state persecution does not lead to refugee status in Switzerland. However, UNHCR has lobbied intensively on this subject and the practice may well change with the implementation of the new Asylum Act (possibly in January 2007).

Other Resources

- Terre des Hommes www.terredeshommes.ch
- Fraueninformationszentrum (FIZ) www.fiz-info.ch

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The Former Yugoslav Republic of Macedonia

The Former
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Overview and Profile of Victims

The Former Yugoslav Republic of Macedonia is a transit and destination country for women and children trafficked for the purpose of sexual exploitation from the former Soviet Union and Eastern Europe, particularly from Ukraine, the Republic of Moldova, Romania and Bulgaria. Foreign victims trafficked through the country are destined to Albania, Serbia and Montenegro and Western Europe.²³¹ It is also reportedly becoming a country of origin.

The official number of trafficked women and girls identified and assisted in the country between January 2000 and June 2003 was 690²³². The majority of the victims were single women between 18 and 24 years of age when they were identified and 13 % of them were minors. Most victims were first recruited by acquaintances and job advertisements promising lucrative jobs abroad. Some internal trafficking was also discovered. At the official, government operated and controlled Transit Centre supported by IOM, numbers have dropped from 240 in 2002 to 132 in 2003. At end April 2005, there are three trafficked persons in the Centre.²³³ Proxima also asserts that this issue is directly linked with a primary concern for UNHCR, that the trafficked women and girls are being treated as illegal migrants by the authorities and turned back at the borders.²³⁴

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

In 2002, the criminal code was amended to include a new article defining trafficking as an offence (Article 418a), and in 2004, another two offences were introduced: Article 418b on the smuggling of migrants and Article 418c on organizing a criminal group and the abetment in performing crimes of trafficking in humans and the smuggling of migrants. These amendments adequately criminalize severe forms of trafficking in persons and provide for sentences of 4 to 15 years. During 2004, courts handed down 19 convictions with sentences ranging from 3 to 12 years. In 2004, significant reforms were made in the field of prosecution through amendments to the Law on Criminal Procedure.

231 U.S. Department of State, Trafficking in Persons Report 2004.

232 Regional Clearing Point, Stability Pact Task Force on Trafficking in Human Beings, First Annual Report on Victims on Trafficking in South East Europe, September 2003.

233 Proxima is the European Union Police Mission in The former Yugoslav Republic of Macedonia.

234 Limanowska, B., Trafficking in Human Beings in South Eastern Europe – 2004: Focus on Prevention, UNICEF/UNOHCHR/OSCE/ODIHR, 2005.

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In May 2005, a witness protection law was adopted. Previously the Government and IOM had provided some protection for victims who were willing to testify.

Under the auspices of the Stability Pact Task Force on Trafficking in Human Beings (SPTF), Macedonia, along with other Western Balkan States, signed the Statement on Commitments to Legalize the Status of Trafficked Persons on 11 December 2002. A further step in this positive direction is expected to be taken soon with the adoption of the draft Aliens Act which would provide for temporary residence for victims of trafficking.²³⁵

The Law on Asylum and Temporary Protection (LATP), which entered into force in 2003, does not contain specific provisions on victims of trafficking and their right to asylum. The Ministry of Interior has assured UNHCR that victims of trafficking do have the right to apply for asylum under the LATP and if such claims are received, they will be processed accordingly. A practitioner's manual, which is scheduled to be created in the near future, will include a chapter on victims of trafficking and their right to asylum.

Implementation

In 2001, the government established an inter-ministerial National Commission for Combatting Trafficking to coordinate the implementation of the National Action Plan (NAP). The commission develops policy and reports to the government. In 2003, the commission established an inter-disciplinary secretariat and, in 2004, a Working Group to Combat Trafficking in Children was set up. In 2002, the country adopted a National Action Plan for Illegal Trafficking in Humans and Illegal Migration as well as the Stability Pact MARRI National Action Plan on Asylum and Migration which contains a section on illegal migration and trafficking in human beings. Observers agree, however, that the Commission needs to enhance its effectiveness and to give the national action plans concrete timelines for implementation. The Ministry of Interior has recently established a special section for combatting trafficking in human beings within the Sector for Violent Crime under the Department for Organized Crime.

The Ministry of Labour and Social Policy's Unit for Development of Gender Equality has developed a National Plan of Action for Gender Equality which includes anti-trafficking provisions.

A number of agencies and NGOs participate in anti-trafficking activities. OSCE, IOM, UNDP, UNICEF, the U.S. International Criminal Investigative Training Assistance Program, the U.S. Office of Overseas Prosecutorial Development, Assistance and Training, USAID, ICMPD and the NGOs Open Gate/La Strada and Happy Childhood are members of the Secretariat to the National Commission. In 2004, OSCE issued a list of 30 national NGOs dealing with anti-trafficking matters in The Former Yugoslav Republic of Macedonia. Other national civil associations are also active in this sphere, among which include TEMIS, an association of women in the legal profession, the Deputy Ombudsman for Children, the associations of judges, prosecutors, advocates, as well as international NGOs present in the country.

²³⁵ According to Article 78 of the Draft-Law on Aliens, the alien, for whom there are grounded bases for suspicion that he/she is a victim of the crime of trafficking in human beings shall be enabled a period for decision-making the duration of which is of up to 3 (three) months, with the aim to providing him /her with protection and assistance in his/her recovering and to avoiding the influence of the perpetrators of the crime of trafficking in human beings. The three-month period may be extended in the case when the trafficked victims are minor persons under the age of 18 years, and on the basis of the best interests of those minor persons. Under conditions established in Article 79 of the same Draft, the residence permit may be extended.



UNHCR is currently working on several initiatives, such as instituting a means to identify victims of trafficking and creating a national referral mechanism. Ministry of Interior has officially asked for, and UNHCR has provided, comments to the draft Aliens Act referring to victims of trafficking and access to RSD. In relation to the implementation of the Palermo protocols, including their saving clauses, the country will reportedly draft a special law on Human Trafficking where UNHCR is expected to be involved and raise all relevant aspects affecting asylum.

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Response/Prevention

1) Assistance and support to victims of trafficking

Assistance and protection for trafficking victims have traditionally been geared towards repatriation assistance for foreign victims of sexual exploitation. Within this framework, the Ministry of Interior's Section for Aliens under the Department of Civil Affairs has been operating a transit shelter centre for foreign trafficked persons since April 2001 and provides direct assistance, such as medical and other services for victims in the centre through IOM and a local NGO. Victims of trafficking may, however, apply for asylum and such applicants have all the rights of asylum seekers as defined in the Law on Asylum and Temporary Protection, including access to free of charge legal assistance, provided by the UNHCR-funded national legal NGO network.

2) Awareness and capacity-building

The national government, international organizations and NGOs have undertaken a number of prevention and awareness raising activities. Some of these activities have been based solely on experiences and information gathering from other countries in the region, rather than on local research and assessment of the situation. There is, as of yet, little or no evaluation on the part of the asylum bodies of the effectiveness or impact of the campaigns to raise awareness beyond a general assessment of knowledge of the existence of trafficking.

Under the auspices of the Stability Pact Task Force on Trafficking in Human Beings (SPTF), two training manuals were developed by ICMPD and UNDP. The training manual has been tailored to the national legislation and context by national experts and translated into Macedonian. The OSCE Spillover Monitor Mission to Skopje coordinates roundtables on trafficking since August 2000 with government, international and local NGO participation. In an effort to enhance domestic capacity to investigate and prosecute human trafficking cases, OSCE, with the support of the U.S. Embassy, organized joint seminars.

UNHCR disseminates relevant provisions of the Agenda for Protection and conducts awareness raising sessions with all counterparts. UNHCR has offered a training partnership to OSCE and other agencies and maintains close cooperation with the national police in training of border police. The National CARDS Phase II Project, with the participation of UNHCR trainers, is expected to implement Training of Trainer sessions on the relationship between victims of trafficking and the need for international protection.

Case Law and Legal Practice

No asylum applications from trafficked persons have been referred to or received by the Ministry of Interior's Section for Asylum or UNHCR so far. However, in 2005 UNHCR has been involved in the case of a young girl who may have been trafficked by her parents. She was intercepted while trying to enter Croatia, allegedly traveling to Italy to meet her prospective husband when she was detained. Subsequently, she was readmitted into the country with the assistance of UNHCR.



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UNHCR Involvement

UNHCR addresses trafficking in an indirect manner through participation in inter-agency meetings managed by OSCE and IOM, and by including this issue in meetings' agendas and trainings with Macedonian officials. In particular, initiatives to better identify the protection needs of victims of trafficking at the border or inland and to create a national referral mechanism are being focused on. Following a request from the Ministry of Interior, UNHCR provided comments to the draft Aliens Act concerning victims of trafficking and their access to RSD and international protection as mentioned above.

The Ministry of Interior provides UNHCR with access to the Transit centre for foreign trafficked persons upon request. UNHCR's role in the centre (which is currently in the same building as the UNHCR-supported reception centre for asylum seekers) is to be institutionalized in the standard operating procedures. This amendment would provide for a referral system for those individuals who apply for asylum and the procedure may be carried out in the Transit Centre for Victims of Trafficking.

The UNHCR is also involved in regional anti-trafficking activities, including the Budapest Process, the MARRI Regional Forum, Regional CARDS and the Special Task Force on Trafficking in Human Beings.

Outstanding Issues

The lack of human and financial resources creates a serious obstacle for effective work in this area. In addition, there is a lack of understanding of gender-based persecution and of the fact that the international refugee regime could serve as a back-up protection mechanism for this particular social group. Presently trafficked women are rarely recognized as refugees.²³⁶ Not only trafficked women, but women in general are recognized as refugees in far less numbers than men. There appears to be little understanding in the local community that violence against women, feminine poverty and a lack of recognition of fundamental rights for women are the contributing factors for trafficking.

While instances of official impropriety and corruption continue to degrade judicial effectiveness, several major trafficking trials resulted in sentences commensurate with grave crimes, and all convictions appealed to the Supreme Court were upheld. The government successfully convicted several former government and police officers on corruption charges as well as one police inspector for disclosing information about a planned trafficking raid. The government should institute more effective protection for judges and prosecutors trying trafficking cases and expand prevention programmes for vulnerable groups. In 2003 and 2004, the OSCE Police Development Unit observed and guided several anti-trafficking operations carried out by the Ministry of Interior's Anti-Trafficking Unit at national and international levels.²³⁷

From the victim's perspective, the situation is that still too few victims have effective access to justice and to refugee status determination procedures.

236 Shearer Demir, J. The Trafficking of Women for Sexual Exploitation: A Gender-based and Well-Founded Fear of Persecution? UNHCR New Issues in Refugee Research, Working Paper No. 80, March (2003):2.

237 supra note 127



Other Resources

- Answers to the Questionnaire for the preparation of the European Commission's Opinion on the application of The Former Yugoslav Republic of Macedonia for membership of the European Union www.sei.gov.mk/questionnaire/
- Report of the activities of the National Commission for Combatting Trafficking in Human Beings and Illegal Migration in the Republic of Macedonia (as undertaken during 2003 and 2004) and its priority activities for 2004, Skopje, April 2004.
- La Strada lastrada@on.net.mk
- TEMIS, info@temis.com.mk
- Happy Childhood verica@freemail.org.mk
- International Organization Migration www.iomskopje.org.mk/CT/projects/cb/shelter.html
- Legal NGO Network Skopje, mcdrln@yahoo.com and csrconline@yahoo.com
- PRACTICUM on the combat against trafficking in human beings and illegal migration, www.iomskopje.org.mk/CT/Index.html

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Macedonia



Turkey

Turkey

Overview and Profile of Victims

Turkey is a transit and destination country for women and girls trafficked primarily for the purpose of sexual exploitation from Eastern European and the CIS countries. Persons trafficked through Turkey are destined mainly to Western Europe. Internal trafficking of Turkish citizens has also been reported.²³⁸

According to the Ministry of Foreign Affairs statistics, 239 victims of human trafficking were identified in 2004. 103 victims returned voluntarily to their own countries between January 2004 and March 2005. Forty-six victims stayed in the shelter in Istanbul between November 2004 and February 2005, while 26 victims obtained humanitarian visas between 2003 and 2004. However, a much higher number of trafficking victims, closer to 1,500, was estimated by NGOs dealing with trafficking issues in Turkey and in neighboring source countries.²³⁹ The Human Resources Development Foundation (HRDF), a UNHCR partner NGO, believes that government statistics might only be the tip of the iceberg of many more trafficked persons. Numbers of non-European victims among migrants smuggled to Turkey en route to Europe, who lack the language and knowledge to report and claim protection, may be higher than higher than reports indicate.

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

On the national level, legislation is heavily weighted in favour of persecution of the perpetrators of human trafficking, with few provisions for protection of the victims. The new penal code, which entered into force in June 2005, includes a definition of Trafficking in Human Beings (Article 80) and stipulates imprisonment of 8 to 12 years and a fine corresponding to ten thousand days of income. It also prescribes security measures for legal entities involved in the trafficking of human beings.

Among other relevant legislation, Article 8 of the Passport Law states that foreigners who are engaged in prostitution, or who earn their living by enticing women into prostitution, and those involved in trafficking women are denied entry to Turkey. Article 5 of the Citizenship Law, amended on 4 June 2003, stipulates that a probation period of three years is required for acquiring citizenship through marriage. Accordingly, those who have a job which is incompatible with the marriage and who do not share the same house with his or her spouse will not be able to acquire Turkish citizenship.

²³⁸ U.S. Department of State, Trafficking in Persons Report 2005.

²³⁹ U.S. Department of State, Trafficking in Persons Report 2004.



Turkey

The Ministry of Interior has authorized governorates to issue humanitarian visas and temporary residence permits (under the Law on Residence and Travel of Foreigners in Turkey) to victims, if necessary, in order to allow them to stay in Turkey for rehabilitation and treatment. The duration of the permit is up to 6 months and it can be extended. The Ministry of Health has made necessary legislative and administrative changes in order to provide medical treatment to the victims of trafficking free of charge at state hospitals.

Under the Law on Working Permits for Foreigners, the Ministry of Labour and Social Security is authorized to issue all forms of working permits. Employment in domestic services is also made possible with this law. It aims to provide legal protection for foreigners against exploitation in labour markets and to extend legal and administrative safeguards to private services. The Ministry of Labour and Social Security has prepared a sample contract in Turkish and in several other languages. The Road Transportation Regulation, effective since February 2004, states that individuals convicted of certain human trafficking or smuggling crimes will have their transportation permit suspended for three years.

A Memorandum of Understanding facilitating cooperation in anti-trafficking activities between Turkey and Belarus entered into force in September 2004.

Implementation

The Ministry of Foreign Affairs is responsible for the national coordination of issues related to human trafficking. The Ministry of Foreign Affairs chairs the National Task Force on Combatting Trafficking in Human Beings, which involves experts from relevant ministries and NGOs such as the Human Rights Presidency of the Prime Minister's Office, the Ministry of Interior, the Ministry of Justice, the Ministry of Labour and Social Security, the Directorate General of the Status and Problems of Women, and the previously mentioned NGO, HRDF. The national task force convened in October 2002 for the first time, and the National Action Plan prepared by the Task Force is being operationalized.

The Directorate General of the Status and Problems of Women is responsible for cooperation and coordination with relevant anti-trafficking NGOs in Turkey.

In January 2004, a branch office for Human Movements was established and a Chief Administrator on Human Trafficking was appointed under the Ministry of Interior.

Response/Prevention

1) Assistance and support to victims of trafficking

In September 2003, a protocol was signed between the Ministry of Interior and the Human Resources Development Foundation (HRDF) for the cooperation in combatting human trafficking, providing legal, psychological and medical counselling, networking with NGOs in countries of origin and raising public awareness. As a result of this Protocol, 9,000 copies of a brochure entitled Combatting Human Trafficking were prepared and distributed by the Gendarme General Command to police stations in 81 cities in Turkey.

An HRDF Shelter for Victims of Trafficking in Istanbul was opened in November 2004, employing three housing counsellors who speak

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Turkish and Russian. As stated in HRDF's Overview of Combatting Human Trafficking in Turkey, the shelter referral system ensures that persons apprehended during police raids are taken to the Foreigner's Section of the Ministry of Interior, where their identification documents are checked. They are then taken to court, where the prosecutor identifies the individual as a victim of trafficking and a court decision is issued that the victim will receive appropriate assistance and referral action. After IOM screens the victim to identify his or her status, HRDF's case manager transfers the victim from the police to the shelter where he or she stays until his or her safe return is arranged in collaboration with IOM. As noted above, governorates may issue 6-months residence permit for a victim of trafficking, which may be further extended to allow them stay in Turkey for rehabilitation and treatment. Counselling services are provided during this period. A total of 74 victims have stayed at the HRDF shelter between November 2004 and June 2005. Free medical care is assured for victims of human trafficking by the Ministry of Health. The shelter serves victims from Istanbul as well as from eight other provinces. One UNHCR-recognized case stayed in the HRDF Shelter. Sixty-six cases have been assisted for voluntary repatriation since January, 2004. A project to open shelters in Ankara, Izmir, Antalya and Adana/Mersin is underway.

A victim hotline (157) was established in May 2005, as a result of a common project between the National Task Force and IOM. The project will be run by IOM for a period of 6 months and then will be handed over to an NGO in Turkey. The hotline is operated by Russian, Romanian, Turkish and English speaking personnel. The emergency calls from victims of third persons will be conveyed to the security authorities for their immediate action, according to a statement by the Foreign Ministry from March 2005.

2) Awareness and capacity-building

UNHCR has incorporated the issue of human trafficking in the cooperation framework activities with the Ministry of Interior since the end of 2003 to raise awareness that some victims of trafficking might fall within the refugee definition.

In this respect, a four-day seminar called The Protection of Refugee Women and Children & Combatting Human Trafficking was organized for the Gendarmerie General Command in February 2004 in Ankara. Around 40 border-guards from the east and southeastern borders as well as the Senior Regional Adviser on Refugee Women and Refugee Children participated. A second seminar was organized by UNHCR in April 2005 for the same target group in Ankara.

UNHCR has mainstreamed the issue of trafficking in the ongoing introductory and advanced RSD workshops in order to raise awareness among police officers, border guards, public prosecutors, and judges. The topic has been incorporated into training workshops for civil society on the Prevention and Protection from Sexual and Gender-based Violence (SGBV) for civil society since October 2004 such as ICMC, IIMP, Helsinki Citizens Assembly and Caritas on Protection and Response. There is an agreed mechanism of training cooperation with IOM, whereby UNHCR reserves a training module for IOM in its seminars, and IOM does the same for UNHCR in its own seminar series, including the U.S. funded series especially focusing on human trafficking which started in 2005.

Since 2004, information on assistance and protection programmes, such as the establishment of shelters, was shared through the UNHCR Gender and Children Team.

Turkey

A Sexual and Gender-based Violence (SGBV) incident report form along with referral mechanisms concerning women and children at risk (including trafficking victims) were created in collaboration with NGOs, IOM, UNHCR and government services.

HRDF currently has a database of 82 NGOs from 30 countries, and as a result of the database, it has received information from NGOs in source countries on missing women who may be potential trafficking victims. This information is forwarded to the General Directorate of Security, with a follow-up by HRDF for further feedback. Other institutions HRDF cooperates with include IOM, MFA, MOI, the General Commandership of Gendarme and the Istanbul Metropolitan Municipality. HRDF, ICMC, and UNHCR exchange information regularly.

Case Law and Legal Practice

Five cases have been brought to the attention of UNHCR so far. One, an Iranian minor about to be trafficked to Dubai was resettled to Australia. Another case, an Iranian who was recognized on grounds of forced prostitution and forced labour was placed in the HRDF/IKGV shelter in Istanbul until she was resettled in May 2005. An Iraqi minor who was trafficked within Turkey is currently placed in a Social Services and Child Protection Agency (SHCEK). Another Iranian was identified after having been trafficked to Dubai. Additionally, there was a case of a trafficked woman from the Philippines who was not recognized as a refugee under the 1951 Convention but for whom UNHCR arranged for voluntary repatriation. However, UNHCR has recently learned that the woman did not return to her country of origin, and consequently her situation will be re-evaluated.

UNHCR Involvement

It is important to note that UNHCR is only exposed to certain asylum seekers, due to Turkey's geographical limitation to European refugees. As most of the trafficking victims come from the CIS and Eastern European countries, they, as Europeans, fall under Turkey's asylum jurisdiction. Therefore, although there is an understanding with IOM and NGO counselling partners for referring potential refugee cases among trafficking victims to UNHCR, it may not be aware of many who are considered to be the responsibility of the Turkish authorities.

Outstanding Issues

The identification of victims of trafficking is currently one of the main outstanding issues for UNHCR. Referral mechanisms need to be established between UNHCR and the authorities, IOM, and local NGOs active in the field of trafficking. Migration continues to affect Turkey given its geographic position between Asia and Europe and a pre-screening mechanism should be established in order to identify victims of trafficking in the mixed flows of refugees and migrants. This is especially relevant for rejected asylum seekers and UNHCR needs to find a way to reach them. Both internal and external training activities should continue to raise awareness and improve the ability to identify victims of trafficking.

Increasing awareness among the refugee population in Turkey needs to be addressed, with the possible inclusion of information on human trafficking in the information leaflet about the legal rights of women and children in Turkey.

The new Turkish penal code defines trafficking under Article 80. The sexual exploitation of women and children is dealt with separately under Article 227, which might create difficulties in implementation.

**Turkey**

With the number of trafficked individuals in the refugee caseload increasing, it is important to raise awareness among the resettlement countries. UNHCR is planning to have briefings for embassy partners and missions.

Other Resources

- Human Resources Development Foundation (HRDF)
www.ikgv.org/refugee.htm, ikgv@ikgv.org
- International Organization for Migration's website on Counter-Trafficking Activities in Turkey www.countertrafficking.org
- Ministry of Foreign Affairs www.mfa.gov.tr
- Ministry of Foreign Affairs: Updated Country Report of Turkey on Trafficking in Human Beings
www.mfa.gov.tr/MFA/ForeignPolicy/MainIssues/TurkeyOnIllegalMigration/TurkeyonTraffickinginHumanBeings.htm

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Ukraine

Ukraine

Overview and Profile of Victims

Ukraine is a source country for women, men and children trafficked mainly for the purpose of sexual exploitation and forced labour to Russia, Turkey, Central and Western European countries, the United States, and the Middle East. Ukraine is also a significant transit country for trafficking victims from Central Asia, Russia and the Republic of Moldova destined for Western Europe.²⁴⁰

There is no official data on the number of trafficking victims in Ukraine. Estimates are therefore based on the caseloads of victims identified by governmental and non-governmental bodies dealing with trafficking. The U.S. Department of State reports that, as estimated by the Ukrainian Ministry of Interior, approximately 400,000 women were trafficked abroad from Ukraine during the previous decade.²⁴¹ IOM reported that between 2000 and 2005 it assisted 1,984 Ukrainian trafficking victims and 200 trafficking victims of other nationalities from within CIS. In 2004-2005 (up until 31 March) 668 Ukrainian victims of trafficking were provided with direct assistance by IOM.²⁴²

Legal Framework

International law:

Convention against Transnational Organized Crime	Ratified
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Ratified
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Ratified
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

Article 149 of the new criminal code, which entered into force in September 2001, criminalizes trafficking or other illicit transactions concerning the transfer of persons and establishes a penalty of 3 to 8 years' imprisonment. If committed against a minor, or in the presence of other aggravating circumstances, the sentence is increased up to 15 years' imprisonment.²⁴³

Other articles of the criminal code that can be used to prosecute traffickers include: Article 303 (prostitution), Article 302 (pimping), Article 190 (fraud) and Article 146 (unlawful imprisonment).

None of the laws regulating the stay of foreigners in Ukraine, such as the Aliens Law, the Immigration Law and the Refugee Law, contain specific provisions for trafficking victims.

²⁴⁰ U.S. Department of State, Trafficking in Persons Report 2005.

²⁴¹ U.S. Department of State, 2004 Country Reports on Human Rights Practices.

²⁴² IOM, Combatting Trafficking in Human Beings in Ukraine. Statistics last updated on 31 March 2005.

²⁴³ www.lastrada.org.ua/laws.cgi?lng=en&Id=2&rub=1

**Ukraine**

The Law on the Provision of Safety for Persons Acting in Trials provides the right to protection and defines a range of safety measures including personal protection, change of identity and documentation, relocation as well as in-court protection for witnesses giving evidence. However, due to the lack of resources, witness protection mechanisms are not yet fully developed.²⁴⁴

Implementation

In 2000, special units for combatting the trafficking in persons were formed by the Ministry of Interior, the General Prosecutor's Office and the Security Service of Ukraine. In June 2002, the Complex Programme Concerning the Prevention of Trafficking in Humans for 2002-2005 was adopted by the Cabinet of Ministers of Ukraine. Further to that, the Inter-agency Coordination Council for the Prevention of Human Trafficking was established, chaired by a Deputy Prime Minister. In 2004, the Minister of Family, Children and Youth was designated as the Chair of the Council and the first inter-agency meeting was convened in October 2004. In December 2004, the government also established an advisory anti-trafficking working group to improve coordination of the Council.²⁴⁵

A National Coordination Council against Human Trafficking was also established at the Ombudsman Office of Ukraine.²⁴⁶

In January 2005, with funding provided by the Directorate General for the Development Cooperation of the Italian Ministry of Foreign Affairs with the support of ECPAT International, a project entitled Development of a National Referral System for Providing Assistance to Children Suffered from Commercial Sexual Exploitation in Ukraine was launched by the Ukrainian Ministry of Youth and Sport Affairs in cooperation with the International Women's Rights Centre La Strada Ukraine as part of the UNICRI Action Programme Against Trafficking in Minors for Sexual Purposes.²⁴⁷

At the end of August 2005, a new Ministry of Interior was created which includes two sub-departments which will be active in 27 regions of the Ukraine, one for combatting trafficking in human beings and another for illegal migration. The responsibility for two temporary accommodation Centres (in Volin' and Chernigiv Oblast) will now be transferred to this new ministry.

Response/Prevention

The government largely relies on NGOs and international organizations to conduct prevention programmes and to provide assistance to victims. Trafficking victims are able to receive various types of assistance including medical, psychological, legal, accommodation in shelters, job skills training, job placement and micro credits. Several hotline services are available all around the country, some of which are toll-free. IOM supports 19 hotlines along with the national toll-free hotline as well as regional information campaigns.

IOM remains one of the main agencies involved in tackling the consequences of trafficking, working closely with numerous local and international NGOs and civil society in Ukraine. A referral, reintegration and monitoring system was implemented by IOM and its

244 Anti-Slavery International, Human Traffic, Human Rights: Redefining Witness Protection. Available at: www.antislavery.org/homepage/resources/humantraffic/ukraine.pdf

245 U.S. Department of State, Trafficking in Persons Reports 2003, 2004 and 2005.

246 www.stopvaw.org/Ukraine.html

247 www.lastrada.org.ua/projects.cgi?lng=en



partner NGOs, and the number of assisted trafficking victims is reported to have increased due to this successful collaboration. The government also supports nation-wide programmes on Ukrainian radio and TV designed to raise public awareness of trafficking in human beings.

Case Law and Legal Practice

UNHCR is not aware of any cases when trafficking victims were granted refugee status in Ukraine.

UNHCR Involvement

UNHCR participates in the UN Country Team's Trafficking Task Force, which meets regularly to exchange information on trafficking-related activities of ILO, IOM, the OSCE, UNDP and UNICEF in Ukraine.

Other Resources

- Stop Violence against Women www.stopvaw.org/Ukraine.html
- La Strada, Ukraine www.lastrada.org.ua/
- International Organization for Migration www.iom.org.ua

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Ukraine


**United
Kingdom**
United Kingdom
Overview and Profile of Victims

The most recent data suggests that in 2002, 1,400 foreign citizens were trafficked into Britain for sexual exploitation. The Poppy Project - a United Kingdom (UK)-based organization providing assistance to trafficking victims - believes that that figure has since doubled.

Of these 1,400 foreign nationals trafficked into the UK, the vast majority were women brought for the purpose of sexual exploitation. These statistics do not include individuals who have been trafficked into the UK for other purposes, such as labour exploitation.

As of April 2004, the Poppy Project had provided accommodation for 26 trafficked women for one year, at which point information about them by POPPY/Eaves was compiled. The countries of origin of these women include: Lithuania, Ukraine, Albania, Romania, the Republic of Moldova, Nigeria, Sierra Leone, Democratic Republic of Congo, Ghana, Latvia, Thailand and Turkey. Ten (or 38%) of the women disclosed having experienced multiple forms of violence before trafficking, and twelve (or 46%) of the women had been raped or sexually abused before being trafficked. Of these, ten rapes were committed by men within the woman's 'family/partner/friends' network.

There are no statistics available on the average age of individuals trafficked into the UK, however there is a general belief that the demand is for girls and young women, as the age of women is a selling point with the premium age appearing to be between late teens and early twenties.

The Poppy Project provides case profiles in their publications, such as the following in order to help create a picture of who they are working with: "'E' was first trafficked at age 13, sold by her sister to traffickers, then sold again in Italy. Found there by the Police, she was returned to her country of origin. She was home for four days before her father sold her again, this time to another group of traffickers who prostituted her in Italy and France before bringing her to the United Kingdom, where she was referred to the POPPY Project. 'E' has put in a claim for asylum in the UK, as she does not believe it would be safe for her to return."²⁴⁸

Legal Framework
International law:

Convention against Transnational Organized Crime	Signed
Optional Protocol Against the Smuggling of Migrants by Land, Sea and Air	Signed
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Signed
Convention on the Rights of the Child	Ratified
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified
Optional Protocol to CEDAW	Ratified

National law:

At the national level, the government introduced an offence of trafficking for sexual exploitation in the Sexual Offences Act (2003) and a separate offence of trafficking for all forms of labour exploitation in the Asylum and Immigration (treatment of claimants) Act (2004). Both offences carry a maximum penalty of 14 years in prison.

²⁴⁸ Poppy Project, Report: Sex and the City, 2004.



Section 4 and 5 of the Asylum and Immigration Act entered into force in December, 2004.

The UK Government announced at the beginning of March that thousands of men could face prosecution for rape for having sex with trafficked prostitutes under plans to crack down on illegal trade.²⁴⁹ The UK is making anti-trafficking a priority for its forthcoming presidency of the EU, addressing in particular: prosecution, assistance to victims, and combatting demand.

Implementation

The Home Office is the lead government agency in this area. Its Policing Organised Crime Unit has the responsibility for coordinating policy interests between the Home Office and government regarding organized immigration crime including legislation, provision for victims and witnesses, enforcement and prevention. It also has policy responsibility for an organized anti-immigration crime strategy. The immigration service is part of the Home Office, which also works with the police to fight human trafficking.

Aside from the government, there is a Counter-Trafficking Steering Group, established in 2002, which coordinates the trafficking response across central and local government departments, law enforcement agencies, and the NGO sector. UNHCR is a member of the group.

Response/Prevention

1) Assistance and support to victims of trafficking

UNHCR works with partner organizations such as the Poppy Project and Anti-Slavery International to address trafficking issues in the UK.

Currently, there is only one shelter under the Poppy Project in all of the UK dedicated to trafficked women. Anti-Slavery International plays a key role in combatting trafficking in the UK through advocacy and by lobbying to abolish trafficking as well as for better data collection. It is the Poppy Project's view that women who are victims of trafficking are frequently deterred from approaching the authorities, and that even if women are able to escape their captors, overcome their fear and find the courage to approach agencies, they are generally unable to access public funds and so cannot access services such as refuges, hostels or legal representation. The Poppy Project provides safe, short-term accommodation, health assessment and interpretation. There has been some concern expressed about the project, as support is only available to women who have agreed to testify against their traffickers in court. In addition, there are only 25 places in the shelter and, under the current criteria, only women trafficked into prostitution who have been working as prostitutes in the UK in the preceding 30 days may be eligible for the assistance. This means that women trafficked into prostitution but who have escaped their traffickers before being prostituted do not qualify.

2) Awareness and capacity-building

As part of the government's move to increase awareness of trafficking among immigration and law enforcement personnel, it has published a toolkit on trafficking that provides practical advice on how to identify and treat victims of this abuse²⁵⁰.

249 On 22 February 2005, an Albanian man was convicted and sentenced to 11 years in prison for trafficking young women into Britain for the sex trade. Two of his accomplices were also jailed. This decision reveals the UK's most recent attempts to target the perpetrators of trafficking offences and not those who become victims of the trade. The Judge stated that "a message must go out to the countries where these women come from that those involved in trafficking will receive deterrent sentences."

250 UK government Trafficking in People Toolkit. Available at:
www.crimereduction.gov.uk/toolkits/tp00.htm

**United
Kingdom****Case Law and Legal Practice**

UNHCR has encountered cases of trafficking, the majority of which are granted complementary protection status in accordance with the European Convention on Human Rights. However, there were also a few asylum cases recognized on the 1951 Convention grounds. For instance, in 2000, the Immigration Appeals Tribunal (IAT) granted asylum to a Ukrainian woman on the grounds of belonging to a particular social group, namely women in Ukraine forced into prostitution against their will. In 2004, an asylum case of a Romanian woman was accepted on appeal on the basis of being a member of a particular social group consisting of trafficked women unable to access protection in their own country. In 2003, in the case of an Albanian woman, the Immigration Appeals Tribunal accepted that there would not be sufficient protection for her in Albania and that she was likely to be subjected to persecution for a Convention ground, as well as was likely to be subjected to persecution amounting to a breach of Article 3 of the ECHR.²⁵¹

UNHCR Involvement

In partnership with the Counter-Trafficking Steering Group, UNHCR hosted a seminar in February 2004 entitled International Protection for Persons Who Have Been Trafficked – Does the 1951 Convention Apply? This seminar resulted in the issue of trafficking taking a front seat in the debate on gender and asylum both within the NGO community as well as within the government. In addition, due to the recognition sparked by the seminar of the relation between being a refugee as well as a victim of trafficking, UNHCR was asked for and provided a letter outlining how a victim of trafficking can be categorized as a member of a particular social group as that category is defined by the 1951 Convention.

UNHCR participates in meetings, seminars and conferences related to trafficking. In addition, it keeps track of country of origin information with reference to the inadequate protection in certain countries for trafficked victims when they are returned. Finally, they also provide training to both the UK authorities as well as to NGOs on UNHCR's gender guidelines and policies on the treatment of trafficked victims who seek asylum.

Other Resources

- The Poppy Project: www.poppypoint.org
- UK government Trafficking in People Toolkit www.crimereduction.gov.uk/toolkits/tp00.htm
- Prevention and Fight against Trafficking: Institutional Developments in Europe. UK Report. Mano Candappa, Centre for Research in Ethnic Relations, University of Warwick, 2003.

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²⁵¹ Full decision available at:

www.bailii.org/cgi-bin/markup.cgi?doc=/uk/cases/UKIAT/2003/00023.html

APPENDIX 1

Status of Relevant International Instruments²⁵²

	Transnational Organized Crime Convention ²⁵³		Smuggling Protocol ²⁵⁴		Trafficking Protocol ²⁵⁵	
	Signature	Ratification	Signature	Ratification	Signature	Ratification
Albania	✓	✓	✓	✓		✓
Armenia	✓	✓	✓	-	✓	-
Austria	✓	✓	✓	-	✓	-
Azerbaijan	✓	✓	✓	✓	✓	✓
Belarus	✓	✓	✓	✓	✓	✓
Belgium	✓	✓	✓	✓	✓	✓
Bosnia & Herzegovina	✓	✓	✓	✓	✓	✓
Bulgaria	✓	✓	✓	✓	✓	✓
Croatia	✓	✓	✓	✓	✓	✓
Cyprus	✓	✓	✓	✓	✓	✓
Czech Republic	✓	-	✓	-	✓	-
France	✓	✓	✓	✓	✓	✓
Georgia	✓	✓	✓	✓	✓	✓
Germany	✓	-	✓	-	✓	-
Greece	✓	-	✓	-	✓	-
Hungary	✓	-	✓	-	✓	-
Ireland	✓	-	✓	-	✓	-
Italy	✓	-	✓	-	✓	-
Luxembourg	-	-	✓	-	✓	-
Netherlands	✓	✓	✓	-	✓	-
Poland	✓	✓	✓	✓	✓	✓
Republic of Moldova	✓	-	✓	-	✓	-
Romania	✓	✓	✓	✓	✓	✓
Russian Federation	✓	✓	✓	✓	✓	✓
Serbia & Montenegro and Kosovo	✓ n/a	✓ n/a	✓ n/a	✓ n/a	✓ n/a	✓ n/a
Slovakia	✓	✓	✓	✓	✓	✓
Slovenia	✓	✓	✓	✓	✓	✓
Spain	✓	✓	✓	✓	✓	✓
Sweden ²⁵⁶	✓	✓	✓	-	✓	✓
Switzerland ²⁵⁷	✓	-	✓	-	✓	-
The Former Yugoslav Republic of Macedonia	✓	✓	✓	✓	✓	✓
Turkey	✓	✓	✓	✓	✓	✓
Ukraine	✓	✓	✓	✓	✓	✓
United Kingdom	✓	-	✓	-	✓	-

252 All countries concerned have ratified: Convention on the Rights of the Child; Convention on the Elimination of All Forms of Discrimination against Women; International Labour Organisation Convention No. 29 (Forced Labour Convention); International Labour Organisation Convention No. 105 (Abolition of Forced Labour Convention).

253 United Nations Convention Against Transnational Organised Crime.

254 Protocol Against the Smuggling of Migrants by Land, Sea and Air.

255 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

256 Data provided by the Regional Office (RO) Stockholm was only regarding Sweden. Besides Sweden, RO Stockholm also covers the following countries: Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Sweden.

257 Data provided by the Swiss Liaison Unit was only regarding Switzerland. Besides Switzerland, the unit also covers Lichtenstein.



Status of Relevant International Instruments

	Optional Protocol to the CRC ²⁵⁸		Optional Protocol to the CEDAW ²⁵⁹	
	Signature	Ratification	Signature	Ratification
Albania	✓	-	-	✓
Armenia	✓	-	-	✓
Austria	✓	✓	✓	✓
Azerbaijan	✓	✓	✓	✓
Belarus	-	✓	✓	✓
Belgium	✓	✓	✓	✓
Bosnia & Herzegovina	✓	-	✓	✓
Bulgaria	✓	✓	✓	-
Croatia	✓	✓	✓	✓
Cyprus	✓	-	✓	✓
Czech Republic	✓	-	✓	✓
France	✓	✓	✓	✓
Georgia	✓	-	-	✓
Germany	✓	-	✓	✓
Greece	✓	-	✓	✓
Hungary	✓	-	-	✓
Ireland	✓	-	✓	✓
Italy	✓	✓	✓	✓
Luxembourg	-	-	✓	✓
Netherlands	✓	-	✓	✓
Poland	✓	-	-	✓
Republic of Moldova	✓	-	-	-
Romania	✓	✓	✓	✓
Russian Federation	-	-	✓	✓
Serbia & Montenegro and Kosovo	✓ n/a	✓ n/a	- n/a	✓ n/a
Slovakia	✓	✓	✓	✓
Slovenia	✓	-	✓	✓
Spain	✓	✓	✓	✓
Sweden ²⁶⁰	✓	-	✓	✓
Switzerland ²⁶¹	✓	-	-	-
The Former Yugoslav Republic of Macedonia	✓	✓	✓	✓
Turkey	✓	✓	✓	✓
Ukraine	✓	✓	✓	✓
United Kingdom	✓	✓	-	✓

²⁵⁸ Convention on the Rights of the Child

²⁵⁹ Convention on the Elimination of All Forms of Discrimination against Women

²⁶⁰ Data provided by the Regional Office (RO) Stockholm was only regarding Sweden. Besides Sweden, RO Stockholm also covers the following countries: Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Sweden.

²⁶¹ Data provided by the Swiss Liaison Unit was only regarding Switzerland. Besides Switzerland, the unit also covers Lichtenstein.

APPENDIX 2

National Anti-Trafficking Legislation and Implementation Arrangements

	Anti-Trafficking Law	Legal Provisions for the Right to Apply for Asylum Expressly for Victims of Trafficking	Case Law on Asylum for Trafficking Victims
Albania	✓	-	-
Armenia	✓	-	-
Austria	✓	-	-
Azerbaijan	-	-	-
Belarus	✓	-	-
Belgium	✓	-	-
Bosnia & Herzegovina	✓	✓	✓
Bulgaria	✓	✓	-
Croatia	✓	-	-
Cyprus	✓	-	-
Czech Republic	✓	-	-
France	✓	-	-
Georgia	✓	-	-
Germany	✓	-	✓
Greece	✓	-	-
Hungary	✓	-	-
Ireland	✓	-	✓
Italy	✓	-	-
Luxembourg	✓	-	-
Netherlands	✓	-	-
Poland	✓	-	-
Republic of Moldova	✓	-	-
Romania	✓	-	-
Russian Federation	✓	-	-
Serbia & Montenegro and Kosovo	✓ ✓	- -	✓ -
Slovakia	✓	-	-
Slovenia	✓	-	-
Spain	✓	-	✓
Sweden ²⁶²	✓	-	-
Switzerland ²⁶³	✓	-	✓
The Former Yugoslav Republic of Macedonia	✓	-	-
Turkey	✓	-	✓
Ukraine	✓	-	-
United Kingdom	(✓)	-	✓

262 Data provided by the Regional Office (RO) Stockholm was only regarding Sweden. Besides Sweden, RO Stockholm also covers the following countries: Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Sweden.

263 Data provided by Swiss Liaison Unit the was only regarding Switzerland. Besides Switzerland, the unit also covers Lichtenstein.



National Anti-Trafficking Legislative and Implementation Arrangements

	National Anti-Trafficking Action Plan	Inter-Agency Coordination Mechanisms
Albania	✓	-
Armenia	✓	✓
Austria	-	-
Azerbaijan	✓	✓
Belarus	✓	-
Belgium	✓	-
Bosnia & Herzegovina	✓	✓
Bulgaria	✓	✓
Croatia	✓	✓
Cyprus	✓	✓
Czech Republic	-	-
France	-	✓
Georgia	✓	✓
Germany	-	-
Greece	✓	✓
Hungary	-	-
Ireland	-	-
Italy	-	-
Luxembourg	-	-
Netherlands	✓	-
Poland	✓	-
Republic of Moldova	-	✓
Romania	✓	✓
Russian Federation	-	-
Serbia & Montenegro and Kosovo	-	✓
Slovakia	-	-
Slovenia	✓	✓
Spain	-	-
Sweden ²⁶⁴	-	-
Switzerland ²⁶⁵	-	✓
The Former Yugoslav Republic of Macedonia	✓	✓
Turkey	✓	✓
Ukraine	✓	✓
United Kingdom	-	✓

²⁶⁴ Data provided by the Regional Office (RO) Stockholm was only regarding Sweden. Besides Sweden, RO Stockholm also covers the following countries: Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Sweden.

²⁶⁵ Data provided by Swiss Liaison Unit the was only regarding Switzerland. Besides Switzerland, the unit also covers Lichtenstein.

APPENDIX 3

Areas of UNHCR Involvement

	Anti-Trafficking Law Development	Participation in Inter-Agency Coordination Fora	Training and Capacity Building
Albania	-	-	✓
Armenia	✓	✓	✓
Austria	-	-	-
Azerbaijan	-	✓	✓
Belarus	-	-	-
Belgium	-	-	-
Bosnia & Herzegovina	✓	✓	✓
Bulgaria	✓	✓	✓
Croatia	-	-	✓
Cyprus	✓	-	✓
Czech Republic			
France	✓	-	✓
Georgia	-	-	✓
Germany	-	-	✓
Greece	-	-	✓
Hungary	-	-	✓
Ireland	-	-	✓
Italy	-	-	-
Luxembourg	-	-	-
Netherlands	-	-	-
Poland	-	-	✓
Republic of Moldova	✓	-	-
Romania	-	-	✓
Russian Federation	-	-	-
Serbia & Montenegro and Kosovo	✓	✓	✓
Slovakia	-	-	✓
Slovenia	-	✓	✓
Spain	-	-	✓
Sweden ²⁶⁶	-	-	-
The Former Yugoslav Republic of Macedonia	✓	✓	✓
Switzerland ²⁶⁷	-	-	-
Turkey	-	-	✓
Ukraine	-	-	-
United Kingdom	-	✓	✓

²⁶⁶ Data provided by the Regional Office (RO) Stockholm was only regarding Sweden. Besides Sweden, RO Stockholm also covers the following countries: Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Sweden.

²⁶⁷ Data provided by Swiss Liaison Unit the was only regarding Switzerland. Besides Switzerland, the unit also covers Lichtenstein.



Areas of UNHCR Involvement

	RSD under UNCHR Mandate	Pre-screening and referral arrangements	prevention activities
Albania	-	✓	-
Armenia	-	-	✓
Austria	-	-	✓
Azerbaijan	-	-	-
Belarus	-	-	-
Belgium	-	-	-
Bosnia & Herzegovina	✓	✓	✓
Bulgaria	-	-	-
Croatia	-	-	-
Cyprus	-	-	✓
Czech Republic			
France	-	-	-
Georgia	-	-	-
Germany	-	-	-
Greece	-	-	-
Hungary	-	-	✓
Ireland	-	-	-
Italy	-	-	-
Luxembourg	-	-	-
Netherlands	-	-	-
Poland	-	-	-
Republic of Moldova	-	-	-
Romania	-	-	✓
Russian Federation	-	-	-
Serbia & Montenegro and Kosovo Office	✓	✓	✓
Slovakia	-	-	✓
Slovenia	-	✓	✓
Spain	-	-	-
Sweden ²⁶⁸	-	-	-
Switzerland ²⁶⁹	-	✓	-
The Former Yugoslav Republic of Macedonia	-	-	✓
Turkey	-	✓	✓
Ukraine	-	-	-
United Kingdom	-	-	-

²⁶⁸ Data provided by the Regional Office (RO) Stockholm was only regarding Sweden. Besides Sweden, RO Stockholm also covers the following countries: Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Sweden.

²⁶⁹ Data provided by Swiss Liaison Unit the was only regarding Switzerland. Besides Switzerland, the unit also covers Lichtenstein.

APPENDIX 4

ABBREVIATIONS AND ACRONYMS

ABA CEELI	American Bar Association Central and Eastern Europe Law Initiative
BiH	Bosnia and Herzegovina
CEDAW	Convention for the Elimination of all forms of Discrimination Against Women
CIS	Commonwealth of Independent States (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, Uzbekistan)
CoE	Council of Europe
CRC	Convention on the Rights of the Child
EU/EC	European Union / European Commission
FRY	Federal Republic of Yugoslavia
FYR Macedonia	Former Yugoslav Republic of Macedonia
HEUNI	European Institute for Crime Prevention and Control
HIV/AIDS	Human immunodeficiency virus/acquired immunodeficiency syndrome
ICMC	International Catholic Migration Commission
ICMPD	International Centre for Migration Policy Development
IDP	Internally Displaced Persons
IFRC	International Federation of Red Cross and Red Crescent Societies
IHF-HR	International Helsinki Foundation for Human Rights
ILO	International Labour Organization
INL	U.S. Bureau of International Narcotics and Law Enforcement Affairs
IOM	International Organization for Migration
IREX	International Research and Exchanges Board
ISS	International Social Services
KFOR	NATO Kosovo Force
MoU	Memorandum of Understanding
NGO	Non-governmental organization
NPA (NAP)	National Plan of Action (National Action Plan)
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
OSCE/CPE	OSCE Crime Prevention Centre
OSCE/ODIHR	OSCE Office for Democratic Institutions and Human Rights
PRSP	Poverty Reduction Strategy Papers
RSD	Refugee Status Determination
SCF	Save the Children Fund
SCG	Serbia and Montenegro
SDC	Swiss Agency for Development and Cooperation
SECI	South Eastern Co-operative Initiative
SEE	South Eastern Europe
SGBV	Sexual and Gender-Based Violence
SIDA	Swedish International Development Agency
SPTF	Stability Pact Task Force for Trafficking
UMCOR	United Methodist Committee for Relief
UNAIDS	United Nations Joint Programme on HIV/AIDS
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNFICYP	United Nations Force in Cyprus
UNFPA	United Nations Population Fund
UNIC	United Nations Information Centre
UNMIK	United Nations Mission in Kosovo
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development

APPENDIX 5

SUGGESTED RESOURCES

International Instruments

Convention on the Elimination of All Forms of Discrimination against Women, 1979.
Available at: www.unhchr.ch/html/menu3/b/e1cedaw.htm

Convention on the Rights of the Child, 1989.
Available at: www.ohchr.org/english/law/crc.htm

International Labour Organization Convention No. 105 concerning the Abolition of Forced Labour, 1957.
Available at: www.ilo.org/ilolex/english/convdisp1.htm

International Labour Organization Convention No. 138 concerning Minimum Age for Admission to Employment. Available at: www.ilo.org/ilolex/cgi-lex/convde.pl?C138

International Labour Organization Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
Available at: www.ilo.org/ilolex/cgi-lex/convde.pl?C182

International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour, 1930.
Available at: www.ilo.org/ilolex/english/convdisp1.htm

Optional Protocol to the Convention on the Elimination of Discrimination against Women, 1999.
Available at: www.unhchr.ch/html/menu3/b/opt_cedaw.htm

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000. Available at: www.ohchr.org/english/law/crc-sale.htm

Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000.
Available at: www.ohchr.org/english/law/organizedcrime.htm

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000.
Available at: www.ohchr.org/english/law/protocoltraffic.htm

United Nations Convention against Transnational Organized Crime, 2000.
Available at: www.unodc.org/pdf/crime/a_res_55/res5525e.pdf

Council of Europe Convention on Action against Trafficking in Human Beings, 3 May 2005.
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UNHCR (2003) *Global Consultations on International Protection, 4th Meeting, Refugee Women in Refugee Survey Quaterly*, 22 (2/3) 256-264

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