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# ENACT

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E u r o p e a n  
N e t w o r k  
A g a i n s t  
C h i l d  
T r a f f i c k i n g

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## A R E P O R T O N C H I L D T R A F F I C K I N G

B U L G A R I A , D E N M A R K , I T A L Y  
R O M A N I A , S P A I N , U N I T E D K I N G D O M

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**ENACT**

European Network Against Child Trafficking



**Save the Children**

Italia ONLUS





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## **ENACT – European Network Against Child Trafficking**

A REPORT ON CHILD TRAFFICKING IN BULGARIA, DENMARK, ITALY, ROMANIA, SPAIN  
AND THE UNITED KINGDOM

This Report has been co-ordinated by Save the Children Italia ONLUS;

In collaboration with:

Red Barnet (Save the Children Denmark)

Partners Bulgaria Foundation

Salvati Copiii (Save the Children Romania)

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# 1. Executive Summary

Fighting against child trafficking at a European-wide level seems to suffer from a restricted impact of interventions and programmes if compared to the efforts put in place by Institutions and Civil Society to counteract the phenomenon.

The ENACT project aimed at developing an innovative approach, based on a child rights centred perspective, which would avoid the tendency to over-generalise the issue. By providing a common framework for analysis and actions, the project aimed at responding to the lack of a multi-disciplinary approach able to process available data, analysis, best practices and existing interventions at national and regional level.

This report is the output of an analysis carried out in six countries that could be grouped into three main geographical regions:

- South-Eastern Europe (Bulgaria and Romania)
- South-Western Europe (Italy and Spain)
- North-Western Europe (Denmark and the United Kingdom)

The initiative of developing a project on these three geographical areas falls on their different experiences with respect to the issue of trafficking in human beings, particularly in children, and on the different characteristics that they have in the trafficking cycle and in each of its stages. Bulgaria and Romania, in fact, are generally recognized as being countries of origin; Italy and Spain countries of both transit and destination, while Denmark and the United Kingdom are countries of final destination. This classification takes into account political, social and economical variables. Although countries like Bulgaria and Romania have undertaken good legislative reforms, they are still struggling with the issue of trafficking in human beings. This is probably due to the fact that they have been experiencing a period of political and economic transition, which will require an extensive economical, political and social changing process in order to give a full response to the issue of trafficking in persons.

This report initially explains Save the Children's approach to the issue of child trafficking, providing a tool for analysis and planning of strategic interventions in the field. This framework takes into consideration all the trafficking phases where exploitation and abuse of children occur. Furthermore, the framework puts the trafficking phases in relation to:

- the existing legislative tools both at national and international level
- the UN Convention on the Rights of the Child (CRC)
- the Referral Systems in place at both Institutional and non-governmental levels
- the counter-actions
- the protection measures
- the prevention policies
- the reintegration activities in place in the countries and the regions belonging to the ENACT project

It also looks at the developing role of the European Union (EU) in coordinating the actions of European countries to combat trafficking in human beings within its very dynamic agenda under Justice and Home Affairs. It provides an overview of these actions to date, their scope, effectiveness and what gaps remain which the EU needs to further address.

During the last decade the inclination by these two South-eastern European countries has been, indeed, of implementing significant anti-trafficking measures and legislation, which have resulted in substantial reforms of their respective Penal Codes and the development of anti-trafficking National Action Plans.

Italy has recently undertaken a reform on its internal legislation by the Act 228, 11 August 2003 “Measures against Trafficking in Human Beings”. This reform reinforced the legislative measures already in place responding to the requirement for harmonising national legislation, as expressed by the EU and the UN, introducing into the Penal Code the definition of the offence of trafficking in persons. The advantage represented by this new legislation is to avoid ambiguity, as occurred in the past, when interpreting charges. The new law, in fact, establishes specific definitions, which allow for a differentiation between trafficking offences, slavery and servitude, introduces harsher sentences and sets the new offence of forcing children to beg and scavenge.

As regards the Spanish legal framework, the lack of a specific national regulation on trafficking in human beings must be emphasised. But there are several measures aimed at fighting against the trafficking and exploitation of immigrants, which have been taken by the Spanish Government through the current Immigration Law (LO 8/2000 22nd of December, 2000). Nevertheless, the Spanish legislation on immigration does not address the specific crime of trafficking in children, but includes it as an aggravating circumstance in the corresponding sentences for trafficking in persons.

The United Kingdom, on the other hand, has recently adopted a legislation against trafficking in human beings, but limited to an offence of trafficking for prostitution, created under the Nationality, Immigration and Asylum Act (NIA Act) 2002 for England, Wales and Northern Ireland, and the Criminal Justice (Scotland) Act 2003.

Finally, the Danish legislation also added a new section regarding trafficking in persons to the Penal Code on 31 May 2002, Section 262 (a). The new provisions are formulated on the basis of the Palermo Protocol<sup>1</sup>, the EU Council Framework decision on combating trafficking in human beings and the optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography<sup>2</sup>.

The available data gathered in the present report on the “Trafficking Cycles” come from the work done by the partner agencies of this project on three main questionnaires elaborated by Save the Children Italy<sup>3</sup>. The information and the data received were then re-elaborated in order to provide a picture on the “Trafficking Cycles” based on available data, the average age of child victims of trafficking, countries of origin, transit and destination and trafficking purposes. Furthermore, the questionnaires provided information on trafficking networks, on the recruitment and on the trafficking routes in the Eastern European regions.

- 1. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, Palermo.**
- 2. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000.**
- 3. Please, find the Questionnaires in ANNEX.**

## 2. Introduction

### TACKLING CHILD TRAFFICKING

On tackling Child Trafficking at a European-wide level it should firstly be noted that the impact of interventions and programmes appears to be limited compared to the efforts involved. Some of the concerns that the ENACT project wanted to address were:

- the need to develop an innovative “child centred” approach
- the need to develop a common approach avoiding the tendency to over-generalise the issue
- to process and categorise the available data with an analytical framework
- to address the lack of coordination amongst existing interventions
- to address the lack of a multi-disciplinary approach, which would be able to connect analysis and practices at national and regional level

#### ■ Methodological framework

The European Project ENACT has been financed by the European Commission under the Stop II Programme. Save the Children Italy coordinated the project in partnership with Save the Children Spain, Save the Children United Kingdom, Save the Children Denmark, Save the Children Romania, Partners Bulgaria Foundation.

The Enact project ran from April 2003 to March 2004.

#### **The project promoted:**

- exchange of information, experiences and best practices
- improvement, systematisation and dissemination of existing quantitative and qualitative data and information on child trafficking
- capacity building, multidisciplinary training modules
- experience sharing on multidisciplinary practices and training

#### **The project’s aims were to:**

- provide an opportunity to involved NGOs and IGOs to improve the effectiveness of anti-trafficking initiatives
- provide replicable and usable tools for knowledge and intervention purposes
- provide a strong conceptual and practical basis as well as a shared pan-European platform for advocacy

## **THE PROJECT WAS CONCEIVED TO BE DIVIDED INTO THREE MAIN STREAMS:**

### **STREAM 1 – Information:**

Collecting and analysing existing European Data presented through an information report; establishing a web site on the issue of trafficking in children. The web site is intended to be a working and communication tool for those organisations that are part of the Enact network.

### **STREAM 2 – Coordination:**

Analysis of national measures and creation of national working platforms; creation of an operational European network on child trafficking.

### **STREAM 3 – Training:**

National workshops in partner organisation's country with the purpose of creating a Multidisciplinary Kit for child rights based analysis and actions towards child trafficking.

In terms of the website it is on the internet and is accessible by the partners of the ENACT project as local administrators ([www.enact.it](http://www.enact.it)). By the end of the project (1st April 2004) all those organisations that were part of the national networks will have the opportunity to become local administrators. This represents a very powerful, useful and functional tool for the network due to its updating functions, making it very user friendly and flexible.

#### **The main contents of the web site are the following:**

- Content Publishing
- Newsletter
- Forum
- Agenda

Save the Children Italy will manage the contents of the website overall, and it will create local administrators (other partners) who will be able to manage their own content (through inserting, modifying and deleting).

#### **Key challenges faced were:**

- the systematisation of information and coordination of initiatives
- the impact analysis
- defining the process
- the perception and understanding of the issue at European level
- creating the focus on Child Rights violations
- describing/mapping/visualising the issue from a "child-centred" perspective

Through common and coordinated work Enact's partners had to define a shared process and to initiate a discussion to create a shared understanding of the relationship between migration and trafficking and of best practices related to victim rehabilitation and protection processes.

### 3. The Enact approach

The final stage of the ENACT Project (namely *Stream 3 – Training*) had the challenge of providing a Multidisciplinary Kit for Mapping and Actions as an output of six national workshops in different countries (Bulgaria, Denmark, Italy, Romania, Spain, United Kingdom). For this purpose, all the Partners and the network organisations had to make use of a “Framework for Analysis and Actions on Trafficking Cycles” (see Table below), which served as a tool for an understanding of the phenomenon in each of the six countries involved.

	STAGES	C R C	REFERRAL SYSTEM	ACTIONS Protection / Prevention / Counteraction / Reintegration	NATIONAL & INTERNATIONAL LEGISLATION
	Push Factors Demand				
EXPLOITATION & ABUSE	Recruitment				
	Leaving				
	Transport				
	Arrival				
	Getting Out				
	Recovering & Reintegration				

#### WHY THIS FRAMEWORK AND HOW TO READ IT

This framework is intended to supply an approach to the issue of child trafficking from a child rights perspective, rather than one of crime control or of border control. It is a matter of understanding the complexity of the phenomenon and making use of the tools we have to combat it, namely the Convention on the Rights of the Child (CRC), the Referral Systems in place, the National and International Legislation. All the stages of the ‘exploitation and abuse circle’ are likely to be covered by one of the above-mentioned tools. It analyses all the stages of the trafficking cycle beginning, first and foremost, from the violation of the articles of the CRC, which represents our best tool to protect and look after the best interests of children as a focus of our approach to child trafficking. According to the CRC, the involvement in trafficking and related abuses deprives children of their rights of survival, protection and development. Thus, policies and interventions targeting trafficked children in the source and destination countries should be aimed at protecting the best interest of the child.



Moreover, it is of crucial importance to recognise, case by case, effective interventions in a given country in terms of PROTECTION, PREVENTION, COUNTER-ACTIONS and REINTEGRATION.

The first column of the table (referring to *stages*) aims at exemplifying the 'Trafficking Cycle', throughout which children victims of trafficking are usually brought from a country to another, exploited and abused.

PUSH FACTORS of trafficking such as poverty, underdevelopment and lack of equal opportunities, together with a high demand on the other side, fuel child trafficking. The 'Trafficking Cycle' begins when the RECRUITMENT occurs, usually by a third person (recruiter) who is close to the child, or by traffickers themselves with newspapers' advertisements, the promise of a good job abroad etc.... The next stages of the cycle include LEAVING the country of origin, usually through irregular migration or through irregular and/or fictitious documents and papers, the TRANSPORTATION across borders and the ARRIVAL at a final destination where different types of exploitation and abuse take place. Once a child is in the cycle, GETTING OUT is a real challenge, and it has to be somehow encouraged and supported by State/Government bodies which should be aware of the fact that they are dealing with children, by child-centred laws and policies, but also by NGOs working in the field. There is no way out for victims if there are no means of RECOVERING AND REINTEGRATING victims. Lack of such support increases the likelihood of victims getting sucked back into the cycle of exploitation and abuse.

The workshops aimed to agree the stages of the 'Trafficking Cycle'. Experts from the field had to tackle the responsibilities, mapping the national referral systems and outlining the actions related to protection, prevention, reintegration and general counter-action by key actors and organisations. Then, each stage of the cycle was matched with CRC related articles, with Referral System services (e.g.: Ministries, Organisations, Shelters), with Actions (as outlined above) and with current National Legislation and ratified International Legislation.

The Enact's approach to the issue of child trafficking is based on a child rights perspective rather than being based on matters of crime control or of border control. In this sense, child trafficking is not just an issue of security and organised crime, but it also implies marked violations of a wide range of fundamental human rights. The protection and promotion of human rights are primary responsibilities for States and Governments (and in particular for the responsible ministries as identified by the national Referral Systems). Anti-trafficking laws, policies, programmes and interventions should not interfere with the human rights or dignity of persons. The rights of victims should be protected and respected. Under international human rights legislation, the special needs and rights of children are recognised by the UN Convention on the Rights of the Child. On the phenomenon of child trafficking, Art. 35 of the CRC states that:

*"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".*

This article does not provide a framework for understanding the trafficking of children or the sale of children, but it puts forward a broad basis for its interpretation since it refers to any purpose and to any form. However one thing is clear and fundamental: States have the responsibility to take measures in order to prevent abuses connected with trafficking in children.

The "Optional Protocol to the CRC on the Sale of Children, Child Prostitutions and Child Pornography, adopted in 2000, aims to clarify this through article. Art. 2 which defines the sale of children as:

*"...any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration".*

In addition Art. 3 of the same protocol provides that States Parties shall ensure the definition of the following acts as a crime, irrespective of whether they are committed domestically or transnationally, on an individual or organised basis:

*“Offering, delivering or accepting, by whatever means, a child for the purpose of Sexual exploitation of the child; transfer of organs of the child for profit; engagement of the child in forced labour”.*

This CRC Protocol signed by 105 States and ratified by 43 States, strengthens the provisions covering the CRC on the sexual exploitation of children, and extends its jurisdiction over adults that are proved to be involved in this form of exploitation.



Child trafficking in its different forms and stages, as outlined in the Framework for Analysis and Actions, violates a wide range of children’s rights. We have grouped them into four rough categories:

- THE CHILD’S RIGHT TO LIFE (Art. 6.1 CRC)
- THE CHILD’S RIGHT TO SURVIVAL AND DEVELOPMENT (Art. 6.2 CRC)
- THE CHILD’S RIGHT TO PROTECTION:
  - from discrimination and punishment (Art. 2.2 CRC)
  - from physical or mental violence (Art. 19.1 CRC)
  - from economic exploitation (Art. 32)
  - from sexual exploitation (Art. 34)
- THE CHILD’S RIGHT TO PARTICIPATION (Art. 12)

The trafficking of children can involve such a wide range of variables and circumstances that it would be impossible to provide a fully exhaustive list of children’s rights violated in the different stages of child trafficking (such as the ones outlined above in the Framework for Analysis and Actions. The concrete contexts of the regions and the countries involved (both of origin and destination) are also important factors.

We could provide a provisional list, which would illustrate the violations of children’s rights:

<b>Best interests of the child</b>	<b>Art 3 CRC</b> contains the core of the CRC, i.e. the principle that the 'best interests of the child' should prevail "1. ...In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." This principle is reiterated in the UNHCHR Guidelines on Trafficking. Trafficking a child for exploitation violates this fundamental principle.
<b>Right to life</b>	Exposing a child to life-threatening situations, either during the transportation or during subsequent exploitation may imply a violation of <b>Art.6.1 CRC</b> : "...Every child has the inherent right to life".
<b>Right to survival and development</b>	The circumstances and conditions to which a child may be exposed during all the phases of the trafficking process as well as during or as a consequence of the subsequent exploitation may be an obstacle for his full development and survival <b>Art 6.2 CRC</b> : "...States Parties shall ensure to the maximum extent possible the survival and development of the child."
<b>Right not to be separated from family</b>	Separating a child from his/ her family situation for the purpose of trafficking may in certain circumstances imply a violation of <b>Art. 9 CRC</b> : "... a child shall not be separated from his/her parents against their will."
<b>Right not to be transferred to another country.</b>	<b>Art. 11 CRC</b> : provides that "States Parties shall take measures to combat the illicit transfer and non-return of children abroad."
<b>Right to express views and be heard</b>	When decisions are taken that affect the life of the child, without consulting him/her <b>Art. 12 CRC</b> : is violated. However, a child can never consent to his/her trafficking and/or exploitation.
<b>Right not to be subjected to unlawful attack on honour and reputation</b>	In specific cultural contexts, such as certain countries in Asia, girls who have been trafficked for sexual exploitation or who have been exposed to HIV/AIDS are seen to have damaged their honour, and therefore, the honour of the family. Forcing children into this situation therefore may go against <b>Art. 16 CRC</b> , which states that: "1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation."
<b>Right to be protected from exploitation</b>	Subjecting a child to exploitative work implies a violation of <b>Art. 32 CRC</b> , on the prevention of economic exploitation.
<b>Right to be protected from sexual exploitation</b>	Forcing a child to offer his/her body for sexual services goes against <b>Art. 34 CRC</b> that obliges the State to take "...all appropriate national, bilateral and multilateral measures to protect the child from all forms of sexual exploitation and sexual abuse, including (a) The inducement or coercion of a child to engage in any unlawful sexual activity;(b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials."

Source: "Review of initiatives to combat child trafficking by members of the SC Alliance" Working Paper, A.M J van Gaalen, July 2003.

# 4. Tackling Trafficking at EU Level

Before looking at each of the six ENACT partner countries in detail, it is useful to take a brief look at the European context in terms of regional level anti-trafficking action. In particular, the European Union (EU) has increasingly engaged in developing action and investing resources into the prevention and combating of trafficking in human beings since 1996, through initiatives aimed at supporting and coordinating anti-trafficking responses of national governments. These have encompassed not only harmonisation of criminal and immigration legislation, but also funding to actors in both EU and non-EU countries.

The EU's past, present and future actions are relevant to all the ENACT countries in different ways. Italy and Spain as EU Member States (MS) are always bound by the legislation and policies agreed at EU level. Denmark and the UK, though Member States, are not bound to the same degree due to their opt-outs in the area of Justice and Home Affairs gained during the drafting of the Amsterdam Treaty – currently the legal base of the EU. This means that they can choose whether these EU actions will apply to them or not. (In practice Denmark tends to opt out of most legislative harmonisation and the UK opts in to a majority of them, though there are significant exceptions.) And finally all EU actions will apply to Bulgaria and Romania when they join the EU in 2007, prior to which the enlargement negotiations have included justice and home affairs reform conditions affecting anti-trafficking policies.

## EU NON-LEGISLATIVE INITIATIVES

### Communication on Trafficking in Women for the purpose of sexual exploitation, 1996

This Communication from 1996, which is not legally binding on Member States (MS), developed a European Strategy to prevent and combat trafficking of women.

### Council Joint Action to combat trafficking in human beings and the sexual exploitation of children, 1997

Adopted by the Council of Ministers in 1997, this Joint Action aimed at establishing common rules for action against trafficking and better judicial cooperation. It suggested a definition of trafficking as well as of sexual exploitation of adults and minors. And it called on MS to review their national criminal legislation regarding trafficking in human beings and judicial co-operation as well as to encourage protection of victims in judicial proceedings but implementation of this Joint Action has not been effective across the EU.

## Communication on further actions in the fight against trafficking in women, 1998

This Communication assessed progress made and recommended a number of new initiatives:

- reinforcing international and European co-operation, including both governments and NGOs in the countries of origin, transit and destination
- strengthening a multidisciplinary approach focusing on both prevention, research, law enforcement and effective sentencing of traffickers, as well as on support for victims;
- emphasizing to EU candidate countries their responsibility to control trafficking by national measures and cooperation with the EU

## Council Resolution on Combating Trafficking in Human beings, especially women, 20 October 2003

This Council Resolution's recommendations includes calling on MS:

- to adopt and implement all international conventions and instruments against trafficking
- to intensify cross-border and international cooperation in prevention and victim protection and assistance
- to support and protect victims in accordance with their national laws

It also asks the Commission and MS:

- to use EQUAL funds to promote measures to set up a monitoring system on trafficking in human beings
- to ensure all actions and initiatives to prevent trafficking and protect victims have a gender sensitive perspective

## EU LEGISLATIVE INITIATIVES

### Framework Decision on combating Trafficking in Human Beings

Proposed by the EC in 2000 this Decision was adopted by the EU on 19 July 2002. It aims at harmonising definitions and penalties in MS legislation, covering not only offences concerning trafficking in human beings for the purpose of sexual exploitation but also offences concerning for the purpose of labour exploitation. The Decision seeks to provide a common approach to criminal law and to further develop law enforcement and judicial cooperation. There is only a short article dealing with victims which states that they should be given 'adequate legal protection and standing in judicial proceedings' which should not further traumatise victims. There is no specific mention of children. MS are obliged to have implemented this Decision by 1 August 2004.

### Directive on Short Term permits for Victims of Trafficking who cooperate with the authorities

The Commission's proposal on this Directive was issued on 12 February 2002 and reached political agreement in the Council on 6 November 2003. The directive sets out a procedure whereby MS must grant short-term permits to victims of trafficking who help them in their attempts to prosecute traffickers. A clear distinction between smuggling and trafficking has been made so that this directive should not be used for the granting of permits to people who are smuggled. Numerous elements have been left to the discretion of MS, who have also been given the option of applying the directive to children under conditions laid down in their national law. In cases where they do there is an article setting out certain conditions which refer to the best interests

principle, the possibility of extending reflection periods, access to education systems, and family tracing. The European Parliament has approved the directive with suggested amendments which include asking MS to guarantee that unaccompanied minors are accommodated. The Commission has agreed to these and it is now for governments to consider. Once adopted MS will have 2 years to implement the legislation into national law and 2 years later the Commission will review its implementation.

## **OTHER EU INITIATIVES**

### **EU Forum on Organised Crime Prevention**

In May 2001 the Commission launched the European Forum on the Prevention of Organised Crime, as a key element of its strategy as set out in its *Communication on Crime Prevention* in November 2000. National law enforcement authorities, business and professional groups, academic researchers, non-governmental organisations and civil society as a whole take part in the Forum to discuss new approaches in preventing organised crime. One of the Commission's conclusions from one such Forum was that there was a clear case for a human rights-based victim protection system and that it would work towards this.

### **Brussels Declaration on Preventing and Combating Trafficking in Human beings**

The European Conference on Preventing and Combating Trafficking in Human Beings - Global Challenge for the 21st Century held on 18-20 September 2002, was initiated by the European Commission under the STOP II Programme. It was organised by the International Organisation for Migration, in close co-operation with the European Parliament and the European Commission. The Brussels Declaration is a set of recommendations for EU action which resulted from this conference and went on to be adopted by the Council on 8 May 2003 (but is non-binding). It aims at further developing European and international co-operation, concrete measures, standards, best practices and mechanisms to prevent and combat trafficking in human beings and now forms the main basis of the Commission's activities.

### **EU Experts Group on Trafficking in Human Beings**

On 25 March 2003, the European Commission decided to set up an experts' group on trafficking in human beings as recommended by the Brussels Declaration. This group will submit a report based on the Brussels Declaration in order to assist the Commission in developing further proposals, which will probably take the form of a Communication and an Action Plan towards the end of 2004. It is made up of 20 independent experts appointed by the Commission. The Group may also invite additional experts, including official representatives of member states, candidate countries or third countries and of international, intergovernmental and non-governmental organisations. A staff member of Save the Children is in the group which is an opportunity to ensure the rights and needs of child victims of trafficking are fully taken into consideration in the Group's recommendations and thus the Commission's future proposals.



To date the EU has not addressed the socio-economic aspects of trafficking and its legislative response has focused on harmonising penalties and discussing the need for more cooperation between police and judicial authorities rather than the prevention of trafficking and protection of victims. This is because EU action is actually on the basis of a limited legal power under the Treaty of Amsterdam (as stated in Article

63), which constrains the EU from legislating on victim protection. Though the draft Treaty establishing a EU Constitution (which MS have yet to agree, having failed to in December 2003) attaches importance to the fight against trafficking in human beings it does not appear to widen this current focus on criminal aspects. Article III-168 sets out the general mandate that “European laws or framework laws shall establish measures” in different areas including “combating trafficking in persons, in particular women and children”. But the only aspects mentioned specifically in the draft Treaty are laws on capital movements (Article III-149) and “minimum rules concerning the definition of criminal offences” (Article III-172).

The Council of Europe however is currently drafting a European Convention on Trafficking in Human Beings which is likely to bring real added value to other international and regional instruments with a clear human rights and victim protection focus. It would then be open to the Council of Europe’s MS to sign and ratify, which of course represents a much wider grouping than just the EU MS, and includes all six ENACT countries.

# 5. Definitions

## DEFINING MIGRATION PROCESSES:

### Irregular Entry:

“Irregular entry” here means the crossing of borders without complying with the necessary requirements for regular entry into the receiving State.

### Trafficking in persons and children:

#### **Article 3 of the Palermo Protocol stipulates that:**

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

According to the Palermo Protocol, *child trafficking* is “the act of recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation either within or outside the country”. Thus, child trafficking can be said to exist from the time a child is recruited to the time a child arrives, regularly or irregularly, in a country and is exploited. Intermediaries of this process are involved in trafficking in all cases. The consent of the child victim to the intended exploitation is irrelevant. This is true even if none of the following means have been used: “force, coercion, abduction, deception, abuse of power or other actions taken while one is in a state of vulnerability or while one is in the control of another person”. A child victim of trafficking is any person under 18 years of age.

The main objective of child trafficking is financial gain. Children are exploited and constrained to work by force or deceit, or sold for other purposes such as sexual exploitation (including pornography and prostitution), involvement in illegal activities (such as drug trafficking or begging), commercial adoption or forced marriage.

### Smuggling:

“Smuggling of migrants” here means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, from the irregular entry of a person into a State Party of which the person is not a national or a permanent resident.



## Trafficking as opposed to Smuggling:

Once given these definitions it becomes very important to provide a distinction between trafficking in persons and people smuggling. It is, in fact, almost impossible to find distinctions within the international debate, both political and public. These two phenomena display essential differences with major policy and practical implications. A person who is trafficked is kept under the control of the traffickers, whereas a migrant smuggler simply facilitates clandestine entry into a country. Trafficked persons are thus considered victims. While by definition a smuggler will be involved only in the transportation phase of migration, providing assistance to achieve undocumented entry into a foreign country, as well as obtaining departure from highly restrictive situations, and deriving a profit from this intervention. Both smuggler and traffickers could then play roles as “labour brokers”, promising to provide people seeking jobs abroad with the necessary assistance concerning destinations and job vacancies. Smuggling operations may include assisting migrants with obtaining a passport, visa, funds for travelling (travel loans), as well as the transportation itself, en route to hoped for job openings or opportunities.<sup>4</sup> The Council of Europe has characterised this role – referring in particular to as the gap-filler: operating between the high demand for migrant labour on the one hand and the diminished legal channels of migration in most countries on the other.<sup>5</sup>

For example, according to the UN Economic and Social Council, trafficking means much more than the organised movement of persons across borders for profit. The critical additional factor that distinguishes trafficking from migrant smuggling is the presence of force, coercion and/or deception throughout or at some stage in the process – such as for the purpose of exploitation, eg. forced labour, sexual exploitation often in the context of debt bondage. On the other hand another fundamental difference between *trafficking* and *smuggling* is that while smuggling of migrants often involves a mutual interest between the smuggler and the smuggled, trafficking in human beings constitutes a crime against persons, with or without the consent of the victims.

## Migration and Child Trafficking:

Child victims of trafficking are migrants who, far away from their home, their language and their social environment, are vulnerable to any kind of abuse and exploitation. Being victims of trafficking, these children are usually much more vulnerable than migrants more generally, due to the additional factors commonly present such as the confiscation of their passports and papers, the perpetration of violence (e.g. torture, sex offences...) and the actual or threats of reprisals on their families.

National migration policies however clearly have an impact on the treatment that child victims of trafficking receive in transit and destination countries. But these policies are often oriented towards national protection and national interests rather than an acknowledgement of root causes such as economic gaps, poverty, underdevelopment and the lack of equal opportunities.

## Reintegration

Generally, the term reintegration refers to a process in which an individual returns to a way of life like, or similar to, that known prior to the trafficked-related events (i.e. recruitment, leaving transportation, exploitation). More specifically, the reintegration of a trafficked child is the process in which the child regains his/her original social status or position and positively adapts socially and culturally to the life in the community as a member of his/her family or his/her community. While there may be context-specific characteristics, generally speaking a successful reintegration is one in which the child demonstrates positive relations with him/herself and others, is recognised by the family and the community as a member,

and identifies him/herself as part of that community or that family through his/her ability to contribute to, and live positively and sustainably within it.

## **DEFINING RESILIENCE: A FUNDAMENTAL VARIABLE IN TERMS OF REINTEGRATION**

### **Resilience**

On an individual level, *resilience* is the capacity to confront adversity and “bounce back” after stressful experiences. Psychological research has found both internal and external factors that contribute to individual resilience, some remarkably similar across cultures. These factors are considered “protective factors”, which can serve to counter “risk factors”.

Thus, *child resilience* is the child’s capacity to bounce back from traumatic childhood events and develop into a sane, integrated, and socially responsible adult.

4. See “*Getting at the roots: stopping exploitation of migrant workers by organised crime*”, from the International Symposium: *The UN Convention Against Transnational Organised Crime*, Turin, Italy 22-23 February 2002, Paper presented by ILO.
5. See *Protocol Against the Smuggling of Migrants by Land, Sea and Air*, United Nations 2000.





# **6. BULGARIA**

**6.1 THE SOCIO-ECONOMIC CONTEXT**

**6.2 POLICIES AND LEGAL FRAMEWORK**

**6.3 TRAFFICKING PRACTICES**



# 6. BULGARIA

## 6.1 THE SOCIO-ECONOMIC CONTEXT

Bulgaria, together with other South-East European countries, is seriously affected by the child trafficking phenomenon. As many other post-communist countries, Bulgaria is in a period of political and economic transition, which can last for a long time. According to the Constitution adopted in 1991 Bulgaria is a Parliamentary Republic ruled by democratically elected governments. The Legislative power is in the hands of the National Assembly (*Natodno Sabranie*), which is the legislative body in Bulgaria. The 240 members of the National Assembly are elected by popular vote for four-year terms. The actual President, Georgi Parvanov, is from the Bulgarian Socialist Party, and began a five-year term of office in early 2002. The executive power is in the hands of the Council of Ministers, which leads and executes Bulgarian interior and foreign policy. Simeon Saxe-Coburg Gotha is the current Prime Minister, and his Party is “The National Movement Simeon II”, which won the elections in June 2001 and it is currently the ruling party. The judiciary system is independent and currently under reform. The Government Political Programme “People are the Wealth of Bulgaria” priorities are to develop a stable macro-economic framework, to raise the standard of living and to develop social capital and to develop a sustainable economy to improve the business sector. The Government Programme states that “aware that people are Bulgaria’s most precious asset the Government puts the rights of children and young people and the development of sport among its top priorities. The Government will make every effort to ensure modern high quality education, career opportunities, fair wages and a modern standard of living for the young, who are Bulgaria’s future.”

The period of political transition is combined with an economic transition from a centralised economy to a market-oriented one. The post-Communist transition economy continued to be heavily dependent on state enterprises, many of them unprofitable, although the growing private sector now accounts for over 60% of economic activity. Following a severe financial, economic and political crisis in 1996 and early 1997, a reformist government of the Union of Democratic Forces, which ruled the country in the period 1997-2001, introduced a macro-economic stabilisation programme. The programme quickly stabilised the economy and cut the triple digit inflation of 1996-1997 to less than 1% in 1998. Stabilisation has been maintained and the privatisation process is in an advanced stage. There seems to be a high social cost to this process of reform: unemployment rates quickly rose while the social welfare of people decreased, and the situation is still critical with regards to rising unemployment.

Bulgaria has a strategic geographic position that, along with the above-mentioned factors, contributes to the growth of criminality, particularly of trafficking in drugs and in human beings. Children, together with women and ethnic minorities, can definitively be considered a vulnerable and high risk group in Bulgaria. The overall population of the country is about 7.7 million: 83% ethnic Bulgarian, 8.5% Turks, 2.6% Roma and the remaining percentage is composed of small communities of Armenians, Tatars, Gagauz and Circassian peoples. The Roma minority is the group that are most suffering negative consequences coming from the transition: unemployment rates amongst Roma communities are around 90% and sometimes even 100%. Bad living conditions, lack of education, unemployment and related social problems make the Roma communities the most vulnerable in Bulgaria.

The children's population in Bulgaria is decreasing. Data coming from the National Statistic Institute shows that there are 1.555.803 children living in Bulgaria, meaning that there are 150.000 less children than in the year 2000. Political, economic and demographic transitions impact on children, making them one of the most vulnerable groups in Bulgaria. At present 3000 to 5000 children are estimated to be living or working in the streets. A further 45000 of children every year are dropping out of school and the approximate number of children at risk of severe social exclusion is twice as high.

## 6.2 POLICIES AND LEGAL FRAMEWORK

### Internal Legislation concerning Child Trafficking

#### Penal Code

Bulgaria is undergoing a period of transition and its legal framework is under a process of reform. National legislation began changing in 1999 in order to include trafficking as an area of regulation. The Ministry of Justice, in co-ordination with other Ministries, State Agencies and National and International organisations, led the legal reform.

The very first step was to prepare an amendment to the Penal Code, with the goal of recognising trafficking in human beings as a crime, based on the definition of trafficking put forward by the Palermo Protocol. In particular there were amendments to the 1968 Criminal Code between 2000 and 2002. A new section was introduced, namely Section IX "*Trafficking in Persons*", in Chapter Two 'Crimes Against Personality', where art. 159a governs trafficking when committed within the country, art. 159b regulates trafficking when it is connected with crossing the border and art. 159c governs trafficking when it is committed repeatedly or by an organised group. In particular in art. 159a:

"Persons who select, transport, hide, or receive individuals or groups of persons for the purpose of using them for acts of debauchery, compulsory labour, removing their organs, or keeping them in forceful subordination, irrespective of their consent, shall be punished with imprisonment of one to the eight years and a fine not exceeding eight thousand Levs"<sup>6</sup>.

Under paragraph I, acts committed:

"against persons under eighteen; by using force or misleading the person; by abduction or unlawful deprivation of liberty; by taking advantage of a position of dependency; by abuse of power; by promising, giving, or receiving benefits, shall be punished with imprisonment of two to ten years and a fine not exceeding ten thousand Levs.

Also, according to art. 159b:

"Persons who select, transport, hide, or receive individuals or groups of persons and take them across the frontiers of the country for the purposes specified under art. 159a, paragraph I shall be punished with the imprisonment of three to eight years and a fine not exceeding ten thousand Levs. In case the act under the preceding paragraph is committed under the conditions of art. 159a, paragraph II the punishment shall be imprisonment of five to ten years and a fine not exceeding fifteen thousand Levs"<sup>7</sup>.

Finally, according to art. 159c:

“When the act under the preceding articles constitutes a case of dangerous recidivism or has been committed following an order or in implementation of a decision of an organised criminal group the punishment shall be five to fifteen years of imprisonment and a fine not exceeding twenty thousand Levs, whereas the court may also rule confiscation of part or the whole of the perpetrators property”<sup>8</sup>.

### **Law Combating Trafficking in Persons**

Bulgaria has set out an overall policy fighting ‘Trafficking in Human Beings’: a key component of this process was to prepare draft legislation on combating trafficking in persons. In June 2001 an inter-ministerial legislative working group was created with the main task of drafting the bill, particularly focusing on women and children. The Act was published in the State Gazette on the 20th of May 2003<sup>9</sup> establishing a legal framework based on international regulations in the field of trafficking in human beings. In particular, the principles are in line with the “UN Convention Against Trans-national Organised Crime”, the “Palermo Protocol” and resolutions on the issue from the Council of the European Union.

The main activities provided by the new legislation concern prevention of and counteracting illegal trafficking in persons with the aim of giving protection and aid to the victims of trafficking and interaction between the State and the local government together with non-governmental organisations in order to form a comprehensive national policy in this field. Moreover, the Act sets out the guidelines for establishing a National Commission and Local Commissions for Fighting Illegal Trafficking in Human Beings.

THE KEY FUNCTIONS OF THE NATIONAL COMMISSION, WHICH IS A MANAGING BODY, ARE:

- to establish Local Commissions
- to organise and coordinate the interaction between different institutions and organisations
- to shape and to lead national policy in this policy-area
- to develop annual national programmes aiming at preventing and counteracting trafficking and at protecting victims, which have to be presented to the Government for the final approval
- to collate, survey, analyse and process statistics of data concerning human trafficking and protection of the victims
- to take part in the international cooperation for prevention and counteraction of human trafficking
- to manage and monitor the activities of the local commissions and of the centres for protection and aid for victims of trafficking
- to register individuals and legal entities with non-profit activities that provide shelter for the victims of trafficking

6. Paragraph I, Article 159a, Section IX “*Trafficking in Persons*”, Chapter II, Criminal Code 1968.

7. Paragraph I, Article 159b, Section IX “*Trafficking in Persons*”, Chapter II, Criminal Code 1968.

8. Paragraph I, Article 159c, Section IX “*Trafficking in Persons*”, Chapter II, Criminal Code 1968.

9. Act “On Combating the Illegal Trafficking in Human Beings”, State Gazette no. 46/20 May 2003.



THE COMPOSITION OF THE NATIONAL COMMISSION IS:

- The deputy Prime Minister as chair
- Deputies Ministers from various Ministries – the Ministry of Foreign Affairs, the Ministry of Labour and Social Policy, the Ministry of Interior, the Ministry of Justice, the Ministry of Health, the Ministry of Education and Science
- Deputy chairman of the Central Commission for Prevention of Juvenile Delinquency, representatives from the Supreme Court of Cassation, the Chief Prosecutor's Office and the National Investigation Service
- Representatives of Bulgarian not-for-profit and international organisations with offices in the country that carry out illegal trafficking prevention and victims support activities, are invited but just as observers to its sessions

THE LOCAL COMMISSIONS act at a regional level, and in this context execute functions that are similar to those of the National Commission. Thus the difference is that the Local Commissions have an ad-hoc mandate, being established only in *those municipalities where trafficking issues are key concerns such as at the borders of the Country*. The National Commission will have to decide where and when establish Local Commissions, which are composed of a minimum of three to a maximum of seven members, plus one of the deputy Majors belonging to the municipality in the chair. Members of the Local Commissions are representatives of the municipal administration, the police and NGOs.

The law provides for the establishment of special facilities for temporary accommodation to victims of trafficking. Anonymity can be granted to them in case they wish to cooperate in the penalty proceedings against the traffickers. Such centres for temporary accommodation are established by the National Commission as well as by individuals and NGOs. Stays of ten day periods are offered, with the possibility of extending it to a 30 day period on the offer of the Local Commissions, if the victim has expressed a wish to do so. Family tracing is then undertaken if appropriate.

Centres for support and aid to victims of trafficking will be established according to the law. The aims of these centres are to contribute to the reintegration of the victims into normal life having the functions of granting information regarding the administrative proceedings around the support and protection of victims in an understandable language and to provide specialised psychological and medical aid.

In particular, the Act introduces two different regimes for provision of protection and support for victim. The first one is the statute of special protection, which is granted to those victims of trafficking who have agreed to cooperate with all this to prosecute discovery of the traffickers. The statute of special protection is granted for the period of penalty proceedings and includes the granting of a permit for continuous stay of foreign citizens in the country as well as extension of the stay in the centres. This statute is terminated prior to the expiration of the determined term in a few cases: when the person has renewed his/her contacts with the traffickers, for the disclosure of whom the person has declared willingness to cooperate; the prosecutor believes the declared agreement to be fictitious; there is a risk to the public order and national security. The regime of general protection refers to all persons that have been subjected to acts pursuant to this law.

Special attention is paid to child victims of trafficking. The draft provides for immediate involvement of the State Agency for Child Protection, when there is information about a child who is a victim of trafficking; the agency is then bound to take steps to provide protection and support. Children who are victims of trafficking shall be accommodated in premises separate from adults.

## International Conventions and Bilateral Agreements

- The *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* was signed by Bulgaria on 18 January 1955 with a declaration stating that the offences referred to in the Convention are unknown under the socialist regime of the

People's Republic of Bulgaria, etc. The same convention was signed by the neighbouring countries such as Romania, FYROM and Yugoslavia.

■ The Law for the Ratification of the *UN Convention against Transnational Organised Crime, the Protocol against the Illegal Trafficking in Migrants and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Adding to the UN Convention against Transnational Organised Crime* was published in the State Gazette on 27 April 2001.

■ The *Protocol for Strengthening the Three-Lateral Co-Operation in Combating Crime and Particularly Transnational Crime*. The three parties who signed the Protocol are the Republic of Bulgaria, the Republic of Greece and the Government of Romania effective since 9 May 2000. Article 1 stipulates that the countries will co-operate in accordance with their national legislation for the prevention, identification, and investigation of crimes, and particularly of those related to “criminal activity, related with migration, illegal crossing of boundaries and illegal trafficking in persons”.

■ An Agreement Between the Governments of the Countries Participation in the Black Sea Economic Partnership for Co-Operation in the Suppression of Crime and Particularly its Organised Forms has been in effect since 4 October 1999. Signatories are the governments of: Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, The Russian Federation, Turkey and Ukraine. Article 1 stipulates that the Countries will co-operate for the prevention, detection and investigation of crimes and in particular of “... criminal activities related with migration, illegal crossing of boundaries and trafficking in persons.”

■ An Agreement between the Government of Republic of Bulgaria and the Government of the Italian Republic for Police Co-operation in Combating Organised Crime has been in force since 16 February 2001. Article 7 stipulates that the Signing Parties will co-operate in combating organised crime in accordance with their National Legislation in a number of areas, amongst which is trafficking in persons and illegal immigration networks.

■ Bulgaria signed the 1996 Stockholm Declaration and Agenda for Action against the Commercial Sexual Exploitation of Children (CSEC) which also addresses the trafficking of children for sexual purposes. However, Bulgaria has not yet met its obligation to adopt a National Plan of Action against CSEC and has not taken any steps towards the development of such a Plan.

■ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography was signed by Bulgaria on 8 June 2001 and transposed into national legislation.

## 6.3 TRAFFICKING PRACTICES

### Available Data

Trafficking in children is a phenomenon that is difficult to assess. We have to be aware that trafficking is not necessarily related to the smuggling of migrants. Trafficking includes exploitation as a main component of violation of human rights. Trafficking can be related to irregular entry into a country, but often the trafficked persons have legal documents and legal permission to work in the country of destination. Moreover trafficking does not necessarily involve crossing an international border, in-country trafficking can also exist.

These aspects of trafficking make this phenomenon difficult to evaluate. The existing data is

based on different sources. The methods of gathering information are also varied. The lack of a unified system sometimes leads to double recording of one case. For example if the victim of trafficking gets in contact with several institutions and organisations, his/her case could be recorded several times – in each of these institutions/organisations. Thus we have to be careful when interpreting figures and assessing the practices and always recalling that this phenomenon has many aspects.

According to national statistics, 2128 children were victims of crimes in 2002, which is 50 % higher compared with the previous year, 922 of these children are aged from 8 to 13 years. According to the statistics 42 children were kidnapped, 99 were forced to beg, 40 forced into prostitution. The numbers shows that the rate of criminality towards children is increasing. The same tendency could be valid for trafficking. According to data from the Ministry of Interior for the period 1995-2000, a total of 158 cases of abduction and hostage victims under the age of 18 have been registered: 33 were under the age of 14 and 125 between the ages of 14 and 18. Unfortunately, specific data relating to trafficking in children is still not available.

### **Countries in the Trafficking Cycle**

Bulgaria is both a country of origin and of transit. To a lesser degree it is also a country of final destination. According to a recent study of IOM<sup>10</sup>:

“the Balkans cannot be regarded as one homogenous region. Bosnia and Herzegovina and Kosovo are primarily destinations for trafficked women, while Moldova, Romania, Albania and Bulgaria are the most significant countries of origin in the region.”

The countries of destination of children trafficked from Bulgaria are usually Greece, Turkey, Italy, Cyprus, Macedonia, Albania but also countries in Central and Western Europe.

### **Average Age**

The average age for trafficked children for the purposes of sexual exploitation is 14-18 years of age.

### **Types of Trafficking**

#### ■ TRAFFICKING FOR THE PURPOSE OF SEXUAL EXPLOITATION

According to the Country report on Human Rights Practices for 2001, released by the Bureau of Democracy, Human Rights and Labour, US Department of State, approximately 10 000 Bulgarian women, many under the age of 18, may be involved in international trafficking operations, but no official statistics are available. Other statistics<sup>11</sup> show that at least 3,500 Bulgarian women are currently working as prostitutes in Poland.<sup>12</sup> Another source of information is the Ministry of Interior. In 1999 during an international conference on “The Prevention of trafficking in women” the minister of the interior announced that 38 organised channels for trafficking in persons had been uncovered. Ten foreigners who had organised and managed the process had been identified. Thirty six girls had been sent back to Bulgaria. A plan to pass 41 girls irregularly across the border and go to Greece and Cyprus and to work there as prostitutes was uncovered.

#### ■ TRAFFICKING FOR THE PURPOSE OF INTERNATIONAL ADOPTION, DONATION OF ORGANS OR OTHER PURPOSES

There are a lot of cases of Bulgarian babies who are sold to foreign families, often Greek. Traffickers identify the pregnant women and convince them to sell their newborn babies. The criminals provide transport to Greece and place the women in specially prepared homes where the mothers give birth. The traffickers organise each step of the procedure, including the preparation of the adoption documents. Their Greek “colleagues” support the traffickers. The price of a child is then set – 30 000 leva for a boy and 15 000 leva for a girl.<sup>13</sup> Mothers who sell their children receive less than half of that amount. Different specialists determine that crime networks often involve representatives of institutions and of state bodies. Recently there was a big scandal connected with international adoption and the sale of children where directors of an institution for children were suspected to be involved in the business of illegal international adoption.

On February 3rd, 2003 “Trud” newspaper announced that a network for trafficking in children was uncovered. The network for the export of babies, adoption or donation of organs was working mainly with Greece and Spain. Although information on such trafficking exists, there is lack of evidence that can prove that the babies are used as organ donors.

#### ■ TRAFFICKING FOR THE PURPOSE OF CHILD LABOUR

Trafficking for the purpose of child labour is another aspect of the trafficking phenomenon. Very often children are forced to beg and steal within the country and abroad. On January 9th 2003 “Trud” newspaper announced that Bulgarian kids aged 12-15 years are begging and prostituting in Austria, Italy, UK.

The scale of trafficking for the purpose of child labour is not clear. For example the social workers from the “Centre for Working with Neglected Children” in Sofia worked directly with 72 children up to 16 years of age and with 41 young people aged 16-25 during the period January – March 2003. The ways in which they earned their living were as follows: 95% of children up to 16 were begging and 63% of young people between 16 and 25 years of age. 44% of the children were stealing and the percentage among young people is higher – 90%. 37% of children were working as prostitutes to earn money, 57 % of young people were doing same.<sup>14</sup>

There is a tendency for the number of street children to increase during the summer in the big towns, eg Sofia, Plovdiv, Varna and Bourgas. During the winter they usually go back to their home towns and villages. Street children represent one of the most vulnerable groups, at high risk of becoming victims of trafficking.

#### **Recruitment**

Victims of trafficking for the purposes of sexual exploitation are usually young girls. There are several ways of recruiting: kidnapping, offering them promises of work and a better life abroad, being sold by relatives, friends or husbands, tourism. The youngsters are often approached by persons who gain their trust. These people describe life abroad as an easy and pleasant one. Other girls become emotionally involved with the men that traffic them. The young girls are usually taken to a large town, isolated, beaten, and subjected to severe physical sexual and emotional abuse. Some victims of trafficking from Eastern European countries are held in Bulgaria for several weeks where they are subjected to psychological and physical abuse in order to make them more submissive before they are transported to their destination points. Once the women leave the country, their identity documents are taken away, and they find themselves forced to work as prostitutes in cities across Europe. Victims routinely report that traffickers took away their passports and visas, and forced them to stay irregularly.

10. “Victims of Trafficking in the Balkans”, IOM, 2001.

11. Piotr Bazylo “Poland, Ukraine to fight sex slave industry”, Reuters, 16 July 1998.

12. Note that there is no disaggregation in the numbers regarding children. Very rarely could data be found that concerns child trafficking specifically. The statistics show the division according to trafficking purposes but not according to the age of the trafficked person.

13. One Euro is approximately two levs.

14. The information was provided by Mrs. Nadya Nedkova – Director of the Center for working with street children “Faith, Hope and Love” – Sofia.





# **7. DENMARK**

**7.1 THE SOCIO-ECONOMIC CONTEXT**

**7.2 POLICIES AND LEGAL FRAMEWORK**

**7.3 TRAFFICKING PRACTICES**



# 7. DENMARK

## 7.1 THE SOCIO-ECONOMIC CONTEXT

Denmark has a population of ca. 5,4 mill. (January 2002) and the population density is high – 124 per sq. km. The language spoken is Danish. 84.7% of the Danes belong to the Lutheran National Church. The second-largest religious group are Muslims, who constitute about 5%.

The Danish party system is a multiparty system that dates back to the first constitution in 1849. As there were no significant ethnic, religious, regional or linguistic differences in the Danish society, the political parties were formed on the basis of the economic, social and ideological divisions of the time.

The boom period from the late 1950s resulted in major economic and social changes. The welfare state was established and the tax-funded social sector developed rapidly with a huge increase in the number of both tasks and employees. The Danish (Scandinavian) welfare model acts within a controlled capitalist market economy in which inequalities in income distribution and the concentration of wealth and power are able to be contained.

The welfare state does represent a national political compromise on how to organise and finance the social, health and educational benefits on which a political decision has been taken to provide for the population. Building on a kind of national consensus of solidarity there has been far greater agreement on the development of the welfare state between the political wings in the Scandinavian countries than has been the case in other European countries. The difference in points of view has been small, and the convergence of interests greater.

Together with employment policy and education policy, social policy and health policies form the cornerstones of the Danish welfare system. The system is extensive. It covers the entire population and most public expenditure goes on the welfare system.

The main political issues in the last decades include the balance between public and market control, the degree of tax funding of welfare measures as opposed to the insurance principle, the extent and nature of privatisation and contracting-out, support for or opposition to further political integration in the EU, law and order, and the attitudes to refugees and immigrants along with a debate on national identity.

Denmark joined the EEC/EU in 1973 after a referendum where 63.3% voted in favour of membership. Denmark has among other issues supported the enlargement of the EU to, among others, Central and Eastern Europe. Above all, Denmark has advocated that the Baltic countries should be allowed to join the EU as soon as possible.

The Danish population has been reluctant in accepting the political integration of the EU. As a result, the Maastricht Treaty of 1992 with its chapters on increased integration was only accepted at a Danish referendum in 1993, after the so-called Edinburgh Agreement had allowed Denmark to take a step back from the cooperation in four areas. This manifested itself in reservations on the final phase of the European Economic and Monetary Union (EMU) and the Euro, defence, political co-operation, union citizenship and very importantly cooperation in the area of Justice and Home Affairs, including asylum and immigration and organised crime.

The gross domestic product per citizen was in 2001 the second highest in the EU, exceeded only by Luxembourg. The unemployment rate has been low for some years (5.0% in 2002) though the rate has been rising lately (6.5 % in 2003). A large number of immigrants are unemployed.



## 7.2 POLICIES AND LEGAL FRAMEWORK

Danish legislation dealing with trafficking is based on the penal code. Until June 2002, the Danish justice did not directly deal with trafficking in people; however, the penal code contains provisions that criminalize various acts promoting or exploiting 'sexual immorality' or acts involving gross bodily violation. Sentencing of traffickers is thus based on sections of law about imprisonment and kidnapping, procuring or grievous bodily harm, or legislation concerning smuggling.

A new section regarding trafficking in persons was added to the penal code on 31 May 2002., Section 262 (a). The new provisions are formulated on the basis of the Palermo Protocol, the EU Council Framework decision on combating trafficking in human beings and the supplementary protocol to the UN Convention on the Rights of the Child regarding the sale of children, child prostitution and child pornography. The section significantly increases sentencing, from four years for procuring or hostage-taking/kidnapping, to eight years for trafficking; one of the consequences of this increase is that the police are better able to employ more efficient tools to monitor communications, e.g. phone tapping and the opening of post in cases against traffickers.

The new section also specifies that it is a criminal offence to recruit, transport, transfer, house or receive persons under 18 years for the purpose of exploitation (sexual immorality, forced labour, slavery or slave-like conditions or the removal of organs). According to the new Danish legislation, in matters involving minors, whether or not traffickers have employed unseemly methods/means of compulsion, i.e. illegal force, imprisonment, threats, deceit, etc. is inconsequential for sentencing. Similarly, it is a criminal offence for the person with authority over the violated child to receive payment or other benefits.

Finally, according to Danish legislation it is a criminal offence to purchase sexual services from person under 18 years. Section 223 (a) in the penal code states that "anyone" having intercourse with a person under 18 years as a costumer in exchange of payment or promises of payment is to be punished with a fine or imprisonment of up to two years.

There have yet to be any convictions involving section 262 (a) of the penal code. This is owing to the fact that the new legislation can only be used in relation to acts committed after the legislation comes into force. For the same reason, the increased sentencing and means to intervene referred to above will first come into use some time following the legislation comes into force.

Thus far it has also posed a problem that the victims of trafficking have declined to testify in cases against the ring-leaders; however, there is reason to hope that the definition and clarification of aspects of trafficking in legislation, increased means of intervention regarding communications and the new Danish Action Plan regarding trafficking (cf. below) will all contribute to convictions of criminal ringleaders guilty of trafficking.

### Action Plans

In December 2002 the Danish Government published "The Danish Government's Action Plan to Combat Trafficking in Women." The Government Action Plan includes DKK 30 million financing over a three-year period and a two-tiered strategy consisting of initiatives and activities for:

- the prevention of trafficking
- support for the victims of trafficking

Support to the victims of trafficking includes development of a model for improved repatriation of women who find themselves in Denmark after being victimised through trafficking, including:

- the establishment of co-operative agreements in connection with the repatriation of victims between relevant parties
- the development of international networks between relevant NGOs
- the development of cooperation between embassies
- drop-in centres for victims of trafficking where the victims' situations are clarified and their repatriation is prepared

The deadline for departure, and therein duration of the stay at the drop-in centre, is normally up to 15 days, corresponding to the deadline in the Aliens Act (Udlændingeloven) section 33 (2). According to the Action Plan, the departure deadline can be extended in exceptional circumstance section 262 (a) in the Penal Code, and in cases in which “other personal circumstances justify doing so.”

In summer 2003, “The Government’s Plan of Action against Sexual Exploitation of Children” was published. The points concerning trafficking in children are very general. It is stated that the Government will continue its work to reinforce measures for the prevention of the sexual abuse of children and plans to ratify the supplementary protocols for the prevention of trafficking and child prostitution.

## 7.3 TRAFFICKING PRACTICES

### Available Data

There is very limited knowledge about the number of minors that are trafficked to Denmark. It is definitely certain that there are foreign minors in the prostitution milieu in Denmark, though not in large numbers, and that criminal networks largely control this milieu. NGOs and police do not doubt that they see minors in the streets, but there are no counter-trafficking agencies in Denmark able to provide a general estimate of the number of children who are victims of trafficking in Denmark. The increased monitoring has not yet led to concrete data about the dimensions of the problem in general or in relation to minors.

There is knowledge of the problems related to trafficking in minors in the individual police jurisdictions and among NGOs that are working on the issue of prostitution. There are roughly 2000 foreign prostitutes in Denmark.<sup>15</sup> About 10% of prostitution (both Danish and foreign) is purchased on the streets. Danish NGOs working with street prostitution do meet very young foreign prostitutes who appear to be minors. Yet, they do not remain in the street milieus for a long time, as they are in high demand. Customers quickly gather them up. Local police always stop the prostitutes who appear to be minors, but they are usually in possession of a tourist visa and money, as well as officially stamped identification that can be purchased in the countries of origin.

In the Danish media there have been reports of at least four concrete cases of foreign girls having been sold to prostitution in Denmark. Furthermore, recent research carried out by Save the Children Denmark<sup>16</sup> reports four other concrete cases of children trafficked to Denmark for the purpose of sexual exploitation. This research also includes mention to a single group of twenty foreign children: in this case there is a substantial evidence indicating that they are victims of trafficking for the purpose of economic crime (i.e. theft).

15. Helth 2003, Moustgaard and Brun 2001, p.31, PRO-Centret 2002.

16. “*Trafficking in Children to Denmark*”, Save the Children Denmark, December 2003.

## Some other results from the research:

The Danish Immigration Service has conducted two data searches from the aliens' registry including women expelled from Denmark on account of illegal work (Danish Aliens Act section 25 (a), subsection (2), no. 1). The first data search was of women born between 1968 and 1988 originating from selected Central and Eastern European countries (the Czech Republic, Estonia, Latvia, Lithuania, Poland, Romania, Russia, Slovakia and Ukraine). The data search indicated that in the period 01.01.2001–25.10.2003, 155 women were expelled. The search also indicated that the largest groups of expelled women come from Poland, Latvia, Lithuania, Romania and the Czech Republic. It must also be emphasised that expulsion on the grounds of illegal work does not necessarily involve prostitution, e.g. occasionally girls from Eastern Europe who come to Denmark as au pairs subsequently remain in the country and work without the necessary permission to do so. However, according to information from the Danish Immigration Service, the vast majority of cases in these calculations involve prostitution.

### NUMBER OF WOMEN ADMINISTRATIVELY EXPELLED ON ACCOUNT OF ILLEGAL WORK (DECISION CODE 28-056). WOMEN FROM SELECTED EASTERN EUROPEAN COUNTRIES BORN IN THE PERIOD 1968 – 1988. DISTRIBUTION IN TERMS OF NATIONALITY AND YEAR OF RULING. DATE OF RUNNING: 31 OCTOBER 2003.

	2001	2002	2003	TOTAL
<b>COUNTRY</b>				
Estonia	5	1	3	9
Latvia	28		13	41
Lithuania	9	4	2	15
Poland	23	21	9	53
Romania		11	2	13
Russia	4		1	5
Slovakia	1		3	4
Czech Republic	4	7	2	13
Ukraine	2			2
<b>Total</b>	<b>76</b>	<b>44</b>	<b>35</b>	<b>155</b>

Source: "Trafficking in Children to Denmark", Save the Children Denmark, December 2003.

The other data search indicates the proportion of the total of 155 women expelled on account of illegal work who were less than 18 years of age at the time of the decision. In this regard, the search shows a total of four expulsions of minors, all in 2001. The expelled minors were from Lithuania, Poland and the Czech Republic.

**NUMBER OF WOMEN ADMINISTRATIVELY EXPELLED ON ACCOUNT OF ILLEGAL WORK (DECISION CODE 28-056). WOMEN FROM SELECTED EASTERN EUROPEAN COUNTRIES BORN IN THE PERIOD 1968 – 1988. DISTRIBUTED IN TERMS OF NATIONALITY AND AGE AT THE TIME OF RULING. DATE OF RUNNING: 31 OCTOBER 2003.**

	<b>UNDER 18 YEARS AT THE TIME OF RULING</b>	<b>18 YEARS OR OLDER AT THE TIME OF RULING</b>	<b>TOTAL</b>
<b>COUNTRY</b>			
Estonia		<b>5</b>	<b>5</b>
Latvia		<b>28</b>	<b>28</b>
Lithuania	<b>1</b>	<b>8</b>	<b>9</b>
Poland	<b>2</b>	<b>21</b>	<b>23</b>
Russia		<b>4</b>	<b>4</b>
Slovakia		<b>1</b>	<b>1</b>
Czech Republic	<b>1</b>	<b>3</b>	<b>4</b>
Ukraine		<b>2</b>	<b>2</b>
<b>Total</b>	<b>4</b>	<b>72</b>	<b>76</b>

Source: “Trafficking in Children to Denmark”, Save the Children Denmark, December 2003.

The experience of Danish NGOs performing outreach work amongst prostitutes, local police and Save the Children Denmark, all point to the fact that minors are indeed being trafficked to Denmark. These NGOs observe very young foreign girls working in the street prostitution milieu (chiefly from Eastern European countries), estimated to be less than 18 years of age. The YWCA Social Work /Stop Trafficking perform outreach work in the street and indoor prostitution milieu in Copenhagen. They have registered their observations of prostitutes over a one-year period in 2001-2002, during which they have been out on the streets approximately once a week. According to the SC Denmark research, in the course of approximately one year, the outreach team registered five persons that were undoubtedly under 18 years of age. The persons presumed to be minors are often made-up and/or dressed in such a way that it makes it difficult to establish their exact age.

Tjekpunkt is another organisation performing outreach work in the same area, though they focus on marginalized Danish youth. Tjekpunkt has also observed a number of young Eastern European girls in the milieu. In just a month, Tjekpunkt personnel encountered six girls that they estimated to be less than 20 years old (it is possible, however, that some of these girls were counted more than once). Social workers find it very

difficult to establish contact with very young foreign women. Their foreign pimps do not allow them out of their sight and they force girls to work very hard.

There have been at least three instances in which the police discovered minors while conducting raids involving indoor prostitution. The media has reported these incidents: in 1999 two teenage girls were found in a brothel in the town of Vejle; in 2001 a 17 years old girl involved in prostitution was arrested in the town of Arhus. In both of these cases the children were expelled within a few days. In 2004 a minor was also found in a brothel in Zealand.<sup>17</sup>

It is widely assumed amongst NGOs and local police working directly with prostitutes that there are more children who have been trafficked to Denmark than those the authorities/NGOs happen to stumble across. This assumption builds on the fact that the very young girls mentioned are kept under close wraps by their foreign pimps, as convictions for trafficking in children carry stiff sentences. Furthermore, the minors are equipped with false documentation, and the traffickers are presumably not inclined to offer the children on the street, as the risk is too high.

Concerning cases of exploitation of children for theft, police and social services have observed a disconcerting expansion in 2003. An increasing number of children, mostly boys coming predominantly from Romania, have been found to be involved in theft-related crimes in Denmark. The authorities express a profound concern that these children have been trafficked to Denmark for the purpose of economic exploitation. Some of the boys have come alone; others came together with their family or with an adult claiming to be a relative. According to the 24-hours Social Services of Copenhagen and to the Copenhagen Police Department, there were approximately 20 such cases in the last six months of 2003. The boys do not co-operate with questioning, but certain conditions would appear to be characteristic for a number of these children: several of them have had little parental contact in their home country and many would appear to belong to the Roma minority. A person offering work in Western Europe approached the boys in their home country, and some of them have been in several countries prior to reach Denmark.

Observations made by the authorities have convinced the Danish police that this kind of trafficking is well organised. When the police question these boys upon encountering/arresting them in connection with their criminal activities, they consistently claim to live on the street, at the train station or similar places. However, the boys are usually relatively well dressed and clean when arrested, indicating that they have an address where they are able to attend to personal hygiene, wash clothing, etc, a sign of organised conditions being in place.

### **Countries in the Trafficking Cycle**

The cases of trafficking in children known by Save the Children Denmark involve children from Latvia, Lithuania, Poland, Romania, Russia and Nigeria.

### **Average Age**

Taking into account the widespread use of false papers and other documents, it can be extremely difficult to determine the identity and the average age of trafficked children. In some instances it can be advantageous for the child, or for those who have been trafficking the child, to pass them off as younger, e.g. to avoid prison sentencing. In other instances, it can be practical to deceitfully set the age of a young person over 18, e.g. when dealing with prostitution or work at strip bars. Besides, Save the Children Denmark registered some "cases" of trafficked children between 15 and 17 years old.

### **Types of Trafficking**

Through recent investigation of trafficking in foreign children to Denmark, Save the Children Denmark was able to identify two main areas of trafficking purposes. The first group of children was, in fact, trafficked to Denmark for the purpose of sexual exploitation, the other group of children was trafficked for the purpose of exploitation in order to commit acts of crime, such as shoplifting and pick-pocketing, with profits being handed over often entirely or partially to a ringleader residing in Denmark. It is important to bear in mind that combinations of these two types can also occur, as children in these milieus live a vulnerable

existence on the edge of society where the distance between petty crime and prostitution is small.

It is also possible that foreign children are trafficked to Denmark for other forms of abuse; however, no forms of exploitation other than these two have been mentioned in the interviews that Save the Children Denmark has conducted, and they have not discovered any cases in which foreign children have been exploited for factory or agricultural labour.

### **Trafficking Networks**

The criminal networks involved in the trade of children can represent large international networks as well as smaller family-related groups. In some cases victims are trafficked within a country, often to a larger city and thereafter to another country. The recruiters can have various relations with the victims: they can be friends, acquaintances or schoolmates who are paid for exploiting their relationships to find “candidates” for trafficking, e.g. through promises of a well paid job abroad.

The Danish National Police began to set the focus on the issue of trafficking a few years ago. Regional Centres of Investigative Support were established to provide information concerning criminal trafficking networks and observations about the foreign prostitution milieu to a National Centre of Investigative Support (NCIS). A new IT system is to couple the findings of NCIS, the regional investigative support centres, as well as the unit in the Danish National Police working with the prevention of irregular immigration and the smuggling of immigrants. The aim is to be able to make it possible to identify patterns and connections in the criminality between the different forms of crime and to generally improve the monitoring of the trafficking problem. So far, the intensified monitoring has led to the investigation of criminal networks, resulting in the first large court case in the trading of women in Denmark. Yet, it is very difficult to come into contact with minors, as they are held under close observation by their foreign pimps/mafia. The most widespread assumption is that authorities are uncovering just the tip of the iceberg in their work. The vast majority of the criminal aspects of prostitution in Denmark, and the organisation and sale, take place behind closed doors and it is co-ordinated with the help of the Internet and mobile telephones. Marketing via the Internet and mobile phones makes the prostitution market more flexible, and police investigations are more expensive and time demanding. It is widely believed that the problem is increasing.

### **Recruitment**

Save the Children’s interviews with NGOs in the Baltic countries (Estonia, Latvia and Lithuania) indicate that some of the methods employed by traffickers to lure girls to Western Europe for the purpose of exploitation include promises of jobs that typically appeal to the very young, e.g. au pair jobs, bartending or summer jobs in agriculture.

Another area that can similarly serve as a gateway to Denmark is personal ads and marriage bureaus. There are also reasons to believe that e.g. paedophiles can take advantage of marriage to a foreign mother to gain access to her child/children.

The National Organisation of Shelters for Battered Women and Children (LOKK) expresses concern that, despite the limited material serving as the basis for the report, a relatively significant number of cases involving suspicion of sexual abuse of children within marriages have been discovered.

Experience in the Baltic countries indicates that young girls are often aware of the actual ‘job market’ in Western European countries, but they are often not aware that they will have their passports taken away from them, and not conscious about the terrible conditions they will be forced to work under, or the debt that they will quickly incur to their traffickers.

**17. Brun, Henrik og Ulrikke Moustgaard: Dansk Politi Anklages for Smøleri, Information, 29 Juli, 2000; Newspaper articles in Horsens Folkeblad 2004-03-19, Frederiksborg Amts Avis 2004-03-23, Midtjyllands Avis 2004-04-05.**





# **8. ITALY**

**8.1 THE SOCIO-ECONOMIC CONTEXT**

**8.2 POLICIES AND LEGAL FRAMEWORK**

**8.3 TRAFFICKING PRACTICES**





# 8. ITALY

## 8.1 THE SOCIO-ECONOMIC CONTEXT

Since World War II, the Italian economy has changed from one based on agriculture into a ranking industrial economy, with approximately the same total and per capita output as France and the UK. This basically capitalistic economy is still divided into a developed industrial north, dominated by private companies, and a less developed agricultural south, with large publicly owned companies. In the second half of 1992, the situation became unsettled by the prospect of not qualifying to participate in EU plans for economic and monetary union later in the decade; thus the government finally began to address its huge fiscal imbalances. Subsequently, it has adopted fairly stringent budgets, abandoned its inflationary wage indexation system, and started to scale back its social welfare programmes, including pension and health care benefits.

In November 1996 the lira rejoined the European monetary system, which it had left in September 1992 when under extreme pressure in the currency markets. Italy in early 1997 faced the problem of restructuring its economy to meet the Maastricht criteria for inclusion in the Economic Monetary Union (EMU), together with other problems of refurbishing a fragile communications system, curbing industrial pollution, and adjusting to new EU and global competitive forces.

In particular, the traditional dynamism and flexibility of the Italian economy has faltered in recent years, in part because of the unfavourable developments in the international economy. Furthermore, structural reforms have not yet gone far enough to turn the tide. Despite supportive fiscal policies and monetary conditions, growth is sluggish, confidence is at low ebb, inflation is above the euro-area average, and there are perceptions of a pervasive loss of competitiveness. As regards fiscal policy, room for manoeuvre has now been reduced by tax cuts and significant additional corrective measures will be required for some years to come, if medium-term targets are to be achieved and long-term fiscal sustainability is to be assured. Such corrective measures should be of a structural and permanent nature. The pension system is very expensive, in large part because it still encourages early retirement, thus resulting in inefficient public spending and low employment rates. These perverse features need to be removed. Public health spending is not efficiently administered: recent agreements on standards and financing with regions are a step forward, and a more incisive control of costs could derive from the quarterly monitoring of spending that has already been implemented.

In public administration, the retirement of large numbers of public employees creates opportunities for a more effective and less costly redeployment of human resources. Speedier bankruptcy procedures should be introduced that give priority to efficient reallocation of resources.

A last concern, directly connected with migration, is related to black labour market, which is still largely contributing to the growth of the Italian GDP. This hidden component of the Italian labour market involves a big proportion of migrating workers, especially children, working in our country without any right, regulation and social security. In 2000-2001, the Ministry of Welfare controlled 25.000 firms, which employed 12.000 migrant workers. The average of the two years shows that 40% of the migrant workers have irregular job conditions and contracts, and that a fourth of them were without regular residence permits<sup>18</sup>.

**18. See “Dossier Statistico Immigrazione 2002: Lavoratori e Cittadini”, Caritas – Migrantes, XII Rapporto sull’Immigrazione, 2002.**

Italy has ratified the UN Convention on the Rights of the Child (CRC) in 1991, by the ACT 27 May 1991 N°176, but there is not yet any law provision concerning asylum-seeking children, as requested by article 22 in the CRC. Moreover, Italy has not yet ratified the UN Convention on the rights of migrant workers, and the ratification process of the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime” (Palermo, 2000) is still under Parliamentary debate.

## 8.2 POLICIES AND LEGAL FRAMEWORK

The issue of trafficking has recently received a lot of attention in Italy within public opinion, the mass media and national bodies. However, in Italy the degree of the public’s awareness about child trafficking is still not high. Trafficking is generally identified with adult women, and the aspect of trafficking in children is often forgotten. Child victims of trafficking are exploited both on the sex market, where there is great demand, and on the labour market in precarious and underpaid jobs.

Another issue is the common blurring between “trafficking” and “smuggling”. In this report we already provide a clear understanding of the differences between trafficking and smuggling<sup>19</sup>: “smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the irregular entry of a person into a state party of which the person is not national or a permanent resident, while trafficked persons are kept under the control of the traffickers for the final purpose of exploitation. If indeed trafficking constitutes an illegal procedure which should, in all ways, be opposed and eliminated, immigration alone does not, and it can have very positive aspects, such as the right of the individual to seek a better life and opportunities abroad. This confusion in understanding the different forms of trafficking leads to a series of inaccurate analytical interpretations, which in turn result in inappropriate political and operational moves which often damage children and do not protect the best interest of the child.

Moreover, in Italy there is an inclination to tackle the issue of trafficking with repressive measures, as just a matter of security and crime control, while the issue does entail evident violation of a wide range of fundamental rights. Repressive measures can often lead to criminalizing the child victim of trafficking, when he/she is automatically identified as an irregular immigrant, and not as a victim of violations of human rights, leading to prompt repatriation. In spite of the Palermo Protocol (yet to be approved by the Italian Parliament), which provides for fundamental measures for victims protection, the government favours a repressive approach, especially following the approval of the new legislation on immigration, which is conducive to the victims’ criminalisation.

The central measure adopted by the Italian government in the fight against trafficking is the provision for “social protection” permits to foreigners who are victims of exploitation. Indeed, recent legislation on immigration provides that a foreigner who finds himself in a situation of such violence or severe exploitation to the extent that his life is threatened, after attempts made to escape the clutches of a criminal organisation, or fears of reprisal for making statements during the course of a trial against his exploiters<sup>20</sup>, may be issued with a permit “for social protection” to enable him/her to break free from the violence and repression of a criminal organisation and to participate in a social care and integration programme. This measure should also be applied to cases of abuse and danger, which are not necessarily linked to prostitution only, but to other activities (begging, drug selling, etc.). However, it is nearly always only applied in cases of exploitation for prostitution.

The issuing of these permits is decided by Police Authorities (Chief of Police). The imminence and depth of the danger related to the foreigner, and the extent to which he/she is willing and able to cooperate with the police force when providing information against criminal organizations are important factors when

the issue of the permit is being considered. However, following the legislation, charges made against the exploiters by foreigners do not constitute an essential factor for issuing a permit, which is issued even in cases where the victim of abuse is not willing to bring charges against his exploiter.

The permit for social protection is valid for 6 months and can be renewed for a year or for a longer period. It gives the holder permission to work, and it can be converted into a study or employment permit. It can be withdrawn when a programme of social care and integration is interrupted. The application of this measure differs greatly from area to area.

Private bodies may run social care and integration programmes: associations, NGOs associated with Local Authorities, or the Local Authorities themselves (Councils, etc.). NGOs are financed with 30% local funds and 70% State contributions administered by the Ministry for Equal Opportunity. An inter-ministerial commission including the Ministry for Equal Opportunity, Ministry of Welfare, the Ministry of Interior and Ministry of Justice makes the selection. To date 49 organisations have been financed.

The programme is divided into two phases. The first concerns social care and protection, placement in a reception centre, residence permit, legal assistance and psychological support. The second phase aims at social integration, providing with language courses, assistance in seeking jobs and advice on penal procedures. People become aware of social protection programmes in different ways: through the police, associations, clients, street units, hotlines against trafficking and territorial institutions.

Social protection programmes have been the means by which many people have succeeded in freeing themselves from situations of exploitation, have obtained access to protection and assistance, and have embarked on a path towards integration and the possibility of legally remaining in Italy. This legislation has also proved to be very effective for police forces, as, even in cases where people are too frightened to bring formal charges against their exploiter, once they are accepted and become part of a protection programme, they provide useful information for investigations.

The “permit for social protection” can also be issued to children who are victims of exploitation. Most of the time, however, this permit is not issued to children for a number of reasons: children have the possibility to obtain a “resident permit for under eighteens”; the issue of a permit for social protection requires the arrangement of an integration programme; and because this particular path could put pressure on the child from the police to bring charges or to cooperate with the investigations and trials against his/her exploiters. On the other hand, once the child is eighteen, the “resident permit for under eighteens” is not usually converted into a study or employment permit, making the “permit for social protection” a better measure for children’s protection.

In addition to immigration legislation there are significant provisions in the penal code with regard to trafficking, together with Law n. 269 “against the exploitation by prostitution of children, pornography, sex tourism and other contemporary forms of slavery”. The Italian Penal Code provides terms of imprisonment for acts of enslavement, trading in slaves and trafficking, organised crime (mafia type organisations) involved in the trade of human beings, and it provides specific sentences for prostitution and trafficking in children.<sup>21</sup>

Moreover, the Italian Parliament has also passed a bill on trafficking of human beings.<sup>22</sup> This new legislation provides for a response to the need for harmonising national legislation, as expressed by the EU and the UN, introducing into the Penal Code the definition of the offence represented by trafficking in persons. The advantage represented by this new legislation is to avoid ambiguity, as occurred in the past, when interpreting charges. The new law establishes the following:

**19. Look at ‘Definitions’ in this report.**

**20. T.U. 286/98, art.18, co. 1.**

**21. Law n. 269 “against the exploitation by prostitution of children, pornography, sex tourism and other contemporary forms of slavery” (3 August 1998).**

**22. Law n. 228 “Measures against trafficking of human beings” (11 August 2003).**

- specific definitions which allow for a differentiation between trafficking offences, slavery and servitude
- harsher sentences (from 5-15 and 8-20 years, that can be increased by a third or a half in cases of very serious offences such as the removal of organs, prostitution for gain and when the victim is under age)
- stronger protection for children, since sentences are more severe if the victim is a minor
- the introduction of an offence for forcing children to beg and scavenge (5-15 years imprisonment)
- organising with the intent of trafficking constitutes an offence and is punishable
- the establishment of a fund for anti trafficking measures into which confiscated sums will be deposited
- coordination of investigations come under the authority of the National Anti-Mafia Board

As a result of the new law, all cases where a state of “submission” is verified caused by “physical and psychic inferiority” and/or a “situation of need” will be sanctioned. All offenders who take advantage of a state of psychological submission caused by serious economic needs or by a pronounced cultural difference will be prosecuted. The new law also proves to be very important in that it clearly allows for a wide interpretation of “trafficking”, which includes all forms of trading in human beings for the purposes of “exploitation”.

Finally, the law on prostitution sets specific penalties against trafficking in human beings for sexual exploitation, even when violence, coercion and abuse are not involved<sup>23</sup>. The government recently put forward a proposal on prostitution, which would modify the present law, prohibiting street prostitution, but permitting it in private flats. This would jeopardise the efforts of social workers and police forces at national level, by increasing covert activity and by forcing exploitation underground.

In addition, in 2000 a hotline to combat trafficking was set up, which includes a 24-hour central switchboard and 14 local centres, offering information on legal and health matters and on residence permits. From 2000-2001 the Inter-Ministerial Commission promoted an awareness-raising campaign on trafficking in women and children who are victims of trafficking for sexual exploitation. Italy also funded prevention campaigns (such as awareness campaigns) in the countries of origin such as Albania, Kosovo and Nigeria. The National Anti-Mafia Board has made the repression of trafficking one of the principal objectives on its agenda.

At present, Italy has not approved any plan of action against trafficking. Guidelines, however, do exist which recommend capacity-building, awareness-raising campaigns, strengthening of the legal system, strengthening of border cooperation with countries of origin and with the other EU Members States.

#### **Table with Primary and Secondary Legislation in force in Italy:**

##### **PRIMARY LEGISLATION**

- Law n. 55 on Prostitution and the Fight against the Exploitation of Prostitution by others (20 February 1958)
- Law n. 269 “against the exploitation by prostitution of children, pornography, sex tourism and other contemporary forms of slavery” (3 August 1998)
- Law n. 2207-B establishing a Special Witness Protection Scheme (January 2001)
- Law n. 5029 against Trafficking of Persons amending the Penal Code (new articles 600 and 602bis) (March 2001)
- Law n. 228 “Measures against trafficking of human beings” (11 August 2003)

##### **SECONDARY LEGISLATION**

- Presidential Decree n. 394 bringing regulations and norms relating to immigration and aliens in line with article 1, paragraph 6 of the Legislative Decree n. 268 (Chapter IV: “Provisions of a Humanitarian Nature”) (30 August 1999)
- Legislative Decree n. 286/98 on Immigration and Aliens – article 18 referring to the granting of temporary residence permits (25 July 1998)

#### **23. Law n. 55 on Prostitution and the Fight against the Exploitation of Prostitution by others (20 February 1958).**

## 8.3 TRAFFICKING PRACTICES

### Available Data and Countries in the Trafficking Cycle

Trafficking in women and in children for the purpose of exploitation and profit concerns different geographical areas, in particular South-Eastern Europe, ex-USSR countries, Nigeria and some areas of the Indian sub-continent and South-East Asia as well as areas that include several African countries on the Guinea Gulf and some Latin American countries. These flows are directed towards different European destinations such as Greece, Italy, Austria, Germany, Baltic Countries, France, Spain, Portugal, and the United Kingdom. Italy is affected by trafficking in children as a destination country as well as a point of transit on the route from Eastern Europe and North Africa towards central and northern Europe.

At the beginning of the 1990s, the arrival of women and children from Albania was recorded. They were accompanied by parents and fictitious boyfriends and had often been abducted in their own country. The mid-1990s saw the arrival of women from Eastern Europe, especially Romania. This appears to be caused by the Security Forces cracking down on Albanian organised crime, meaning that other routes and recruiting areas for trafficking had to be found (countries on the Albanian border: Kosovo, Romania, Moldavia). According to information recently provided by workers in reception centres, the presence of Albanian minors is falling, whilst that of women and children from Bosnia is rising. The major national groups running this trafficking are Albanians and Romanians and, since the 1990s, African and ex-Yugoslavian citizens.

The only reliable and available data come from the statistics made by the Equal Opportunity Department on the number of permits for social protection issued under the umbrella of article 18, Legislative Decree n°286/98. The Italian National Institute of Statistics (Istat), in fact, when dealing with foreigners in Italy, disaggregates data on the issue of residence permits only in categories such as work, family, religion etc, while social protection permits are countered as “others”. In particular, data coming from the Equal Opportunity Department, and elaborated by the Inter-ministerial Commission for the implementation of article 18, shows that in the period between March 2000 and February 2001 there were 240 cases of underage girls entering social protection programmes, 134 of which coming from Albania and Romania.<sup>24</sup>

### Types of Trafficking

In Italy trafficking in children is strongly connected to sexual exploitation. However during the last decade a number of other forms of exploitation and abuse have clearly emerged in direct connection with child trafficking, such as illegal labour exploitation, begging, international adoption, and in a few instances the sale of organs. However, there are no official data available on these types of exploitation.

The forms of sexual exploitation in Italy vary from abusing children in the child pornography milieu involving child-actors, from children being compelled into street prostitution to confinement in brothels. Nearly always the very young age of these child prostitutes is considered as added value, which is especially sought after on the sex market. According to an estimate based on figures from associations and care workers, in the period from 2001 to the spring of 2002, prostitution in Italy varied between a minimum of nearly 10,000 workers to a maximum of 13,000 with a presence of minors ranging from 4.3%-6.2% (i.e. an average of 5.2%) this is a total figure of between 542 and 663 victims, of which the majority were trafficked women from Eastern European countries, in part Albania, Moldavia, Romania and Nigeria (these figures are based on applications made for social protection). Significant is the fact that although Nigerian women represent the group which has made the largest number of applications for social protection, (50% of the total of 5.577 subjects), the presence of minors amongst them is quite low.

**24. For a full description on national data on residence permits and on the judicial activities see “Articolo 18: tutela delle vittime del traffico di esseri umani e lotta alla criminalità (l’Italia e gli scenari europei)”, Rapporto di Ricerca, On the Road, 2002.**

## Trafficking Networks

We know of networks of individuals in Eastern European countries engaged in the business of buying and selling victims for profit which could in part explain the high percentage of victims from those countries. Often there is no clear plan as to their possible destination or the initial plan sometimes changes entirely.

It seems that there is a very well organised network of criminals operating in synergy to manage the entire process. The criminals dealing with sexual exploitation commission an agreed number of victims from the recruiting part of the chain. Once the victims have been found, the trafficking ring takes charge of them until the final destination, where the exploiters wait for them. A big number of people, each with a specific role, are involved in the various phases of the trafficking cycle. The network highlights the existence of illegal connections among different criminal organisations. The one that specifically deals with trafficking probably has a vertically organised structure.

## Recruitment

The trafficking process is almost the same in all cases. The starting point is an Eastern European country: Romania, Bulgaria, Moldova, Ukraine, Russia and the Baltic States. Local people, responsible for recruiting girls and boys to be trafficked and exploited abroad, usually manage the first stage of the process, namely recruitment. They look for girls and boys living in poor socio-economic conditions, without fixed jobs or unemployed, and seeking regular and legal jobs elsewhere, even abroad. The actual recruitment is conducted by means of advertisements in local newspapers. Young girls and boys are then persuaded to leave their countries with false promises of legal job as waitress or housemaids. It can be the case that the victim knows directly or indirectly the recruiter and he/she trusts him/her because they are friends or acquaintances, and as a consequence they leave the country of origin voluntarily and in possession of their legal and regular documents, which are then taken away by the criminals as soon as they cross the border.

Some recruitment does occur (though it appears to be in very few cases) through kidnapping<sup>25</sup>. This generally happens when victims do not agree to the proposal made by recruiters. If the victims reject the proposal made to them, the criminal organisation seeks to convince them by means of violence, threats of reprisals against their family and themselves and rape. Another method used by recruiters is to get engaged with young victims girls in order to reassure their families<sup>26</sup>. Once couples arrive at their destination the situation changes completely, with the girl put to work on the streets, sometimes with the emotional relationship being maintained.

## Trafficking Routes

The geographical destination is not always clear from the outset, and the victims are compelled to wander according to the will of their different “owners”. Only in a few instances do the exploiters directly commission the recruitments, while usually the victims are recruited to be sold repeatedly before they finally reach their destination and their final exploiters. Sometimes travel plans are changed due to unexpected events (e.g. relationship problems between the victim and the owner, attempts by the victim to escape, his/her actual escape, etc...). However, the traffickers always find a way to sell the victim to someone else and/or somewhere else.

The type and duration of the travel period changes significantly from one case to another, depending on the routes followed and the people encountered along the way. However, there are a number of common features: violence, threats and rape. These often represent the only means for traffickers, and eventually exploiters, to destroy the victims' self-confidence and subjugate them both physically and psychologically. According to a recent study conducted by the University of Trento<sup>27</sup> it appears that traffickers use the following routes:

■ The first East-West route is used by traffickers from Ukraine (the recruiters), Slovenia, Yugoslavia and Italy, whose nationalities are indicative of the method adopted by the traffickers. Ukraine, Russia, Moldova, Bulgaria and the Baltic States are the preferred places of origin of the victims, while the border used for irregular entry into Italy is the Italian-Slovenian one along the boundaries of the provinces of Trieste and Gorizia. This is a geographical 'loophole': forest paths are well hidden in the woods and difficult to access, and police controls have been reinforced only recently. The victims to be trafficked are taken from Bulgaria and other Eastern countries to Budapest, which appears to be an important meeting point of people both to smuggle and to traffic. The traffickers use different means of transport to reach Budapest, according to the place of origin. After the victims have passed through Hungary, they are introduced into Slovenia (Maribor or Ljubljana), where they are lodged in houses (sometimes still under construction) while they wait to be smuggled to Italy. The traffickers use a lorry when there are more than twenty women to be trafficked, while they prefer cars (or taxicabs) for women travelling in small groups. The victims are driven at night to forested areas close to the border, where a passeur is waiting to take them across the border on foot through the woods. Once in Italy, the passeur hides the victims in the forest, where they wait for another person/other persons with cars to collect them. The journey continues along the Trieste-Venice highway. At a service station previously agreed by traffickers (usually Fratta), the victims are handed over to another member of the criminal chain, who takes them to Venice-Mestre (railway station) or some other destinations (Bologna, Rimini, Rome or other cities in the centre/north, depending on the person who has commissioned the victim).

■ Albanian crime groups manage the second East-West route. These organizations - unlike their Eastern European counterparts - do not operate a single trafficking route, but use two main methods. On the one hand they recruit victims from among their nationals in Albania, while also they taking victims from other Eastern European countries, such as Moldova, Romania and Bulgaria, although some victims are from Ukraine and Russia as well. Conversely, some victims from Bulgaria are trafficked via the first route described above. The trafficking route to Albania - the collecting country where the entire process is organised - passes through: Moldova, Bulgaria, Romania (recruitment places); Hungary; Serbia; Montenegro; Albania (intermediate destination). Not all of these places are traversed during a single journey: the countries and cities involved depend on the origin of the victims, the schedule drawn up for the journey and the destination of the victims recruited. No precise data is available on the means of transport used by traffickers: planes, cars, trains, boats and motorboats are used in different combinations. The last part of the journey from Albania to Italy is common to both trafficking routes. The main departure points in Albania are Valona and Durazzo, from where, after the well established motorboat services provided by Albanian passeurs have been used, the victims are disembarked on the Apulian coasts near the cities of Lecce, Brindisi and Bari.

**25. One is known to be occurred in Albania and one in Bulgaria. Source: "A pilot study on three European Union key immigration points for monitoring the trafficking of human beings for the purpose of sexual exploitation across the European Union", Transcrime, Trento.**

**26. This feature was also found in Bulgaria and Albania: *Ibidem*.**

**27. *Ibidem*.**







# **9. ROMANIA**

**9.1 THE SOCIO-ECONOMIC CONTEXT**

**9.2 POLICIES AND LEGAL FRAMEWORK**

**9.3 TRAFFICKING PRACTICES**



# 9. ROMANIA

## 9.1 THE SOCIO-ECONOMIC CONTEXT

In the last decade, the negative effects of the transition process have led to a rapid and substantial degradation of the living standard for an increasing proportion of the population, especially families with children. The disparities between different segments of the population have only been accentuated during this period. The economic, political and social transformation process has been accompanied by an explosive increase in poverty, exacerbating basic human deprivation and increasing inequality in the distribution of resources and inadequate social protection. The social groups most affected by poverty are the families with more than three children, Roma communities and lone older women. From 1991 to 2002 there have been two trends in the unemployment rate: an increase from 3.0% in 1991 to 11.8% in 1999, and a subsequent decrease to 8.1% up to 2002. From 1990 Romania's population began to decline. From 1992 to 2002, the total population of Romania decreased by approximately 1 million (4.2%) people. The key underlying factors contributing to this situation are the decreasing birth rate, the increase in the mortality rate and in the levels of emigration. In the long term, the process of demographic aging is likely to have a negative impact on socio-economic development, human resources and the social security system.



## 9.2 POLICIES AND LEGAL FRAMEWORK

### National Law

- The Law no.678/2001 on Preventing and Combating Trafficking in Human Beings is the first law to criminalize trafficking and sets out the main responsible institutions for combating this phenomenon.
- The actions envisaged by the Romanian Government for combating this phenomenon are regulated in the Government Decision no.1216/2001 on the adoption of the National Plan for Combating Trafficking in Human Beings. All the activities set by the National Action Plan against Trafficking in Human Beings will be carried out with the direct participation of the communities, intergovernmental organisations and NGOs. Besides the consolidation of the legal framework, with the implementation of the National Action Plan, the law enforcement organisms and institutions have been reformed in order to better respond to the new challenges, internal and regional, and complement their counterparts in the European Union states. As a result the national police and the Romanian border police have acquired new mandates; an Inter-ministerial Working Group for the coordination and evaluation of the activities for the prevention and combating of trafficking in human beings was created; the responsibilities of the General Division of

Combating Organised Crime and Drugs were strengthened in the field of human trafficking; a partnership between the Ministry of Education, IOM and Romanian Patriarchy which will undertake awareness raising campaigns in schools was established.

- The Regulation for the application of the Law 678/2001, adopted by the Romanian Government in 13th March 2003, details the responsibilities of the main actors in combating and preventing human trafficking.

- The Governmental Emergency Ordinance 105/2001 regarding the State Border of Romania refers to the sanctions imposed on those who break this law.

- Some provisions of the Government Ordinance 112/03.09.2001 referring to the punishment of some actions committed outside the territory by Romanian citizens or by persons without citizenship resident in Romania are linked to the trafficking issue i.e.: Art .2 – (1) The action of the Romanian citizen or of the person without citizenship resident on the Romanian territory who takes, guides or leads one or more persons for the purpose of the fraudulent passing of the frontier of a foreign state or who organise one or more of these illegal activities is considered an offence and is punished with imprisonment from 2 to 7 years.

- Law No. 196/2003 on preventing and combating pornography defines pornography and stipulates penalties (imprisonment) for the use and involvement of children in pornographic activities, the distribution of pornographic materials to children, and performing pornographic activities in front of children.

- Law 39/2003 regarding the prevention and combating of organised crime defines pimping, trafficking in human beings and enslaving as very serious crimes. An organised group for committing one or more very serious crimes (as defined by the law) is considered a criminal group. The initiation, organising, membership or support by any means of a criminal group represents a crime and is punished with prison from 5 to 20 years and the depriving of some rights. The law is focused on defining the procedures at national level and also on international cooperation for preventing and combating organised crime.

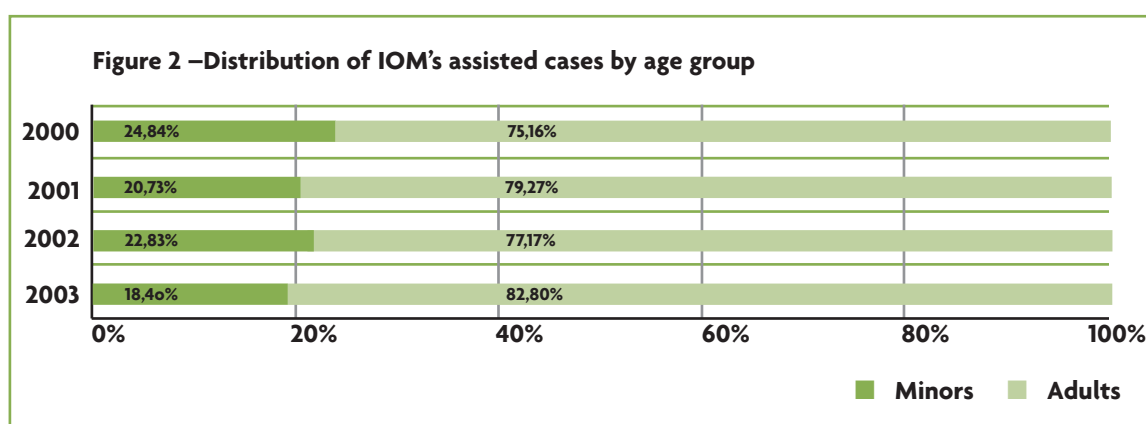
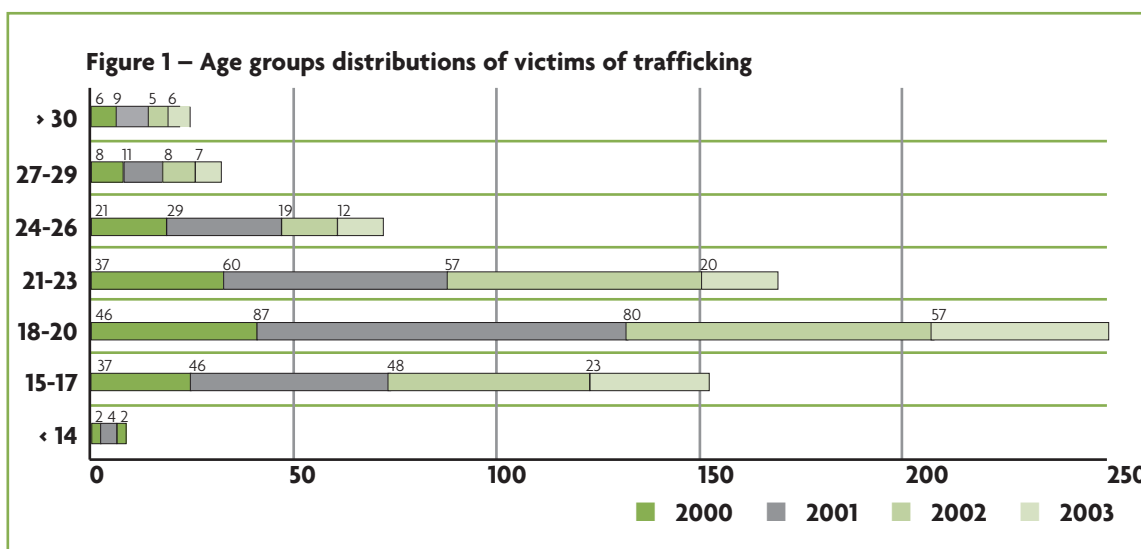
## Bilateral Agreements

The Romanian Government signed cooperation protocols for combating crime, especially cross border crime with most of the countries in the region. One important field of cooperation is combating trafficking in human beings, most of the bilateral agreements emphasising the need for common actions in the field of child trafficking and sexual exploitation of children. The countries that Romania has signed agreements with are: Bulgaria, Greece, Albania, Armenia, Croatia, Moldova, Ukraine, Cyprus, Czech Republic, and Poland. In addition an agreement on combating human trafficking has been signed between the member states of the Economical Cooperation of the Black Sea: Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldavia, Romania, Russian Federation and Ukraine. A memorandum of agreement referring to the protection of the unaccompanied minors has also been signed with France and the Italian Turin Province.

## 9.3 TRAFFICKING PRACTICES

### Available Data

The main source of data on Romania is IOM Bucharest, which has the leading role in identifying and repatriating victims of trafficking.



The proportion of minors assisted by IOM Bucharest during 2000-2003 was 22%, this rate being higher in the last year.

## Countries in the Trafficking Cycle

Romania is a country of origin (as are Bulgaria, Kazakhstan, Moldova, Russia and Ukraine). Most victims of trafficking come from the Northern area of the country (mostly from Moldova and the Maramures areas) and from the border areas. It is also a transit country, primarily for women and girls trafficked to Bosnia, Serbia, Macedonia, Kosovo, Albania, Greece, Italy, and Turkey for the purpose of sexual exploitation. In addition Romania is a destination and transit country for Moldovans and, more rarely, Ukrainians.

Until 2002, the Balkans represented the area to where Romanians were mostly trafficked, as it was from here that the majority of the victims were being repatriated. Romanians and Moldovans<sup>1</sup> were often first trafficked to Serbia and Montenegro, and then to other Balkan or Western European countries. Women and children trafficked from Romania have been reported in Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia (including Kosovo). In addition, such cases can be found in Western European countries like Belgium, Luxembourg, and France. Beyond Europe, isolated cases of Romanian victims trafficked in Cambodia, Canada or South Africa have been reported.

Starting with 2003, the main destinations for Romanian victims of trafficking have been Spain, Italy, France, The Netherlands, Austria and Greece. The biggest number of trafficked children and also separated children abroad have been returned from these countries. This change in the destinations of child victims of trafficking is closely related with the migration for work, but also with the demand from these countries.

## Average Age

Children represent almost 25% of the total number of Romanian victims. Most of the cases repatriated by IOM are 15 to 17 years old and 18 to 20 years old. But it is important to note that many of the cases that were 18 to 20 years old at the time of repatriation were trafficked while they were still minors.

## Types of Trafficking

Most of the evidence is related to cases of trafficking for sexual exploitation, but also cases of labour exploitation are reported. The problem that occurs is that destination countries become more diverse, indicating an increase in the number of criminal networks, and also in the “demand” for sexual exploitation victims. Trafficking in children for sexual exploitation is more linked with the victim’s sex than their age. However, the victim’s age and physical appearance are factors in the prices that the traffickers apply in buying and selling their “little slaves”. In some cases, the victims are considered too young for prostitution and thus forced to work. Usually, sexual exploitation is combined with other different types of work (like waitressing or cleaning in bars).

Regarding separated children abroad the phenomenon is also related to a general willingness to move to a western country for work. This could explain the fact that the majority of those children are male. But then these children are in danger of being recruited and trafficked by criminal networks in the destination countries. The General Division for Combating Organised Crime and Drugs reported that they assisted the repatriation to Romania of 192 unaccompanied children abroad in 2001, and 205 children in 2002. 25,3% of these children declared that they had been trafficked.

During 2003, 1034 separated children were repatriated from the territory of 25 European countries, mostly from Italy (296 children), France (96 children), Belgium (77 children), Germany (76 children), Spain (75 children) and Austria (68 children) [Provide source for these figures]. Until March 2004, out of the children repatriated in 2003 402 children were interviewed, 93 stating that they were victims of trafficking. As some of the children could not be interviewed immediately at the time of being returned (because they are traumatised, frightened and it has to be created a trust relationship between the child and social worker) the General Department for Combating Organized Crime and Anti Drugs estimates that children repatriated in 2003 will be interviewed until the middle of 2004.

## Trafficking Networks

Trafficking networks are well structured with strict rules that regulate their activities. The heads of the networks conduct the activity and control the actions of the members. We know at least 4 ranks of traffickers: the recruiter (the one that identifies the child and processes the recruitment), the person that obtains the legal documents and arranges the transportation, the transporter (the one who cross the border regularly or irregularly with the child) and the person that receives, hosts and exploits the trafficked child. Each category can be filled by one or more persons.

Members of the networks have usually known each other for a long time, and they act on the principle of maximising the profit. The internal mechanisms of the criminal networks operate under the cover of other legal activities. These help them in analysing their actions from an economic point of view (studying the demand, distributing, promoting etc). Thus, we can say that there are differences in traffickers’ practices by the type of exploitation. In the case of trafficking for labour exploitation (begging, stealing), the traffickers will adopt a strategy of rotation of children. The “administrators” of the areas where the children are exploited alternate the children’s places in order to increase the profit made by different persons. Usually, the children remain with the same traffickers. The reason is that the exploiter gains authority over the child, using force or other violent coercive methods, and the child will consequently obey them.

In the case of trafficking for sexual exploitation, children are sold to different exploiters (e.g.

there is a case of a 15 year old girl from Romania who has been sold in Macedonia 22 times). The traffickers use this practice in order to increase the price of the victim with each sale. The exploitation takes place in specific places (bars, brothels, saloons etc) that the same traffickers control. The child is moved only once he/she is sold to another exploiter. Another reason for changing traffickers is that the clients from a specific area are usually the same, so the traffickers swap children in order to maintain the clients.

## Recruitment

There are different means of recruitment, depending on the victim's profile. All of them are taking advantage of the desires of the victim for a better life and their lack of hope in finding success in Romania. Most of the recruiters make false promises of good jobs abroad (directly or by ads in printing press) or arrange false marriages, while kidnappings are rare, and more characterised by violence from the beginning.

The most common form of recruitment is the false promise of a job abroad, which would be obtained through their relatives, acquaintance or friends. Parents are sometimes also involved in trafficking their children, giving their agreement for them to leave the country, even if they know what it will happen to them. The ads in the printed press address all ages, but usually girls over 18. The ads are attractive in three ways: they offer jobs in EU countries (usually Italy, Greece, Spain, France), requirements often concern physical aspects and not educational skills, and they offer a salary that is impossible to obtain in the native country. The ads can also come from marriage agencies. Girls leave the country persuaded that they are already married with a person that they saw in a picture or with whom they spoke on the telephone. In this way the girls benefit from a visa for a certain period of time.

In cases of boys and girls under 18 that are known as active prostitutes, recruitment is done by promising a job that would involve "innocent" sexual activities in private clubs or massage centres, by presenting more advantageous possibilities for prostitution or by buying them directly from local pimps.

An important aspect of the recruitment is the fact that some of the children that are trafficked for the purpose of labour exploitation (begging, petty crime), or for sexual exploitation, leave the country with their family (parents, relatives), who sell them to traffickers in the destination countries. Some of those families are going back to Romania where they regularly receive an amount of money from the traffickers that exploit the child.

## Trafficking Routes

Since 1st February 2002, Romanian citizens have not needed visas for almost all Schengen countries. This has resulted in an increase in migration for work (mostly for temporary jobs on the black market) to EU countries but also in the trafficking of children (for labour exploitation, begging, prostitution). Unfortunately, there is no official data on this because most of these children are only identified as separated children.

Trafficked children cross the border mainly regularly, the irregular cases being rare. Although, if the victim is younger, the chances of them irregularly crossing the border increase, due to the extra documents needed at the border.

In cases of legal border crossings, many techniques are used, the most common being:

- legal papers that prove the purpose as tourism
- legal papers and an invitation from relatives
- group tourism
- family reunification
- fictitious marriages



The means of transportation used more frequently for crossing borders regularly are:

- trafficker cars
- taxi
- public transportation (buses, train)

The trafficked children that leave the country irregularly are transported to the border in traffickers' cars, or by public transports (taxi, train, bus). At the border, children are taken over by another person (the guide), who knows how to avoid the border checkpoints. During the night they cross the border walking through the wood or by boat.

Usually trafficking routes are the same routes of migration for temporary work - victims of trafficking leave the country believing that they are going to have a job abroad. In cases of leaving the country legally, the border is crossed usually at Nadlag and Bors (in the West part of the country) and Stamora Moravita (in the SouthWest).

The case of Romanian separated children in EU Countries is more complex. For example, in the case of Romanian separated children in France, who are coming in large numbers from the Maramures area, crossing the border takes place in the area of Arad or Oradea, through Hungary. Routes are pre-established in the case of children recruited by traffickers in Romania. Following the structure of the trafficking network, the child is taken over by different persons to different points of the route, until he/she reaches the person that will exploit them. There are cases when the recruiter is not a member of a trafficking network, but has found a contact (a trafficker) in another country and enters for the first time in the network. This is the case of the children that are sold by their parents or relatives.

When children leave for destinations such as France, Italy or Spain, their parents or relatives usually accompany them. There are cases when the family go back to Romania, because they do not want to stay irregularly in a foreign country, and the child is forced to enter into begging or theft networks. The child is exploited and the head of the trafficking network sends money to the family. This is the case of many unaccompanied children abroad. Some of the unaccompanied children abroad leave the country alone, and then find themselves at great risk of being trafficking in the destination country.







## **10. SPAIN**

**10.1 THE SOCIO-ECONOMIC CONTEXT**

**10.2 POLICIES AND LEGAL FRAMEWORK**

**10.3 TRAFFICKING PRACTICES**



# 10. SPAIN

## 10.1 THE SOCIO-ECONOMIC CONTEXT

Following a deep political, social and cultural change in Spain during the last years, the Spanish general socio-economic situation has completely changed from 30 years ago. Spain is a democratic country with a population of more than 40 million, which has changed from being ranked 57th in the world for mortality rates of children below 5 to being the country with the 4th lowest rate; with 98% adult literacy and 100% of the child population in the educational system and 79 year life expectancy at birth (UNICEF, 2004).

Spain became part of the European Union in 1986 and received substantial EU financial aid, which is going to be reduced in the next years. Economically healthy, Spain has a thriving middle class but also a sizable section of the population living below the poverty line.

Society maintains a traditional structure with young people continuing to marry and to buy houses, but divorce is likely to represent 51% of marriages in ten years time. The high price of houses, high unemployment (two million) and the lowest birth rate in the European Union (1.2 children per woman) are also significant problems.

Spain became conscious of the importance of children in policy development, both at national and regional and local level. Spain ratified the UN Convention on Children Rights in 1990. Since then, the situation of children in Spain has improved, as well as the awareness of their needs and rights as people.



## 10.2 POLICIES AND LEGAL FRAMEWORK

As regards the Spanish legal framework, the lack of a specific national regulation on trafficking in human beings must be emphasised. But there are several measures aimed at fighting against the trafficking and exploitation of immigrants, which have been taken by the Spanish Government through the current *Immigration Law* (LO 8/2000, 22nd of December 2000).

Spanish Legislation, when dealing with the illegal trafficking of persons, does not address the specific crime of trafficking in children, but includes it as an aggravating circumstance in the corresponding sentences for trafficking in persons. The crime of trafficking in children for the purpose of sexual exploitation is included as a crime in the Penal Code. The illegal trafficking of persons is established as a “very serious” crime in Immigration Law 8/2000 (Article 54b)<sup>28</sup> and in the Penal Code (article 318 bis) against the rights of foreign citizens. In addition to outlining the punishment for those who “induce, cause, favour, or facilitate, as part of a lucrative organisation, the clandestine immigration of persons”, the Immigration Law also offers protection to trafficking victims. In exchange for testimony against traffickers, victims are given immunity from immigration sanctions and offered temporary residence and work permits, as well as assistance in social integration<sup>29</sup>.

**28. Art. 54.1b, Foreigner’s Law. The corresponding sanctions for very serious violations are detailed in art. 55.1c, FL.**

**29. Art. 59, FL; art. 98, IRFL.**

A first classification appears in the article 318 bis, introduced in the current Immigration Law, which sanctions all of those who promote, favour or undertake illegal human trafficking from, through or towards Spain. The penalty can be six months to three years imprisonment. It establishes greater penalties (of two to four years) when acts are perpetrated with the intention of gaining profit, or the use of violence, intimidation or deceit or abusing the dependence of the victim. The established penalties will be applied to their maximum in three particular cases, the first of which specifically makes reference to the case in which the victim of trafficking is minor, i.e. if the life, the health or the integrity of the victim is put in danger, or the victim is minor.

The *Immigration Law* also provides for specific sanctions relating to criminal activity of organised networks, that is to say structures created to make profit whether it is through the transportation or through the exploitation of the transported people. It is difficult to determine however what is an organised network. In addition, coming back to the initial distinction of the trafficking concept, it is not always easy to identify when we are dealing with smuggling only or when the element of exploitation exists or is intended, making it trafficking people.

In May 2003 the Spanish government declared its intention to reform the Foreigners Law for the third time in two years. One of the primary reasons cited for reform was the toughening of the fight against irregular immigration and the mafias that benefit from it. Proposed amendments include toughening sentences for those found guilty of human trafficking (e.g., higher fines and mandatory expulsion from Spanish territory) and sentencing individuals not belonging to mafias and not actually profiting from human trafficking.

All this shows how Spanish legislation places more emphasis on trafficking as an immigration-related crime rather than on the element of exploitation of the person in the migratory process. And in turn this raises the question of which values Spanish legislation is prioritising: it does not appear to be the rights of trafficked victims but rather the desire to control criminal networks and immigration flows.

It is unclear to what degree the Spanish government has managed to collaborate with its European neighbours and foreign countries of origin in the fight against trafficking in children. Political measures such as the launch of Operation Ulysses in late January 2003 have been heralded by government officials as international weapons in the common fight against trafficking and the mafias that profit from irregular immigration. While there is no doubt that many undocumented immigrants, especially those who arrive in Spain in small boats, have been assisted and exploited in their journey by trafficking mafias, many individuals and organisations consider Operation Ulysses (as well as SIVE, a high-tech security system built to detect boats in the waters between North Africa and Spain<sup>30</sup>) an attempt to fend off the arrival of the immigrants themselves rather than to protect them from traffickers. In part, this interpretation grows out of the following paradox: the government's concern, as represented by the topics on which legal revisions and political discourse are centred, seems strongest for immigrants' well-being *before* they reach Spanish territory. There is noticeably less [public] attention given to Spanish police efforts and operations to route out mafias and individuals exploiting children and adult immigrants *within* Spain.

Within Spain, child welfare authorities consider it the responsibility of the police to identify and reach out to potential minors caught in prostitution rings or other exploitative mafia operations, an intervention which is hindered by various factors. To begin with, prostitution victims are often petrified by the consequences that will befall them and their family members if they escape from the mafia. For instance, in order to stay out of the centres of protection, minors will claim to be adults<sup>31</sup>, which is easily supported by false documentation and not easily disproved by the inaccurate age assessment system. In the event that the prostitution victim is proved to be a minor, the mobility of the mafias running these rings becomes the next serious hurdle. If a ring suspects outside assistance to have reached one of its victims, that individual is quickly transferred to another place or city. Without sustained contact with a victim, it is impossible to carry out a meaningful intervention.

**30. In the opinion of immigrants' advocates, the SIVE system has significantly increased the death toll in the waters between Africa and Spain. The trafficking mafias now direct their cargo to areas of the coast that are far more dangerous, in order to remain undetected. Correspondence with Arce, 22 July 2003. 30. The Spanish legal and child welfare systems can be easily misrepresented by the traffickers to make girls fear the consequences of admitting their minority.**

**31. The Spanish legal and child welfare systems can be easily misrepresented by the traffickers to make girls fear the consequences of admitting their minority.**

Once security forces succeed in detecting a child victim, (s)he will most usually be placed in the system of protection. In one autonomous community, the director of a reception centre revealed that each year several victims of trafficking and sexual exploitation arrived at the centre through the intervention of the police and/or private associations, from where arrangements were made with the authorities of their countries of origin for their family reunification. In some instances, the victims remained in hiding in the houses of the individuals or associations that had reached out to them, never entering a Spanish protection centre, while child welfare authorities coordinated the child's return home.

Neither the Public Prosecutor for Children<sup>32</sup> nor the Ombudsman<sup>33</sup> in different communities pointed to having done significant work on the problem of child trafficking, though they expressed willingness to investigate any related complaints that reached them. All parties recognised the heightened vulnerability presented by child trafficking victims and acknowledged that their needs were not being sufficiently met, due in part to the extreme difficulty of carrying out a successful intervention with them.

**32. For a concise, clear explanation of the Public Prosecutor in Spain, see HRW, *Nowhere to Turn*, 2002 p. 10. The Public Prosecutor for Children has a confusing and sometimes paradoxical role to play in the ambit of child protection. He can “prosecute” on behalf of or against a separated child. The PPC is responsible for both protection the rights of children under the protection of the state and the prosecution/assigning of punishment to child who has committed a crime. The PPC also has the power to investigate complaints that reach his office.**

**33. For a concise, clear explanation of the Ombudsman in Spain, see HRW, *Nowhere to Turn*, 2002 p. 10. The Ombudsman's office in each community plays a “watchdog” role. It is responsible for investigating the complaints that reach its office and can pass complaints on to the Public Prosecutor.**

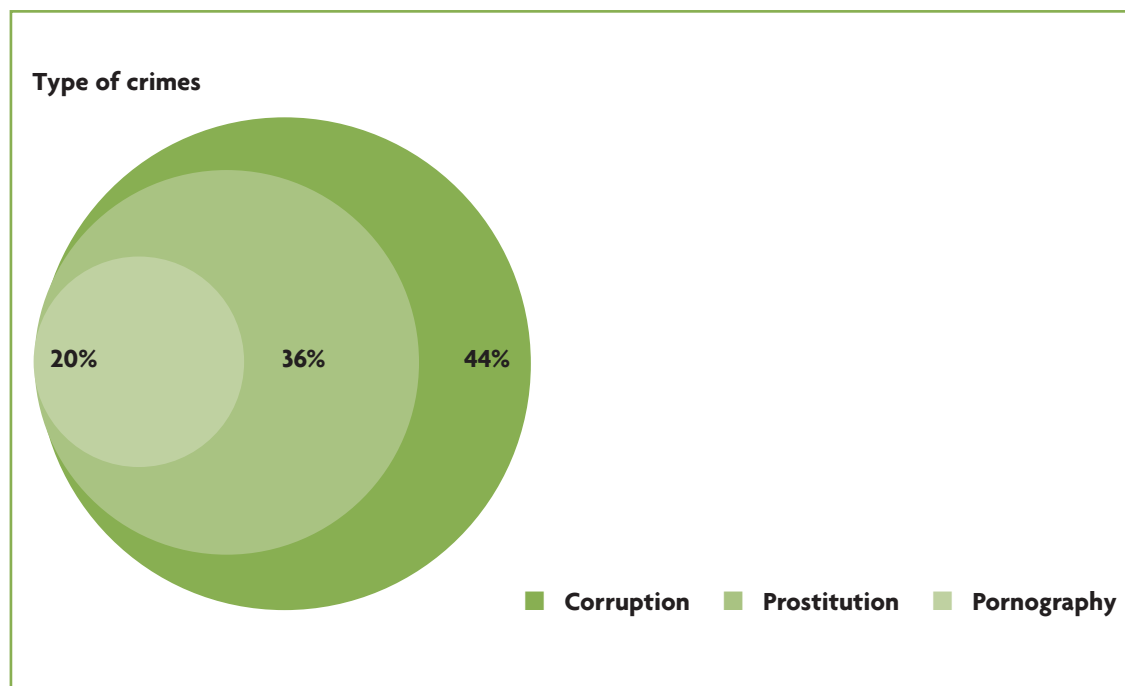


## 10.3 TRAFFICKING PRACTICES

### Available Data

**TABLE 1. Sexually Exploited Children by Age Group, year 2002**

CRIMES AGAINST FREEDOM AND SEXUAL INDEMNITY	VICTIM YOUNGER THAN 12	13	14	15	16	17	18	TOTAL
Prostitution	2	1	0	3	9	23	60	98
Child Corruption	19	9	7	7	7	13	3	65
Child Pornography	24	3	3	6	2	0	0	38
<b>Total victim girl</b>	<b>45</b>	<b>13</b>	<b>10</b>	<b>16</b>	<b>18</b>	<b>36</b>	<b>63</b>	<b>168</b>
Prostitution	1	0	1	0	0	1	0	3
Child Corruption	36	11	4	17	9	3	0	70
Child Pornography	12	4	0	2	5	0	0	23
<b>Total victim boy</b>	<b>49</b>	<b>15</b>	<b>5</b>	<b>19</b>	<b>14</b>	<b>4</b>	<b>0</b>	<b>106</b>
<b>Total</b>	<b>94</b>	<b>28</b>	<b>15</b>	<b>35</b>	<b>32</b>	<b>40</b>	<b>63</b>	<b>274</b>



Source: Save the Children Spain.

**TABLE 2: Separated Children: distribution by Autonomous Regions.**<sup>34</sup>

AUTONOMOUS REGIONS	CHILDRENS
Cataluña	1.341
Andalucía	1.251
Valencia	1.070
Pais Vasco	773
Isla Canarias	646
Ceuta	325
Melilla	173
<b>Total</b>	<b>6.329</b>

Source: Immigration Office (2002).

## Countries in the Trafficking Cycle

Women and girls arriving in Spain are mostly from Eastern European countries. Many victims are recruited in Romania and transported to Spain in vans. Spain is a country of destination for child trafficking and a country of transit in many cases for other destination countries in Europe.

**TABLE 1. Trafficking for Sexual Exploitation: distribution by Country of Origin.**

COUNTRY OF ORIGIN	VICTIM BELOW THE AGE OF 18
Romania	16
Bulgaria	1
Moldova	1
Venezuela	1
<b>Total</b>	<b>19</b>

Source: Police (2002).

**TABLE 2. Separated Children: distribution by Area of Origin.**

COUNTRY OF ORIGIN	VICTIM BELOW THE AGE OF 18	%
Africa	5.307	83,85%
Europe	702	11,09%
Unknown	146	2,31%
America	131	2,07%
Asia	43	0,68%
Oceania		0,0%
<b>Total</b>	<b>6.329</b>	<b>100%</b>

Source: Immigration Office (2002).

**34. Please note that trafficking victims within these figures are not identified.**

## Types of Trafficking

The main problems identified in Spain are trafficking for sexual exploitation and in particular for child pornography.

There are some cases of networks of labour exploitation and some armed violence networks that use children to commit crimes because they know it is more difficult to punish them. We have not found evidence of trafficking in organs.

## Recruitment

The trafficking process is similar in all cases: a recruiter in the country of origin contacts the victim. The recruiter seeks to convince the victim of the economic advantages of working in Spain. In some cases the victims are told the truth about the job awaiting them in Spain, but their recruiters lie about the employment conditions and assure them that after some weeks of work they will be able to repay the sums due. Sometimes captors do not tell the truth about the work that the victims will be have to do in Spain, telling them that they will be employed as cleaners in hotels, child minders, etc. In other, more infrequent cases, the victims are kidnapped, brought to Spain and forced into prostitution.

Recruiters always provide the documents and money necessary for the journey to Spain. They obtain passports, invitation letters, airline tickets, etc., and also give the victims around € 2.000 to ensure that they are not stopped by the police because they do not have enough money to pay for their holidays. This sum of money must always be repaid to the member of the organisation who meets the victims on their arrival in Spain. In exchange for these services, the captors tell the victims that the money advanced can be reimbursed in Spain after a few weeks of work.

## Trafficking Routes

The trafficking routes depend on the victims' countries of origin. When coming from the Eastern European countries in all cases the victims travel to Barcelona with a stopover in Italy or Hungary. In most cases, the victims have worked in places situated on the Eastern coast of Spain. This explains why all the victims travelled to Barcelona, given that it is closer to that coast than Madrid. In one case, the final destination was Madrid, but the victim also transited through Barcelona. In general, the women travelled by plane; only in one case did the victim arrive by land.

When coming from South America, there are two main routes. The first involves travelling directly to Madrid or somewhere else in Spain, as planned. The second route brings women into Europe through a Schengen country (e.g. France, Germany) other than Spain and thence to Spain by car. In one case, the first part of the journey was undertaken by plane to Paris, where a member of the ring (the exploiter) picked up the victims and drove them to Spain.

The routes from sub-saharian Africa are the most arduous for the victims because they must walk long distances to places where they can find 'easy' transport to Europe, which is usually Morocco. Once in Morocco, they enter Spain irregularly by crossing the Straits of Gibraltar at night in rubber dinghies.

When the victims arrive in Spain, they are always met by a member of the ring, who takes and keeps all their documents, as well as the money given to them by the ring before their departure. The ring member then transfers the victims to hotels, clubs or apartments owned by the ring, where they live or wait to be moved to a club. Taxi drivers sometimes collaborate with the rings by transporting victims to their destinations.





# **11. UNITED KINGDOM**

**11.1 THE SOCIO-ECONOMIC CONTEXT**

**11.2 POLICIES AND LEGAL FRAMEWORK**

**11.3 TRAFFICKING PRACTICES**



# 11. UNITED KINGDOM

## 11.1 THE SOCIO-ECONOMIC CONTEXT

The UK is a G7 country and has been experiencing relative economic stability during the past decade despite the global economic downturn. It has had stable Gross Domestic Product (GDP) growth, the longest period of sustained low inflation since the 1960s, with interest rates currently at 4.0%. The unemployment rate has been close to its lowest level since the 1970s, with the numbers of people registered as unemployed currently at below 1 million, which is a rate of 2.9%. The economy's flexible and fairly deregulated labour market have consistently been flagged by governments as significant factors contributing to the low unemployment rates of recent years.

At the same time the UK is among the highest scoring countries in the EU in terms of levels of poverty, indicating a high level of wealth inequality amongst the population. There is a strong concentration of wealth and jobs, and therefore also of inhabitants, in London and the South-East of England. A strong component of the UK's economy today are service industries such as the financial services sector. Manufacturing still exists but has decreased in outputs dramatically over the last 30 to 40 years, though recent information from the UK Treasury indicates that "UK manufacturing output has started to rise over the course of the last six months"<sup>35</sup>. For the moment the UK has not joined the Eurozone, the British pound has remained outside of the European Monetary System since the mid-1990s and has become a stronger currency over recent years. One effect of this has been to exacerbate the difficult climate for manufacturers and it is in this sector that the UK has mostly seen job losses when they have occurred. There is also a thriving illegal economic sector - working illegally in the UK is a very widespread phenomenon. Not only does it appear to be relatively easy to get away with for both employers and employees (who are often third country nationals paid below the minimum wage with no employment rights), but there has also certainly not been a shortage of work, indeed the government has been driven to acknowledge that the economy in part depends on this irregular labour force.

**35. Economic Developments and Prospects, UK Government Treasury, 15 March 2004.**



## 11.2 POLICIES AND LEGAL FRAMEWORK

### National Law

Specific legislation against trafficking is very recent to the UK. At present legislation is limited to “an offence of trafficking for prostitution “created under *the Nationality, Immigration and Asylum Act (NIA Act) 2002 for England, Wales and Northern Ireland, and the Criminal Justice (Scotland) Act 2003*. Section 145 of the NIA Act makes it an offence for a person to arrange or facilitate the arrival in the country of an individual whose prostitution he intends to exercise control over, or if he believes that another person is likely to exercise control over the individual’s prostitution. It is an offence for a person to arrange or facilitate travel within or outside the country for such purposes, as well as for arranging or facilitating the departure of an individual from the country for such purposes. The Act does not define ‘trafficking’, nor does it differentiate between child and adult victims of trafficking. In the Act the offence of trafficking for prostitution carries a maximum penalty of 14 years imprisonment (section 145 (5) ). This penalty is the same as for drug trafficking offences, and exceeds the 8 years imprisonment recommended by the EU Framework Decision. The Act came into effect in February 2003. Section 22 of the Criminal Justice (Scotland) Act 2003 mirrors section 145 of the NIA Act.

The offence of trafficking had not been covered in the Proceeds of Crime Act 2002, which preceded the Nationality, Immigration and Asylum Act . An amendment to that Act was therefore consequentially accepted to the NIA Act, making those who profit from trafficking for prostitution face the prospect of losing all their assets. This, together with the penalty of imprisonment, is designed to act as a strong deterrent to traffickers, for whom trafficking had previously been a low risk, high profit enterprise. The Proceeds of Crime Act 2002 does apply in Scotland, providing new powers to investigate, trace, and recover the proceeds of crime, with people trafficking included among the criminal offences it lists. There is, however, no provision in UK law for any of the assets recovered from traffickers to be diverted towards victim support measures.

On 28 January 2003, therefore, a *Sexual Offences Bill* was presented in the House of Lords, covering offences relating to prostitution, child pornography, and trafficking, and proposing wide-ranging changes to the law. This Bill applies only in part to Scotland (defined in Section 139). Part 1 of the Bill makes new provision on sexual offences, including trafficking. Clauses 61, 62 and 63 make it an offence for a person ‘*intentionally to arrange or facilitate for, or in the expectation of, gain for himself or another*’ the arrival to, travel within, and departure from the UK of a person for sexual exploitation. The Bill does not define ‘trafficking’, neither does it make mention of deception or coercion - crucial factors that differentiate trafficking from human smuggling. There had also been concerns among NGOs that the Bill’s stipulation of ‘the expectation of gain’ in relation to trafficking might make the offence difficult to prove. However, following successful lobbying of the Lords by NGOs, led by UNICEF UK, this clause has been removed.

The Sexual Offences Bill also redefines a ‘child’ for the purposes of the Protection of Children Act 1978 as a person under 18 years, rather than 16 years, to make it an offence for a child under 18 years to be used in prostitution or pornography (Clauses 52, 54, 55, 57, and 59). It makes provision for penalties ranging from seven years to life imprisonment, depending upon the nature of the offence committed, and the age of the child victim. The Bill, once enacted, will replace the stop-gap offence of trafficking for prostitution introduced by the National Immigration and Asylum Act.

## International Conventions and Bilateral Agreements

The UN Convention against Transnational Organised Crime was signed by the UK Government in 2000 and the Government is committed to ratifying it by 2004. The Government negotiated and signed the Convention's supplementary Protocol in December 2000, and is working towards its ratification.

The UK has also negotiated and adopted the EU Framework Decision on Trafficking in Human Beings for the Purposes of Labour or Sexual Exploitation in July 2002. The Government is currently developing the legislative frameworks that will be required for ratifying these instruments.

## 11.3 TRAFFICKING PRACTICES

### Available Data

There are no reliable statistics on trafficked children, however based on limited reports from Social Services, NGOs, Police and immigration control it is known that there are at least 250 children victims of trafficking in the UK. These figures are based on *known cases*, but for various reasons, particularly the clandestine nature of human trafficking and the lack of legislation until very recently, it is thought that the numbers involved are far higher.

### Countries in Trafficking Cycle

During 2001-2002 victims of trafficking originated predominantly from the Balkans, the Baltic States and Thailand, with a growing number trafficked from North and West Africa, Vietnam and Cambodia in South East Asia. The UK is both a country of destination and a transit country. For example it has been known for children destined for prostitution in Italy to pass through the UK.

### Average Age

The average age of the victims of trafficking in the UK is estimated to be between 16 and 28 years old.

### Types of Trafficking

In general, children and young people, of both sexes, are being trafficked to and through the UK for labour, including domestic slavery, as well as for sexual exploitation and for other purposes (*i.e.* engaging in criminal activity such as credit card fraud and drug dealing, and also to exploit the benefits system).

### Recruitment and Trafficking Routes<sup>36</sup>

It is often the case that children are getting into the country and are later recruited by traffickers or by trafficker networks.

The amount of irregular entry into the country for trafficking purposes is likely to be limited, and current information suggests two main methods through which trafficking operates in the UK and children actually travel into UK:

**36. Information in this paragraph comes from: Candappa M., "Scoping Exercise on Trafficking of Children and Young People to and through the UK", Report to Save the Children UK, Thomas Coram Research Unit, Institute of Education, University of London.**

■ (I) BY USE OF THE ASYLUM SYSTEM; AND

■ (II) BY USE OF REGULAR IMMIGRATION CHANNELS WITH VICTIMS OFTEN ON STUDENT OR TOURIST VISAS.

■ (I) In this case, unaccompanied children claim asylum at the port of entry, many of whom would have destroyed their travel documents en route, or travelled on false passports, allowing them to claim to be older or younger than their actual age, as instructed by the trafficker/s. Under provisions of the Children Act 1989, Social Services would take care of these children at no cost to the trafficker, until such time as the trafficker wishes to move them on.

Individual councils at the different ports may have their own specific procedures and practice relating to initial arrangements for these children. For example, whilst, in general, immediate efforts are made to ensure the care and safety of younger children, practice in Hillingdon Social Services for unaccompanied asylum seeking children giving their ages as between 16 and 18 is different. If these young people arrive at Heathrow airport after 5.00 p.m. from Mondays-Thursdays, they are temporarily released on to the concourse overnight, and asked to report to Immigration again in the morning. Many of them disappear without having seen an Immigration or Social Services officer again. That some of these children may have been picked up by a member of a trafficking ring is a possibility that cannot be discounted.

■ (II) Where regular immigration channels are used, many young people arrive in the company of an adult. For example, young women could be brought in by a 'boyfriend', or a group of women arriving together could have had their entry organised by a gang of traffickers. Additionally, there could be many young people travelling on UK or EU 'lookalike' passports, who could not be stopped at immigration without good reason, and who therefore do not come to the attention of the authorities.

Young women trafficked from Central and Eastern Europe have often responded to advertisements in the media for well paying jobs abroad, or have been approached by young men in clubs and bars with promises of lucrative employment. Some women have been brought over to the UK by 'boyfriends'; some have been lured into the country with promises of marriage to elderly gentlemen. For many of the women, on arrival in the UK the trafficker would transfer them, together with their passports and other papers, to the brothel owner or pimp who has 'paid' for them, and to whom they are therefore indebted. Little information on boys trafficked from this region is available.

Young people trafficked from West Africa via Gatwick airport, for sexual purposes in the late '90s are sometimes recruited by a couple, a black woman and a white man, or by men thought to be from Nigeria, who promised parents that the young people will have a better life in the West, which would allow regular remittances of generous money back to Africa. The young people are subjected to a voodoo/juju ceremony prior to departure, and would have been led to believe that they will die if they were to tell anyone what has happened to them. They are led to believe that they will die or their families will be killed if they do not make contact with the traffickers, or do not pay back the money owed to the traffickers for bringing them over to the West.





**Case Studies**

**Bibliography**



# 4

## **Challenges and Recommendations**

# 5

## **Annex questionnaires**

# 12. Case Studies

## CASE STUDY 1

### Rousse

#### (a city at the border between Bulgaria and Romania), Bulgaria

This is the story of B., a 14 years old Roma girl. Her mother asked for state benefit implying she had never been out of the country<sup>37</sup>, but police found out that she had already travelled with her daughter. Then, she admitted to have travelled together with her daughter on a trip round Western Europe. Social services from Bulgaria went to her home to look for the girl, but she was not there and the mother finally confessed that she was still abroad. The mother's partner was under arrest for other issues. The mother report to social workers that her daughter was now working in France and that she was directly in contact with her by telephone calls every two days. When the social worker told her that this practice was not legal she provided him with a signed declaration by a notary, on which the natural father had given the authorisation for her daughter's trip out of the country. In the meantime local police opened an investigation. After a month the mother struggled to reach the girl by phone, for ten days there had been no answer from that phone number. So the mother decided to denounce the case to social services, providing them with all kinds of information (picture of the girl, address in France, etc...). The social worker informed Interpol. Ten days later they heard that the girl had been found by the police in France and transferred to a shelter in Belgium.

This was a case of trafficking for pick-pocketing.

The mother received a letter from her daughter in Brussels saying that she was following classes at school and that she would be allowed to go back to Bulgaria only if her relatives were able to collect her directly in Sofia. Social services told the mother to write a formal letter to the shelter declaring she would receive her daughter. After a few months the shelter sent the girl home and she stayed with her mother. This is actually the first case in Bulgaria of a return to the country of origin. The mother will be sentenced with 6/12 months with a suspended sentence.

**37. In Bulgaria this is a *conditio sine qua non* to obtain any state benefit.**

## CASE STUDY 2

### Romania

I. is a 15 years old girl who grew up in a dysfunctional family, with divorced parents living in the same house for financial reasons. Her father is an alcoholic, but he is the only one who has a job. Poor, she felt financially and emotionally unsupported by her family. She lived in the suburbs of the city (Bucharest), her friends were out of school, and some of them used drugs or were involved in illegal actions.

After she started high school, she quit classes and decided that she had no future there. Her sister had already left for Italy so she thought she would join her and live better abroad. She was helped by the same acquaintance of her mother that facilitated her sister's departure to be a saleswoman. Thus she went abroad thinking that she would meet her sister. She went by train from Bucharest to Timisoara (a city in the west side of the country, close to the border with former Yugoslavia) with an unknown man. When she arrived in Timisoara she was taken to a friend of his and then to an old man's house to sleep. In the morning he came back and they went to a market where they met a woman that stayed with her about three hours. After that, another man took her to a guide with whom she crossed the border to the former Yugoslavia. They walked through a field for about 5 km, and then she walked alone to a forest where another guide was waiting for her. This one didn't speak Romanian very well. He took her to a car and another man who didn't speak Romanian drove the car. They drove for about an hour, stopped for an hour and a half and then followed another car for about thirty minutes. Eventually, she was put in the other car.

They went to Belgrade, where a blond, fat woman gave her some food and a place where to sleep. After three days, some men came to look at her, at which point she realised that they wanted to use her as a prostitute. They told her to lift her blouse and then they left. After a few hours another man came and asked her the same thing. After a few seconds of thinking, he told her to get dressed, get her things and to come with him. He took her to the border with Macedonia and two guides helped them walking through the mountains for about 12 km. They went to Skopje, where she was locked up in a flat. They took some pictures of her and prepared a false passport that helped her to cross the border. Finally she arrived at her new "employer", who owned a bar. There were another 8 girls there. She found out that she wouldn't meet her sister and that she had been sold and would have to live in that bar. She felt lost in a world of strangers. Strangers that were mean to her and forced her to sell her body against her will. She stayed there about a month, being forced to prostitute herself otherwise she was mercilessly beaten. After a month, a police raid took place and she was repatriated to Romania.

The reintegration program provided her and her mother with counselling and social assistance at the Counselling Centre for Children and Families. They received financial support and essential goods (food, clothes and medicines). A social assistant accompanied the girl to a doctor, where she was diagnosed and treated. She was also assisted with reintegrating herself into the educational system in the 2002-2003 school year and to take a vocational course for hairdressing. After some psychotherapy she has accepted her past and overcome the trauma. Now she has started her own family and is working as a hairdresser.





## CASE STUDY 3

### Romania

A is an 18 years old girl. Her mother abandoned her when she was 3 months old. Her father grew her up until she was six years old and then sent her to a Placement Center. She lived there until she was 14. During this time she was physically abused and starved by the older children, received education in a school for children with mental disabilities where her emotional and intellectual development was severely affected. Her father could not help her at all because he was homeless and unemployed most of the time.

At the age of 18, she left the country looking for a better life. She was helped to irregularly cross the border to Serbia. Here she was forced to prostitute herself. In Belgrade she was beaten because she refused to undress in front of the buyers. From here, she was sold in Kosovo where she was forced to striptease and to accompany the customers. At that time she was 4 months pregnant but this did not count. From this bar in Kosovo, she was sold to another bar in Macedonia. The owner of this bar took her to a gynaecologist where she aborted her child. After 2 weeks of recovery she was forced again to take customers. She was supposed to be sold once more for 6000 DM to another bar, but another employee of that bar who became romantically involved with her called the police. After the police raid she was freed and helped by IOM Skopje to return to Romania.

At the moment she is still receiving Save the Children and IOM assistance. She is accommodated in the IOM shelter. She is receiving psychotherapeutic assistance to recover from her trafficking trauma as well as her childhood traumas. Arrangements were made for her reintegration into the school system, she was helped to recover her identity papers, she was provided with medical and financial assistance, she received vocational advice and has started to attend an environmental inspector's course.

## CASE STUDY 4

### Romania

C. is a 16 years old girl from the Moldova Region. She was raised by her mother and lived with her and 2 siblings. When the mother married for the second time her stepfather abused her sexually. The girl decided to leave her town, being persuaded by a girl-friend working as a prostitute. She thought that prostituting herself abroad was a chance to raise money. She was taken to France and Italy, ended up in Ireland. There she was caught by a group of traffickers that locked her in a flat, together with other girls. She was forced to prostitute herself from 12.00 P.M. till 4 A.M.

After a police raid she was repatriated to Romania. She stayed in the Save the Children shelter for six months; intensive psychological work was undergone to convince C. to go back to school.

In the 2003 she registered in high school, passing her examinations with success. The staff in the shelter supported her in the effort, motivating her to trust herself. She is now following regular high school, being allowed to sleep at the school dormitory. Save the Children is supporting school expenses for one year; in 2004 C. will graduate.

C. now wants to prepare herself for entering University; a Save the Children psychologist will assist her in preparing for the admission tests, since C. wants to become a social worker. C. is also willing to take part, in the future, to Save the Children child trafficking prevention projects

# 13. Challenges and Recommendations

Trafficking in human beings is certainly not a new phenomenon, but during the last decade the number of child victims of trafficking coming from South Eastern Europe have increased.

Trafficking in human beings is a complex form of exploitation, which includes different kind of abuses and represents, particularly for children, one of the worst violations of legally agreed human rights.

Trafficking in children must be considered for its particular characteristic and needs to be addressed with specific analysis and actions bearing these in mind.

Child victims of this crime are extremely vulnerable: children can be easily kept under coercion having fewer chances to escape from exploitation. Furthermore, in the countries of destination there is a constant increase on the demand side in terms of sexual services (children prostitution, child pornography), cheap labour market, and begging and petty crimes.

Children at high risk of being successively criminalized and of being exposed to further abuses are faced with unclear and inconsistent immigration policies, and exposed to the risk from potential abuse by police and judicial practices.

Thus, Save the Children<sup>38</sup> wants to stress that child victims of trafficking are first and foremost victims, even if they have been involved in illegal activities. It is then absolutely necessary for any kind of policy combating trafficking in human beings, and preventing and reintegrating child victims of trafficking, to keep in mind this fundamental aspect. Any policy must also recognise that the first way to help children in this kind of situation is to accord them their rights, according to the UN Convention on the Rights of the Child, and to provide them with practical and psychological tools in order to be able to defend themselves and be empowered to be resilient to abuses that they have suffered.

National and European policies concerning trafficking in human beings, in particular immigration policies, should then provide specific measures for children, based on the recognition of their own specific rights.

**CHILDREN SHOULD BE DEFINED AS ALL PERSONS UNDER 18, ACCORDING TO THE UN CONVENTION ON THE RIGHTS OF THE CHILD**

38. As “Save the Children”, is to be intended the partners’ agencies of the Enact Project.

## LEGISLATIVE, JUDICIAL AND CONTROL POLICIES

### It is Recommended:

- The ratification of the Palermo Protocol to the Un Convention against Transnational Organised Crime (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 2000, Palermo) by the signatory States
- The ratification of the Un Convention on workers' migrant rights by the European signatory States
- That the European Union assumes an effective role and position on trafficking victims protection including through legislative measures
- That the EU and national immigration policies encourage safe migration not damaging migrants' rights, in counter-balance to the objectives of repressing the irregular immigration and national border control
- That national legislations on residence permits and on assisted repatriation respects the rights of the child: immediate repatriation is most of the times useless and unsafe. Many children, particularly girls, are afraid of what they will find once returned to their countries. They are often stigmatised by their original community, and this could contribute to their exclusion and to create the risk of re-trafficked. Destination countries should consider issuing long term residence permits on humanitarian grounds more widely
- The amendment to the Italian legislation on migrant separated children. The so-called Bossi-Fini Act creates difficulties for family reunification. Furthermore, the effects of this Act on the issuing of residence permits could increase the risks for children. In particular, the new Act provides that children could obtain a residence permit for studying or working at 18 years old only if they have been on the Italian territory for the last three years and they have been part of an integration project (social or civil). This measure encourages younger children to travel to Italy irregularly
- That child victims of trafficking have access to the same rights as the child citizens of that country (non-discrimination right)
- That the consent of a child in cases of irregular migration should not be used against him/her (as expressed by the Palermo Protocol). A child may have consented to migrate (and may initially have been smuggled), but be trafficked subsequently, in which case he/she is still a victim of trafficking
- To provide full health and social and legal assistance to children moving to Europe with irregular documents

## PREVENTION

### It is Recommended:

- It is Recommended:
- Interventions at both national level and international cooperation level should be focused on the push factors (lack of jobs and child-friendly educational opportunities, gender and ethnic discriminations, child abuse within the family environment)
- The need for more systematic data collection on child trafficking to be addressed. There is a need for disaggregated data on children
- That national States together adopt and implement common procedures for identification and detection of child victims of trafficking at the national borders; NGOs could support capacity building of practitioners
- The development of global as well local awareness-raising campaigns
- That the interventions in favour of children are able to strengthen their knowledge on the phenomenon and provide them with tools to defend themselves from the danger of trafficking
- That governments provide with tools for understanding, and conform where necessary, the national legislation on birth registrations and personal data

## ASSISTANCE AND PROTECTION

### It is Recommended:

- That every child victim of trafficking has the access to children and young people's services concerning: accommodation, social assistance, health care, and education. Assistance should be at the same level as that given to nationals
- That trafficked children not be kept in detention centres with adults nor in shelters for abused or trafficked women; children should be taken care of by the child protection system which should provide specific assistance
- That child victims of trafficking are fully protected (with access to witness protection) and that they have a right to long term residence permits whether they decide to cooperate with the authorities or not
- That child victims of trafficking and separated children will be repatriated only for their best interest

- That systems of cooperation between judicial authorities from different countries are developed in order to ensure witnesses' protection
- Judicial cases have to implement any measures in order to avoid that child victims of trafficking are further traumatised in judicial courts. There is a need for implementing a multi-disciplinary approach able to provide a psychological support to children. It is recommended the development of training modules for legal professionals having to deal with child victims of trafficking

## APPROACHES

### **It is Recommended:**

- The approach of any intervention should be multidisciplinary, aimed at delineating the different dimensions of child trafficking, and covering countries of origin, transit and destination. For this reason, the main purpose should be to involve many different practitioners in defining and implementing national plan of actions. In addition, efforts should be made to implement multidisciplinary methodologies to assist stakeholders assessing national and European referral systems
- To place exploitation and abuse squarely at the “heart” of the problem: trafficking is always connected with a form of violence. It is necessary to break the abuse down into its component parts and define them. The definition of child abuse and the rights they violate should be finalised according to the CRC. It is also necessary to link different forms of abuse to different steps of the trafficking process and the different kinds of interventions (prevention, protection and reintegration). To understand the violation of children's rights and the different scope of interventions for trafficked children, the problem must be explored in the context of migration. Advocacy strategies should aim at the development of policies able to subvert trafficking by enabling access to affordable and safe migration
- Trafficked children are not only victims to protect, but also subjects of decisions, and individuals with resources. In order to elaborate good interventions, it is essential to consider – and respect – children's point of view. Agencies and decision makers should consider child's right to have a say on programs and decisions affecting their present and future life

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# 15. ANNEX

# QUESTIONNAIRES

## DOCUMENT N 1

ENACT- **European network against child trafficking**

STREAM 1-2

Reply to: Carlotta Sami (carlotta@savethechildren.it)

COUNTRY: \_\_\_\_\_

### Preliminary questionnaire for a concept paper on child trafficking

#### Introduction

During the last decade, Western Europe has seen a constant increase in the number of children from Southern and Eastern Europe involved in trafficking. Evidence shows that some forms of coercion and deception characterize the irregular entry and permanence of these persons. The trafficking of human beings by international criminal rackets, the exploitation and other connected criminal practices are all complex phenomena that embody various, overlapping degrees of violence, coercion, or consent, that do not allow easy interpretations, and are connected to different forms of child rights violations.

The present paper aims to define some of the key concepts we will relate our work and highlight the methodology, the working tools and the areas of possible intervention.

#### Explanatory note

In order to create a starting conceptual and operational framework for Enact, we should draft a sort of a concept paper reporting the areas of expertise of every partner involved in Enact. The paper might highlight the progress of the work on trafficking as well as present different visions and opinions on trafficking. Of course every single input, suggestion and idea is very important in order to have a clear picture of what we are going to do.

Below you will find some questions which are part of a preliminary work, a sort of brainstorming. Your feedback will be drafted into a document that might become a conceptual working paper.

#### Definition of trafficking

Article 3 of the Palermo Protocol stipulates that “Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the

exploitation of the prostitution of others or other forms of sexual exploitations, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

According to the Palermo Protocol, child trafficking is “the act of recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation either within or outside the country”.

## Questions

### Q1

On what aspects of trafficking are you already working?

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### Q2

Who are the main actors working on child trafficking in your country? In which areas are they working?

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### Q3

What areas of work are you interested in developing?

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### Q4

Do you think there are specific aspects/subjects on which information should be collected?

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### Q5

Where does existing expertises lie?

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### Q6

In which area do we need new expertise?

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**Q7**

What are the areas of the phenomenon where we can have the best impact?

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**Q8**

What do you think is the best intervention to develop? Do you think it is better to focus on one or more categories of work activities, such as research, advocacy, direct assistance, reintegration of the victims?

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**Q9**

What are the areas we should avoid? Where are there other players we could become partners of?

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## DOCUMENT N 2

ENACT- **European network against child trafficking**

STREAM 1

Reply to: Enrico Ragaglia (enrico@savethechildren.it)

COUNTRY: \_\_\_\_\_

### Questionnaire for data gathering

#### Q1

According to general estimate or figures, how many children are victims of trafficking in the country?

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#### Q2

Please, make a list of the available material and, if possible, attach the files to this message:  
(please, mention name of organisation, title, date of issue)

.....

- 1. official statistical data
- 2. national ngo's reports
- 3. international ngo's reports
- 4. institutional, governmental studies or research
- 5. police reports
- 6. legal and judiciary reports and sentences
- 7. social services reports
- 8. mass media (press review, documentaries, etc...)

## DOCUMENT N 3

ENACT- **European network against child trafficking**

STREAM 2

Reply to: Carlotta Sami (carlotta@savethechildren.it)

COUNTRY: \_\_\_\_\_

### Questionnaire for interventions mapping

Q1

Please make a list of the main institutions, NGOs and associations in your country dealing with trafficking, following their area of intervention

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PREVENTION  PROTECTION  CONTRAST/PROSECUTION  REINTEGRATION

Q2

Compile the attachment for every single organisation/institution/NGO (see ANNEX 1).

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Q3

Has the government adopted any particular strategy on trafficking? Is there a governmental mechanism or department officially in charge of the issue?

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Q4

Are there relevant institutions such as trade unions, municipalities, village committees dealing with trafficking?

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- a world which respects and values each child
- a world which listens to children and learns
- a world where all children have hope and opportunity

This is the mission and vision of the Member organisations of the International Save the Children Alliance in 29 countries all over the world. Working together we represent the world's largest independent global organisation for children with programmes in over 100 countries.

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