

BREAKING THE SILENCE

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE AND
PEOPLE IN NEED



Trafficking in Romani Communities

MARCH 2011

CHALLENGING DISCRIMINATION PROMOTING EQUALITY





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Foreword

Since the European Roma Rights Centre started working on trafficking in human beings we have been aware of the sensitivities surrounding the topic, particularly when the focus is on Roma. The heightened awareness of trafficking as a global issue is welcome but there is a danger of sensationalising the issue, particularly when it comes to Roma. The issue has become politicised, as countries such as Canada, Italy, France and Finland allege trafficking as the chief explanation for the migration of Roma across their borders. The facts suggest otherwise: despite French President Nicolas Sarkozy's July 2010 *Communiqué* linking Roma to trafficking,¹ French NGOs working with Romani migrants report that the vast majority are not trafficked and that they come to France voluntarily. Certainly trafficking exists and its impact on Roma is grave. But it does not explain the migration of Roma, which is due largely to structural poverty, marginalisation and discrimination.² As this report concludes these are some of the root push factors for trafficking too, but it is important not to conflate trafficking with migration.

Trafficking raises sensitivities in Romani communities because of the light it shines on harmful activities or practices that are linked to trafficking: exploitative begging, forced and child marriage and prostitution/sex work, which have a disproportionate impact on Romani women and girls; and also because of allegations of the complicity of Roma in trafficking. There is a connection between child marriage and trafficking, begging and trafficking, prostitution and trafficking. Clearly members of the Romani community are sometimes involved as traffickers. But this does not mean that Roma are somehow predisposed to inflicting these harms on themselves. Trafficking of non-Romani persons frequently involves relatives, friends and acquaintances. Non-Roma as well as Roma are involved in begging and prostitution/sex work. Forced and child marriages are a phenomenon of other traditional cultures, even in Europe.

This report is intended to raise awareness, but to avoid politicisation and stereotyping. We hope that we have succeeded, and in this way contributed in some small way to ending trafficking and the harmful practices associated with it.

Robert Kushen
Executive Director

- 1 “Communiqué faisant suite à la réunion ministérielle de ce jour sur la situation des gens du voyage et des Roms,” 28 July 2010, available at: <http://www.elysee.fr/president/les-actualites/communiqués-de-presse/2010/juillet/communiqué-faisant-suite-a-la-reunion.9381.html>.
- 2 European Union Agency of Fundamental Rights, *The situation of Roma EU citizens moving to and settling in other EU Member States* (November 2009), available at: http://fra.europa.eu/fraWebsite/attachments/ROMA-Movement-Comparative-report_en.pdf.



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2 Glossary

Child: any human being under the age of 18 [...].³

Debt Bondage: the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.⁴

Destination Country: a country to which people are trafficked.

Exploitation: unfair treatment or use. The practice of taking selfish or unfair advantage of a person or situation, usually for personal gain.⁵

Forced Labour/Labour Exploitation: all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.⁶ A condition of compulsory service or labour performed by one person, against his or her will, for the benefit of another person due to force, threats, intimidation or other similar means of coercion and compulsion directed against him or her.⁷

Forced Marriage: the union of two persons, at least one of whom has not given their full and free consent to the marriage.⁸

Internal Trafficking: the act of trafficking a person between regions within a country (e.g. from a rural area to the capital city of a country).

Source Country: a country from which people are trafficked.

3 United Nations, *Convention on the Rights of the Child*, Article 1, available at: <http://www2.ohchr.org/english/law/crc.htm>.

4 United Nations, *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, 1957, available at: <http://www2.ohchr.org/english/law/slavetrade.htm>.

5 *Encarta World English Dictionary* (2009), available at: http://encarta.msn.com/dictionary_1861609889/exploitation.html. There is no universally accepted legal definition of the word “exploitation”. The word is used in several international instruments relevant to trafficking that are described further in this report.

6 International Labour Organisation, *Forced Labour Convention*, 1930, available at: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C029>.

7 See: <http://www.freetheslaves.net/Page.aspx?pid=305>.

8 Council of Europe, *Parliamentary Assembly Resolution 1468 (2005) on Forced marriages and child marriages*, available at: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta05/ERES1468.htm>.

Trafficking for Commercial Sexual Exploitation: the recruitment, harbouring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.⁹ Trafficking can happen also for the purpose of non-commercial sexual exploitation.

Trafficking in Persons: the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.¹⁰

Transit Country: a country which people pass through while being trafficked from a source country to a destination country.

Vulnerability: the condition resulting from the negative effects of complex social, cultural, economic, political and environmental factors that put people in danger of being trafficked.¹¹ A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.¹²

Usury: the lending of money at exorbitant interest rates.¹³

9 United States, *Victims of Trafficking and Violence Protection Act of 2000*, available at: <http://www.state.gov/documents/organization/10492.pdf>. There is no internationally accepted definition of sexual exploitation. The definition contained here is one of several that exist.

10 United Nations, *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: http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf, Article 3(a).

11 United Nations Office on Drugs and Crime, *An Introduction to Human Trafficking: Vulnerability, Impact and Action* (Vienna, 2008), available at: http://www.childtrafficking.com/Docs/unodc_08_human_action_0109.pdf.

12 European Union, *Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims*, and replacing Council Framework Decision 2002/629/JHA Article 2.2. Awaiting publication in the Official Journal.

13 See: <http://www.merriam-webster.com/dictionary/usury>.

3 Introduction

Roma constitute the single largest ethnic minority group in Europe.¹⁴ There is a dearth of official statistical data disaggregated by ethnicity in Europe, and wide disparities exist between official and unofficial data on the numbers of Roma. The European Commission contends that there are around 12,000,000 Roma living in the European Union.¹⁵ Although Roma are often described as leading a nomadic way of life, 95% of European Roma are sedentary.¹⁶ Their level of poverty and social exclusion remains high across Europe, including in the countries of this report: Bulgaria, the Czech Republic, Hungary, Romania and Slovakia.

There are no reliable statistics on the occurrence of trafficking in human beings in general. This is especially true with regard to ethnic minorities such as Roma due to the absence of disaggregated data. It is estimated that thousands of women from Central and Eastern Europe, Asia, Africa and the Americas are trafficked each year into and within the European Union.¹⁷ Despite the lack of concrete official data about trafficking and exploitation akin to trafficking of Roma, the present research documented widespread perceptions that Roma are affected by trafficking in human beings and that Roma are significantly overrepresented among trafficked persons in some countries.¹⁸ The findings also indicate a lack of targeted action by State authorities to tackle this issue.

Instead, combating trafficking in human beings has been used as a pretext to promote racist policies against Roma such as the ethnically-targetted census and fingerprinting of Roma and Sinti in Italy in 2008 in the context of a State of Emergency,¹⁹ French efforts to end migration and expel Romanian and Bulgarian Romani EU citizens from its territory in 2010²⁰

14 “Roma” refers to a variety of groups of people who describe themselves as Roma, Gypsies, Travellers, Manouches, Ashkali, Sinti, as well as other titles. See: The European Union and Roma, available at: <http://ec.europa.eu/social/main.jsp?catId=518&langId=en>.

15 The European Union and Roma, available at: <http://ec.europa.eu/social/main.jsp?catId=518&langId=en>.

16 Proud to be Roma: Roma MEP Livia Járóka on the need for a European strategy, European Women’s Lobby, 9 February 2011, available at: <http://www.womenlobby.org/spip.php?article1174>.

17 Cathy Zimmerman et al., *Stolen Smiles: The Physical and Psychological Health Consequences of Women and Adolescents Trafficked in Europe* (2006), available at: <http://www.lshtm.ac.uk/php/ghd/docs/stolensmiles.pdf>.

18 In this study, overrepresentation refers to the fact that the number of Roma affected by trafficking is larger than their share of the general population, either officially or unofficially.

19 European Roma Rights Centre, OSI, COHRE, Romani Criss and Roma Civic Alliance of Romania, *Security a la Italiana: Fingerprinting, Extreme Violence and Harassment of Roma in Italy* (ERRC, July 2009), available at: <http://errc.org/cms/upload/file/m00000428.pdf>.

20 “We have to safeguard (the children). What we are doing is right and fair. There are people living in sub-human conditions in these camps.” Italian Interior Minister Roberto Maroni said the fate of the children in the camps was often “tragic” and “some of them are used in organ trafficking.” “Roma kids to get citizenship”, *Ansa.It*, 21 July 2008, available at: http://www.ansa.it/site/notizie/awnplus/english/news/2008-07-21_121231982.html. In 2009 French President Nicolas Sarkozy cast the eviction and expulsion of Romanian and Bulgarian Roma in the frame of a war on criminality: “This is a real war that we are waging on the traffickers and the delinquents,” he said in July, claiming that the camps inhabited by Roma are a source of child exploitation and prostitution. Yasmine Ryan, “France to take Roma fingerprints” *Al Jazeera*, 2 October 2010, available at: <http://english.aljazeera.net/news/europe/2010/10/201010210568598174.html>.

or the deportation of Romanian Roma from Denmark.²¹ The actions taken under these policies, such as mass evictions and forced repatriation, are contrary to the goal of preventing and reducing trafficking and instead increase the vulnerability of Roma to such practices.

Trafficking in human beings does not explain Roma migration, which is due largely to structural poverty, marginalisation and discrimination. Voluntary migration offers an opportunity for a better life. The results of this research confirm that trafficking of Roma is indeed a concern, but that beyond inflammatory remarks by high ranking officials and the media there is a near total absence of data and effective policy to prevent trafficking in Romani communities. Furthermore, research shows that available social inclusion policy and practice is failing to reduce the vulnerability of a significant part of the Romani population.

The aims of this report are to:

1. Map the purposes and perceived impact and extent of trafficking on Romani persons;
2. Identify vulnerability factors that put Romani individuals at risk of trafficking;
3. Outline what governments and civil society are or are not doing with regard to prevention, protection and prosecution; and
4. Provide credible, evidence-based information on how Romani communities are affected by trafficking in human beings in order to inform rights-based anti-trafficking and social inclusion policy and programming.

²¹ European Roma Rights Centre, “ERRC Challenges Danish Expulsion of EU Roma”, press release, 6 September 2010, available at: <http://www.errc.org/cikk.php?cikk=3675>.

4 Executive Summary

The research conducted by the ERRC and PiN in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia indicates that trafficking in persons affects Roma disproportionately. Although relevant official data does not exist, the estimates provided for the perceived representation of Roma among trafficked persons in Bulgaria, the Czech Republic, Hungary, Slovakia and Romania are several times higher than the proportion of Roma in the general population. Research in 2010 for this study indicated that Roma represent 50-80% of trafficked persons in Bulgaria, up to 70% in parts of the Czech Republic, at least 40% in Hungary,²² around 50% in Romania²³ and at least 60% in Slovakia.

Table 1: Estimated Representation of Roma by Trafficking Purpose and Target Country

	Sexual exploitation	Forced labour	Domestic servitude	Forced begging/ Petty crime	Illegal adoption	Debt bondage
Bulgaria	80% police estimate; 50% service provider estimate	70% police estimate		present	70% police estimate	
Czech Republic	70% on German border, service provider estimate; 20% overall, service provider estimate	present		present		present
Hungary	80% police estimate; up to 50% service provider estimate		present		present	present
Romania	15% service provider estimate	50% police estimate		present		present
Slovakia	60-90% NGO estimate	up to 100% social service estimate		up to 100% social service estimate		present

22 Estimates ranged up to 80% in Hungary.

23 As concerns forced labour. Roma were perceived to be less represented among persons trafficked for sexual exploitation.

Sixty-eight percent of the Romani trafficked persons interviewed in this study had been trafficked to another EU country, while 32% had been trafficked to another location within their own country. Twenty percent of the trafficked persons interviewed in this study were minors at the time they were trafficked.

Research confirmed that Roma are trafficked for various purposes, including sexual exploitation, labour exploitation, domestic servitude, organ trafficking, illegal adoption and begging. Romani women and children were the most represented regardless of the purpose of trafficking. In addition, certain practices which do not always constitute trafficking are often linked to trafficking of Roma, such as prostitution/sex work, exploitative begging (particularly when it involves minors) and forced and child marriages. The presence of these practices in Romani communities was found to increase the vulnerability of Roma to trafficking.

The vulnerability factors identified in this study are closely linked to those commonly associated with non-Romani trafficked persons. In other words, there is no unique “Roma vulnerability factor,” and no indication that trafficking is a “cultural practice” of Roma. The research reveals that Roma are highly vulnerable to trafficking due to structural forms of ethnic and gender discrimination, poverty and social exclusion which result in low educational achievement, high levels of unemployment, usury, growing up in state care, domestic violence affecting predominantly women and children and substance abuse. Furthermore, many of the vulnerability factors such as domestic violence, high school dropout rates, homelessness or being in state care affect children and youth exclusively or disproportionately. The complicity of family members in trafficking of Romani individuals is apparent, which is similar to the situation in other communities throughout the world.

The existence of adequate legal frameworks is a key element in the fight against trafficking. Analysis of anti-trafficking legal frameworks in Bulgaria and Hungary indicate that they do not fully comply with international legal standards. While the legal frameworks in the Czech Republic, Romania and Slovakia appear to be in conformity with international standards, their implementation was found to be problematic. Trafficking is also often prosecuted under related, lesser crimes in the countries studied, which negatively affects the types of protection available to trafficked persons and also skews available statistical information in the field of trafficking. Governments should establish National Referral Mechanisms (NRM) to foster effective inter-agency cooperation and unified standards of care. The participation of NGOs in these bodies is crucial. However, research found that the involvement of Roma is limited where these forums exist.

None of the countries studied collect data on the ethnicity of perpetrators or victims of trafficking. As a result, although all five countries maintain national strategies on combating human trafficking, policy and practice do not adequately reflect the high vulnerability of Roma to this crime. Only in Bulgaria, Slovakia and Romania does anti-trafficking policy explicitly recognise Roma as a vulnerable group. Czech policy does, on the other hand, refer to Roma with regard to criminal organisations involved in the exploitation of persons for prostitution and petty crimes.

The focus on Roma in preventative and protective services is extremely low. For a trafficked person to gain access to protection measures and services, he or she must first be identified as a presumed trafficked person. Law enforcement authorities and anti-trafficking service providers should both play an important role in victim identification. However, only 24% of the Romani trafficked persons interviewed in this study had been in contact with the police and only one case resulted in the imprisonment of the perpetrator. Numerous Romani trafficked persons reported that they did not want to be in contact with the police because of fear of reprisal from their traffickers or because they had committed illegal acts while in the trafficking situation and feared prosecution. In some of these cases this contact led to the abuse of the trafficked person by the police. Field research also revealed an over-reliance on self-identification among trafficked persons.

Very few Roma were reported to access victim prevention and protection services in the target countries and general social protection systems are failing to reduce the extreme vulnerability of Roma to trafficking. The impact that widespread negative prejudice and discrimination against Roma have on the provision of effective prevention and protection services in Romani communities in each of the target countries cannot be ignored if these services are to be made effective for members of this highly vulnerable group. The overwhelming lack of support available to Romani trafficked persons negatively impacts the ability of many to re-integrate, leaving them highly vulnerable to re-trafficking.

Based on the findings of this study, the ERRC and PiN recommend the establishment, improvement and reinforcement of communication, links and collaboration, not only between Governments but also among specific authorities, institutions, and local and international Romani and non-Romani NGOs. To achieve this, the ERRC and PiN further recommend:

The European Commission, Council of Europe and the Organization for Security and Cooperation in Europe should:

1. Set standards for the collection of internationally comparable data on trafficking, including data disaggregated by ethnicity, gender, disability and other relevant factors, with appropriate measures to protect the personal data of trafficked persons;
2. Work with national authorities to develop and improve systems of social support to Romani communities at risk of trafficking as a preventative measure;
3. Encourage Governments to implement policies and proactively enforce laws to enable full and equal access to public services to reduce vulnerability to trafficking in Romani communities;
4. Promote networking between Romani NGOs, Romani mediators and Romani community representatives and law enforcement and anti-trafficking authorities to combat trafficking in Romani communities.

National, regional and local Government actors should:

1. Transpose or adopt, as soon as possible, the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, the European Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the International Convention on the Protection of the Rights of all Migrant Workers and Their Families;

2. Amend national laws to conform with international legal standards and effectively implement existing anti-trafficking provisions in all countries;
3. Amend national policy to reflect the apparent overrepresentation of Roma among trafficked persons and develop programming targeted at Romani communities;
4. All countries should ensure the full and effective participation of Romani organisations in National Referral Mechanisms and other relevant anti-trafficking bodies;
5. Provide equal access to general social services (education, healthcare, employment services and social support) to Roma, including through the use of positive action, as a significant measure to reduce vulnerability to trafficking;
6. Increase prevention campaigns and efforts in Romani communities, with a focus on segregated, socially excluded communities;
7. Foster relations between law enforcement authorities, general social service providers and anti-trafficking services and mandate the recruitment of Romani professionals in these services.

Anti-trafficking prevention and protection service providers should:

1. Develop and implement specific campaigns and actions targeting Roma based on solid research on vulnerability and the most appropriate ways to reach Roma, including subgroups such as children or persons with disabilities;
2. Enter cooperation agreements with Romani organisations and provide training as relevant to facilitate the involvement of Roma in anti-trafficking actions and improved provision of services in Romani communities.

Romani and pro-Romani organisations and activists should:

1. Build relationships with anti-trafficking prevention and protection services, and relevant Government agencies;
2. Request that relevant Government agencies and NGO services implement anti-trafficking campaigns and actions in their communities;
3. Develop and implement anti-trafficking campaigns in their communities;
4. Provide relevant information to Romani individuals planning to move abroad for work purposes to reduce the risk of their falling into trafficking situations;
5. Inform national equality bodies and other relevant bodies of refusal to provide relevant services to Romani individuals.

5 Methodology

The research for this study was conducted in three stages.

Legal and policy research: A researcher in each of the five countries – Bulgaria, the Czech Republic, Hungary, Romania and Slovakia – conducted an initial legal and policy review between May and October 2009. The research team reviewed relevant national legislation and policy related to the prosecution of traffickers and the protection of victims, including their security inside and outside of the courtroom. The establishment and functioning of national coordination bodies and victim assistance policies was reviewed, such as protocols on victim identification, strategies for prevention and awareness campaigns, as well as the provision of a comprehensive package of services for victims, including social assistance, medical care and psychological and legal counselling. Anti-trafficking policies were checked for the presence of measures addressing concerns particular to women, children and the Romani community. Policies designed to improve social inclusion and the situation of Roma were examined for reference to trafficking issues. The anti-discrimination law framework in each country was examined, and relevant policy documents were cross-referenced for issues affecting protected categories such as ethnicity, sex and age. Researchers also examined anti-trafficking policies and policies designed to improve social inclusion and the situation of Roma, analysing whether policy documents on trafficking specifically address concerns particular to women, children and the Romani community.

Field research: Between February and April 2010, field research was conducted nationally by a team composed of a lead researcher and a community researcher, using qualitative research methods. All community researchers were of Romani origin with the exception of the community researcher in Slovakia. The field research team was trained on the definition of trafficking in persons, interviewing persons with trauma, and research safety and ethics.²⁴

Table 2: Research Locations by Target Country

	Bulgaria	Czech Republic	Hungary	Romania	Slovakia
Locations selected	Sofia, Pazardzhik (Peshtera and Rakitovo), Varna, Sliven	Prague, Ústí Region, Ostrava, Brno	Budapest, Debrecen, Nyíradony, Pécs	Bucharest, Iași, Călărași, Ilfov, Neamț	Banská Bystrica region, Prešov region, Košice region, Bratislava

²⁴ The ethical and safety measures applied in this study were based on World Health Organisation guidelines, available at: <http://www.who.int/gender/documents/en/final%20recommendations%2023%20oct.pdf>.

In each country, four locations were selected for field research based on information from various sources indicating the prevalence of trafficking in human beings affecting Roma. The research team was instructed to seek a balance between rural and urban settings, women and men, different forms of trafficking, the full range of available services (pre-trafficking, identification and referral, social integration) and different regions of the country. All locations were treated as potential source and destination areas.

In total, 227 police officials, anti-trafficking service providers, health mediators, social workers, NGO representatives, mental health service providers, prosecutors, government officials and school staff were interviewed across the target countries. In addition, 26 individual informants²⁵ and 37 trafficked persons were interviewed. Given the difficulties of identifying and interviewing trafficked persons, the sample of primary interviews with this respondent group was formed at the researcher's convenience and through snowballing. Therefore, information contained in this report is not representative of the experience of Roma as a whole. The testimonies collected from Romani trafficked persons were provided to the ERRC, which then assessed them to determine whether all elements of the definition of trafficking were fulfilled. Testimonies that did not fulfil the elements of the definition were excluded.

The researchers were instructed to take into account all forms of trafficking affecting Roma in the country. Furthermore, the scope of the research included the movement of persons for the purpose of child and forced marriages and begging. These practices and activities were not understood as trafficking per se as they would not in all cases fulfil all the elements of the international definition of trafficking as set in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (see Section 6.2).²⁶ However, they may in some cases be linked to trafficking or increase the vulnerability of those directly involved to become victims of trafficking.

Report writing and development: In each country, a legal and policy report and a field research report were prepared. These materials, together with information collected from other reports and media articles, form the basis of this multi-country study. A draft version of this report was presented and discussed at a conference in December 2010 in Budapest. The conference was attended by women's rights, Romani and non-Romani NGOs and activists, Government officials and international organisations. The study reflects to the extent possible input received during the conference.

Limitations of this study: This study has a number of limitations. The research on which this report is based is qualitative in nature and is not representative. Data presented on the number of Roma affected by trafficking are estimates based on the perception of respondents working in the field, which may be affected by different factors including prejudice against Roma. The research focuses on Roma as trafficked persons. Due to concerns about the security of

²⁵ This category included Romani individuals that had faced highly exploitative situations, people close to traffickers and trafficked persons such as friends or family members as well as prostitutes/sex workers and non-Romani persons who were trafficked and exploited.

²⁶ Supplementing the U.N. Convention on Transnational Organized Crime (TOC), Doc. A/55/383, 29 September 2003. See: Article 4, Palermo Protocol, available at: <http://www2.ohchr.org/english/law/protocoltraffic.htm>.

the respondents and the research team, information on perpetrators was not gathered and only trafficked persons that were out of the trafficking situation were interviewed: persons presently in trafficking situations were excluded from the research sample. Although each of the five target countries were considered as origin, transit and destination countries, the report addresses them to a great extent as countries of origin. Further research is needed about destination countries and the adequacy of available services there as they play a key role in the rescue and integration of trafficked persons and the elimination of re-trafficking.

6 What is Trafficking in Human Beings?

6.1 International Legal Standards on Human Trafficking

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol)²⁷ and the Council of Europe's Convention on Action against Trafficking in Human Beings (CoE Convention)²⁸ constitute the core international legal instruments followed by European Governments in preventing human trafficking, prosecuting trafficking crimes and protecting victims.

Of the countries included in this study, Romania and Slovakia have ratified the Palermo Protocol and revised their laws, including their criminal codes, accordingly.²⁹ Bulgaria and Hungary have ratified the Palermo Protocol but have not adequately transposed it into national law. The Czech Republic has signed but not ratified the Palermo Protocol, and has not signed or ratified the CoE Convention.³⁰ Hungary has signed but not yet ratified the CoE Convention.³¹ Bulgaria, Romania and Slovakia have ratified the CoE Convention. (see Section 6.3 and Annex 1).

Numerous other international and regional human rights conventions contain provisions relevant to the fight against trafficking. For example, Article 35 of the Convention on the Rights of the Child (CRC) states: "States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form" and Article 36 imposes an obligation on State parties to "protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare."³² Article 6 of

27 United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), available at: <http://www2.ohchr.org/english/law/protocoltraffic.htm>.

28 Council of Europe, *Convention on Action against Trafficking in Human Beings*, 16 May 2005, available at: http://www.coe.int/T/E/human_rights/trafficking/PDF_Conv_197_Trafficking_E.pdf.

29 Hungary: Act No. CII of 2006; Act No. CXXI of 2001; Slovakia: Act No. 300/2005 Coll., Criminal Code, as amended, Article 179 (1); Romania: Law No. 678/2001 On Preventing and Combating Trafficking in Human Beings, as amended by Emergency Government Ordinance 143/2002, Law 142/2002 and Government Ordinance 79/2005; Criminal Code, Law 286/2009 Bulgaria: Law on Fighting the Illegal Traffic of People, SG 46/20, May 2003; Article 159 (a-d), Penal Code, SG 92/2002, amended by SG 27/2009.

30 US Department of State, *Trafficking in Persons Report 2010* (2010), available at: <http://www.state.gov/documents/organization/142979.pdf>. The Czech Republic signed the Palermo Protocol on 10 December 2002. Nonetheless, the Czech Republic has been ranked as a Tier 1 country, meaning it is considered to fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards by the US TIP Report from 2001 to 2010, available at: <http://www.state.gov/documents/organization/142982.pdf>. The Czech Republic has the highest conviction rate per 100,000 people for human trafficking (1.95) compared to the other four countries studied. Hungary has the lowest (.24). United Nations Office on Drugs and Crime, *Trafficking in Persons; Analysis on Europe* (Vienna, 2009), p. 9.

31 Hungary signed the Convention on 10 October 2007.

32 Available at: <http://www2.ohchr.org/english/law/crc.htm>.

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the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) reads: “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”³³ In its first decision on human trafficking, *Rantsev v. Cyprus and Russia*,³⁴ the European Court of Human Rights (ECtHR) found trafficking to constitute a violation of Article 4 of the European Convention on Human Rights and Fundamental Freedoms (ECHR), which prohibits forced labour and slavery.

The Lisbon treaty has put the prevention of trafficking in human beings high on the EU agenda.³⁵ The European Union has promulgated two decisions on combating trafficking: Council Framework Decision of 19 July 2002 on combating trafficking in human beings,³⁶ and Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration who cooperate with the competent authorities.³⁷ Council Framework Decision of 19 July 2002 on combating trafficking in human beings³⁸ was repealed on 21 March 2011 with the adoption of a new Council Directive on preventing and combating trafficking in human beings and protecting its victims that aims at the adoption of a more “integrated, holistic, and human rights approach to the fight against trafficking in human beings.”³⁹ Other relevant decisions include the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.⁴⁰

With respect to the ratification of other relevant international treaties, as of March 2011 none of the countries of this study had adopted the International Convention on the Protection of the Rights of all Migrant Workers and their Families.⁴¹ It protects the freedom of movement

33 Available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

34 European Court of Human Rights, *Rantsev v. Cyprus and Russia*, Application No. 25965/04, judgment dated 7 January 2010.

35 Article 63(a) of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, 13 December 2007: “The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.” Available at: <http://www.consilium.europa.eu/uedocs/cmsUpload/09-cg14.en07.doc>.

36 European Union, *Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings*, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0629:EN:NOT>.

37 European Union, *Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities*, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:HTML>.

38 European Union, *Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings*, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0629:EN:NOT>.

39 European Union, *Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims*, replacing the Council Framework Decision 2002/629/JHA, Preamble. Awaiting publication in the Official Journal.

40 Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:082:0001:0004:EN:PDF>.

41 Available at: <http://www2.ohchr.org/english/law/cmw.htm>.

of undocumented migrant workers and their families and prohibits their subjection to forced labour and slavery.⁴² None of the five countries of this study have ratified the European Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.⁴³

Indeed, human trafficking violates numerous human rights, including the right to life, the right to physical integrity, the right to be free from torture or other cruel, inhuman and degrading treatment, illegal deprivation of liberty and the prohibition against forced labour and slavery-like practices. Upon being identified, victims of trafficking often suffer additional human rights abuses by actors within the criminal justice and social protection systems. These include, among others, violations of their right to privacy, the right to equality and non-discrimination, the right to a fair trial and the right to an adequate remedy. One of the aims of the Palermo Protocol and the CoE Convention is to “protect and assist the victims of such trafficking, with full respect for their human rights.”⁴⁴

6.2 Legal Definition of Trafficking in Human Beings

According to the Palermo Protocol, the elements of the crime of trafficking in human beings are as follows:

- 1) **Acts:** the recruitment, transportation, transfer, harbouring or receipt of persons;
- 2) **Means:** “the threat or use of force or other forms of coercion, of abduction, of fraud, of deception or the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”; and
- 3) **Purpose:** exploitation. Exploitation includes “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.”⁴⁵

The international legal definition of trafficking thus requires that each of these three constituent elements be present to establish the crime of human trafficking. The only exception relates to child victims for whom the means are irrelevant to establishing the crime of trafficking.⁴⁶ Once the crime of trafficking in human beings has been established, the consent of the trafficked person becomes irrelevant and cannot be used as a defence.⁴⁷

42 See Articles 9-11, available at: <http://www2.ohchr.org/english/law/cmhw.htm>.

43 Council of Europe, *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*, 25 October 2007, available at: <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=201&CM=&DF=&CL=ENG>.

44 Article 2(b), Palermo Protocol; Article 1(b), CoE Convention.

45 Article 3(a), Palermo Protocol; Article 4(a), CoE Convention.

46 Article 3(c), Palermo Protocol; Article 4(c), CoE Convention.

47 Article 3(b), Palermo Protocol; Article 4(b), CoE Convention.

Contrary to the Palermo Protocol, the CoE Convention explicitly covers all forms of trafficking, “whether national or transnational, whether or not connected with organised crime.”⁴⁸ Although trafficking for the purpose of begging is not explicitly mentioned in the Palermo Protocol, it is increasingly recognised that exploitation for begging may constitute trafficking. For example, exploitative begging is included among the purposes of trafficking in the EU’s new Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting Victims.⁴⁹

6.3 Conformance of National Criminal Provisions on Human Trafficking with International Standards

States which have ratified the relevant international conventions are required to adopt legislation establishing trafficking as a criminal offence in conformance with the definition outlined above.⁵⁰ Analysis of the legislative environment in the countries of this study found that the international legal definition of trafficking has not been properly transposed into the national criminal legal systems of Hungary and Bulgaria.

In Hungary, national law substantively differs from the Palermo Protocol.⁵¹ In the Criminal Code neither the means nor the purpose of trafficking are included as constituent elements of the crime; instead, they appear as aggravating circumstances.⁵² Theoretically this makes the crime easier to prove, since means do not need to be proven. However, there is a requirement of proving an exchanging or trading element (i.e. the transfer of a person between two others for payment), which creates an obstacle to prosecution.⁵³ Exploitation as the purpose of the crime is also missing from the provision on basic criminal conduct. Furthermore, abduction and abuse of power or of a position of vulnerability are also absent from the criminal provision.

The Bulgarian Penal Code defines human trafficking only by the acts and the purpose: the means appears only as an aggravating circumstance. The Bulgarian Supreme Court of Cassation⁵⁴ has held that by excluding “means” from the definition, the Penal Code provides broader protection to victims.⁵⁵

48 Article 2, CoE Convention.

49 European Union, *Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, replacing the Council Framework Decision 2002/629/JHA*, Article 2.3. Awaiting publication in the Official Journal.

50 Article 5(1), Palermo Protocol.

51 In Act No. CII of 2006 promulgating the Palermo Protocol, “abduction” was translated into “robbery”, and “removal of organs” was translated as “illegal use of organs.”

52 Article 175/B, Hungarian Criminal Code.

53 Article 175/B, Hungarian Criminal Code. Under the relevant international standards, it should not be necessary to prove that payment traded hands. Moreover, it should not be necessary to prove that an individual passed from one person’s control to another’s.

54 Bulgarian Supreme Court of Cassation, Interpretative Decision No. 2 of 16 July 2009.

55 Article 159(a-d), Bulgarian Penal Code, amended by SG 27/2009. The definition of human trafficking in Bulgaria’s Law on Fighting the Illegal Traffic of People does conform with the Palermo Protocol or the CoE Convention.

The term “sexual exploitation” does not appear at all in Hungarian and Bulgarian laws. Instead, in Hungarian law, acts of “sexual intercourse” and “sodomy” are listed as prohibited purposes constituting aggravating circumstances.⁵⁶ In Bulgaria, the ambiguous terms “vicious practice” and “debauchery” are used in place of “sexual exploitation.”⁵⁷ None of these terms encompass the concept of exploitation. This may pose serious barriers to the legal protection of Roma and other persons who are trafficked given that the majority of trafficked persons identified during research in both Hungary and Bulgaria were trafficked for the purpose of sexual exploitation. In addition, prevention campaigns focus almost exclusively on this form of trafficking.⁵⁸

Criminal laws in the Czech Republic, Romania and Slovakia appear to be in full conformance with international standards with regard to the definition of trafficking and the requisite penalties.⁵⁹ However, the implementation of the law in these countries remains problematic. For example, in Romania, although the law ensures that the consent of the trafficked person does not exonerate the trafficker from criminal liability, legal practitioners interviewed in the course of research stated that the issue of consent is still raised by defendants and considered by the courts, especially in cases of re-trafficking.⁶⁰ Furthermore, human trafficking is often prosecuted under related, lesser crimes in the countries studied, with important implications for victims (see Section 6.3.2).

6.3.1 NON-IMPOSITION OF SANCTIONS UPON THE VICTIM

In the course of being trafficked, a victim may commit illegal acts, intentionally or unintentionally, such as crossing a State border without documents, possessing forged documents, begging, stealing and/or engaging in prostitution. Indeed, trafficked persons are often identified by law enforcement authorities while committing an illegal act. The CoE Convention states that: “Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.”⁶¹ Prosecuting trafficked persons results in prosecutors losing valuable sources of information, deters trafficked persons from reporting crimes and ultimately prevents them from getting out of the trafficking cycle. The non-imposition of criminal liability on the trafficked person is an essential precondition for victim protection.

⁵⁶ Article 175/B, Sections (2-5), Hungarian Criminal Code.

⁵⁷ Article 159(a-d), Bulgarian Penal Code, amended by SG 27/2009.

⁵⁸ In Hungary, see campaigns conducted by the IOM, Women Together with Women against Violence (NANE), Way Out with You Association, Sex Education Association, Hungarian Baptist Aid and Hungarian Interchurch Aid. In Bulgaria, see: US Department of State, *Trafficking in Persons Report 2009* (2009), available at: <http://www.state.gov/documents/organization/123357.pdf>.

⁵⁹ In Romania: Law 678/2001 On Preventing and Combating Trafficking in Human Beings, as amended by Emergency Government Ordinance 143/2002, Law 142/2002 and Government Ordinance 79/2005, and Criminal Code Law 286/2009. In Slovakia: Act No. 300/2005 Coll., Criminal Code, Article 179 as amended. In the Czech Republic: Penal Code, Article 232(a).

⁶⁰ Interview with a public prosecutor. Bucharest, Romania: 10 July 2009.

⁶¹ Article 26, CoE Convention.

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Bulgaria, Hungary and Slovakia do not preclude the prosecution of trafficked persons in their respective national laws. In 2009, two trafficked persons in Bulgaria were penalised for illegal border crossing committed as a direct result of being trafficked.⁶² During field research for this study in Hungary, the following case was highlighted:

At the age of 18, a young Romani man raised in State care was greeted by a man upon leaving the institution. The man locked up the young man and forced him to carry out small and large thefts. The man physically abused and controlled him, threatening to kill his only living relative. One day, the young Romani man went to a supermarket to steal, hoping security guards would catch him so he could escape his captor. He was caught but because he had not been sold he was not considered a trafficking victim under Hungarian law. When caught stealing he was charged with criminal theft. The young man had to prove that he was forced to commit the crime before he was acquitted. This is often an impossible task given the lack of evidence available to victims of crime.⁶³

The Romanian Criminal Code and the anti-trafficking law include a non-punishment clause.⁶⁴ Trafficked persons should not be punished for illegal border crossing, begging and prostitution. However, a Romanian public prosecutor reported that case law reveals that charges are regularly initiated against (minor and adult) trafficked persons to “encourage” presumed trafficked persons to cooperate with law enforcement authorities.⁶⁵

In addition, victims can be, and are, prosecuted for perjury and false testimony in the Czech Republic, Hungary, Romania and Slovakia.⁶⁶ This is particularly problematic because all four countries require victims who report a criminal offence to testify. In Hungary, for example, non-cooperative victims have been forced to testify.⁶⁷ Victims may change or retract their testimony due to threats from their traffickers and they may be subjected to further victimisation.

62 US Department of State, *Trafficking in Persons Report* (June 2010), available at: <http://www.state.gov/documents/organization/142979.pdf>.

63 Interview with an individual informant. Budapest, Hungary: 23 March 2010. While law enforcement authorities in Hungary stated that in practice trafficked persons were not prosecuted for their involvement in unlawful activities as a direct consequence of being trafficked, other experts in the field disagreed. From: Interview with a representative of the National Bureau of Investigation. Budapest, Hungary: 7 July 2009. Interview with a Metropolitan Court judge. Budapest, Hungary: 17 July 2009. Interview with a professor from the Hungarian Academy of Sciences' Institute of Legal Sciences. Budapest, Hungary: 10 September 2009.

64 Article 46 Romanian Criminal Code; Article 20 Law 678/2001.

65 Interview with a public prosecutor. Bucharest, Romania: 10 July 2009. The prosecutor reported, however, that charges may be subsequently dropped.

66 In Romania: Article 260, Criminal Code. In Slovakia: Article 130, Act No. 301/2005 Coll. the Criminal Code of Procedure, as amended. In Hungary: Section 238, Criminal Code and Section 69(1)(b), Code of Criminal Procedure. In the Czech Republic: Article 175, Penal Code. The maximum penalty is three years and it applies to trafficked persons who do not prove that their false testimony was a result of being trafficked.

67 Interview with a Metropolitan Court judge. Budapest, Hungary: 17 July 2009. The judge noted that after reporting the crime and providing initial testimony, trafficked persons often disappear from the procedure.

6.3.2 PROSECUTION FOR TRAFFICKING-RELATED CRIMES

Difficulties in establishing all of the elements of criminal trafficking in legal proceedings can result in the trafficker going un-prosecuted. This can also result in trafficking being prosecuted under other, related criminal provisions such as forced labour or the seizure of identity papers.⁶⁸ A number of trafficking-related crimes connected to the various forms of exploitation involved in trafficking, such as pimping, prostitution and begging, may also be imposed in place of trafficking.⁶⁹ However, the legislative frameworks of the target countries of this report do not contain important provisions on trafficking-related crimes: for example, criminal provisions on forced labour and slavery are lacking in Bulgaria and Hungary.⁷⁰

Prosecution for lesser, related crimes results in traffickers receiving lower sentences than those imposed for the crime of trafficking: this may prevent the imposition of dissuasive sanctions and may not pose an effective remedy for the trafficked person.⁷¹ When prosecuted as another criminal offence, trafficking cases are not registered as such and are subsequently not considered in the preparation of official statistics concerning trafficking.⁷² This reduces the reliability of this data and the ability of Government authorities to develop effective policies to combat trafficking in their countries. Further, trafficked persons might not receive the protection and assistance to which they are entitled as victims of trafficking.

Many crimes, particularly those involving women and children (including domestic violence, prostitution, sexual violence and forced marriage), render their victims more vulnerable to trafficking. Prosecuting crimes that tend to lead to trafficking, such as domestic violence and forced marriage, can go a long way in preventing trafficking and in protecting the rights of victims. Care should be taken, however, not to sanction the victims and potential victims of trafficking or exploitation, such as prostitutes/sex workers and beggars, but rather those who exploit them. It is important to consider the consequences of prosecution on victims, particularly minors, in which case the best interest of the child should be the guiding principle in all actions.

68 OSCE, *A Summary of Challenges Facing Legal Responses to Human Trafficking for Labour Exploitation in the OSCE Region*, OSCE Occasional Paper Series No. 1, 2006. See also, CEDAW/C/CZE/3, 7 September 2004, para. 95 (noting that it is difficult to monitor statistics because trafficking in the Czech Republic is often prosecuted as procuring, abduction, harming someone's health, limiting personal freedom and kidnapping abroad).

69 UNODC, *Trafficking in Persons; Analysis on Europe* (Vienna, 2009).

70 In Hungary, Article 175/B of the Hungarian Criminal Code includes forced labour as an aggravated circumstance, not a discreet crime. In Bulgaria, see Articles 21 – 35 of the Penal Code.

71 In Hungary, the difficulty of proving trafficking results in holding perpetrators accountable for lesser, trafficking-related crimes, such as the promotion of prostitution, living on the earnings of prostitution and pandering. In the Czech Republic, most charges are filed as procuring. In Slovakia, pimping is often charged in lieu of trafficking, the sentence for which is up to three years imprisonment (while trafficking is punished with four to ten years imprisonment).

72 See for example: Slovakia, *National Action Plan to Combat Trafficking in Human Beings (2008-2010)*, p. 5 (noting that internal trafficking cases are prosecuted as pimping and are not reflected in official statistics on trafficking). In the Czech Republic: Interview, a representative of the Unit for Combating Organised Crime. Prague, Czech Republic: 10 July 2009; see also CEDAW/C/CZE/3, 7 September 2004, para. 95.

6.4 Anti-Trafficking Policies and Structures

All five countries included in this study maintain national strategies on combating human trafficking. Analysis of available policies and institutional structures reveals barriers to effectively combating trafficking and protecting victims.

6.4.1 NATIONAL ANTI-TRAFFICKING POLICIES AND ROMA

Bulgaria's National Programme for Prevention and Counter-Acting the Illegal Trafficking of People and Protection of its Victims, adopted in 2010, lists as high-risks groups for its prevention activities women, children, ethnic minorities, unemployed and socially disadvantaged people and includes two activities explicitly aimed at preventing the trafficking of Roma.⁷³

In the Czech Republic's National Strategy to Combat Trafficking in Human Beings (2008-2011), Roma are not specifically included as a vulnerable group despite estimations that they are disproportionately represented among trafficked persons (see Section 7 for more information). Roma are, however, specifically mentioned with regard to criminal organisations involved in the exploitation of persons for prostitution and petty crimes.⁷⁴

Although Hungary adopted a National Strategy Against Trafficking in Human Beings (2008 – 2012),⁷⁵ it has yet to adopt a national action plan for implementing this strategy.⁷⁶ This constitutes a significant obstacle to implementing the national strategy as specific measures and deadlines have not been established and responsibilities have not been assigned. Hungary's National Strategy does not refer to Roma as an at-risk group for trafficking despite the widespread perception held by relevant experts that Roma are overrepresented among trafficked persons in the country (see Section 7 for more information).⁷⁷

National strategy documents in Slovakia and Romania include Roma in their lists of groups vulnerable to trafficking and in connection with prevention activities. Slovakia's National Program to Combat Trafficking in Human Beings (2008 – 2010) specifically mentions the impact of trafficking “on women and girls from areas with higher unemployment and a high concentration of Roma population.”⁷⁸ The national action plan specifically addresses Roma only in

73 It includes “research on migratory perceptions and vulnerability to human trafficking for labour exploitation among the Roma ethnic group” and a “Training of the staff of the NCCTHB, LCCTHB and the institutions working in the field of human trafficking on the specificities of working with Roma minorities and the methods of prevention.” Bulgaria, *2010 National Programme for Prevention and Counter-Acting the Illegal Trafficking of People and Protection of its Victims*, available at: http://antitrafficking.government.bg/images/prog_files/1273647904.pdf.

74 Czech Republic, *National Strategy Against Trafficking in Human Beings (2008 - 2011)*, page 9.

75 Government Decree 1018/2008 (III.26); C/ROM/CO/6 of 2 June 2006, para. 27.

76 A draft national action plan for 2009 was never adopted.

77 Hungary, *National Strategy Against Trafficking in Human Beings (2008 - 2012)*, Government Decree No. 1018/2008.

78 Slovakia, *National Program to Combat Trafficking in Human Beings (2008 – 2010)*, available at: <http://www.radaeuropy.sk/?obchodovanie-s-ludmi>.

the context of prevention and education activities.⁷⁹ Roma are also specifically mentioned as a vulnerable group in the Romanian National Strategy against Trafficking in Persons (2006 - 2010).⁸⁰ However, in a report by the National Agency against Trafficking in Persons (ANITP) on achieving the strategy's objectives, Roma were omitted from the list of at-risk groups.⁸¹

Table 3: Anti-Trafficking Policy and Mechanisms in the Target Countries

	Anti-trafficking policy	National referral mechanism
Bulgaria	National Programme for Prevention and Counter-Acting the Illegal Trafficking of People and Protection of its Victims	Currently being established
Czech Republic	National Strategy to Combat Trafficking in Human Beings (2008-2011)	Program of Support and Protection of Victims of Trafficking in Human Beings
Hungary	National Strategy Against Trafficking in Human Beings (2008 – 2012)	No NRM but a number of relevant bodies exist
Romania	National Strategy against Trafficking in Persons (2006 - 2010)	National Victim Identification and Referral Mechanism
Slovakia	National Program to Combat Trafficking in Human Beings (2008 – 2010)	No NRM but a number of relevant bodies exist

6.4.2 REPRESENTATION OF ROMA IN NATIONAL ANTI-TRAFFICKING REFERRAL MECHANISMS

International organisations actively working on trafficking recommend the establishment of national referral mechanisms (NRM) to foster effective inter-agency cooperation and unified standards of care. NRMs are coordinating mechanisms that promote respect of the human rights of trafficked persons.⁸²

NRMs should establish inter-agency cooperation agreements to coordinate victim services, develop sound policy reforms and harmonise victim protection with criminal prosecution. The CoE Convention requires co-operation with NGOs “where appropriate and under the conditions provided for by its internal law.”⁸³

79 Slovakia, *National Action Plan to Combat Trafficking in Human Beings 2008-2010*.

80 Government of Romania, *National Strategy against Trafficking in Persons (2006 - 2010)*, available at: http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Romania_National_Action_Plan_Against_Human_Trafficking_en_2006_2010.pdf.

81 National Agency Against Trafficking in Persons (ANITP), *Achievement of Objectives in the National Action Plan 2006-2007 for the Implementation of the National Strategy Against Trafficking in Persons 2006-2010* (2008), available at: <http://anitp.mai.gov.ro/en/trafic/rapoarte/rezumate%20PNA%202006-2007%20engleza.pdf>.

82 OSCE/ODIHR, *National Referral Mechanisms: Joint Efforts to Protect the Rights of Trafficked Persons* (2004), p. 15.

83 Article 12(5), CoE Convention.

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The Czech Republic and Romania have established formal NRMs.⁸⁴ As of March 2011 Bulgaria was in the process of establishing its NRM.⁸⁵ There is no NRM in Slovakia or Hungary but a number of relevant bodies exist.⁸⁶ The involvement of Romani organisations or agencies in these forums is limited.

In Romania, the National Agency for Roma (NAR) participates in the Inter-Ministerial Working Group on Trafficking. During research, NAR representatives expressed the opinion that Romania's National Agency to Combat Trafficking in Persons (ANITP) is not interested in the trafficking of Roma, stating that its membership in the Working Group is tokenistic, and that addressing ethnicity in anti-trafficking policies "is an additional burden" for ANITP instead of a priority.⁸⁷

In Slovakia, one Romani NGO participated in the Expert Group in the Area of Combating Trafficking in Human Beings in the Slovak Republic in 2007, which established anti-trafficking policy and prepared Slovakia's current National Action Plan to Combat Trafficking in Human Beings.⁸⁸ There is a lack of involvement of groups from Eastern Slovakia where the majority of Roma in the country live, which reflects the overall absence of services for trafficked persons in rural areas across the region.⁸⁹

In Bulgaria, there is no Romani representation in the National Commission against Trafficking.⁹⁰ In Hungary, Romani NGOs are not represented at the coordination meetings of the National Coordinator on Trafficking in Human Beings.⁹¹ No Romani organisations participate as permanent members of the Inter-Ministerial Coordination Group of the Czech Republic's National Rapporteur for Trafficking in Human Beings.⁹² The lack of involvement of Romani civil society in activities explicitly linked to combating trafficking in human beings may constitute one of the reasons for their lack of involvement in anti-trafficking bodies (see Section 8).

84 In the Czech Republic: Program of Support and Protection of Victims of Trafficking in Human Beings. In Romania: National Victim Identification and Referral Mechanism, adopted 17 December 2008.

85 See: <http://antitraffic.government.bg/m/4/arch/year/2010/month/11/event/146/lang/en/>.

86 Hungary established a National Coordinator in 2008 that acts as an equivalent mechanism to a National Rapporteur, see: <http://ec.europa.eu/anti-trafficking/section.action?country=Hungary>. Slovakia has established a National Coordinator to Combat Human Trafficking, an Expert Group and a Program of Support and Protection to Victims of Trafficking in Human Beings in 2007, limited to assisting only Slovak citizens. Regulation of the Minister of Interior of the Slovak Republic, 28 December 2008.

87 Interview with a representative of the National Agency for Roma: July 2009.

88 Hana Šnajdrová, *Program of Support and Protection to Victims of Trafficking in Human Beings Evaluation Report*. (United Nations Office on Drugs and Crime, 2007).

89 Stephen Warnath, *Examining the Intersection between Trafficking in Persons and Domestic Violence*, (USAID, 2007).

90 Email correspondence with a representative of the Bulgarian Gender Research Foundation: 14 March 2011.

91 During research for this study the ERRC was invited to participate in several of these meetings.

92 See: <http://www.mvcr.cz/mvcren/article/czech-republic.aspx>.

As noted previously by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE-ODIHR), “[o]ne of the greatest challenges in addressing trafficking in human beings in Roma communities is the mutual distrust that characterizes relations between Roma and non-Roma organizations working on anti-trafficking issues. This distrust is also found between Roma and law-enforcement authorities.”⁹³ The role of NRMs in inter-agency coordination should play an important role in establishing a forum for different agencies to interact with Romani civil society organisations and representatives in order to combat trafficking in Romani communities.

⁹³ OSCE-ODIHR, *Awareness Raising for Roma Activists on the Issue of Trafficking in Human Beings in South-Eastern Europe* (April 2006), available at: <http://www.osce.org/odihr/18813>.

7 Roma as Trafficked Persons

7.1 Collection of Data Disaggregated by Ethnicity and Data Protection

Due to its illegal nature, trafficking in human beings is an extremely difficult phenomenon to quantify in general. Data disaggregated by ethnicity is not gathered with respect to trafficked persons in Bulgaria, the Czech Republic, Hungary, Romania or Slovakia. While the relevant agencies interpret the law as prohibiting ethnic data collection among trafficked persons, some information exists concerning the (Romani) ethnicity of the perpetrators of trafficking (see Section 7.4 on data made available by international organisations). With respect to Roma, this study therefore reveals a clear double standard in the collection of ethnic data.

EU law on data protection allows for the collection of ethnic data provided that certain safeguards are in place to protect this form of special personal data from misuse.⁹⁴ The wilful interpretation of national data protection laws as a blanket prohibition of the collection of data based on ethnicity is one of the key obstacles in all five countries to developing tailored policies to effectively combat trafficking in Romani communities. The European Commission against Racism and Intolerance (ECRI) has noted: “laws concerning the protection of data are sometimes wrongly interpreted as being insurmountable obstacles to ethnic data collection.”⁹⁵ The lack of disaggregated data based on ethnicity has also been criticised by United Nations treaty monitoring bodies, such as CEDAW.⁹⁶

94 European Parliament and the Council, *European Council Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data*, 24 October 1995. Ethnic data can be gathered in accordance with the law and with the consent of the data subject, processed fairly and lawfully, and collected for specified and explicit legitimate purposes; it must be adequate, relevant, non-excessive and accurate, and kept in a form that permits the identification of the subject no longer than is necessary.

95 European Commission on Racism and Intolerance, *“Ethnic” statistics and data protection in the Council of Europe Countries* (2007), p. 3. All five countries maintain data protection laws that ban the collection of data on ethnicity and race without adequate protections. See, Slovakia: Articles 8(1), 9(1) Act No. 428/2002 Coll. On Personal Data Protection, as amended (establishing an exception to the general rule against collecting ethnic data with the consent of the subject for the purpose of providing health care and social assistance). Underscoring the legislative ambiguity, Act No. 171/1993 Coll on the Police, as amended, authorises the “processing of personal data revealing the racial or ethnic background, in case it is necessary with respect to the character of the criminal offence” without the data subject’s consent. However, the police do not gather data on the ethnicity of offenders. In the Czech Republic: Articles 4 and 9, Law No. 101.2000 Coll. on personal data protection (also permitted for a justified reason with the consent of the data subject). In Bulgaria: Personal Data Protection Act of 2002. In Romania: Article 7(1), Law No. 677/2001 on Data Protection. In Hungary: Section 3, Data Protection Act (providing for the collection of ethnic data upon consent of the subject, although ethnic data is not collected in Hungary).

96 In Romania: CEDAW/C/ROM/CO6, 2 June 2006, para. 10. In Slovakia: CEDAW/C/SVK/CO/4, 17 July 2008, para. 34. In the Czech Republic, CEDAW/C/CZW/3, 7 September 2004, para. 7.

Romania's Law on Data Protection prohibits data collection linked to ethnicity with some exceptions, including reasons of important public interest.⁹⁷ On the basis of this generalised prohibition ANITP does not include ethnicity as an indicator in its database, although ANITP's database includes approximately 70 other indicators.⁹⁸ Despite this, ANITP's contribution to the 2009 US Trafficking in Persons (TIP) Report stated: "most of the perpetrators come from Roma families or criminal groups."⁹⁹ The provision of such "data" by ANITP raises serious concern that either Romania's national anti-trafficking agency acts on the basis of perception and profiling rather than credible evidence, or that ethnic data *is* being collected on traffickers while it is not being collected on Romani trafficked persons for positive policy purposes.

Unified systems for data collection should form an integral part of NRM responsibility but have not been established in Bulgaria, Hungary and Slovakia. Research for this study indicates that the absence of unified data collection systems constitutes a serious obstacle to obtaining accurate data for policy-making purposes. Divergent data gathered on the basis of different methodologies on trafficking investigations and prosecutions produced by prosecutors, the police and the judiciary is confusing and impedes an accurate assessment of the phenomenon of trafficking in each country. There is also a conspicuous lack of data on trafficked persons' compensation for damages in Romania and Hungary,¹⁰⁰ which hinders monitoring of the access of trafficked persons to justice.

The failure to collect data disaggregated by ethnicity in the field of anti-trafficking constitutes a major barrier to tracking this human rights violation and, consequently, to developing appropriate policies on prevention and victim assistance.

7.2 Representation of Roma Among Trafficked Persons

Throughout the countries of this study, anti-trafficking service providers, police and Government officials were asked to estimate the proportion of Roma among trafficked persons based on their experiences and perceptions. The source of the interviewees' perception was self-identification or informal assessments based on living conditions or location, colour of skin, etc. Although it was not explicitly stated by any interviewee, widespread public prejudice concerning the involvement of Roma in criminal activities may have influenced the answers of some interviewees. A number of interviewees refrained from providing estimates.

⁹⁷ Article 7(2a and h), Law No. 677/2001 on Data Protection. Exceptions include: where the data subject expressly provides his/her consent, where there is a specific legal provision, it concerns the protection of an important public interest, and on the condition that the processing is carried out in compliance with the rights of the data subject and other legal guarantees. The Law also prohibits the collection of ethnic data in activities related to criminal investigations and prosecutions, at Article 5.

⁹⁸ Interviews with representatives of ANITP. Bucharest and Iași, Romania: 21 March and 13 April 2010.

⁹⁹ ANITP, *Submission to the US TIP Report* (2009).

¹⁰⁰ In Romania, ANITP does not keep data on this issue in its database. No statistical information is available in Hungary.

In all countries where research was performed, respondents perceived that trafficking was an issue that affected Roma. Furthermore, several respondents considered Roma to be significantly overrepresented among trafficked persons.

In Bulgaria, four purposes of trafficking in persons affecting Roma were identified: sexual exploitation, forced labour, exploitation for begging and illegal adoption.¹⁰¹ Roma constitute approximately 10% of the total Bulgarian population.¹⁰² According to various police officials interviewed in Bulgaria, Roma constitute over 80% of persons trafficked for sexual exploitation.¹⁰³ In contrast, according to some NGOs the proportion of Roma among persons trafficked for the same purpose is 50%.¹⁰⁴ Interviewees also stated that trafficking for the purpose of begging or petty crime is the second most prevalent form of trafficking among Roma, but no estimates were provided.¹⁰⁵ Respondents estimated the share of Roma among persons trafficked for the purpose of labour exploitation or illegal adoption to be over 70%.¹⁰⁶

In the Czech Republic, four purposes of trafficking in persons affecting Roma were identified during research: sexual exploitation, forced labour, exploitation for begging and debt bondage. Roma constitute approximately 3% of the total Czech population.¹⁰⁷ There was a widespread reluctance among respondents to provide estimates about the proportion of Roma among trafficked persons. However, several respondents estimated that near the German border Roma represent up to 70% of persons trafficked for sexual exploitation.¹⁰⁸

101 It is possible to talk about trafficking in children when the adoption can be compared to a sale, particularly when a child is abducted or proposed for adoption by a member of his/her family without the consent of his/her parents: "Concerning the parents' authorisation for adoption, special attention should be given to the situation of unmarried or especially poor women who, because of their financial situation or the social unacceptability of their circumstances, may be forced or pressured into giving up their children for adoption." Ms Ofelia Calcetas-Santos, *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*, /CN.4/1999/71 (Office of the United Nations High Commissioner for Human Rights, 29 January 1999).

102 Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: http://www.osce.org/documents/hcnm/2008/12/37164_en.pdf.

103 Interview with a police officer from the Combating Organised Crime Directorate, Regional Department of the Ministry of Interior. Northeastern Bulgaria: 23 March 2010. Interview with a police officer of the Border Police Department. Central Bulgaria: 19 March 2010

104 Interview with a representative of the Animus Association Foundation. Sofia, Bulgaria: 9 March 2010. Interview with a representative of the Crime Prevention Fund. Pazardžik, Bulgaria: 16 March 2010.

105 Interviews with police officers. Sofia, Bulgaria: 8 & 19 March 2010. Interviews with police officers. North-eastern Bulgaria: 22-24 March 2010. Interviews with police officers. Southeastern Bulgaria: 15 March 2010. Interviews with police. South-central Bulgaria: 31 March 2010.

106 Interview with a police officer from the Combating Organised Crime Directorate, Regional Department of Ministry of Interior. South-central Bulgaria: 31 March 2010. Interview with a police officer from the Combating Organised Crime Directorate, Regional Department of the Ministry of Interior. Northeastern Bulgaria: 23 March 2010.

107 Carol L. Kline, "EU inconsistencies regarding human rights treatment: Can the EU require Czech action as a criterion for accession?", *Boston College International and Comparative Law Review* Volume 23 Issue 1 (1999), available at: http://www.bc.edu/bc_org/avp/law/lwsch/journals/bcicl/23_1/02_TXT.htm.

108 Interviews with the director and two Romani community field social workers of People in Need. Ústí nad Labem Region and Ostrava, Czech Republic: 31 March 2010.

A young Romani woman was offered a well-paid job as a receptionist in a luxury hotel in Prague by her wealthy cousin, whom she did not know well. After she left for Prague, she was sold to someone else. She was locked up in a house with other women who were also Romani. Every day, she was driven to an area near the German border where she had to provide sexual services to as many as six clients a day. The pimp told her that she had to pay off the debt that he had incurred when he bought her from her cousin. In the end, she was rescued by one of her clients and her family sent her to the United Kingdom to live with her aunt.

Source: Interview with an individual informant. Prague, Czech Republic: 6 April 2010.

A Czech NGO working nationally in collaboration with the Ministry of the Interior estimated the representation of Roma among trafficked persons to be about 20%;¹⁰⁹ on the German border it is estimated to be around 70%. No estimates were provided on the representation of Roma among persons trafficked for forced labour, exploitation for begging or debt bondage. However, according to the expert interviews such forms of trafficking do affect Romani individuals. Usury was noted during research to be a problem in all four research locations.

In Hungary, four purposes of trafficking in persons affecting Roma were identified: sexual exploitation, (sometimes linked to) debt bondage, domestic servitude and exploitation for begging.¹¹⁰ Roma constitute only approximately 7% of the total Hungarian population.¹¹¹ Estimates of the number of Roma among trafficked persons were only provided with regard to trafficking for sexual exploitation as the other forms of exploitation are not perceived to be very widespread in Hungary. A police source estimated that 80% of trafficked persons are Romani¹¹² while an NGO service provider perceived Roma to represent between 40-50% of victims.¹¹³ Furthermore, according to information provided by two NGOs supplying services to prostitutes/sex workers in destination countries (Switzerland and the Netherlands), approximately 25-30% of their beneficiaries are Hungarian women, of which 80% are Romani, a large number of whom have been trafficked and/or are exploited.¹¹⁴

In Romania, four purposes of trafficking in persons affecting Roma were identified: sexual exploitation, forced labour, exploitation for begging and debt bondage. Roma constitute

109 Interview with a Magdala Project Officer at Caritas Czech Republic. Prague, Czech Republic: 27 April 2010.

110 None of the Romani trafficked persons interviewed in Hungary were trafficked for the purpose of exploitative begging or forced labour. One respondent noted that Hungary is a transit country for the exploitative begging of Romani children from Serbia to Western Europe. Interview with a representative of the Ministry of Justice and Law Enforcement. Budapest, Hungary: 24 March 2010.

111 Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: http://www.osce.org/documents/hcnm/2008/12/37164_en.pdf.

112 Interview with a police officer. Southwestern Hungary: 9 March 2010.

113 Interview with a representative of Hungarian Baptist Aid. Budapest, Hungary: 15 April 2010.

114 Email correspondence with representatives of Flora Dora and Scharlaken Koord: 15 April 2010.

approximately 9% of the total Romanian population.¹¹⁵ An NGO service provider in Bucharest provided information that it had assisted 29 Romani trafficked persons from 2008 to 2010, 15 of whom were trafficked for sexual exploitation, 11 for begging and 3 for forced labour: this was 15% of the total number of assisted persons.¹¹⁶ The Organised Crime Squad in Iași reported relatively low representation of Roma among victims of trafficking for sexual exploitation, many cases among trafficking for begging and petty crime, while around half of the victims trafficked for forced labour are reported to be of Romani origin.¹¹⁷ In its recently published research, the European Network on HIV/STI Prevention and Health Promotion among Migrant Sex Workers noted a large number of Roma among sex workers in Romania.¹¹⁸ According to estimates by law enforcement officials in northwestern Romania, around 50% of victims trafficked for forced labour are of Romani origin.¹¹⁹ Debt bondage was only mentioned in connection with other forms of exploitation such as exploitation for begging.¹²⁰

In Slovakia, four types of trafficking were found to be particularly prevalent among Roma: sexual exploitation, exploitation for begging, forced labour and debt bondage (mentioned in connection to other forms of exploitation such as forced labour). Roma constitute approximately 9% of the total Slovak population.¹²¹ NGO representatives estimated the percentage of Roma among persons trafficked for sexual exploitation to be between 60%-90% of known cases.¹²² In the case of exploitation for begging and forced labour, the proportion of Roma among victims was estimated to be almost 100%.¹²³ Exploitation for begging involves males and females, adults and children.

115 Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: http://www.osce.org/documents/hcnm/2008/12/37164_en.pdf.

116 Interview with the Association for Developing Alternative Practices for Reintegration and Education. Bucharest, Romania: 20 March 2010.

117 Interview with the Organised Crime Squad and Border Police. Iași, Romania: 12 April 2010.

118 European Network on HIV/STI Prevention and Health Promotion among Migrant Sex Workers (Tampep), *Sex work in Europe* (2009), p. 24.

119 Interview with the Organised Crime Squad. Iași, Romania: April 2010.

120 Interviews with researchers and Romani informants. Călărași, Romania: March/April 2010.

121 Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: http://www.osce.org/documents/hcnm/2008/12/37164_en.pdf.

122 Interview with a representative of SKC Dotyk. Bratislava, Slovakia: 28 April 2010. Interview with an individual informant. Banská Bystrica region, Slovakia: 13 April 2010. Interview with a representative of Fórum pre rómske ženy. Bratislava, Slovakia: 13 April 2010.

123 Interview with a field social worker. Prešov region, Slovakia: 12 and 17 March 2010. Interview with a field social worker. Košice region, Slovakia: 24 March 2010. Interview with a field social worker. Banská Bystrica region, Slovakia: 13 April 2010.

Table 4: Breakdown of Trafficking Situations by Country, Sex and Type
(based on interviews with trafficked persons)

	Sex		Type of exploitation	Total per country
	Male	Female		
Bulgaria	2	3	Sexual exploitation 1 Organ trafficking 1 Labour exploitation 2 Trafficking for illegal adoption 1	5
Czech Republic	1	5	Sexual exploitation 6	6
Hungary	1	10	Sexual exploitation 9 Sexual exploitation and domestic servitude 2	11
Romania	1	3	Labour exploitation 3 Sexual exploitation 1	4
Slovakia	9	2	Labour exploitation 8 Sexual exploitation 1 Exploitation for begging 2	11
Total	14	23	Sexual exploitation 18 Labour exploitation 13 Sexual exploitation and domestic servitude 2 Organ trafficking 1 Trafficking for illegal adoption 1 Exploitation for begging 2	37

Information provided by NGO service providers for sex workers/prostitutes in the Netherlands, Belgium and Switzerland raise concern about possible differential treatment that Romani women sex workers/prostitutes experience. According to an NGO working in a district of Antwerp, Belgium, their workers have observed that female Romani sex workers/prostitutes often appear rougher and unkempt.¹²⁴ The women also more often appear to have bruising or marks indicating abuse, either by clients, traffickers or managers, as compared to non-Romani workers/prostitutes.¹²⁵

7.3 Geographical Aspects of Trafficking of Roma

Trafficking in persons occurs within country borders, often between different regions (internal trafficking), as well as across international borders (external trafficking). Although both

¹²⁴ Email correspondence with a representative of the Breaking Chains Network: 7 May 2010.

¹²⁵ Approximately 8-10% of the NGO's clients are perceived to be Romani, mainly from Romania and Bulgaria: the numbers were reported to be on the rise. Email correspondence with a representative of the Breaking Chains Network: 7 May 2010.

forms of trafficking are difficult to monitor, internal trafficking is particularly difficult as there is less of a chance that the trafficked person will enter into contact with authorities. In the case of external trafficking, contact with border police when leaving or entering a country presents an opportunity for victim identification. However, this opportunity may not arise when the person is smuggled into the country or when the person enters the country voluntarily with the belief that they are travelling to obtain a regular job.

Table 5: Breakdown of Internal versus External Trafficking among Respondents
(based on interviews with trafficked persons)

	Internal	External
Bulgaria	0	5 (two to Greece, one to Germany and two to the UK)
Czech Republic	3	3 (one to Italy, one to Germany and one to the UK)
Hungary	7	4 (Italy and Germany)
Romania	0	4 (one to Spain and 3 to Italy)
Slovakia	2	9 (six to the UK, two to Switzerland and one to Sweden)
Total	12	25

Sixty-eight percent of the Romani trafficked persons interviewed in this study had been trafficked to another European Union (EU) country, while 32% had been trafficked to another location within their own country. The lack of internal borders in the EU makes the identification of victims more difficult. For example, concerning the presence of Hungarian Romani and non-Romani sex-workers/prostitutes, NGO service providers in the Netherlands and Switzerland reported that a large number of the trafficked persons arrived after Hungary entered the EU.¹²⁶

Although the process of European Union accession has given many Roma the opportunity to travel, find work and improve their lives, the failure to reduce systemic discrimination or systematically improve the socio-economic situation of Roma in countries of origin continues to provide traffickers with a pool of Romani people in very vulnerable situations that are more willing to take great risks for the chance to improve their lives in another country.

7.4 Previous Data from International Organisations

In the 2010 Trafficking in Persons (TIP) report, Roma are mentioned as a vulnerable group in 10 of 27 EU Member States.¹²⁷ The actual number of countries in which Roma constitute a vulnerable group is likely to be higher: for example, no data was provided in relation to Romania (a well known country of origin) or Italy (a country of destination). Furthermore, in all three EU accession candidate countries (Croatia, Macedonia and Turkey) and the five

¹²⁶ Email correspondence with representatives of Flora Dora and Scharlaken Koord: 15 April 2010.

¹²⁷ Including Austria, Bulgaria, Cyprus, the Czech Republic, Germany, Greece, Hungary, Portugal, Slovakia and the United Kingdom. See: US Department of State, *Trafficking in Persons Report 2010: Country Narratives* (2010), available at: <http://www.state.gov/documents/organization/142981.pdf>.

potential candidate countries (Albania, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo) Roma are mentioned as an at-risk group. While little can be concluded from this information in terms of actual numbers, this marks a sharp increase in the level of attention given to the trafficking of Roma since 2001, when instances of trafficking of Roma and the vulnerability of Roma were mentioned in only the Federal Republic of Yugoslavia (what is now Serbia, Montenegro and Kosovo).¹²⁸

From 2001-2004, Roma as trafficked persons were mentioned in only two of the five countries included in this study. The disproportionately high representation of Romani women and girls among trafficked persons of Bulgarian origin was consistently mentioned and the only other mention of Roma was with reference to the joint cooperation between France and Romania on the prosecution of trafficking rings and the protection of Romani children trafficked to France.¹²⁹

From 2005-2010, Roma received an increasing amount of attention in the TIP reports in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia. Country profiles on Bulgaria repeatedly referenced the high vulnerability of Romani women and children with particular regard to external trafficking of children for the purposes of exploitation for begging and petty theft.¹³⁰ Information on the Czech Republic, Hungary and Slovakia highlighted the high vulnerability of Romani women and girls to internal and external trafficking for the purpose of sexual exploitation.¹³¹ Roma were also mentioned with increasing frequency in other European countries throughout the report.¹³² The 2010 TIP report states that Romani women and children account for approximately 15% of Bulgarian trafficked persons.¹³³

The US State Department is not the only body that provides data on Roma and trafficking. Country reports by the European Union Agency for Fundamental Rights (FRA) from 2009 highlight the increased vulnerability of Roma to trafficking, particularly regarding forced petty crime.¹³⁴ The Czech country report mentions several instances of trafficking

128 US Department of State, *Trafficking in Persons Report 2001* (2001), available at: <http://www.state.gov/g/tip/rls/tiprpt/2001/>.

129 US Department of State, *Trafficking in Persons Report 2003* (2003), available at: <http://www.state.gov/documents/organization/21555.pdf>.

130 US Department of State, *Trafficking in Persons Reports 2005-2010*.

131 *Ibid.*

132 US Department of State, *Trafficking in Persons Report 2005*: Albania, Bosnia and Herzegovina, Denmark, Greece and Serbia and Montenegro. US Department of State, *Trafficking in Persons Report 2006*: Albania, Austria, Bosnia and Herzegovina, Greece, Serbia and Sweden. US Department of State, *Trafficking in Persons Report 2007*: Austria, Bosnia and Herzegovina, Croatia and Italy. US Department of State, *Trafficking in Persons Report 2008*: Italy. US Department of State, *Trafficking in Persons Report 2009*: Albania, Bosnia, Croatia, Greece, Italy, Kosovo, Macedonia, Montenegro, Portugal, Serbia and Switzerland. US Department of State, *Trafficking in Persons Report 2010*: Albania, Austria, Bosnia, Croatia, Cyprus, Germany, Greece, Kosovo, Macedonia, Serbia, Switzerland and the UK.

133 US Department of State, *Trafficking in Persons Report 2010* (2010), available at: <http://www.state.gov/documents/organization/142981.pdf>.

134 European Union Agency for Fundamental Rights, *Child Trafficking in the European Union: Challenges, Perspectives and Good Practices* (Luxembourg: Office for Official Publications of the European Communities, 2009), available at: http://www.fra.europa.eu/fraWebsite/attachments/Pub_Child_Trafficking_09_en.pdf.

of Romani children for the purpose of petty crime and states that Roma are very active as perpetrators in instances of internal trafficking.¹³⁵

A 2005 report by the International Organization for Migration (IOM) highlighted the overrepresentation of Roma among persons trafficked for sexual exploitation, forced labour and begging in Romania and Bulgaria. The report noted the problems of assessing the representation of Roma among victims of trafficking in Romania because most service providers do not systematically record the ethnicity of their clients.¹³⁶ IOM found Roma to be minimally represented among assisted victims of trafficking, which was attributed to the limited availability of data or an unwillingness and inability of Roma to access assistance offered to trafficked persons.¹³⁷ With regard to Bulgaria, more concrete data was provided showing that in 2003 and 2004, ethnic minorities composed 76.9% and 81.8% of persons trafficked for (forced) labour, begging and delinquency and 35.4% and 42.6% of persons trafficked for sexual exploitation, respectively.¹³⁸

Both reports stressed the importance of increased cooperation between anti-trafficking organisations and organisations working directly with ethnic minorities. Both reports also listed low educational levels and poverty, problems which are prevalent in many Romani communities, as important factors contributing to trafficking. Previous research by the International Labour Organization (ILO) found that 14.6% of trafficked minors in Romania were Romani.¹³⁹

¹³⁵ Pavel Sturma and Vera Honuskova, *FRA Thematic Study on Child Trafficking – Czech Republic* (Luxembourg: European Union Agency for Fundamental Rights, 2008), p. 18, available at: <http://www.fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-cz.pdf>.

¹³⁶ International Organization for Migration, *Second Annual Report on Victims of Trafficking in South-Eastern Europe*. (Geneva: International Organization for Migration, 2005), p. 440.

¹³⁷ *Ibid.*, p. 441.

¹³⁸ *Ibid.*, p. 164.

¹³⁹ International Labour Organization, *Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Romania* (Bucharest: International Labour Organization, 2004), p. 20.

8 Vulnerability Factors and the Functioning of Social Protection Systems

Trafficking can affect anybody regardless of ethnicity or social status. However, there are a number of push factors that make individuals more vulnerable to trafficking. Research for this study did not establish any significant differences between generally known vulnerability factors and the vulnerability factors present in Romani communities. Interviews conducted with a broad range of respondents and consultation with Romani and anti-trafficking organisations also refute the widely-held perception that trafficking is a cultural practice of Roma.¹⁴⁰

The vulnerability factors mentioned most frequently during research were: living in a situation of poverty and social exclusion; limited or lack of education and illiteracy; growing up in State care; being indebted to usurers and family environments in which violence and/or drug abuse were present. Gender and ethnic discrimination were also found to be important vulnerability factors. The research also found a higher level of vulnerability among children. Another important factor contributing to vulnerability to trafficking was previous involvement in prostitution/sex work.

Field research found that, in most cases, desperation in the household and/or the country of origin compels people to migrate and take great risks: for example, trusting unknown people and agreeing to travel with them for work without a contract. In these situations, people may fall into trafficking.¹⁴¹

For example, in Neamţ County, Romania, several cases of trafficking for forced labour came to light. In 2005, Romani men, who were accompanied by an individual from the same community, were promised decent agricultural work harvesting grapes in Valladolid, Spain: the proposed salary was 1,200 EUR per month, the employer would pay for accommodation and food and the recruiter would cover transportation costs. Some Romani men reportedly went to Spain without a work contract, trusting their recruiter. In fact, some paid a commission of up to 150 EUR to obtain the job. Upon arrival in the destination country, the Romani men realised that the recruiter, who had also taken their passports away, had no previous working arrangements with the employer. The men were paid around 300 EUR per month less than promised, had to work 7 days a week and were forced by the employer to pay for accommodation, food and transportation which meant that they had no money left. They were also kept in isolated camps. After the men managed to recover their passports and escape from the camp, they went to Madrid. They started begging on the streets to get money to call their families for financial support to return to Romania. In the interim, they slept in public places.¹⁴²

¹⁴⁰ “Decision of the Meeting of the International Romani Union Cabinet regarding the Situation of Roma”, Poland, 18 July 2010. “We, the IRU, do not accept that Roma children are sold like dogs to non-Roma and Roma alike, and we believe that this goes against all our old traditions and laws.” See also the “Warsaw Roma And Sinti Declaration”, 7 October 2010, available at: http://www.osce.org/documents/osce/2010/10/46824_en.pdf

¹⁴¹ At the same time, information provided by trafficked persons and ANITP Iaşi in April 2010 indicates that having a contract does not guarantee that exploitation will not occur.

¹⁴² Interview with a Romani trafficked person, a health mediator and a Romani NGO activist: April 2010.

During the ERRC/PiN validation conference on 'Trafficking Romani Youth and Women in Eastern and Central Europe held in Budapest on 10 December 2010, stakeholders raised the issue of the impact that right wing extremism is likely to have on the vulnerability of Roma due to the passivity and lack of interest by State authorities to protect Roma.¹⁴³

Push factors are often particularly acute in the case of Roma. There is a striking overlap of the most significant factors that contribute to human trafficking and those that contribute to the marginalisation of Roma in general. Furthermore, throughout Central and Eastern Europe, Roma are often the target of discrimination. Vulnerability factors are significantly worsened in the case of Roma due to the failure of national social systems to reduce and eliminate the vulnerable situation in Romani communities and barriers preventing Roma from accessing public services such as schools, health services, employment services and other social services. The essence of successful anti-trafficking initiatives is to provide a safety net for people vulnerable to trafficking, to reduce their chances of falling into risky situations that may lead to trafficking (such as usury) and re-trafficking. The provision of effective social work to combat trafficking in Romani communities is essential given the high levels of poverty and unemployment in these communities. However, various studies on the effectiveness of social work in Romani communities show worrisome results.¹⁴⁴

Based on consultations with organisations working on anti-trafficking, it was found that a very limited number of Romani NGOs work on anti-trafficking. Of 14 Romani organisations interviewed during research, only one was explicitly working to tackle trafficking in Romani communities or cooperating with anti-trafficking organisations.¹⁴⁵ A 2009 report of the European Union Agency for Fundamental Rights noted a lack of Romani participation in trafficking prevention activities in the Czech Republic.¹⁴⁶ The lack of direct NGO participation in prevention measures on behalf of Roma was also found in Bulgaria.¹⁴⁷

143 A recent ERRC report outlines gaps the state response to violence against Roma which may contribute to perceived or actual vulnerability. ERRC, *Imperfect Justice: Anti-Roma Violence and Impunity* (March 2011), available at: <http://errc.org/cms/upload/file/czech-hungary-slovakia-imperfect-justice-06-march-2011.pdf>.

144 A 2007 ERRC study on child protection in Hungary indicated that many social workers approach their work in Romani communities from a policing and social control perspective and do not improve the overall conditions of individuals and families. ERRC, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (2007), available at: <http://www.errc.org/cms/upload/media/02/8F/m0000028F.pdf>. A peer review of field social work in the Czech Republic found that programmes often merely perform “harm reduction” or damage control and ensure that clients’ situations do not deteriorate further rather than achieving full social inclusion. European Commission, *Peer Review in the Field of Social Inclusion Policies: Field Social Work Programmes in Neighbourhoods Threatened by Social Exclusion* (2005), available at: <http://www.peer-review-social-inclusion.eu/peer-reviews/2005/field-social-work-programmes-in-neighbourhoods-threatened-by-social-exclusion>. Similar findings have been noted in Romania. Bela Szabo, “An insight into the actual socio-economic situation in Romania”, *Social Work & Society*, Volume 2, Issue 2, (2004): p. 251.

145 The Cultural Association of Roma in Slovakia has participated in the Program of Support and Protection to Victims of Trafficking in Human Beings since 2008.

146 Pavel Sturma and Vera Honuskova, *FRA Thematic Study on Child Trafficking – Czech Republic* (Luxembourg: European Union Agency for Fundamental Rights, 2008), p. 4, available at: <http://www.fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-cz.pdf>.

147 Slavka Kukova, *FRA Thematic Study on Child Trafficking – Bulgaria* (Luxembourg: European Union Agency for Fundamental Rights, 2008), p. 29-30, available at: <http://fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-bg.pdf>.

Possible reasons include the danger associated with fighting trafficking in human beings and repercussions against those who intervene. However, in recent years there have been notable denouncements of this practice by Romani NGOs, such as the Warsaw Roma and Sinti Declaration and the recent statement of the International Romani Union:

We are deeply concerned with the phenomenon of human trafficking that affects Roma, and the exploitation of Romani children and women; we call for immediate and swift action by responsible authorities to crack down on organized criminal networks responsible for these crimes, and to address the root causes.¹⁴⁸

Despite the limited involvement of Romani civil society in anti-trafficking activities, Romani NGOs have been actively engaged in general measures to improve the living standards of Romani people, such as educational support, school desegregation activities, etc. However, although improving the overall living situation of Roma is likely to lead to a decrease in vulnerability to trafficking, there is a risk that the lack of focus on trafficking may leave the key vulnerability factors unaddressed.

8.1 Poverty and Social Exclusion

Roma face great obstacles to accessing employment due to low levels of education and high levels of discrimination. The lack of employment opportunities and the resulting poverty and social exclusion were listed in all five countries as the most prevalent vulnerability factors.

In Bulgaria, the World Bank estimates that 49% of Bulgarian Roma live under the poverty line and 45.5% are unemployed.¹⁴⁹ According to research carried out by the United Nations Development Program (UNDP), 37% of Roma drop out of school before the fifth grade. Of Roma that do complete fifth grade, only 18% finish on time. The average illiteracy rate is approximately 20%, as compared to less than 1% for members of the ethnic majority.¹⁵⁰ In terms of housing standards, 47.7% of Romani households do not have canalisation or sewers, 85% do not have indoor toilets and 32.4% do not have access to running water.¹⁵¹ Furthermore, nearly half of the Romani population in Bulgaria

¹⁴⁸ The statement continues: “We, the IRU, do not accept that Roma children are sold like dogs to non-Roma and Roma alike, and we believe that this goes against all our old traditions and laws.” “Decision of the Meeting of the International Romani Union Cabinet regarding the Situation of Roma”, Poland, 18 July 2010. See also the “Warsaw Roma And Sinti Declaration”, 7 October 2010, available at: http://www.osce.org/documents/osce/2010/10/46824_en.pdf.

¹⁴⁹ World Bank, *Roma at a Glance*, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTROMA/0,,menuPK:615993~pagePK:64168427~piPK:64168435~d:y~theSitePK:615987,00.html>.

¹⁵⁰ United Nations Development Program, *Faces of Poverty, Faces of Hope: Vulnerability profiles for Decade of Roma Inclusion Countries* (2005), available at: <http://europeandcis.undp.org/governance/hrj/show/67D47F90-F203-1EE9-BB4A88AD1FF2FF8D>.

¹⁵¹ European Roma Rights Centre, *Collective Complaint: European Roma Rights Centre v. Bulgaria*, 21 April 2005, available at: <http://www.errc.org/cms/upload/media/03/C6/m000003C6.pdf>.

does not have health insurance¹⁵² while 75% of Roma cannot afford needed medication, as opposed to 32% of neighbouring non-Roma.¹⁵³

In the Czech Republic, a minimum of 60,000 Roma were estimated to be socially excluded in 2006.¹⁵⁴ According to the World Bank, the percentage of Roma living below the poverty line is 25%.¹⁵⁵ The World Bank reported in 2008 that more than half of all working-age Roma were unemployed, compared to an overall unemployment rate of below 5%.¹⁵⁶ During field research in the Czech Republic, 10 out of 12 Romani respondents reported that they could not get a job because of their ethnicity and/or the fact that they came from a socially disadvantaged background or excluded, segregated location. Two female respondents said that they passed up opportunities to work menial jobs for very low salaries because they hoped to do better in their lives. Both ended up being trafficked, one to Prague and one to Italy.¹⁵⁷ In the area of education, only 25% of Romani children have completed primary school.¹⁵⁸ The segregation of Romani students in special education is a prevalent issue in the Czech Republic where Government research from 2009 and 2010 confirmed that Roma are up to 27 times more likely to be placed in special schools than non-Roma.¹⁵⁹ Romani girls were disproportionately affected as compared to Romani boys.¹⁶⁰ Research by the UNDP indicated that 27% of Roma reported that they could not afford necessary medication as compared to only 8% of non-Roma living in close proximity.¹⁶¹

152 *Ibid.*

153 United Nations Development Program, *Faces of Poverty, Faces of Hope: Vulnerability profiles for Decade of Roma Inclusion Countries* (2005), available at: <http://europeandcis.undp.org/governance/hrj/show/67D47F90-F203-1EE9-BB4A88AD1FF2FF8D>.

154 GAC/ Nová Škola, *Analysis of socially excluded Roma locations in the Czech Republic and the absorption capacity of entities involved in this field* (August 2006), available at: http://www.gac.cz/documents/nase_prace_vystupy/GAC_MAPA_Socially_Excluded_Roma_Locations_in_the_CR_en.pdf.

155 World Bank, *Roma at a Glance*, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTROMA/0,,menuPK:615993~pagePK:64168427~piPK:64168435~d.y~theSitePK:615987,00.html>.

156 World Bank, *News Release No. 2008/ECA*, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/CZECHEXTN/0,,contentMDK:21953611~menuPK:304639~pagePK:2865066~piPK:2865079~theSitePK:304634,00.html>.

157 Interviews with two female Romani trafficked persons. Prague, Czech Republic: April 2010.

158 US Department of State, Bureau of Democracy, Human Rights, and Labour, *2008 Human Rights Reports: Czech Republic* (25 February 2009), available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119075.htm>.

159 *Ústav pro informace ve vzdělávání – Monitoring Rámcových Vzdělávacích Programu* (2009), available at: <http://spolecnedoskoly.cz/wp-content/uploads/monitoring-uiv.pdf>. *Analýza individuálního přístupu pedagoga k žákům se speciálními vzdělávacími potřebami* available at: http://www.msmt.cz/uploads/soubory/tiskove_zpravy/Analýza_individualního_přístupu_pedagogu_k_zákům_se_speciálními_vzdělávacími_potřebami_PLNE_ZNENI.pdf. Czech School Inspection Authority, *Compendium of results from the thematic control activity in practical elementary schools* (2010), available at: <http://www.csicr.cz/file/85127/TZ%20Kontroln%C3%AD%20%C4%8Dinnost%20praktick%C3%A9%20%C5%A1koly%20duben%202010.pdf>. *Sociological Research Aimed at the Analysis of the Form and Causes of the Segregation of Children – GAC* (January 2009), available at: http://www.msmt.cz/file/11372_1_1/.

160 Czech School Inspection Authority, *Zpráva o kontrolní činnosti v bývalých zvláštních školách* (Prague, 2010), available at: <http://www.csicr.cz/cz/85126-zprava-z-kontrolni-cinnosti-v-byvalych-zvlastnich-skolach>.

161 United Nations Development Program, *Faces of Poverty, Faces of Hope: Vulnerability Profiles for Decade of Roma Inclusion Countries* (2005), available at: <http://europeandcis.undp.org/governance/hrj/show/67D47F90-F203-1EE9-BB4A88AD1FF2FF8D>.

In Hungary 45.5% of Roma are unemployed¹⁶² while the general unemployment rate was only around 7.2% in 2007.¹⁶³ Estimates of the percentage of Roma living below the poverty line range from 6-8%,¹⁶⁴ 20%¹⁶⁵ or 30%.¹⁶⁶ Interviews with Romani respondents in this study highlighted poverty as a significant force that drives people towards trafficking. For example, a 27-year-old Hungarian Romani woman who had been trafficked to Germany for the purpose of sexual exploitation reported:

When I was 14, my father had an accident at work and he had to stop working. My mother had not worked previously and she only had a primary education, so she could only do cleaning jobs. We lived in difficult financial circumstances. My siblings and I spent a lot of time at friends' houses to avoid eating at home. When I was 17, my mother took me out on the street to be a sex worker, and thus eliminate our difficulties.¹⁶⁷

According to the Open Society Institute, 60.8% of Romani children in Hungary complete primary education and 12.9% complete secondary education; only 2% of Romani students enrol in university.¹⁶⁸ Roma reside primarily in sub-standard housing isolated from the majority. Furthermore, 72% of Roma lived in segregated housing as of 2003.¹⁶⁹ In the area of health care, a survey carried out in Hungary found that 25% of Roma faced discrimination in hospitals and other health care institutions and 44.5% reported being refused medical support from doctors.¹⁷⁰

In Romania, according to the World Bank 44% of Roma are unemployed while 67% live below the poverty line.¹⁷¹ Research carried out by the UNDP in 2002 found that 52% of

¹⁶² World Bank, *Roma at a Glance*, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTROMA/0,,menuPK:615993~pagePK:64168427~piPK:64168435~d:y~theSitePK:615987,00.html>.

¹⁶³ Hungarian Central Statistical Office, *Employment and Unemployment: July – September 2007*, available at: <http://portal.ksh.hu/pls/ksh/docs/hun/xftp/gyor/fog/fog20709.pdf>.

¹⁶⁴ World Bank, *Roma at a Glance*, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTROMA/0,,menuPK:615993~pagePK:64168427~piPK:64168435~d:y~theSitePK:615987,00.html>.

¹⁶⁵ J. Ladányi and I. Szelényi, *The Making of an Underclass – Historical and Comparative Perspectives* (2002). Draft Manuscript, referred to by Zs. Ferge in *Mi történt a szegénységgel? Csalóka posztmodernitás* Esély (2007), available at: <http://www.hapn.hu/download.php?id=643>.

¹⁶⁶ See: http://www.gyermekszegenyseg.hu/tanulmányok/article.php?menu_id=13&article_id=76.

¹⁶⁷ Interview with a female Romani trafficked person. Northeastern Hungary: 15 March 2009.

¹⁶⁸ Open Society Institute, *International Comparative Data Set on Roma Education, A Statistical Baseline for Central, Eastern, and South Eastern Europe* (2008), available at: http://www.soros.org/initiatives/esp/articles_publications/publications/monitoring_20061218/table_2008.pdf.

¹⁶⁹ European Union Agency for Fundamental Rights, *Case Study: Combating Residential Discrimination, Hungary*, (October 2009), available at: http://fra.europa.eu/fraWebsite/attachments/Roma-Housing-Case-Study-Hungary_en.pdf.

¹⁷⁰ Open Society Institute, *Left Out: Roma and Access to Health Care in Eastern and South Eastern Europe* (April 2007), available at: http://www.soros.org/initiatives/health/focus/roma/articles_publications/publications/leftout_20070420/leftout_20070423.pdf.

¹⁷¹ World Bank, *Roma at a Glance*, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTROMA/0,,menuPK:615993~pagePK:64168427~piPK:64168435~d:y~theSitePK:615987,00.html>.

Roma complete primary education and only 5% complete high school.¹⁷² The illiteracy rate among Roma is 23%¹⁷³ while the national illiteracy rate is 2.7%.¹⁷⁴ About 60% of Roma live in segregated communities characterised by dilapidated houses that lack access to running water, electricity and waste disposal.¹⁷⁵ Furthermore, 63% of Roma lack medical insurance¹⁷⁶ and 77% cannot afford necessary medication.¹⁷⁷

A 2004 mapping study in Slovakia found that approximately 40% of Roma were living in social exclusion.¹⁷⁸ According to a 2005 World Bank study, 79.8% of Roma were unemployed while the overall unemployment rate was only 18.1%, and 62.8% of Roma were long-term unemployed compared to 11.4% of the general population.¹⁷⁹ Only 76.8% of Romani children complete primary education while 15% finish secondary education. Only between 1.8%-0.5% of Romani students enrol in university, while 0.3% complete it.¹⁸⁰ Just over 47% of Roma live in substandard housing while 6.2% live in shacks,¹⁸¹ and 3.8% of Roma report being denied medical care when required.¹⁸²

High rates of poverty and low levels of employment leave Romani individuals and households heavily dependent on social assistance. Many Romani recipients of social assistance are caught in a vicious circle of dependency and marginalisation. High levels of unemployment and poverty may push Roma to take great risks to earn an income. Lack of access to bank loans force Roma to resort to informal moneylenders who charge exorbitant interest rates (see Section 8.6) leading to debt bondage.

Poverty was also noted to be a barrier to the provision of anti-trafficking preventative services in Romani communities. For example, in Bulgaria, victim support service providers reported

172 United Nations Development Program, *Roma: Human Development Challenges and Opportunities - CEE Regional Report, Education* (December 2002), available at: <http://roma.undp.sk/>.

173 US Department of State, Bureau of Democracy, Human Rights, and Labor, *2008 Human Rights Report: Romania* (25 February 2009), available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119100.htm>.

174 Amnesty International, *Human Rights in Romania* (2009), available at: <http://www.amnesty.org/en/region/romania/report-2009>.

175 US Department of State, Bureau of Democracy, Human Rights, and Labor, *2008 Human Rights Report: Romania* (25 February 2009), available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119100.htm>.

176 United Nations Development Program, *Roma: Human Development Challenges and Opportunities - CEE Regional Report, Health Status and Trends* (December 2002), available at: <http://roma.undp.sk/>.

177 United Nations Development Program, *Faces of Poverty, Faces of Hope: Vulnerability profiles for Decade of Roma Inclusion Countries* (2005), available at: <http://europeandcis.undp.org/governance/hrj/show/67D47F90-F203-1EE9-BB4A88AD1FF2FF8D>.

178 Office of the Plenipotentiary of the Slovak Republic Government for Roma Communities, *Atlas of Romani communities: Sociographic Mapping of Romani Settlements in Slovakia* (2004), available at: <http://romovia.vlada.gov.sk/3554/list-faktov.php>.

179 World Bank, *The Quest for Equitable Growth in the Slovak Republic. A World Bank Living Standards Assessment: Policy Note 1. A Two-Edged Sword: Competitiveness and Labor Market Polarization in the Slovak Republic*, no. 32433-SK, 2005.

180 Open Society Institute, *International Comparative Data Set on Roma Education, A Statistical Baseline for Central, Eastern, and South Eastern Europe* (2008), available at: http://www.soros.org/initiatives/esp/articles_publications/publications/monitoring_20061218/table_2008.pdf.

181 Fundacion Secretariado Gitano, *Health Area, Health and the Roma Community, analysis of the situation in Europe* (2009), available at: www.gitanos.org/upload/78/83/Health_and_the_Roma_Community.pdf.

182 *Ibid.*

that it is very hard to maintain constant communication with Roma concerning the risk of trafficking as many do not have regular access to phones and do not use the Internet.¹⁸³

8.2 Ethnic Discrimination and Gender Discrimination

Discrimination contributes to vulnerability in the field of human trafficking on several levels. Discrimination against Roma, women, children and poor or rural people limits their employment, educational and economic opportunities, rendering them more vulnerable to traffickers as they seek better opportunities. A statistical survey conducted by the FRA in 2009 among seven minority groups in the EU (including the countries of this study) found that 11% of Roma were discriminated against by a housing agency or land lord, 17% were discriminated against by health personnel, 38% were discriminated against when looking for work¹⁸⁴ and 19% while at work. In addition, 14% of Roma reported discrimination by social service personnel, 10% by school personnel and 7% by bank employees. Among all seven minority groups included in the survey, Roma represented the most discriminated group in each of these areas.¹⁸⁵

In all five countries included in this research, discrimination in the form of school segregation of Romani children is systemic.¹⁸⁶ In Hungary, Romania and Slovakia, discrimination and social exclusion results in Roma participating primarily in unprotected, informal employment, which constitutes a risk factor for trafficking.¹⁸⁷

Due to the feminisation of poverty, the lower status of women in patriarchal societies and various forms of gender discrimination, women constitute a large proportion of trafficked persons worldwide, particularly for the purpose of sexual exploitation. According to the United Nations, 79% of trafficked persons worldwide are trafficked for sexual exploitation; 66% of trafficked persons are women, and an additional 13% are girls.¹⁸⁸

¹⁸³ Interview with a representative of the Animus Association Foundation. Bulgaria: 9 March 2010. Interviews with representative of the SOS - Families at Risk NGO and representative of a crisis. Northeastern Bulgaria: 23 March 2010.

¹⁸⁴ The incidence of employment discrimination reported by Roma was 47% in Hungary, 45% in the Czech Republic, 38% in Slovakia, and 29% in Bulgaria. Data not available for Romania. European Union Agency of Fundamental Rights. *European Union Minorities and Discrimination Survey: Main Report* (2009), available at: http://fra.europa.eu/fraWebsite/attachments/eumidis_mainreport_conference-edition_en_.pdf.

¹⁸⁵ *Ibid.*

¹⁸⁶ European Roma Rights Centre, *Factsheet: Roma Rights Record*, 4 October 2010, available at: <http://www.errc.org/cms/upload/file/factsheet-4october2010.pdf>.

¹⁸⁷ In Hungary: Parliamentary Resolution No. 68 of 2007 (VI.28) on the Decade of Roma Inclusion Programme Strategic Plan, available at: http://demo.itent.hu/roma/portal/downloads/Decade%20Documents/Hungarian%20NAP_en.pdf. In Romania: Open Society Institute, *Broadening the Agenda: The Status of Romani Women in Romania* (2006), available at: http://www.soros.org/initiatives/roma/articles_publications/publications/broadening_20060313/broadening_agenda.pdf. In Slovakia: J. Filedfiová et. al., *Report on Living Conditions of Roma in Slovakia-2006* (UNDP, 2007). For Slovakia and Hungary: United Nations Development Program, *Human Development Challenges and Opportunities Regional Report* (2002), available at: <http://roma.undp.sk/>.

¹⁸⁸ United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons* (2009), pp. 49-50, available at: http://www.unodc.org/documents/Global_Report_on_TIP.pdf.

Field research for this study indicates that this pattern is mirrored among Roma. Of the 37 trafficked persons interviewed 23 were female and 14 male. Seventeen of the 23 female respondents had been trafficked for sexual exploitation. Romani women are often the target of multiple forms of discrimination in a wide range of fields which further deepens their vulnerability to trafficking.¹⁸⁹ Statistical data by the FRA reveals that in the five countries of this research, Romani women have less access to employment or self-employment compared to Romani men while they are overrepresented among homemakers and in unpaid work as compared to Romani men.¹⁹⁰

Table 6: Breakdown of Interviewees by Type of Trafficking and Gender

	Sexual exploitation		Labour exploitation		Exploitation for begging		Trafficking for organ harvesting		Illegal adoptions		Domestic servitude	
	F	M	F	M	F	M	F	M	F	M	F	M
Bulgaria	1	0	1	1	0	0	0	1	1	0	0	0
Czech Republic	5	1	0	0	0	0	0	0	0	0	0	0
Hungary	10	1	0	0	0	0	0	0	0	0	2 ¹⁹¹	0
Romania	1	0	1	2	0	0	0	0	0	0	0	0
Slovakia	0	1	0	8	1	1	0	0	0	0	0	0
Total	17	3	2	11	1	1	0	1	1	0	2	0

8.3 Lack of Education

Lack of education was also consistently mentioned among the factors that make Roma more vulnerable to trafficking. Among the countries of this study, the education of Roma is characterised by high dropout rates, poor quality instruction in segregated environments and the disproportionate placement of Romani children in special schools for children with mental disabilities. The influence of low educational achievement and resulting limited employment opportunities on vulnerability to trafficking or other exploitative situations is obvious.

In Bulgaria, a wide range of interviewees reported that Romani women, who make up the majority of trafficked persons in the country, do not complete elementary education and

¹⁸⁹ European Roma Rights Centre, *Written Comments For Consideration by the United Nations Committee on the Elimination of Discrimination*. Serbia: <http://www.errc.org/cms/upload/media/03/7C/m0000037C.pdf>. Hungary: <http://www.errc.org/cms/upload/media/03/7A/m0000037A.pdf>.

¹⁹⁰ European Union Agency of Fundamental Rights. *European Union Minorities and Discrimination Survey: Main Report* (2009), available at: http://fra.europa.eu/fraWebsite/attachments/eumidis_mainreport_conference-edition_en_.pdf.

¹⁹¹ In both cases domestic servitude was combined with sexual exploitation.

are often functionally illiterate.¹⁹² The highest level of education attained by the Romani trafficked persons interviewed in the Czech Republic, Hungary¹⁹³ or Slovakia was secondary education with a significant proportion of them having completed only primary education. In Slovakia, the only country of the study where victims were asked about special education, four out of 11 Romani trafficked persons interviewed had attended special schools for children with mental disabilities. In Romania, respondents drew a link between low levels of educational achievement and living in rural areas where access to education is limited.¹⁹⁴

Interviews with Romani trafficked persons revealed a cycle of educational exclusion, not only among trafficked persons but also among their parents. Multi-generational exclusion from equal and full educational opportunities leads to generational unemployment in the family and based on interview data makes people more willing to take risks or resort to desperate measures.

Research also revealed that segregated schools¹⁹⁵ and the assignment of Roma to special schools for children with mild mental disabilities contribute to the vulnerability of Roma to trafficking, and may decrease the access of Roma to preventative services. For example, in Bulgaria municipal authorities reported that they organise lectures in schools with police and NGOs to raise awareness among students about trafficking as a preventative measure. However, the authorities reported that this is not done in segregated Roma-only schools,¹⁹⁶ leaving the most vulnerable group without access to anti-trafficking prevention activities.¹⁹⁷

192 Interviews with police, NGOs, Romani NGOs and Romani health mediators. Southeastern Bulgaria: 15-17 March 2010. Interviews with police, NGOs, Romani NGOs and Romani health mediators. Northeastern Bulgaria: 22-24 March 2010. Interviews with police, NGOs, Romani NGOs and Romani health mediators. South-central Bulgaria: 31 March – 1 April 2010.

193 Of the 11 Romani trafficked persons interviewed in Hungary, nine had not continued past primary education and two had completed secondary education.

194 Interview with a representative of the NGO Agentia Impreuna. Bucharest, Romania: 21 March 2010.

195 ERRC, *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe* (2005), available at: <http://www.errc.org/cikk.php?cikk=1892>.

196 Segregated “Romani schools” located in or near segregated Romani neighborhoods are by far the largest system of segregated schooling for Romani children. According to estimates, these schools serve between 44% and 70% of Romani children. Research has identified very poor infrastructure and technical equipment in these schools, as well as very lenient attitudes of teachers and regional educational inspectors to school absences and low quality of teaching. *Written Comments of the Bulgarian Helsinki Committee and the European Roma Rights Centre Concerning Bulgaria for Consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 74th session* (December 2008), available at: http://www.bghelsinki.org/upload/resources/BHC_ERRC_Bulgaria_CERD74_bg.pdf.

197 Interviews with the former secretary of the Local Commission for Combating Trafficking in Human Beings and an education expert in Sliven. Southeastern Bulgaria: 16 March 2010. Interview with a member of the Local Commission for Combating Trafficking in Human Beings and a director of a municipal Prevention Department. Northeastern Bulgaria: 23 March 2010. Interview with a Romani member of the municipal council. South-central Bulgaria: 8 April 2010.

Also in Bulgaria, trafficking victim support service providers reported a connection between the low levels of education of Romani trafficked persons and their ability to receive, process and use information about available forms of protection and support.¹⁹⁸

8.4 Growing Up in State Care

In all countries of this study, growing up in State care was mentioned as a key vulnerability factor for both Romani and non-Romani youth and children. Five out of 37 trafficked persons interviewed during research grew up in State care.

In Hungary, ERRC research from 2007 found Romani children to be overrepresented among children living in State care,¹⁹⁹ which in turn increases their likelihood of falling victim to trafficking. The preliminary findings of ongoing research show that Romani children are overrepresented in State care institutions in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia.²⁰⁰ Children and youth that come out of State care institutions often find themselves isolated, lacking any kind of social support network, with limited knowledge of how to live on their own and few employment opportunities.²⁰¹ A 35-year-old Hungarian Romani woman who survived trafficking for the purpose of sexual and labour exploitation recalled:

I suffered a lot in my life. I grew up in State care and never met my family. The caretakers abused the children and did not take good care of us. With the help of a teacher, I found a Government flat and a job at the age of 18. Then I met a man. I did not know how or how much to open up to others or whom to trust. He tricked me and I lost my flat and became homeless. I started drinking and became a prostitute in Budapest. The police found me often. Sometimes they would beat me or pee on me. I met a man who sold me into prostitution and domestic servitude [to another man]. I eventually escaped and went back to him, got pregnant and we had a daughter. A relative offered us a flat to stay in. Our child was taken by protective services because we did not have a proper house or job. I am trying to get my child back.²⁰²

¹⁹⁸ Interview with a representative of the Animus Association Foundation. Bulgaria: 9 March 2010. Interview with a representative of the SOS - Families at Risk NGO and a representative of a crisis centre. Northeastern Bulgaria: 23 March 2010. Interview with a representative of a crisis centre for children. South-central Bulgaria: 30 March 2010. Interview with a representative of a crisis centre for adults and children. South-central Bulgaria: 31 March 2010. Interview with a Romani health mediator. Southeastern Bulgaria: 15 March 2010. Interview with a Romani health mediator. Northeastern Bulgaria: 22 March 2010. Interview with a Romani health mediator. South-central Bulgaria: 1 April 2010.

¹⁹⁹ Of the State children's homes visited for the purposes of that study, Romani children constituted 58% of the child population. ERRC, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (2007), available at: <http://www.errc.org/cikk.php?cikk=2960>.

²⁰⁰ This research is part of a project led by the ERRC entitled, "Protecting the Rights of Romani Children in the Child Protection System in Bulgaria, Czech Republic, Hungary, Italy, Romania and Slovakia." The project is co-implemented with partners Bulgarian Helsinki Committee, the Milan Simecka Foundation (Slovakia) and osservAzione (Italy).

²⁰¹ ERRC, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (2007), available at: <http://www.errc.org/cms/upload/media/02/8F/m0000028F.pdf>.

²⁰² Interview with a female Romani trafficked person. Budapest, Hungary: 26 March 2010.

During research for this report, respondents in Slovakia reported a case involving a 16-year-old Romani girl who escaped from a State care facility in the Trnava region after her mother's death. The girl met an unknown Romani family and was soon transported to the United Kingdom, where she was forced to prostitute herself. After only a few days she managed to escape. She reached the police and in this case three perpetrators were sentenced by UK courts to 16- and 17-years imprisonment and ordered to pay a fine.²⁰³

Romani trafficked persons interviewed during research identified the fear of institutionalisation as having prevented them from informing anyone about their situation. A 22-year-old Hungarian Romani woman who was trafficked for sexual and labour exploitation at the age of 16 stated:

I didn't tell anyone. I felt so bad, I cried a lot and started to miss school because I felt that everybody could see what had happened to me and I felt very ashamed about it. Had I told one of the teachers in school what was happening to me I am sure she could have helped, but I thought and still think today that they would have sent me to social care and I did not want that.²⁰⁴

Respondents in Bulgaria explained that among Romani trafficked persons, children who live on the streets are the most vulnerable to trafficking.²⁰⁵ In Romania, social workers reported that the majority of street children are runaways from State care placement centres and that most are Romani children. In some cases, these children may be the second or third generation born on the streets, invisible to the State due to their lack of identity papers. It was reported that many use drugs and work in prostitution.²⁰⁶

8.5 Vulnerability of Romani Children

Concerns were raised about the trafficking of Romani children in all five countries of this study. For example, in Bulgaria, respondents to this study highlighted the vulnerability of Romani children from poor families to trafficking.²⁰⁷ Children aged six to 15 from the Romani minority and orphans are reported to be at the greatest risk of trafficking for sexual exploitation.²⁰⁸ In Romania, the high vulnerability of Romani street children to trafficking was highlighted.²⁰⁹ In Slovakia, respondents perceived the exploitation and trafficking of Romani

²⁰³ Interview with a representative of the NGO Storm. Bratislava, Slovakia: 9 April 2010.

²⁰⁴ Interview with a female Romani trafficked person. Northeastern Hungary: 15 April 2010.

²⁰⁵ Interview with a representative of the Child Protection Department. Southeastern Bulgaria: 16 March 2010. Interview with a representative of a crisis centre. South-central Bulgaria: 31 March 2010.

²⁰⁶ Interview with a representative of ARAS. Iași, Romania: April 2010.

²⁰⁷ Interview with a representative of the Center Nadya Foundation. Central Bulgaria: 8 March 2010. Interview with a representative of a crisis center for children. South-central Bulgaria: 30 March 2010.

²⁰⁸ Quoting Antoaneta Vassileva of Bulgaria's National Commission for Combating Trafficking in Human Beings. See: "The dark side", *The Sofia Echo*, 29 October 2010, available at: http://www.sofiaecho.com/2010/10/29/983512_the-dark-side.

²⁰⁹ Interview with a representative of ARAS. Iași, Romania: April 2010.

children to be growing.²¹⁰ Several of the most important factors that increase the vulnerability of children to trafficking include being subjected to domestic violence, placement into State care or dropping out of school.

Although many of the Romani trafficked persons interviewed provided vague information about the age at which they were trafficked or entered the exploitative situation that led to trafficking, seven of the 37 respondents were clearly minors at the time they were trafficked. Their ages ranged between 15 and 17 years of age and all were subjected to commercial sexual exploitation with the exception of one that was subjected to non-commercial sexual exploitation and domestic servitude. The overwhelming majority of respondents seemed to be just over the age of 18 or in their early 20s at the time they were trafficked.

Table 7: Representation of Romani Minors among Interviewees by Country

	Total number of interviewees by country	Number of interviewees below the age of majority at the time of trafficking
Bulgaria	5	1
Czech Republic	6	1
Hungary	11	4
Romania	4	1
Slovakia	11	0
Total	37	7

In its 2009 report on trafficking, the FRA referenced several cases of trafficking of Romani children from Slovakia and Bulgaria to the Czech Republic for the purpose of committing petty crime.²¹¹ Research published by Terre des Hommes and partners in 2005 on the situation of Romanian minors in Italy, many of whom are Romani, pointed out that young girls are increasingly chosen by traffickers since it is possible to earn more money with them than with adult women. The same research indicated that 40% of unaccompanied foreign minors in Rome in 2004 were Romani: while some are trafficked, others travel to Italy in search of opportunities to make money and end up in exploitative situations in the destination country.²¹²

8.6 Usury

High levels of poverty, unemployment and discrimination significantly reduce opportunities for Roma to access credit. Some Romani individuals experience difficulty in accessing social assistance.

²¹⁰ Interview with a field social worker of the NGO Ulita. Bratislava, Slovakia: 25 April 2010.

²¹¹ Pavel Sturma and Vera Honuskova, *FRA Thematic Study on Child Trafficking – Czech Republic* (Luxembourg: European Union Agency for Fundamental Rights, 2008), available at: <http://www.fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-cz.pdf>.

²¹² Terre des Hommes, Fundatia Romana Pentru Copii Comunitate si Familie and Casa dei Diritti Sociali, *An Increase in Prostitution among Romanian Minors in Rome* (November 2005), available at: http://s3.amazonaws.com/rcpp/assets/attachments/841_84_EN_original.pdf.

For example, in Slovakia the Act on Assistance in Material Need was amended to reduce the social income of families and introduced a fixed benefit ceiling limited to two adults and four children. This was reported to have disproportionately affected impoverished Romani families (which tend to be larger than non-Romani families), whose poverty deepened.²¹³

While Roma often rely on neighbours (both Romani and non-Romani) for support, their survival strategies often force them to resort to informal moneylenders who charge exorbitant interest rates and use repressive measures to ensure repayment. This promotes vicious circles of dependency and crime, including trafficking.²¹⁴

Research for this study identified instances in which Roma who could not repay loan sharks were sold, trafficked and/or forced to have sex with the usurer to pay off their debt. These types of situations constitute debt bondage²¹⁵ and were reported during research in the Czech Republic,²¹⁶ Hungary,²¹⁷ Romania²¹⁸ and Slovakia.²¹⁹

A loan shark from a village in Slovakia's Prešov region owned a business that had a contract to build a highway. The business used a group of unskilled workers consisting of Romani men from indebted families who were forced or agreed to work for the business to help repay their loans. The men worked without a contract and received no compensation for their labour. During their work on the highway to repay their loans, the loan shark increased the debt of each worker by charging a fee for transportation to and from the workplace.

Source: Interview with a field social worker. Prešov region, Slovakia: 24 March 2010.

8.7 Domestic Violence and Substance Abuse

Respondents in Bulgaria, the Czech Republic, Hungary and Romania noted that violence and substance abuse increase vulnerability to trafficking.²²⁰ Violence and substance abuse may begin before the person enters the trafficking situation and are often present during trafficking.

²¹³ Laco Oravec and Zuzana Bošcelová, "Activation Policy in Slovakia: Another Failing Experiment?" in *Roma Rights* Number 1 (2006), European Roma Rights Centre, available at: <http://www.errc.org/cikk.php?cikk=2537>.

²¹⁴ United Nations Development Program, *Avoiding the Dependency Trap* (2002), available at: <http://europeandcis.undp.org/home/show/62BBCD48-F203-1EE9-BC5BD7359460A968>.

²¹⁵ Interview with a male Romani trafficked person. Prešov region, Slovakia: 10 March 2010. Interview with a male Romani trafficked person. Prešov region, Slovakia: 18 March 2010.

²¹⁶ Interview with a representative of La Strada. Czech Republic: 1 April 2010

²¹⁷ Interview with a female Romani trafficked person. Budapest, Hungary: 27 March 2010.

²¹⁸ Interviews with researchers and Romani informants. Călărași, Romania: March/April 2010.

²¹⁹ Interview with a male Romani trafficked person. Prešov region, Slovakia: 10 March 2010. Interview with a male Romani trafficked person. Prešov region, Slovakia: 18 March 2010.

²²⁰ Violence and substance abuse are also very likely vulnerability factors in Slovakia but respondents there focused on other issues.

Respondents in the Czech Republic drew a link between a perceived increase in substance abuse and trafficking among all age groups of Roma, including 6-year-old children.²²¹

Often, recruiters offer drugs to potential victims. Other times, substance abuse in the family may lead to exploitation and trafficking as a way to maintain addictions. One respondent recalled the case of a Romani woman who faced severe exploitation akin to trafficking in the Czech Republic:

At the age of 18, a Romani woman was violently forced into prostitution by her husband, who was addicted to drugs and alcohol, to sustain his addictions. All the money from her prostitution went to him for seven years. In the end, the woman escaped to a shelter for mothers with her two children. She had three other children which she put up for adoption because she could not look after them.²²²

In Romania, the use of drugs by street children was considered to be a factor that increased their vulnerability to trafficking.²²³

A Romani woman trafficked for sexual exploitation in Hungary explained that at the age of 14 she fell in love with a boy who was addicted to drugs and who asked her to become a prostitute. She could not cope with what she was doing and started to use drugs as well. After a while her “boyfriend” sold her to a pimp. On the first day she was raped by the pimp and his friends.²²⁴

During this research, gender-based violence, as a form of sex discrimination and violence against children, was found to be a significant contributing factor to women being trafficked. This is illustrated by the case of a 35-year-old Romani woman interviewed in northeastern Hungary in March 2010:

I’m reluctant to remember my childhood, yet when I do, only bad things come to mind [...] I think I was about 6 or 7-years-old, at least this is the earliest time I can remember, when my grandfather started sexually abusing me [...]. I was very afraid of my grandfather [who lived in the same house]. [...] I started staying on the streets with schoolmates more and more frequently to avoid going home.

She then started to take drugs and which led her to engagement in prostitution/sex work to earn money to pay for drugs. She became indebted and was subsequently sold by a drug dealer.

The man put me into his car and took me out to the woods. He tied me to a tree and raped me. Afterwards, he took me into an apartment somewhere in the city centre,

221 Interviews: Director, deputy director and Romani social worker at community centre Liščina, Life Together: 22 March 2010; Director, two field assistants and a social worker at the Nest team, Life Together: 23 March, 2010; Director of social services, deputy director for social counselling, deputy director for field social work, three field social workers and three social workers at Helpale, Life Together: 24 March, 2010; and director and two Romani community field social workers, People in Need: 31 March, 2010.

222 Interview with a female Romani exploited person. Prague, Czech Republic: 10 April 2010.

223 Interview with a representative of ARAS. Iași, Romania: April 2010.

224 Interview with a 22-year-old female Romani trafficked person. Budapest, Hungary: 29 March 2010.

but I did not know where I was [...] I do not know how much time elapsed, perhaps even a year, because I remember that I saw a snow-covered roof. Every day, the man brought me one or two customers who had perverted requests. I was often beaten up, but I also had to beat others; there were cases when someone stubbed a burning cigarette into my skin, or when I had to satisfy several men at the same time. He never gave me money, but he brought me drugs every day.²²⁵

8.8 Family Complicity in Trafficking

Research around the world on trafficking has shown that, in general, family members, acquaintances or someone else close to the victim are often involved in their trafficking. For example, the involvement of parents in the sale of their children into trafficking has been reported in Bangladesh, Thailand, Sub-Saharan African countries and Poland, to name a few.²²⁶ The research for this study on trafficking in Romani communities identified that this issue - family complicity in trafficking – is also present in Romani communities. Indeed, 13 out of 37 Romani trafficked persons interviewed during research reported that a family member such as a father, mother, uncle, husband or boyfriend had been involved in their recruitment into trafficking or exploitation.

Information about the family background of the victim was provided in Bulgaria, the Czech Republic and Hungary. In these countries 9 out of 26 trafficked persons reported having suffered domestic violence and sexual abuse at the hands of parents, grandparents, husbands and boyfriends prior to their trafficking. As one trafficked person in Prague testified: “My husband beat me for 7 years and forced me into street prostitution. I had to support him, my children and his family.”²²⁷ In other cases, the trafficking situation and domestic violence were interlinked as illustrated by the case of a 24-year-old Romani woman from Hungary who was sold into sexual exploitation:

When I was 10 years old, I went into State care for a year because my father was an alcoholic and abused me, my brother and my mother. I then returned home but everything was the same as before. When I was 17 my father took me out of school. He forced me to be a prostitute. I had to stand on the big road in the village. I had not had a boyfriend before so my father raped me because he knew that I was a virgin. He said that sex would be better with other clients if I was not a virgin.²²⁸

225 Interview with a female Romani trafficked person. Budapest, Hungary: 27 March 2010.

226 See, for example, Irena Omelaniuk, *Trafficking in Human Beings United Nations Expert Group Meeting on International Migration and Development, Population Division Department of Economic and Social Affairs United Nations Secretariat* (New York, 6-8 July 2005). See also Tom Obokata, *Trafficking of Human Beings from a Human Rights Perspective* (Martinus Nijhoff Publishers, 2006), p. 46.

227 Interview with a female Romani trafficked person. Prague, Czech Republic: 17 April 2010.

228 Interview with a female Romani trafficked person. Northeastern Hungary: 17 March 2010.

8.9 Other Vulnerability Factors

There is limited information from this research pointing to other factors which may increase vulnerability to trafficking. For example, respondents in Bulgaria working with trafficked persons reported that a significant number of trafficked persons have an intellectual disability or a mental health disorder.²²⁹ Disability was also raised as a vulnerability factor in the Czech Republic²³⁰ and Slovakia.²³¹

In the Czech Republic it was reported that gay Romani male sex work/prostitution occurred in all of the four regions of research but forced prostitution was reported only rarely.²³²

Other vulnerability factors consistently mentioned in this study included previous involvement in prostitution/sex work and forced marriages (see Section 10 for more information). In the Czech Republic, it was reported that Romani migrants from Slovakia are particularly vulnerable to being trafficked.²³³ The lack of identity documents makes people more vulnerable to trafficking but there are cases when the contrary is also true. Research in Romania indicated that traffickers use various mechanisms to calculate a woman's value in order to exploit her in prostitution: it was reported that a healthy woman with valid identity papers can be more easily trafficked abroad.²³⁴

229 Interview with a representative of Center Nadya Foundation. Central Bulgaria: 8 March 2010. Interview with a representative of a crisis center for children. South-central Bulgaria: 30 March 2010.

230 Interview with representatives of the police assistance team of Life Together. Ostrava, Czech Republic: 22 March 2010. Interview with a representative of the social programme and a Romani community field social worker at IQ Roma Service. Brno, Czech Republic: 6 March 2010. Interview with a Magdala Project Officer at Caritas. Czech Republic: 27 April 2010.

231 Interview with a male Romani trafficked person. Banská Bystrica region, Slovakia: 14 April 2010.

232 Interview with a Romani advisor with the Ostrava City Council. Czech Republic: 24 March 2010. Both male Roma interviewed during research who had been trafficked for sexual exploitation were gay. One was from Hungary and the other was from the Czech Republic.

233 Information provided by a Romani advisor with the Ostrava City Council. Czech Republic: 24 March 2010.

234 Interview with an associate lecturer at Bucharest University. Bucharest, Romania: March 2010.

9 Access of Romani Trafficked Persons to Legal Protections and Victim Protection Services

European law guarantees the access of trafficked persons to a wide range of services and protections, including: urgent medical care,²³⁵ secure accommodation, psychological and material assistance,²³⁶ counselling and information on their rights and the services available to them in a language they can understand²³⁷ and assistance in presenting their rights and interests at appropriate stages of criminal proceedings,²³⁸ including translation and interpretation services.²³⁹ Presumed trafficked persons are entitled to a recovery and protection period of at least 30 days to recover, escape the influence of traffickers and make an informed decision about whether to cooperate with the authorities.²⁴⁰ During this time an expulsion order must not be enforced against him or her, and presumed trafficked persons are also entitled to access to education for their children.²⁴¹ Presumed trafficked persons are entitled to physical safety and protection,²⁴² and the right to privacy with respect to the processing of their data and their exposure to the media, especially trafficked children.²⁴³

9.1 Inadequate Police Identification and Investigation in Roma Trafficking Cases

For a trafficked person to gain access to protection measures and services, he or she must first be identified as a presumed trafficked person. In Slovakia²⁴⁴ and Bulgaria, police and NGOs interviewed during this study reported that most victims of trafficking are identified abroad: in the case of Bulgarian trafficked persons, identification generally occurs either following a police raid in the destination country or by a foreign NGO working proactively with people in prostitution/sex work.²⁴⁵ In the Czech Republic, the police

²³⁵ Article 12(1b), CoE Convention.

²³⁶ Article 12(1a), CoE Convention.

²³⁷ Article 12(1d), CoE Convention.

²³⁸ Article 12(1e), CoE Convention.

²³⁹ Article 12(1c), CoE Convention.

²⁴⁰ Article 13(1), CoE Convention.

²⁴¹ Article 12(1f), CoE Convention.

²⁴² Article 12(2), CoE Convention.

²⁴³ Article 11, CoE Convention.

²⁴⁴ Interview with a representative of the SKC Dotyk. Bratislava, Slovakia: 28 April 2010. Interview with the coordinator of the Trafficking in Persons Programme of Slovak Catholic Charity. Bratislava, Slovakia: 24 March 2010.

²⁴⁵ Interview with representatives of the Border Police Department. Central Bulgaria: 19 March 2010. Interview with a representative of SOS – Children and Families at Risk. Northeastern Bulgaria: 23 March 2010. Interview with officers of the Organised Crime Directorate of the Regional Department of the Ministry of Interior. Northeastern Bulgaria: 23 March 2010. Interview with a representative of the Center Nadya Foundation. Central Bulgaria: 8 March 2010.

play an important role in victim identification, as do NGOs.²⁴⁶ In Hungary, the National Bureau of Investigation reported that law enforcement authorities play a significant role in identifying potential trafficked persons as do the national State-run crisis telephone information centre and Hungarian consulates in destination countries.²⁴⁷ In Romania, ANITP representatives reported that victim identification frequently happens during criminal investigations by law enforcement authorities, inquiries by social service providers or a national State-run help line.²⁴⁸

Across the countries of this study, only four of the 37 Romani trafficked persons were officially identified as such. One Romani trafficked woman from Bulgaria was identified by a German NGO. In the Czech Republic one Romani trafficked person was identified by social workers and another was identified by Italian police during a raid. A Slovak Romani person trafficked to Sweden managed to escape and contact the Swedish police. They put her in touch with the Embassy which organised her repatriation.

In nine cases, Romani trafficked persons reported contact with the police while in the trafficking situation. The low level of victim identification poses a huge barrier to accessing protection mechanisms and services. In Bulgaria, police reportedly took some action with regard to only two of five Romani trafficked persons interviewed:²⁴⁹ in one case a police officer took the testimony of the trafficked person but she never heard back from him and in the other case the perpetrator was identified and imprisoned.²⁵⁰ Of the three cases not reported to the police, one trafficked person reported being afraid of reprisals by the traffickers; no reason was specified in the other two cases. A Romani man and his wife that were trafficked for forced labour in the United Kingdom explained: “We did not inform the police about what happened to us because we are afraid and do not want to deal with this issue any more.”²⁵¹

In the Czech Republic only one out of six Romani trafficked persons had been in contact with the police and was subsequently identified (during a police raid while in Italy). The other five trafficked persons had no reported contact with police. In one case, the trafficked person did not want to contact law enforcement authorities because she “simply wants to forget the situation.”²⁵² In another case the trafficked person testified that she did not contact the police because she was “afraid about the consequences for my family.”²⁵³

²⁴⁶ Interview with a representative of La Strada. Prague, Czech Republic: 1 April 2010. Email correspondence with a representative of the Ministry of Interior: 6 January 2011.

²⁴⁷ Interview with a representative of the National Bureau of Investigation. Budapest, Hungary: 7 July 2009. Interview with a representative of Hungarian Baptist Aid. Budapest, Hungary: 24 July 2009.

²⁴⁸ Interviews with representatives of ANITP. Bucharest and Iași, Romania: 21 March and 13 April 2010.

²⁴⁹ Police were contacted by family members of the trafficked person or by foreign police.

²⁵⁰ However, it was not clear from the interview if the charges were in relation to trafficking, pimping or domestic violence. Interview with a female Romani trafficked person. Southwestern Bulgaria: 15 April 2010.

²⁵¹ Interviews with male and female Romani trafficked persons. Northeastern Bulgaria: 3 April 2010.

²⁵² Interview with a female Romani trafficked person. Prague, Czech Republic: 3 April 2010.

²⁵³ Interview with a female Romani trafficked person. Prague, Czech Republic: 7 April 2010.

In Hungary, none of the Romani trafficked persons interviewed were identified by the police. Only two came into contact with the police while in the trafficking situation. In one case, although reportedly in regular contact, the police did not identify the woman as a trafficked person and instead further abused and humiliated her.²⁵⁴ In the other case, law enforcement authorities did not proactively investigate and prosecute the case. The police told a 20-year-old Romani woman from Hungary that was deceived and trafficked into sexual exploitation when she tried to press charges against two traffickers that it would be very difficult because in the first case she “went voluntarily” and in the second case she “should provide his [the traffickers] name” but she did not know it. She told researchers:

My father took me to the police. They said that they would take notes but they did not have anything good to report because I went there voluntarily and they did not think I had been trafficked. The police said that it would be difficult to prosecute since I only knew the name of the man that brought me there [and sold me], not the man in the flat [who bought me].²⁵⁵

The following case from a Hungarian Romani women trafficked internally for sexual exploitation seems to indicate police complicity: “Sometimes the police would stop me and I would just have to tell them the name of my pimp and they would leave.”²⁵⁶

Three interviewees in Hungary explained why they would not go to the police: in one case, a 22-year-old male Romani person trafficked for the purpose of sexual exploitation stated, “All I know is that prostitution is illegal in Hungary. When I was beaten in Népliget, I did not call the police. I am afraid I will be the one who is punished.”²⁵⁷ Another trafficked person said that she could not report to the police because she had been trafficked abroad and did not have her passport, which was taken by her trafficker.²⁵⁸ The third trafficked person reported that she “was afraid of getting her family into trouble.”²⁵⁹

Only one of the Slovak Romani trafficked persons had been in contact with the police, but in this case it was in the country of destination.

None of the four trafficked persons interviewed in Romania reported being in contact with or identified by the police. One of them did not report to police for fear of reprisal by the traffickers.²⁶⁰

²⁵⁴ “I suffered a lot in my life. [...] I started drinking and became a prostitute in Budapest. I met a man who sold me into prostitution and domestic servitude. When I was on the street the police found me often. Sometimes they would beat and pee on me.” Interview with a female Romani trafficked person. Budapest, Hungary: 26 March 2010.

²⁵⁵ Interview with a female Romani trafficked person. Northeastern Hungary: 14 March 2010.

²⁵⁶ Interview with female Romani trafficked person. Northern Hungary: 17 March 2010.

²⁵⁷ Interview with a male Romani trafficked person. Budapest, Hungary: 27 March 2010. In Hungary prostitution/sex work is illegal unless practiced in tolerance zones (see Section 10.1).

²⁵⁸ Interview with a female Romani trafficked person. Northern Hungary: 15 March 2010.

²⁵⁹ Interview with a female Romani trafficked person. Northeastern Hungary: 15 March 2010.

²⁶⁰ Interview with female Romani trafficked person. Iași, Romania : 27 March 2010.

The inactivity of police in effectively investigating trafficking in relation to Roma was starkly portrayed in Romania in a recent report on the trial of 23 persons charged with stealing 181 Romanian Romani children and trafficking them to the United Kingdom for the purpose of begging between 2002 and 2009. The lawyer for one of the victims was quoted in the media as having stated that Romanian police suspected the defendants of child trafficking for more than four years but allowed them to continue until finally forced to act under pressure by British police:

The Romanian police followed some of the defendants in 2005 and 2006 because they suspected they may be involved in trafficking children to Western Europe to steal and beg but they did not arrest anyone. [...] The British police sent them documents and asked them to act but they did not until 2009.²⁶¹

Field research also revealed what might be characterised as an over-reliance on victim self-identification. The passive approach of police to victim identification combined with the limited capacity of social outreach work means that victims are left to approach police and victim protection services themselves. This is inconsistent with existing policies and guidelines, and is also highly problematic because many trafficked persons do not consider themselves as such.

The CoE Convention states that “Each Party shall [...] ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified.”²⁶² Low trafficking victim identification numbers are related to the many obstacles that the identification process involves in practice. Bulgaria, Hungary and Slovakia have no unified identification protocol. As a result all stakeholders in these countries, including police, hotlines and NGOs, use their own protocols for identifying victims.²⁶³

In the case of Roma, the fact that the police should play such a central role in the identification of trafficked persons may constitute a barrier to such as a result of recurrent police ill-treatment and profiling of Roma, fear and a lack of trust in police among Roma and a general lack of confidence among Roma in the legal system. In its 2009 MIDIS study, the European Union Agency of Fundamental Rights found that on average one in three Roma were stopped by the police in the previous 12 months (in Bulgaria 14% of respondents, in the Czech Republic 34%, in Hungary 41%, in Romania 20% and in Slovakia 25%). Every second respondent indicated that they were stopped specifically because they were Romani.²⁶⁴ FRA also found that 33% of

261 Nick Fagge, “In the dock: Modern-day Fagins who ‘sent 200 Romanian children to beg and steal in UK’”, *Daily Mail Online*, 28 September 2010, available at: <http://www.dailymail.co.uk/news/article-1315672/Modern-day-Fagins-sent-200-Romanian-children-beg-steal-UK.html?ito=feeds-newsxml#ixzz10p7yTVtf>.

262 Article 10(1), CoE Convention.

263 Regulation of the Minister of Interior of the Slovak Republic dated 28 December 2008 on the Program of Support and Protection to Victims of Trafficking in Human Beings does not include criteria for victim identification. In Hungary, information provided during an interview with a representative of the National Bureau of Investigation. Budapest, Hungary: 7 July 2009. In Bulgaria, there is no centralised identification system, nor unified criteria.

264 In the survey, 12% of Bulgarian, 52% of Czech, 58% of Hungarian, 24% of Romanian and 28% of Slovak Romani interviewees reported ethnic profiling when stopped by regular police while 25% of Bulgarian Roma, 48% of Czech Roma, 9% of Hungarian Roma, 6% of Romanian Roma and 41% of Slovak Roma reported ethnic profiling when stopped by the border control police, available at: http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_ROMA_EN.pdf.

Roma who experienced discrimination did not report their experience to the police due to dislike, fear or previous negative experiences with the police; 72% of Romani respondents did not believe that the police would be able to do anything about their situation.

9.2 Roma and Victim Support Services

Research in this study was intended to examine the treatment of Roma by anti-trafficking service providers and potential discrimination. However, very few of the respondents during research were in contact with these services: only five of the 37 Romani trafficked persons interviewed had been in contact with service providers while in the trafficking situation and only three were identified as trafficked and provided assistance.

None of the four trafficked persons of Roma ethnicity interviewed in Romania had contact with victim protection service providers.²⁶⁵

Two Romani respondents reported being in contact with health care providers while in the trafficking situation and in a second case reported by a Bulgarian Romani trafficked person interviewed the person was identified in a German hospital.²⁶⁶ In Hungary, the story of a 22-year-old Romani woman illustrated how health professionals failed to identify a trafficked person:

I attempted to commit suicide but I was unsuccessful. I took a lot of medicine but my uncle [the exploiter] found me. I woke up in the hospital. My life didn't change after that [...] I still had to have sex with my uncle and do domestic work.²⁶⁷

One other case was reported by a Romani health mediator in Bulgaria which led to the identification of the victim and the removal of the person from the trafficking situation by police.²⁶⁸ One trafficked person interviewed in Hungary reported entering a hospital after she managed to escape her trafficking situation. There she was treated for drug addiction.²⁶⁹

Three Romani trafficked persons interviewed had stayed in a shelter. In two cases the shelters were located in the country of destination (Italy and Germany); in one case the shelter was located in the country of origin (Czech Republic, internal trafficking).²⁷⁰

²⁶⁵ Interview with a male Romani trafficked person. Neamț County, Romania : 29 March 2010. Interview with male and female Romani trafficked persons. Călărași, Romania: 18 April 2010. Interview with a female Romani trafficked person. Iași, Romania: 27 March 2010.

²⁶⁶ Interview with a female Romani trafficked person. Northeastern Bulgaria: 25 April 2010.

²⁶⁷ Interview with a female Romani trafficked person. Northeastern Hungary: 15 March 2010.

²⁶⁸ Interview with a Romani health mediator. Northeastern Bulgaria: 24 April 2010.

²⁶⁹ Interview with a female Romani trafficked person. Budapest, Hungary: 27 March 2010.

²⁷⁰ Interview with a female Romani trafficked person. Prague, Czech Republic: 15 April 2010. Interview with a female Romani trafficked person. Northeastern Bulgaria: 23 March 2010. Interview with a female Romani trafficked person. Prague, Czech Republic: 22 April 2010.

In two cases trafficked persons reported being in contact with other victim support services (a social worker and an NGO). In Bulgaria, the interviewee reported being assisted by an NGO that provided material assistance in the form of food, clothing and kitchen equipment and maintained contact with her over the phone.²⁷¹ In the Czech Republic, the interviewee was identified by a social worker who helped her and her children move into a shelter run by Caritas.²⁷²

Interviews conducted with victim protection service providers revealed a number of obstacles to their work supporting Romani and non-Romani trafficked persons and survivors. The Romanian Association against AIDS (ARAS), a NGO service provider working with some of the most stigmatised groups, including drug users, sex workers and street children, reported that the most discriminated group in accessing medical services is street children, many of whom are Romani. Despite an agreement between ARAS and the Public Health Department, medical workers reportedly refuse to provide medical treatment to their clients regularly. In one case:

A young boy was injured with a big piece of glass in his hand. An ARAS staff member took the boy to the hospital. The doctor refused to check the boy and told them that the boy needs a reference paper from his general practitioner.²⁷³ The boy did not have an ID. After two days the wound closed around the piece of glass and the boy was again taken to the same hospital. The same doctor checked the wound and told them to go to a general practitioner since it was no longer an emergency case.²⁷⁴

In Romania, many stakeholders emphasised that trafficked persons are confronted with stigmatisation and prejudice in public hospitals when the staff is aware of their trafficking experience. Bearing in mind that Roma face outright discrimination in the public health sector, one can assume that trafficked persons of Romani origin often meet discriminatory attitudes and behaviours.²⁷⁵

Anti-trafficking NGO service providers in Romania also reported major obstacles to enrolling trafficked children in school. While the administrative transfer of a student's school records from one school to another is relatively easy, trafficked children are still met with high levels of prejudice and stereotyping. Social workers reported that they would rather not inform school principals and teachers about the trafficking experience of their beneficiary.²⁷⁶

In Bulgaria, victim support service providers reported that they face great difficulties in maintaining constant communication with Romani clients because many do not have regular access to telephones and do not use the Internet.²⁷⁷

271 Interview with a female Romani trafficked person. Northeastern Bulgaria: 23 March 2010.

272 Interview with a female Romani trafficked person. Prague, Czech Republic: 22 April 2010.

273 Patients are enrolled on the list of family doctors if they have minimum income or benefit from social welfare.

274 Interview with a representative of ARAS. Iași, Romania: April 2010.

275 Interview with a representative of ARAS. Iași, Romania: April 2010. Interviews with health mediators. Iași and Neamț, Romania: April 2010.

276 Interview with social workers. Bucharest and Iași, Romania: March and April 2010.

277 Interview with a representative of the Animus Association Foundation. Bulgaria: 9 March 2010. Interviews with representative of the SOS - Families at Risk NGO and representative of a crisis. Northeastern Bulgaria: 23 March 2010.

The overwhelming lack of support available to Romani trafficked persons means that they are not able to re-integrate and are highly vulnerable to repeated experiences of trafficking.

An IOM Bulgaria initiative discussed during research illustrated how effective anti-trafficking support can help trafficked persons to change the course of their lives. From 2006-2008 the IOM ran a shelter for victims of trafficking. Vocational training was provided to 16 young Romani girls (cooking and hair-dressing) in southeastern Bulgaria as a reintegration measure to prevent re-trafficking of persons. At the time of research in 2010, half of the trainees were employed. The same programme was also carried out in a coastal city and all 16 Romani girls trained in that programme were employed. However, this programme was closed down due to a lack of funding.²⁷⁸

²⁷⁸ During these years the shelter had 30 beneficiaries, 19 of whom were young Romani women trafficked for sexual exploitation and four whom were deceived into going to Greece for baby trafficking. Interview with a representative of IOM. Sofia, Bulgaria: 17 March 2010.

10 Exploitative and Risky Situations

Certain activities or practices are often linked to trafficking in persons, such as prostitution/sex work, begging (particularly when it involves minors), child marriages and forced labour. These practices constitute trafficking in human beings when coercion, violence or exploitation are involved and one of the acts set in the Palermo protocol definition takes place (transportation, transfer, harbouring or receipt of persons). Coercion and exploitation are present in forced child marriages by definition.

10.1 Prostitution/Sex Work

Research for this study revealed several links between prostitution/sex work and trafficking.

Increased vulnerability to trafficking: 12 of the 37 Romani trafficked persons interviewed during this study were already involved in prostitution/sex work before they fell into a trafficking situation. This suggests a correlation between persons engaged in prostitution/sex work and vulnerability to trafficking. In all five countries, cases were reported in which Romani women got involved in prostitution/sex work but were deceived as to the conditions under which they would be working; this is very likely relevant for non-Romani women as well. In some cases, these persons ended up in an exploitative situation, without freedom of movement, without being paid for their work, etc.: their situations may then be defined as trafficking.

In Bulgaria, some interviewees reported an increase over the past five years in the number of Roma who leave Bulgaria knowing that they will be involved in prostitution/sex work, but who agree to go for the sake of a better future and end up trafficked.²⁷⁹ Research in the Czech Republic identified a similar trend. Here, there was no consensus among interviewees over what constitutes forced or voluntary prostitution/sex work. For example, some interviewees thought that a decision to enter prostitution/sex work due to economic hardship was enough to constitute “force” in decision-making.²⁸⁰ Others interviewees suggested that even when a husband or boyfriend forces his wife or girlfriend to enter prostitution/sex work, it is still considered voluntary.²⁸¹ One Czech respondent explained:

From my previous experience in the field with People in Need Czech Republic, I am aware of trafficking in Romani women from Slovakia who ‘voluntarily’ agree to

²⁷⁹ Interviews with police, Romani and non-Romani NGOs and Romani health mediators. Southeastern Bulgaria: 15-17 March 2010. Interviews with police, Romani and non-Romani NGOs and Romani health mediators. Northeastern Bulgaria: 22-24 March 2010. Interviews with police, Romani NGOs and Romani health mediators. South-central Bulgaria: 31 March – 1 April 2010.

²⁸⁰ Information provided by a Romani advisor. Ostrava, Czech Republic: 24 March 2010.

²⁸¹ Interview with an individual informant. Prague, Czech Republic: 24 March 2010.

be paid to come here to be prostituted. However, they make this highly uninformed decision under immense pressure from the trafficker and/or their families, or they are exposed to pressure in connection with their destitute financial and material situations in areas that are extremely socially excluded. Here, they are held in undignified and inhuman conditions and subjected to verbal, physical and psychological violence from their pimps or masters, especially when they try to quit. I am aware of this happening in a number of northern Bohemian and northern Moravian cities where they are trafficked by Slovak bosses; this also happens in areas near Czech borders.²⁸²

The general lack of consensus and understanding over what constitutes trafficking can create serious barriers to identifying trafficked persons and potential trafficked persons and providing them with preventative and protection services.

Research in Hungary also revealed how easily involvement in prostitution/sex work can lead to trafficking. In one case, a 35-year-old Romani woman who got involved in prostitution to pay for drugs was sold by a dealer to whom she owed money:

He gave me a few weeks to repay the debt, but I had trouble since so much debt had accumulated and I continued to use drugs. One day the dealer introduced me to a man and told me that I had to do whatever that man told me to do. In exchange he repaid my debt to the dealer. The man took me to his car and drove out to the woods. He tied me up to a tree and raped me. He told me that I had to always follow his orders, do whatever he told me to do, that I could not go anywhere without his permission and could not speak to anyone; otherwise this would happen to me every day. I was very frightened. I had never experienced such violence before.²⁸³

In Romania, a former outreach worker of ARAS reported that prostitution/sex work is a highly “informal labour sector” with informal but sophisticated protection and dependency schemes. As such, prostitutes/sex workers can easily become victims of trafficking.²⁸⁴

According to a field social worker, the majority of victims in Slovakia are recruited directly by traffickers.²⁸⁵ Sometimes they know that they will be working as prostitutes but are unaware of the exploitative conditions. For example, an informant from the Banská Bystrica region reported the case of a Romani girl who voluntarily entered the sex industry after being recruited. She was taken to Germany where she worked in a night club. The recruiter upheld the agreement and the girl was able to contact her family and claimed to feel satisfied with her conditions. After some time she was sold – against her will – and forced to go to Sweden. There she continued to work as a prostitute but was held in much worse conditions in a remote house in

²⁸² Interview with the director of the Agency for Social Inclusion of the Office of the Government. Prague, Czech Republic: 2 April 2010.

²⁸³ Interview with a female Romani trafficked person. Hungary: 20 March 2010.

²⁸⁴ Interview with a representative of ARAS. Iași, Romania: April 2010.

²⁸⁵ Interview with a field social worker. Banská Bystrica region, Slovakia: 14 April 2010.

the countryside. With help from a client she managed to contact the Slovak Embassy and left the country with the help of authorities.²⁸⁶

Multiple discrimination and criminalisation: Romani women involved in prostitution/sex work may face multiple discrimination, based on ethnicity and their engagement in activities viewed very negatively by society. The following case of neo-Nazi violence against female Romani prostitutes/sex workers is illustrative of this point:

The man posed as someone interested in the sexual services of female prostitutes in the town of Aš, Czech Republic, and the surrounding areas. Over the course of this past March [2010], he enticed three different prostitutes into remote parts of the forest where he and his partner overwhelmed them, blindfolded them and transported them across the border to Bavaria. Once in the man's home, the women had to strip naked. The couple cut off their hair and took away all of their belongings and clothes. The Czech woman beat the kidnapped prostitutes with a baseball bat or iron bar and forced them to say they were "black swine" [a derogatory name frequently used with reference to Roma in the Czech Republic]. After the torture was over, the couple let their victims go.²⁸⁷

Prostitution is illegal in Romania, which often prevents victims from reporting trafficking situations, as they are afraid of being prosecuted for prostitution.²⁸⁸ In Bulgaria, the Czech Republic, Hungary and Slovakia prostitution is not legal, but it is not criminalised.

Negative attitudes towards women involved in prostitution/sex work can be seen by the sort of charges that they face in Bulgaria. For example, sex workers/prostitutes in Bulgaria are sometimes prosecuted under criminal provisions for begging, for not practicing a "socially useful" job and for receiving income in an "unwarranted or immoral way." The sentence for this crime is imprisonment of up to two years or probation.²⁸⁹

Regulations in Hungary stipulate that prostitution/sex work must be practiced within tolerance zones; engaging in prostitution/sex work outside of these zones is illegal.²⁹⁰ In practice, Hungarian authorities have been reluctant to identify such zones, so a significant proportion of prostitution/sex work takes place illegally. Any person who violates these restrictions on sexual services commits an administrative offence and shall be punished by confinement or fine.²⁹¹ Soliciting, offering

²⁸⁶ Interview with a field social worker. Banská Bystrica region, Slovakia: 14 April 2010.

²⁸⁷ "Former Czech prostitute, German neo-Nazi imprisoned for torturing Roma women", *Romea News Agency*, 19 November 2010, available at: http://www.romea.cz/english/index.php?id=detail&detail=2007_2025.

²⁸⁸ Article 328 of the Romanian Criminal Code. Criminal prostitution is punishable by imprisonment of between three months and three years. A new draft criminal code establishes prostitution as an administrative rather than a criminal offence.

²⁸⁹ Articles 328 and 329 of the Bulgarian Penal Code. Article 328 was abolished in the course of research (Repeal, SG No. 26/2010).

²⁹⁰ According to Ministry of Health Decree No. 41/1999 (IX. 8.), the sex worker must be registered as an "individual entrepreneur", pay income taxes and hold a specific medical certificate.

²⁹¹ Section 143 of Hungary's Act on Administrative Offences.

and advertising sexual services in protected zones are also sanctioned, which may lead to fines in certain cases.²⁹² One trafficked person that was sexually exploited recounted her contact with the police while she was a prostitute/sex worker to pay for her drug addiction prior to falling into trafficking: “The police would catch me but they released me after I satisfied them orally.”²⁹³

10.2 Begging and Petty Crime

Begging is a contentious issue in Europe today, and significant attention to this issue is reflected in the EU Directive on preventing and combating trafficking in human beings and protecting victims, which includes exploitation for begging as a form of trafficking. The Directive states that:

[...] forced begging should be understood as a form of forced labour or services as defined in the 1930 ILO Convention No. 29 concerning Forced or Compulsory Labour. Therefore, the exploitation of begging, including the use of a trafficked dependent person for begging, falls within the scope of the definition of trafficking in human beings only when all the elements of forced labour or services occur. In the light of the relevant case-law, the validity of any possible consent to perform such labour or services should be evaluated on a case-by-case basis. However, when a child is concerned, no possible concern should be considered valid. The expression “exploitation of criminal activities” should be understood as the exploitation of a person to commit, inter alia, pick-pocketing, shop-lifting, drug trafficking and other similar activities which are subject to penalties and imply financial gain.²⁹⁴

The ILO has defined begging as a “range of activities whereby an individual asks a stranger for money on the basis of being poor or needing charitable donations for health or religious reasons. Beggars may also sell small items, such as dusters or flowers, in return for money that may have little to do with the value of the item for sale.”²⁹⁵

As follows from the EU’s new Directive and the ILO definition, begging is not necessarily exploitative and so does not necessarily constitute trafficking. However, in certain jurisdictions, begging is banned or criminalised. In Bulgaria and Romania, begging is a criminal offence.²⁹⁶ In Hungary and Slovakia, begging is sanctioned only if minors are

²⁹² Sections 144 and 145 of Hungary’s Act on Administrative Offences.

²⁹³ Interview with a female Romani trafficked person. Budapest, Hungary: 27 March 2010.

²⁹⁴ European Union, *Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA*, Preamble. Awaiting publication in the Official Journal.

²⁹⁵ International Labour Organization, *A Rapid Assessment of Bonded Labour in Domestic Work and Begging in Pakistan* (Geneva, 2004).

²⁹⁶ Articles 189, 328 and 329 of the Bulgarian Penal Code. Begging can be punished by imprisonment of up to two years. Employing minors for the purpose of begging is punishable by one year of imprisonment; two years if perpetrated by a parent. In Romania: Article 326 of the Criminal Code. Begging is a criminal offence as is using a child to beg. Sentences are higher for parents who force their children to beg per Article 132 of Law No. 272/2004 on the Protection and Promotion of the Rights of the Child.

involved.²⁹⁷ In the Czech Republic, begging is not explicitly regulated by current penal or administrative law.

Whether or not involving children in begging constitutes trafficking and/or exploitation has been a matter of significant debate. The European Commission notes that “all forms of begging by children represent a violation of children’s rights, depriving them from education, harmonious development, have heavy consequences for their health and social inclusion, and put children at serious risk of abuse.”²⁹⁸ According to the ILO, it may be considered child labour or classified as forced child labour when the child is forced, or employed by an adult for a wage, to beg and/or to collect donations, or to steal. A child beggar or thief who is not forced or employed by an adult to beg or steal would also be classified as a child labourer should the conditions under which the activity is performed be hazardous for the child, although begging and stealing are not in themselves economic activities unless the acquired goods are resold. The ILO has also found that begging or stealing could be classified as the worst forms of child labour other than hazardous work in certain circumstances.²⁹⁹ Most recently, in the new EU Directive on preventing and combating trafficking in human beings and protecting victims, consent is irrelevant in cases involving children.³⁰⁰

According to the Convention on the Rights of the Child: “In all actions concerning child victims, whether undertaken by public or private social welfare institutions, police, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”³⁰¹

Begging organised in a criminal context is likely to constitute trafficking regardless of whether the victim is a child or an adult, as the following case shows:

A young Romani man from Slovakia, living in insecure conditions, was addressed by a group of Romani men from a neighbouring region who offered temporary income. The offer included a trip to Switzerland where the money would be earned through begging in the streets. An informal deal was made whereby the beggar would keep a portion of

²⁹⁷ Begging is not a criminal offence in Slovakia except in cases in which a child is forced to beg by the person who is entrusted with the care of the child. Its prosecuted as criminal offence of maltreatment of a close and entrusted person under Article 208 of Act No. 300/2005 Coll. the Criminal Code, as amended. In Hungary: Section 146 of the Act on Administrative Offences. Persuading a minor to beg and begging in the company of a minor is a prohibited administrative offence.

²⁹⁸ European Commission Directorate-General Justice, Freedom and Security, *Call for Tender No. JLS/2009/ISEC/PR/008-F2* (September 2009), available at: http://ec.europa.eu/home-affairs/tenders/2009/262605/tender_en.pdf.

²⁹⁹ International Labour Organization, *Report III: Child labour statistics* (Geneva, 2008), available at: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/---stat/documents/meetingdocument/wcms_099577.pdf.

³⁰⁰ European Union, *Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA*. Awaiting publication in the Official Journal.

³⁰¹ Article 3 of the Convention on the Rights of the Child, available at: <http://www2.ohchr.org/english/law/crc.htm#art3>.

the money earned each day while the “contractor” would keep the rest to cover the travel, food, housing and protection of the young man while abroad. Several days later the young man was taken by car to a town in Switzerland. He and several others were given instructions on how to behave during their shift and how to respond to police questions and were taken to their workplace. They were regularly controlled during the day by coordinators. In the evening, coordinators collected them and took them to a location in the outskirts of the town. From the first day, they were not allowed to keep any of the money they earned; they were told that they had not collected enough to cover the coordinators’ costs. They were given only a baguette to eat and no regular bed, and forced to sleep under a highway. They soon suffered from hunger and bad hygiene conditions.³⁰²

According to experts interviewed during research, begging is an issue in all countries to different degrees.³⁰³ Few persons trafficked for begging or other street activities, such as petty crime, were identified during the research. This may be due to the strong focus by victim protection services on combating trafficking for sexual exploitation and hence greater assistance in identifying respondents in this group, as well as awareness among victims that they are involved in an illegal activity, which often leads them to seek invisibility.

One hundred and three media articles involving human trafficking and Roma in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia were reviewed during research.³⁰⁴ Of these, 32 related to exploitation for begging and petty crime, showing high attention to these issues. The articles primarily focused on Roma as perpetrators and it was often noted that parents were complicit in the act, many times profiting from the transaction as well.³⁰⁵ It is particularly worrisome that in every country Romani children are reported to be involved as victims of trafficking.³⁰⁶

³⁰² Interview with a male Romani trafficked person. Banská Bystrica region, Slovakia: 13 April 2010.

³⁰³ In Bulgaria: Interview with an officer of the Combating Organised Crime Directorate of the Regional Department of the Ministry of Interior. South-central Bulgaria: 31 March 2010. In the Czech Republic: Pavel Sturma and Vera Honuskova, *FRA Thematic Study on Child Trafficking – Czech Republic* (Luxembourg: European Union Agency for Fundamental Rights, 2008), p. 18, available at: <http://www.fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-cz.pdf>. In Hungary: Interview with a counsellor at the Ministry of Justice and Law Enforcement. Budapest, Hungary: 24 March 2010. In Romania: Interviews with Romani researchers and informants. Călărași, Romania: March/April 2010. In Slovakia: Interview with a representative of the Department of Strategy for Social Security of Children and Family of the Ministry of Labour, Social Affairs and Family. Bratislava, Slovakia: 23 April 2010.

³⁰⁴ Articles were selected from international, regional and national online news sources using keyword searches from January 2005 through August 2010. A total of 103 articles were compiled and examined including specific instances of human trafficking, national, regional and international trends and the findings of studies from intergovernmental and international organisations, NGOs and government agencies.

³⁰⁵ For example see: “Roma Kids from around Bulgaria Forced to Beg in Sofia”, *novitne.com*, 28 June 2010, available at: http://www.novitne.com/view_news.php?id=117581; or “Europe must do more to improve lives of Roma, EU warns”, *Deutsche Welle*, 8 April 2010, available at: <http://www.dw-world.de/dw/article/0,,5444206,00.html>.

³⁰⁶ For example: “According to information received from an official of the [Czech] Ministry of Labour and Social Affairs, since September 2007 some 17 cases of Slovak and Bulgarian children of Roma ethnicity, who committed petty criminal activities and thus might have been victims of child trafficking, have been reported.” Pavel Sturma and Vera Honuskova, *FRA Thematic Study on Child Trafficking – Czech Republic* (Luxembourg: European Union Agency for Fundamental Rights, 2008), p. 18, available at: <http://www.fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-cz.pdf>.

Roma and other people with a visible disability may be at greater risk to trafficking for the purposes of begging, because they are perceived as capable of earning more money. In Romania, the criminal network charged with having trafficked at least 181 youngsters to the United Kingdom over a period of seven years is alleged to have sought out disabled children and children under 14.³⁰⁷ Interviews in Slovakia also indicated that people with disabilities are particularly targeted.³⁰⁸

10.3 Forced Child Marriage

Child marriage represents perhaps the most prevalent form of sexual abuse and exploitation of children, particularly girls.³⁰⁹ Article 16(2) of the Universal Declaration of Human Rights and Article 23(3) of the International Covenant on Civil and Political Rights require that marriages occur with the “free and full consent” of the parties. Article 16(2) of the Convention on the Elimination of All Forms of Discrimination against Women states: “[t]he betrothal and the marriage of a child shall have no legal effect.” It further requires that States enact legislation and other necessary measures “to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.” CEDAW’s General Recommendation No. 19 notes: “when minors, particularly girls, marry and have children, their health can be adversely affected and their education is impeded. As a result their economic autonomy is restricted.” Concerning the discriminatory effects of child marriage, Article 16 of CEDAW requires States “to eliminate discrimination against women in all matters relating to marriage and family relations.” CEDAW’s General Recommendation No. 21 also states: “a woman’s right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being.”

Despite the wealth of international legal provisions banning this practice, child marriage, as a subset of forced marriage, continues to be practiced in certain Romani communities.³¹⁰

Examination of legislation and practice in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia reveals significant gaps in the protection of children from this practice. There is no specific provision criminalising forced marriage in Hungary, Romania or Slovakia, although

³⁰⁷ Nick Fagge, “In the dock: Modern-day Fagins who ‘sent 200 Romanian children to beg and steal in UK’”, *Daily Mail Online*, 28 September 2010, available at: <http://www.dailymail.co.uk/news/article-1315672/Modern-day-Fagins-sent-200-Romanian-children-beg-steal-UK.html?ito=feeds-newsxml#ixzz10p7yTVtf>.

³⁰⁸ Interview with an individual informant. Banská Bystrica region, Slovakia: 14 April 2010.

³⁰⁹ UNICEF, *Child Protection Information Sheet*, available at: http://www.unicef.org/protection/files/Child_Marriage.pdf.

³¹⁰ In Bulgaria: the 2002 UNDP survey *Avoiding the Dependency Trap – a Human Development Report on the Roma Minority in Central and Eastern Europe* found that “most Roma marriages occur in the 15 to 20 age group, and marriages before the age of 15 are not rare. According to 1995 IMIR research data, 40 percent of Roma marry before reaching the age of 16, 32 percent marry at the age of 17 to 18, and 22 percent marry between the ages of 19 and 22.” In Romania: Interview with a representative of the National Agency for Roma. Bucharest, Romania: 15 July 2009. See also: ERRC, *Submission to UN Special Rapporteur on Trafficking in Persons, Especially Women and Children* (November 2006), available at: www.errc.org/db/03/7A/m0000037A.pdf.

in all countries including the Czech Republic³¹¹ and Hungary³¹² marriage conducted without the free will and consent of the parties is deemed null and void.

While child marriage is criminalised in Bulgaria for children under the age of 16, crimes related to marriage are not identified and prosecuted and this failure deprives Romani women and children of protection.³¹³ More problematic is a provision absolving perpetrators of the crime of sexual violence against minors, including cases of statutory rape, if they marry the victim.³¹⁴ In the Czech Republic, it was reported that crimes related to forced marriage usually go undetected and undocumented by the State.³¹⁵ It should be taken into account that most child marriages are informal, i.e. not legally conducted, therefore making provisions nullifying child marriage ineffective.

Traditional marriages often involve an exchange of goods, also known as a dowry or bride price. This has led to confusion over whether certain Romani marriages constitute trafficking because, for example, the dowry is interpreted as a sale of the bride.³¹⁶ However, although illegal and an extreme violation of the human rights of the children involved, child marriage does not in all cases constitute trafficking and should be considered on a case-by-case basis. Yet this practice greatly increases the vulnerability of the children involved to become victims of trafficking as child marriages create the conditions for serial human rights abuses. This may include diminished education and employability, high illiteracy rates and various negative health effects as a result of early/forced sexual activity, as child marriage frequently exposes Romani girls to sexual abuse and exploitation, early pregnancies and muted psychological development. These factors create the pre-conditions for threats to the right to an adequate standard of living arising from the bride's dependence on the groom and his family, as well as a range of other concerns including vulnerability to domestic violence.³¹⁷

During this study, respondents from the regions of Pazardzhik and Sliven in Bulgaria reported that the most common reason for the trafficking of young Romani women is that they marry too early (often at the age of 14) after the husband “steals the girl.” After one or two years of marriage, girls married under such circumstances may manage to escape, and are

311 Article 17(a/2) of the Family Act. A person between 16 and 18 years of age may exceptionally enter a marriage, but only with the explicit consent of a court that decides within special court proceedings. Without such consent the marriage is invalid. According to Article 13(1), the court can rule on the invalidity of such a marriage even without a proposal to do so. This legal regulation ensures that a valid marriage may not legally arise in relation to a minor child (a person younger than 18 years).

312 Section 11 of Hungary's Act IV of 1952 on Marriage, Family and Guardianship.

313 Email correspondence with a representative of the Bulgarian Gender Research Foundation: 14 March 2011.

314 Article 158 of the Bulgarian Penal Code.

315 Interview with a representative of IOM Prague. Czech Republic: 26 June 2009.

316 OSCE-ODIHR, *Awareness Raising for Roma Activists on the Issue of Trafficking in Human Beings in South-Eastern Europe* (2006), available at: http://www.osce.org/documents/odihr/2006/04/18692_en.pdf.

317 ERRC, *Forced Arranged Marriage of Minors Among Traditional Romani Communities in Europe* (November 2006), available at: <http://www.errc.org/cms/upload/media/02/BA/m000002BA.pdf>.

then very vulnerable to trafficking.³¹⁸ Although this was not mentioned by interviewees in any other country, it is likely to be the case in other countries as well.

Links have also been documented between child marriage and trafficking in Bulgaria, as exemplified in the case of Ms T.³¹⁹ Ms T. is a young adopted Bulgarian girl of Romani origin. In 2002, when she was 13-years-old, her adoptive parents sold her into marriage to a Romani family in the Netherlands. Her adoptive parents took her to the Netherlands, where she was supposed to marry the son of the Dutch family. The case report states:

As soon as her family left, she was forced to work as a prostitute by her so-called ‘mother and father-in-law’. She was kept locked in their house for about a year (she doesn’t remember exactly because she lost track of time) and clients came to her. Ms T. firmly refused to work as a prostitute, which led to her being constantly beaten and raped by the pimps. They cut her hair off as a punishment for her unbending ‘misbehaviour’. Eventually Ms T. managed to escape from the house in which she was kept captive by breaking a window and creeping out through the glass. She called the police and they started an investigation while she was placed in a Catholic shelter and waited for the Bulgarian Embassy in Holland to issue a passport for her. According to her, the Dutch police officers did not believe her statements even though evidence of her presence in the trafficker’s house was found and neighbours testified to have seen her running away from the house covered in blood. Despite her objections, Ms T. was sent back to Bulgaria and no institution in the country was notified about her case. As she had nowhere to go she turned to a border police officer immediately after her arrival in Bulgaria and he referred her to Animus Association Foundation.³²⁰

Following medical tests Ms T. was found to be 7-months pregnant. She moved into a home for children without parental care. Her infant child was placed for adoption but the process was made difficult due to the child’s unclear legal status.³²¹

318 Interviews with municipal officials. Southeastern Bulgaria: 16 March 2010. Interviews with NGOs. South-central Bulgaria: 31 March 2010. Interviews with a Romani NGO. South-central Bulgaria: 31 March 2010.

319 ERRC, *Submission to UN Special Rapporteur on Trafficking in Persons, Especially Women and Children* (November 2006), available at: <http://www.errc.org/cms/upload/media/02/BA/m000002BA.pdf>.

320 Petrova, Maria, “Case Report provided by Animus Association” (2003). On file at the ERRC.

321 Petrova, Maria, “Case Report provided by Animus Association” (2003). On file at the ERRC.

11 Conclusions

Although relevant official data does not exist, all law enforcement and anti-trafficking professionals interviewed in this study considered that trafficking is an issue that affects Roma and often in a disproportionate manner. For all countries the estimates provided about the perceived representation of Roma among trafficked persons are several times higher than the proportion of Roma in the general population. While Roma constitute between 3% and 10% of the population of the target countries, research in 2010 for this study indicated that Roma represent 50-80% of victims in Bulgaria, up to 70% in parts of the Czech Republic, at least 40% in Hungary,³²² around 50% in Romania³²³ and at least 60% in Slovakia (see Table 1). Intergovernmental organisations working in the field of trafficking have increasingly reported the high vulnerability of Roma to trafficking in the last 10 years.

Sixty-eight percent of the Romani trafficked persons interviewed in this study had been trafficked to another EU country, while 32% had been trafficked to another location within their own country. While the lack of internal borders in the European Union makes the identification of victims more difficult, this research did find that Romani trafficked persons are often identified outside of their home country.

Among a sample of 37 Romani trafficked persons interviewed in this study, 18 (48%) had been trafficking for the purpose of sexual exploitation, 13 (35%) for labour exploitation, two for domestic servitude (combined with commercial and non-commercial sexual exploitation), one for organ trafficking, one for illegal adoption and two for begging. Sixty-two percent of trafficked persons interviewed were female and 38% were male.

Of the trafficked persons interviewed in this study, Romani women and children were the most represented regardless of the purpose of trafficking: the only exception was trafficking for labour exploitation, where predominantly Romani males were represented. Seventeen of the 20 interviewees trafficked for sexual exploitation were female while 11 of the 13 respondents trafficked for forced labour were male.

Anti-trafficking legal frameworks in Bulgaria and Hungary currently do not fully comply with the international standards outlined in the Palermo Protocol or the European Convention on Action against Trafficking in Human Beings. While some differences may ease prosecution, others make it much more difficult. In addition to other flaws, sexual exploitation is not properly incorporated into Hungarian and Bulgarian law: this may pose a serious barrier to the legal protection of Romani and other trafficked persons given that many people are trafficked for the purpose of sexual exploitation. While the legal frameworks in the Czech Republic, Romania

³²² Estimates ranged up to 80% in Hungary.

³²³ As concerns forced labour. Roma were perceived to be less represented among persons trafficked for sexual exploitation.

and Slovakia appear to be in conformity with international standards, their implementation was found to be problematic. Trafficking is also often prosecuted under related, lesser crimes in the countries studied, which negatively affects the types of protections available to victims and also skews available statistical information in the field of trafficking.

Governments should establish National Referral Mechanisms (NRM) to foster effective inter-agency cooperation and unified standards of care. The OSCE recommends co-ordination and strategic partnership with civil society and other actors working in the anti-trafficking field.³²⁴ The Czech Republic and Romania have established formal NRMs. Bulgaria was in the process of establishing its NRM as this report was finalised. In Hungary there is no functioning NRM, although the legal basis is in place. Slovakia has a number of relevant bodies but no NRM. The involvement of Roma in these forums is limited in the target countries: in Bulgaria and the Czech Republic, Roma are not represented in the NRM, and Romani organisations are not represented in relevant meetings in Hungary; in Romania, the National Agency for Roma participates in the NRM but its involvement is perceived to be tokenistic; and in Slovakia one Romani NGO participated in the 2007 Expert Group which established anti-trafficking policy.

The lack of data disaggregated by ethnicity has clear, negative effects on policy development. None of the countries studied collect data on the ethnicity of perpetrators or victims of trafficking. As a result, although all five countries maintain national strategies on combating human trafficking, policy and practice do not adequately reflect the high vulnerability of Roma to this crime. Only in Bulgaria (since 2010), Slovakia and Romania does anti-trafficking policy explicitly recognise Roma as a group vulnerable to trafficking. Czech and Hungarian policy do not include Roma among the list of vulnerable groups. Czech policy does, on the other hand, refer to Roma with regard to criminal organisations involved in the exploitation of persons for prostitution and petty crimes.

There are a number of factors that make individuals more vulnerable to trafficking, many of which can be attributed to the general failure of national social welfare systems. Research for this study did not establish any significant differences between generally known vulnerability factors and the vulnerability factors present in Romani communities; there is no unique “Roma vulnerability factor,” and no indication that trafficking is a “cultural practice” of Roma. Research for this study pointed to the following as increasing the vulnerability of Roma to trafficking: poverty and social exclusion (including lack of employment and usury), ethnic and gender discrimination, lack of education, growing up in State care, domestic violence and substance abuse. As is the case with non-Roma who are trafficked, the families of Romani trafficked persons were found at times to be complicit in the trafficking situation. Romani children were reported to be particularly vulnerable to trafficking, and 20% of the trafficked persons interviewed in this study were minors at the time they were trafficked. The overwhelming majority of respondents were just over the age of 18 or in their early 20s at the time they were trafficked. In addition, certain practices which do not always constitute trafficking are often linked to trafficking of Roma, such as prostitution/sex work, begging (particularly when it involves minors),

³²⁴ V. Protection and assistance, Article 3, OSCE, *Action Plan to Combat Trafficking in Human Beings* (July 2003), available at: <http://www.osce.org/pc/42708>.

child marriages and forced labour. The presence of these practices in Romani communities was found to increase the vulnerability of Roma to trafficking.

The focus on Roma in preventative and protective services is extremely low. For trafficked persons to gain access to protection measures and services, he or she must first be identified as a presumed trafficked person. Law enforcement authorities and anti-trafficking service providers should both play an important role in victim identification. Only 9 of the 37 (24%) Romani trafficked persons interviewed in this study had been in contact with the police (several in the destination country) and only one case resulted in the imprisonment of the perpetrator. Numerous Romani trafficked persons reported that they did not want to be in contact with the police because of fear of reprisal from their traffickers or because they had committed illegal acts while in the trafficking situation and feared prosecution.

Field research revealed an over-reliance on victim self-identification. A passive approach of police to victim identification combined with the limited capacity of social outreach work means that victims are left to approach police and victim protection services themselves. This is problematic because trafficked persons may be involved in criminal activities while in their trafficking situation and are accordingly reluctant to approach police for fear of prosecution. The central role of police in victim identification may constitute a barrier for Romani victims as a result of recurrent police ill-treatment and profiling, fear and a lack of trust in police among Roma.

Very few Romani trafficked persons interviewed for this report were in contact with victim support services: only 14% had been in contact with service providers while in the trafficking situation and only 8% were identified as trafficked and provided assistance. Only two Romani respondents were in contact with health care providers while in the trafficking situation and only one was identified as a trafficking victim. Victim protection service providers note a number of obstacles in their work supporting Romani and non-Romani trafficked persons and survivors, including stigmatisation and prejudice in public hospitals, obstacles to enrolling trafficked children in school and maintaining constant communication with Romani clients due to a lack of telephone and Internet access in Romani communities.

The overwhelming lack of support available to Romani trafficked persons means that many are not able to re-integrate and are highly vulnerable to re-trafficking. The impact of widespread negative prejudice and discrimination against Roma on the provision of effective prevention and protection services in Romani communities in each of the target countries can not be ignored if these services are to be made effective for members of this highly vulnerable group.

12 Recommendations

Based on the findings of this study, the European Roma Rights Centre and People in Need Slovakia recommend the establishment, improvement and reinforcement of communication, links and collaboration, not only between Governments but also among specific authorities, institutions, and local and international Romani and non-Romani NGOs. To achieve this, the ERRC and PiN further recommend:

The European Commission, Council of Europe and the Organization for Security and Cooperation in Europe should:

1. Set standards for the collection of internationally comparable data on trafficking, including data disaggregated by ethnicity, gender, disability and other relevant factors, with appropriate measures to protect the personal data of trafficked persons;
2. Provide systematic training to national and local law enforcement and anti-trafficking authorities responsible for the protection of trafficked persons and persons at risk of trafficking;
3. Work with national authorities to develop and improve systems of social support to Romani communities at risk of trafficking as a preventative measure;
4. Encourage Governments to implement policies and proactively enforce laws to enable full and equal access to public services to reduce vulnerability to trafficking in Romani communities;
5. Encourage Governments to involve Romani organisations in the work of National Referral Mechanisms and other relevant bodies; and
6. Promote networking between Romani NGOs, Romani mediators and Romani community representatives and law enforcement and anti-trafficking authorities to combat trafficking in Romani communities. This can involve the Council of Europe's Romani mediator programme, the OSCE's police training programmes or the work of the EU's Anti-Trafficking Coordinator.

National, regional and local Government actors should:

1. Transpose or adopt, as soon as possible, the EU Directive on preventing and combating trafficking in human beings and protecting its victims, the European Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the International Convention on the Protection of the Rights of all Migrant Workers and Their Families;
2. The Czech Government should ratify the Palermo Protocol and the Czech Republic and Hungary should ratify the CoE Convention;
3. The Bulgarian Government should amend national law to include sexual exploitation, slavery and forced labour as purposes of trafficking;
4. The Hungarian Government should amend national law to include sexual exploitation, slavery and forced labour as purposes of trafficking and to eliminate the need to prove exchange or trade;

5. Effectively implement existing anti-trafficking provisions in all countries;
6. Modify national laws to prohibit prosecution of trafficked persons for trafficking-related crimes in Hungary, Slovakia and Bulgaria. Ensure that the Romanian law prohibiting the prosecution of trafficked persons is implemented;
7. Ensure that trafficked persons are protected from prosecution for perjury or false testimony that might arise from fear or coercion;
8. Amend national policy to reflect the apparent overrepresentation of Roma among trafficked persons and develop programming targeted at Romani communities as necessary;
9. The Hungarian and Slovak Governments should establish National Referral Mechanisms; all countries should ensure the full and effective participation of Romani organisations in National Referral Mechanisms and other relevant anti-trafficking bodies;
10. Improve child protection services to reduce the vulnerability to trafficking of Romani children;
11. Provide effective protection, rehabilitation and re-integration services to all trafficked persons regardless of whether or not they participate in criminal proceedings against traffickers;
12. Implement multi-dimensional approaches to trafficking involving source and destination countries;
13. Provide equal access to general social services (education, healthcare, employment services and social support) to Roma, including through the use of positive action, as a significant measure to reduce vulnerability to trafficking;
14. Increase prevention campaigns and efforts in Romani communities, with a focus on segregated, socially excluded communities;
15. Foster relations between law enforcement authorities, general social service providers and anti-trafficking services to improve trafficking prevention measures; mandate the recruitment of Romani professionals in these services and cooperation with Romani organisations;
16. Combat usury in Romani communities; and
17. Sanction social service providers who refuse service to Romani and other persons at risk of trafficking or who have been trafficked.

Anti-trafficking prevention and protection service providers should:

1. Ensure that ongoing prevention efforts reach Roma at risk of trafficking, including subgroups such as children or persons with disabilities;
2. Develop and implement specific campaigns and actions targeting Roma based on solid research on vulnerability and the most appropriate ways to reach Roma;
3. Invite Romani groups/experts to participate in programme planning and implementation;
4. Enter into cooperation agreements with Romani organisations and provide training as relevant to facilitate the involvement of Roma in anti-trafficking actions and improved provision of services in Romani communities;
5. Recruit Romani professionals into relevant services;
6. On a case-by-case basis, inform relevant national authorities of social services, such as schools or public hospitals, that refuse service to trafficked persons;
7. Develop better relations with general social services and law enforcement agencies, and promote their cooperation with Romani groups.

Romani and non-Romani organisations and activists should:

1. Build relationships with anti-trafficking prevention and protection services, and relevant Government agencies;
2. Request that relevant Government agencies and NGO services implement anti-trafficking campaigns and actions in their communities;
3. Develop and implement anti-trafficking campaigns in their communities;
4. Provide relevant information to Romani individuals planning to move abroad for work purposes to reduce the risk of their falling into trafficking situations;
5. Inform national equality bodies and other relevant bodies of refusal to provide relevant services to Romani individuals.

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Annex 1

Anti-Trafficking International Law Ratification

	Signature		Ratification		Main national legislation
	Palermo Protocol	CoE Convention	Palermo Protocol	CoE Convention	
Bulgaria	13 December 2000	22 November 2006	05 December 2001	17 April 2007	Law on Fighting the Illegal Traffic of People, SG 46/20, May 2003; Article 159 (a-d), Penal Code, SG 92/2002, amended by SG 27/2009
Czech Republic	10 December 2000	X	X	X	Act No. 40/2009 Call. on the new Criminal Code
Hungary	14 December 2000	10 October 2007	22 December 2006	X	Act No. CII of 2006; Act No. CXXI of 2001
Romania	14 December 2000	16 May 2005	04 December 2002	21 August 2006	Law No. 678/2001 on Preventing and Combating Trafficking in Human Beings, as amended by Emergency Government Ordinance 143/2002, Law 142/2002 and Government Ordinance 79/2005; Criminal Code, Law 286/2009
Slovakia	15 November 2001	19 May 2006	21 September 2004	27 March 2007	Article 179 (1), Act No. 300/2005 Coll., Criminal Code, as amended

The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development and training of Romani activists. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

People in Need (PiN) provides relief aid and development assistance, while working to defend human rights and democratic freedoms. In Slovakia, it administers social integration programmes and provides informative and educational activities. The main mission of Slovak branch is the reduction of poverty and the inclusion of socially excluded Romani localities.

Estimates provided during research by the ERRC and PiN about the perceived representation of Roma among trafficked persons in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia are several times higher than the proportion of Roma among the general population, indicating a disproportionate impact of this practice on Romani communities. Romani women and children were found to be particularly vulnerable to trafficking, which brings Roma to other countries and to other locations within their home countries. Roma are trafficked for various purposes, including sexual exploitation, labour exploitation, domestic servitude, organ trafficking, illegal adoption and forced begging. The vulnerability factors identified in this study are closely linked to those commonly associated with non-Romani trafficked persons and include structural forms of ethnic and gender discrimination, poverty and social exclusion which result in low educational achievement, high levels of unemployment, usury, growing up in State care, domestic violence and substance abuse. Gaps in law, policy and practice in the field of anti-trafficking constitute barriers to the fight against trafficking in Romani communities. Few Roma are identified by police as trafficked persons and many are reluctant to report themselves to law enforcement agencies for fear of reprisal from their traffickers or of prosecution for the conduct of criminal acts as a trafficked person. Similarly



low numbers of Romani trafficked persons access victim prevention and protection services and general social protection systems are failing to reduce the extreme vulnerability of Roma to trafficking. The overwhelming lack of support available to Romani trafficked persons negatively impacts the ability of many to re-integrate, leaving them highly vulnerable to re-trafficking.

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

